

Ms. Florence Harmon  
Acting Secretary Securities and Exchange Commission  
100 F. Street, NE Washington, DC 20549-9303  
Re: Release No. 34-58773; File No. 87-30-08  
Amendment to Regulation SHO Interim Final Temporary Rule

Dear Sirs,

**VOLUNTEERISM LEADING TO A MONOPOLY LEADING TO LEVERAGE  
LEADING TO A MASSIVE "FRAUD ON THE MARKET"**

Over the years I've noticed some rather peculiar patterns developing at the DTCC and its NSCC and DTC subdivisions. They keep volunteering to act in certain capacities ostensibly to increase the "efficiency" of our clearance and settlement system. In retrospect all of these noble acts of volunteerism have resulted in them attaining a monopoly on the power to provide the only known cure available when the seller of securities absolutely refuses to deliver that which it sold i.e. the power to "buy-in" the delivery failure so that the purchaser of those missing shares can receive that which he paid for.

What are some of these roles that have attached to them the power to execute buy-ins? Firstly, the NSCC volunteered to act as the "central counterparty" (CCP) to all securities transactions. This grants the NSCC management the unfathomable power to "discharge" the delivery obligations of its bosses in exchange for it "assuming" and "executing" on these delivery obligations. Can you imagine the corruption that would result should the NSCC management after "discharging" the delivery obligations of one of its bosses have the audacity to refuse to promptly "execute" on the delivery obligation that it just "assumed"?

The DTC offered to act as the party with the congressional mandate to "immobilize" all paper-certificated shares into their vault system and then "dematerialize" the paper-certificated shares into AN EQUAL AMOUNT of electronic book entry "shares" that are much easier to deal with. Could you imagine the invitation for abuses if the NSCC management were to allow their "participants"/bosses to create enormous amounts of "fiat" electronic book entries above and beyond the number of shares held in a paper-certificated format?

Coincident with this was the volunteering of the DTC subdivision of the DTCC to act as the "legal custodian" of all paper-certificated shares held in "street name". Could you imagine the corruption resulting from this "legal custodian" in essence leaving the vault doors open so that crooks could "electronically" steal certificates and run to Kinko's and make counterfeit copies?

Later the DTC volunteered to have their nominee “Cede and Co.” act as the surrogate “legal/nominal/record” OWNER of all shares held in “street name”. Could you imagine the corruption associated with this surrogate “legal owner” commissioned to “safeguard” these securities it now legally “owns” if it were to oversee this counterfeiting process or this refusal to provide the only cure available if the seller of securities were to refuse to deliver that which it sold?

Later yet they volunteered to act as a “qualified control location” so that their participants could gain compliance with the all-important “Customer Protection Act” or Rule 15c3-3 of the '34 Exchange Act. Could you imagine the invitation for abuses should this “qualified control location” absolutely refuse to follow 15c3-3 and “take the physical possession of all fully paid for securities” AFTER granting compliance to one of its abusive NSCC participants?

They’ve also volunteered to act as an SRO or “Self-Regulatory Organization” mandated to monitor the “business conduct” of its participants. Could you imagine the corruptness resulting from this “securities cop” mandated to provide “the first line of defense against abusive naked short selling frauds” if it were to corner the market on the power to execute buy-ins and then later refuse to deploy this only known cure when its owners refuse to deliver that which they sold?

Later the NSCC volunteered to design and administer their own “Automated Stock Borrow Program” or “SBP” which has “accidentally” morphed into a well-oiled share counterfeiting machine which facilitates the lending out of any given parcel of shares in a dozen directions simultaneously while serving to “cure” a dozen different delivery failures. Could you imagine the corruption resulting if the designer and administrator of the SBP were after realizing how it is being abused by its abusive participants/bosses were to proffer that it has no “discretion” in addressing the loopholes being abused because the SBP is “automated”.

Remember that all along the congressional mandate of the DTCC and its subdivisions was to “act in the public interest, to provide investor protection and to “promptly settle” all securities transactions. Could you imagine the corruption resulting should this provider of investor protection and insurer of the “prompt settlement” of all securities transactions were to LEVERAGE its monopoly power over the execution of buy-ins on behalf of the financial interests of its abusive co-owners by intentionally postponing the “prompt settlement” of securities transactions?

Can you detect the pattern? All of these acts of volunteerism also have cornered the market on the power to provide the only cure available when the seller of securities refuses to deliver that which it sold. Can you see how this monopoly power has been converted into LEVERAGE? What’s rather peculiar is that due to how the DTCC, DTC and NSCC are structured the co-owners of these institutions now have the power to refuse to deliver that which they sell to unknowing U.S. investors and also the power to refuse to deploy the only cure available when this occurs. Well isn’t that special! It appears that it is a very lucrative proposition to do a lot of “volunteering”.

In actuality, one could make the case that there are two other parties with the “power” to execute buy-ins. One is the brokerage firm of the client buying the securities that never got delivered. The problem is that it will not opt to execute buy-ins because NSCC policies unconscionably allow it to earn the interest off of its own client’s funds UNTIL delivery is accomplished. This “agent” of the investor that just got paid a commission has been financially incentivised to shirk its fiduciary duty of care owing to its client.

The other party with this power is the investor himself. Two problems arise in this regard though. First of all, he doesn’t even know that his buy order resulted in a failure to deliver at the NSCC. Secondly, he receives a monthly brokerage statement “implying” that what he paid for did indeed get delivered and that his brokerage firm is “holding long” these securities.

In the case of a failure to deliver involving the refusal to deliver that which was sold nothing could be further from the truth. His brokerage firm is holding an undated IOU and nothing more. When the seller of the missing securities absolutely refuses to deliver that which it sold and the parties with the power to cure this delivery failure refuse to provide the only known cure (a buy-in) then this IOU is 100% worthless as soon will be the share price of the corporation targeted for attack.

I’d say the DTCC, DTC and NSCC have engineered themselves a pretty tight monopoly over the power to provide the only known cure available when the seller of securities absolutely refuses to deliver that which it sold. They’ve either cornered the market on this power, “bribed” its bosses not to use their power or misrepresented to investors that their shares arrived safe and sound. Coincidence?

What’s the obvious solution begging to be deployed? The power to execute buy-ins needs to be granted by the SEC or other regulatory authority to an UNCONFLICTED party perhaps working out of the DTCC headquarters where it will have easy access to the failure to deliver data.