Brief Chronology of SEC action on Naked Short Sales over 70 Years, 1938 – 2008

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1938: SEC issues first regulation of short sales, barring such sales while a stock is falling (tick test); takes no further action for more than 50 years.

1989: SEC acknowledges widespread public concerns about short sale abuses and asks for public comment, takes no further action taken for two years.

1991: SEC holds hearings on short sale abuses, takes no further action for seven years.

1998: SEC requests public comment on the regulation of short sales, takes no further action for four years.

July 2003: SEC proposes new Regulation SHO with some restrictions on those failing to deliver.

July 2004: SEC issues weakened version of Regulation Sho issued limited to new category of "threshold securities," restricting future short sales in a stock by short sellers who have failed to deliver for several weeks, but protecting existing fails and fails created in the five days preceding a stock's designation as a threshold security. Includes no enforcement mechanisms, mandatory buy-ins, or penalitie, and delays its implementation for nearly one year.

May 2005: Weak Regulation SHO takes effect, with no measurable impact on the quantity of naked short sales and fails.

July 2006: SEC proposes new amendments to Regulation Sho, phasing out grandfather protections, but also continuing to limit restriction to threshold securities and proposing to phase out the 1938 tick test barring short sales while a stock is falling.

December 2006: SEC implements new amendments, ending both the grandfather provisions and tick the test, and continuing to limit regulation to threshold securities. Quantity of fails and naked short sales continue to increase.

March 2008: SEC proposes new restrictions covering all securities; acknowledges the illegality of naked short sales and their threat to individual stocks and to the integrity of the market short sales. Proposes new restrictions covering all securities, establishes that customers who mislead brokers about their intention or ability to deliver securities sold short are violating the law. New proposed restrictions still allow naked shorts to persist for up to three weeks without penalty.

July 2008: SEC issues temporary order requiring that short sellers of 17 financial institutions must pre-borrow.

September 2008: SEC issues new amendments to Regulation SHO that cover all securities, requiring that broker dealers who transact short sales that end in fails must pre-borrow for future short sales in that stock. Includes no no mandatory buy-ins and no penalties for customers or brokers carrying out naked short sales.