

RICHARD J. DURBIN  
ILLINOIS

COMMITTEE ON APPROPRIATIONS

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COMMITTEE ON RULES  
AND ADMINISTRATION

ASSISTANT DEMOCRATIC  
LEADER

## United States Senate

Washington, DC 20510-1304

May 4, 2005

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Dear Mr. Vangunten:

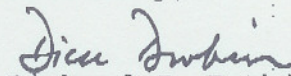
Thank you for contacting me to express your concerns about the investment technique commonly called "naked short selling." I appreciate hearing your views on this issue.

It is important that we protect the integrity of the stock market. Manipulation of the market threatens confidence in the market and harms small investors. The practice of naked short selling, in which investors short shares they don't own or intend to borrow, is illegal and regulated by the Securities and Exchange Commission (SEC). In August 2004 the SEC changed a regulation, Regulation SHO, to require short sellers of equity to locate securities to borrow before selling, and to impose strict delivery requirements on securities.

Several consumer groups and constituents have expressed concerns about the SEC's implementation of Regulation SHO. For this reason, I sent a letter to SEC Chairman Donaldson, requesting information on naked short selling and the steps that the SEC is taking to eradicate this illegal trade practice. I have enclosed a copy of this letter for your information.

Although there is no legislation pending in the Congress regarding naked short selling, I will keep your thoughts in mind in case the Congress addresses this issue legislatively. Please feel free to keep in touch.

Sincerely,

  
Richard J. Durbin  
United States Senator

RJD/dj1

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## United States Senate

Washington, DC 20510-1304

April 15, 2005

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Chairman Donaldson  
U.S. Securities and Exchange Commission  
450 Fifth Street NW  
Room 6000  
Washington, DC 20549

Dear Chairman Donaldson:

I am writing to request information regarding the June 23, 2004 Securities and Exchange Commission (SEC) short sale regulation, designated Regulation SHO. On March 9, 2005, the Senate Committee on Banking, Housing, and Urban Affairs held a hearing on Regulation SHO, in which Chairman Bennett spoke with you about the regulation's effects on the illegal practice of naked short selling. I thank you for your testimony and I hope that you can follow up on some of my concerns not fully addressed by the Banking Committee hearings.

I appreciate the efforts of the Securities and Exchange Commission (SEC) to control abusive short selling practices. As a result of Regulation SHO, the names of firms with large amounts of unsettled shares are published on the Threshold Security List daily. This list assists individual investors in making informed decisions about potential manipulation of the market, and gives regulators and investigators a centralized list of firms with significant numbers of undelivered shares. However, it has come to my attention that Regulation SHO may not be curtailing abusive naked short selling practices.

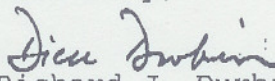
Several of my constituents have contacted me since the SEC introduced Regulation SHO. They have raised concerns about potential loopholes in settlement regulations. During your recent testimony before the Banking Committee, Chairman Bennett asked you about the ability of brokerage houses to shuttle unsettled shares every 13 days in order to avoid settling the borrowed shorted shares. Due to time constraints at the hearing, the committee did not receive a complete answer. This issue is worthy of a full response.

Additionally, my constituents have expressed concern about SEC enforcement of Regulation SHO. While the Threshold Security

List publicizes securities that might have been manipulated, I am concerned that some securities repeatedly appear on the list. What steps is the SEC taking to investigate trading practices that result in vast quantities of unsettled shares, and to punish those people who violate SEC naked short selling regulations? What is the SEC doing to ensure that the Depository Trust & Clearing Corporation (DTCC) is complying with Regulation SHO, and what actions does the SEC undertake when the DTCC identifies large quantities of shares that have not been delivered?

It is important that the SEC identify abuses and prevent manipulative naked short selling practices that undermine faith in the market. Thank you for your attention to this matter. I look forward to your timely response.

Sincerely,

  
Richard J. Durbin  
United States Senator