It is my understanding that you intend to make the reporting requirements for short selling mandatory following October 17, 2008.

I think this is an unfair, onerous, and absurd rule. My reasons are as follows:

1) The threshhold for reporting transactions is ridiculously low. Funds of even modest size have to report virtually every short transaction and continue to report them until closed because the threshhold too low.
2) Daily reporting is incredibly onerous for managers that typically employ limited staff.
3) As opposed to reporting long transactions 45 days after quarters end, reporting positions the Monday after the Sunday they are on a manager's sheets puts short managers in an horrifically poor competitive position vs. their peers and competitors. Relatively small managers with high portfolio concentrations could literally be run out of business by larger players. I'm sure quantitative managers have already crafted algorithms to take advantage of the current ill-conceived disclosures.

On top of this, I would ask, as an American supposedly living in the land of the free.....since when is it illegal to short stocks? Since when is it the job of the SEC to monitor the daily activity of any manager, let alone carving out a subsection as if to criminalize perfectly legal activity?

I agree that there is rumor-mongering in the hedge fund community and that it is wrong. But that activity is on both the long and short side and I've seen a lot more lies on the long side than the short side in my 10 year career. Also, I agree that very large funds can now drive a stock lower by taking a massive short position very quickly since the SEC decided to remove the up-tick rule. Although, I hardly see why that is illegal (that is, if a large fund wants to borrow and sell stock at any price, whose business is it but their own?), I understand why you might be concerned about it.

Rather than implement this ridiculous disclosure rule, I would propose the following:

1) Reinstate the up-tick rule.
2) Increase the threshhold for reporting shorts if at any time you have over 5% of the float short.
3) Make the reporting requirement the same as for 13F (45 days after Q end) so nobody is able to use this information to the managers' detriment.
4) Do not publicly disclose the information.

These measures should help prevent managers "shorting companies out of business." They will also give the SEC better insight into activity they may later determine to be suspicious.

Although it is actually impossible to "short a company out of business," maybe this will help the public sleep better knowing that no one profited from the collapse of their terrible investment decision and would enable the SEC to get back to actually throwing the criminals who caused all these problems (company managements) in jail.

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