

don't have turns our capital markets into gambling casinos where these "naked" short sellers profit if the price goes down and fail to deliver if the price doesn't. The time has come for that practice to stop.

I wrote to the SEC Chair Mary Shapiro on March 3 making these same points. I understand she testified before the Banking Committee in February and that she intends, as quickly as possible, to engage in a full review of the SEC's actions with respect to short selling, including an evaluation of why the uptick rule should be reinstated. I also understand the SEC is scheduled to meet soon to discuss ways to reform short selling practices.

We need quick action to restore investor confidence. That is why I, along with Senator ISAKSON of Georgia, am introducing a bill today that would direct the SEC to write regulations addressing abusive short sales. We believe that restoring the uptick rule is necessary, but not sufficient, to end abusive short selling.

Our bipartisan bill would direct the SEC to write regulations within 60 days that accomplish five things to end the abusive short selling. One: Reinstate the substance of that portion of its prior regulations that prohibited short sales that are not made on an increase in the price of the stock. This prevents short sellers from piling on declining stock, driving prices down.

Two: Require trades by short sellers of securities to yield priority and preference to transactions effected by long sellers of securities. This would require exchanges and other trading venues to execute the trades of long sellers instead of short sellers, all other things being equal.

Third: With the concurrence of the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System, prohibit short sales of the securities of any financial institution unless the trade is effected at a price, in minimum lots specified by the Commission, at least 5 cents higher than the immediately preceding transaction in such securities. Our financial sector and financial stocks are in a fragile state and our taxpayers now hold substantial shares in many institutions. If the Treasury and the Fed believe they need additional protection in these times, this legislation permits it.

Four: Prohibit any person from selling securities short unless that person has at the time of the short sale a demonstrable legally enforceable right to deliver the securities at the required delivery date. Under current law, many short sellers fail to deliver. We must tighten up the rules.

Five: Require that all short sales settle in the same timeframe employed for long sales of the same securities. There is no reason short sellers should have 13 days to deliver shares when long sellers have only 3 days.

I look forward to hearing from Chair Shapiro soon about the conclusions of

her review and the actions the SEC intends to take to stop these harmful activities that are preventing our markets from returning to a sound footing. In the meantime, Senator ISAKSON and I believe the Senate should move forward with this legislation directing the SEC to take action now. In the end, I hope the SEC will move quickly on its own to take these actions urgently, and now.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I rise first to commend the distinguished Senator from Delaware, Mr. KAUFMAN, on a very appropriate bill at a very appropriate time in our country. I am proud to be an original cosponsor of this legislation.

History teaches us good lessons and, as the Senator said, for 70 years, until July of 2007, the uptick rule served the American investor, the American banking industry, and the traders of America well, because it protected it from a very dangerous thing happening which happened beginning in September of last year. Everybody in this room will remember the markets of last fall. What happened is we hit some unsettling times. We in fact passed the TARP stabilization bill. The markets began to climb. I e-mailed Chris Cox, who was the then-Chair of the SEC, the position Mrs. Shapiro now holds. I sent him an e-mail begging him to please reinstate the uptick rule. They took a brief look at it, suspended it for a few days, and then let it stay. What happened was hedge funds and other traders coming in to cash in were taking the downward spiral of stocks and banks and financial institutions in the country and making money off the demise and the decline of those stocks, all because there was no protection so that they couldn't feed off a downward spiral. The uptick rule, as well explained by the Senator from Delaware, simply provides a cushion to discourage those who would exploit a dangerous and difficult market and make money at the expense of the American people.

Senator KAUFMAN has introduced a piece of legislation that is right for America, it is right for America's investors, and it is right for our stock market as it still languishes today somewhere down near what we hope is the bottom. One way to ensure that bottom exists is to stop rewarding those who would feed off of it and instead reinstate good discipline that ensures good practices and allows the market to restore itself back to a good equilibrium.

I commend Senator KAUFMAN on the introduction of the legislation. I am honored that he asked me to cosponsor it and I am proud to do so. I hope the Senate will expeditiously deal with it, not in the interests of Senator KAUFMAN or myself, but in the interests of the American people who are looking to us for answers in difficult times.

Mr. KAUFMAN. Mr. President, I am honored to have the Senator from Georgia join me. The uptick rule and short selling is not a partisan issue; it is a bipartisan issue. We can work together to get this right.

It is time to send a clear message to investors, to people who want to invest in our markets, that the markets are fair and they have an opportunity and they are going to get a chance at a level playing field.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT REQUIRED.

Not later than 60 days after the date of enactment of this Act, the Securities and Exchange Commission (in this Act referred to as the "Commission") shall—

(1) reinstate the substance of that portion of the regulations in effect on July 5, 2007, that prohibited short sales not effected on a plus tick;

(2) rescind rule 201 of regulation SHO, at section 242.201 of title 17, Code of Federal Regulations, as in effect on the date of enactment of this Act;

(3) require trades by short sellers of securities to yield priority and preference to transactions effected by long sellers of securities;

(4) with the concurrence of the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System, prohibit short sales of the securities of any financial institution, unless that trade is effected at a price (in minimum lots, as specified by the Commission) that is at least 5¢ higher than the immediately preceding transaction in such securities;

(5) adopt such rules and regulations, consistent with paragraphs (1) through (4), as necessary to prohibit any person from engaging in any conduct that artificially would create a plus tick or satisfy the price requirements set forth in the short sales regulations of the Commission; and

(6) take such other actions as may be necessary or appropriate to make the regulation of short sales by the Commission consistent with the requirements of this Act.

SEC. 2. MANDATORY SETTLEMENT PREPAREDNESS REQUIREMENT.

Not later than 60 days after the date of enactment of this Act, the Commission shall issue regulations prohibiting any person from selling securities short, unless that person demonstrates, at the time of the sale, that such person possesses, at the time of the sale, a demonstrable, legally enforceable right to deliver the securities at the required delivery date.

SEC. 3. MANDATORY SETTLEMENT TIMES FOR SHORT SALES.

Not later than 60 days after the date of enactment of this Act, the Commission shall issue regulations to require that all short sales settle on the same time frame employed for long sales of the same securities.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and

Forestry be authorized to meet during the session of the Senate on Monday, March 16, 2009 at 5:30 p.m. in SC-4 of the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, March 16, 2009 at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Michael Gauthier, who is a National Park Service fellow working on the staff of the Committee on Energy and Natural Resources this year, be granted the privilege of the floor for today and for the remainder of the Senate's consideration of H.R. 146.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL

NOMINATION OF THOMAS L. STRICKLAND

Ms. MIKULSKI. Mr. President, as if in executive session, I ask unanimous consent that the nomination of Thomas L. Strickland to be Assistant Secretary of Fish and Wildlife, sent to the Senate by the President on March 12, 2009, be jointly referred to the Committees on Environment and Public Works and Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, MARCH 17, 2009

Ms. MIKULSKI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Tuesday, March 17; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half; further, that following morning business, the Senate resume consideration of the motion to proceed to H.R. 146, the legislative vehicle for the lands package; and, finally, I ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m. to allow for the weekly caucus luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Ms. MIKULSKI. Mr. President, tomorrow the Senate will resume postcloture debate on the motion to proceed to the legislative vehicle for the lands package.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Ms. MIKULSKI. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:27 p.m., adjourned until Tuesday, March 17, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF COMMERCE

GARY LOCKE, OF WASHINGTON, TO BE SECRETARY OF COMMERCE.

DEPARTMENT OF TRANSPORTATION

ROY W. KIENITZ, OF PENNSYLVANIA, TO BE UNDER SECRETARY OF TRANSPORTATION FOR POLICY, VICE JEFFREY SHANE, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

REGINA MCCARTHY, OF MASSACHUSETTS, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE JEFFREY R. HOLMSTEAD, RESIGNED.

DEPARTMENT OF THE TREASURY

KIM N. WALLACE, OF TEXAS, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE KEVIN I. FROMER, RESIGNED.

DEPARTMENT OF STATE

DEMETRIOS J. MARANTIS, OF THE DISTRICT OF COLUMBIA, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE PETER F. ALLGEIER, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

R. GIL KERLIKOWSKA, OF WASHINGTON, TO BE DIRECTOR OF NATIONAL DRUG CONTROL POLICY, VICE JOHN P. WALTERS, RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

LADDA TAMMY DUCKWORTH, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (PUBLIC AND INTERGOVERNMENTAL AFFAIRS), VICE LISETTE M. MONDELLO, RESIGNED.