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SHORT-SELLING ACTIVITY IN THE STOCK MARKET: MARKET EFFECTS AND THE NEED FOR REGULATION (PART 1)

ELEVENTH REPORT

BY THE

COMMITTEE ON GOVERNMENT OPERATIONS

DECEMBER 6, 1991.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

House of Representatives,
Washington, DC, December 6, 1991.

Hon. Thomas S. Foley,
Speaker of the House of Representatives,
Washington, DC.

Dear Mr. Speaker: By direction of the Committee on Government Operations, I submit herewith the committee's eleventh report to the 102d Congress. The committee's report is based on a study made by its Commerce, Consumer, and Monetary Affairs Subcommittee.

John Conyers, Jr., *Chairman.*

CONTENTS

APPENDIX

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102D CONGRESS
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HOUSE OF REPRESENTATIVES
REPORT
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DECEMBER 6, 1991.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on Government Operations, submitted the following

ELEVENTH REPORT

BASED ON A STUDY BY THE COMMERCE, CONSUMER, AND MONETARY AFFAIRS SUBCOMMITTEE

On November 13, 1991, the Committee on Government Operations approved and adopted a report entitled "Short-Selling Activity in the Stock Market: Market Effects and the Need for Regulation (Part 1)." The chairman was directed to transmit a copy to the Speaker of the House.

I. INTRODUCTION AND BACKGROUND

Short selling has been practiced in the Nation's securities markets for many years. It is not a recent innovation in finance. However, the effects of short selling on the securities markets are not widely understood. Moreover, strong criticism has been directed in recent years at the regulatory system by investors and by companies who believe that inadequate regulation has permitted substantial abuses to develop.

Although the basic practice of short selling is not new, it has taken on a new significance just recently. Modern innovations in the clearing and settlement of securities transactions and the widespread adoption of book entry recordkeeping systems have dramatically reduced the costs and increased the market opportunities for short-selling transactions. A new evaluation of how short selling fits into modern securities markets and whether the complaints being heard are valid is therefore needed.

48-630

For these reasons, the Commerce, Consumer, and Monetary Affairs Subcommittee of the House Committee on Government Operations has conducted an extensive investigation of short selling in the equity market. Three days of hearings were held in November and December 1989,[1] a survey of affected companies was conducted in 1989, comprehensive tabulations of short interest statistics were compiled for the years 1986–90,[2] the securities clearing and settlement system has been closely studied, and numerous other aspects of short selling have been evaluated.

Certain elements of this investigation are still in progress. Consequently, the committee has not reached final conclusions and recommendations with respect to many of the questions that have been raised. The questions that are still under study are identified briefly in Section I.C below.

This report represents, therefore, an interim statement of findings and conclusions. The recommendations presented in this report are firm and final, but they do not address several important issues that are still under investigation.

A. THE MECHANICS OF SHORT SELLING

1. The individual short-sale transaction

In a short-sale transaction, an investor places an order with a securities broker to sell shares of stock he or she does not own.[3] If this order is executed by the broker, the investor will then be "short" this stock, meaning he or she will owe so many shares. This short position will appear as a liability item on the investor's account statement with the broker.

The purpose of such a trade is to make a profit if the stock price goes down. At some future time the investor buys back the same number of shares of stock, and if this purchase is at a lower price than the price of the short sale, the investor has made a profit.

The cash received from the short sale is credited to the investor's account but cannot initially be withdrawn in cash. In fact, the margin regulations of the Federal Reserve require that additional cash be deposited by the investor, or borrowed from the broker, to assure that the investor will be able to buy back the shares sold short to complete the transaction.[4]

Moreover, the investor may be required under the margin regulations to deposit additional cash (or borrow more from the broker)

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[1] "Short-Selling Activity in the Stock Market: The Effects on Small Companies and the Need for Regulation," hearings before the Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations, House of Representatives, November 28 and 29, and December 6, 1989.

[2] See appendix, "Stocks with High Short Interest, 1986–90," compiled by the subcommittee from short interest statistics and company data supplied by the New York Stock Exchange, American Stock Exchange, and National Association of Securities Dealers.

[3] Bonds can also be sold short, but this report deals only with short selling in the stock market. It is also possible to sell short securities that the investor does own, which may be done for tax purposes. This is called "shorting against the box," and represents a transaction done as if the investor did not own the securities.

[4] The Federal Reserve's Regulation T specifies the amount of money that brokers can lend to their customers for the purchase of securities "on margin," and it also specifies the additional cash "margin" that an investor must deposit or borrow in order to make a short sale. The present margin requirement on most short sales is 150 percent, meaning the broker must hold the proceeds of the sale (100 percent), and the investor must deposit or borrow an additional 50 percent. Short sales by exchange specialists and market makers, and proprietary short sales by self-clearing brokers, are exempt from this requirement.

at a later time if the price of the shares sold short increases after the short sale. If the investor is unable to provide the additional margin, the short position will be closed out by the broker, and the investor is charged for the cost of buying back the shares.

On the other hand, if the price of the stock in which the investor is short should decline, the investor's broker is permitted to release a corresponding portion of the cash margin and pay it out to the investor. If the price should decline to zero because the stock has become worthless, then the investor may get all his or her money out in cash without ever purchasing back the stock to close out the short position.

As long as his or her account has sufficient margin, the short investor may remain short indefinitely. There is no time limit on short investments. The only complication, other than insufficient margin, that could force an investor to close out a short position prematurely by buying back the shares would be when his or her broker is required to return shares that were borrowed at the time of the short sale, as described in the next section.

2. Securities borrowing and lending

Short selling normally requires that the short seller's broker must borrow securities. The purchaser of the shares in a short-sale transaction expects to receive delivery of the purchased shares, or at least the purchaser's broker must receive them in order to hold them for the purchaser, but the seller does not have them to start with. The seller's broker must therefore borrow shares to complete the transaction.

Securities lending for this purpose is highly organized, and usually the seller's broker has no problem borrowing the necessary shares, either from other customers' margin accounts or from another broker. Occasionally, however, the shares cannot be borrowed, in which case the broker is supposed to refuse to execute the customer's order to sell short.

The seller's broker does not actually borrow the necessary shares when the short-sale trade is executed, however. The shares are not borrowed until settlement of the transaction occurs, which is normally five business days later, and this time lag can allow a problem to develop. On the settlement date, the seller's broker may discover that shares are no longer available to be borrowed from the source that seemed to have shares available five days earlier.

If the seller's broker cannot borrow the shares on settlement day, then no shares are delivered to the buyer's broker. If the trade is processed through one of the major stock clearing organizations,[5] as most now are, then no shares are delivered to the clearing organization. The short-sale trade is still a valid trade, but the seller's broker is merely late in delivering shares to complete the trade. This appears as a "fail-to-deliver" on the books of the selling broker.

[5] The most important stock clearing organization is the National Securities Clearing Corp. or NSCC, headquartered in New York.

3. Expansion of total beneficial ownership

Short sales of equity shares generally have the effect of increasing the total number of shares of that company's stock owned beneficially by investors.[6] In a short-sale transaction, the buyer adds to his or her holdings of this stock, while no other investor has sold shares he or she owned.

Of course, there is no increase in the shares outstanding shown on the records of the issuing corporation. As a consequence, the short sale creates a situation in which the total number of shares owned beneficially by investors exceeds the number of shares issued by the issuing corporation.

Securities lending by brokerage firms makes this possible. Brokers normally hold shares in custody for their customers, and the customers' investment holdings are reported to them on paper account statements from their brokers. When investors borrow money from their brokers on margin, as many investors do, they must sign an authorization permitting the broker to lend their shares or otherwise to pledge them as collateral for bank loans to finance the broker's lending. When a broker uses this lending authority to lend some customers' margin shares to a short seller, the broker ends up holding fewer shares of that stock in custody than the number of shares the customers own, as shown on their paper account statements.

The result of such short selling and securities lending, in the aggregate, is that brokers as a group do not hold record ownership of as many shares of such a stock as they and their customers own beneficially. This may be described as a situation of fractional reserve brokerage, where the "reserves" of record shares, of issued shares shown on the records of the issuing corporation, are only a fraction of the beneficially owned shares shown on the account statements of customers and in the brokers' own proprietary accounts.[7]

This process of nominal share expansion through securities lending and short sales is very similar in its mechanics to the process of money expansion through bank lending, which is familiar to students of economics. In both cases the public holds a major part of its holdings, its money balances and its securities, in book entry form only, in accounts with intermediary institutions.

In the case of banks, these book entry holdings, the bank checking and savings accounts, show more money in total belonging to the depositors than the banks hold in their vaults or on deposit with the Federal Reserve Banks. The bank reserves are only a small fraction of depositors' total bank balances on paper.

The same thing is now happening in securities brokerage firms. The total shares belonging to investors on paper, in their brokerage

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[6] If the purchaser of the shares sold short uses the purchased shares to close out a short position, then there is no increase in investors' total holdings of this stock.

[7] This analysis assumes either (a) that shares are delivered by the short-selling broker (i) from among the shares already held for customers or the firm's proprietary accounts or (ii) from shares borrowed from another broker's pool of lendable shares; or (b) that shares are not delivered by the short-selling broker. An exception to this analysis occurs if all short sales in an issue have been settled by delivery of shares borrowed under special agreements from bank trust accounts or other institutional or individual portfolios of directly held shares.

accounts, exceed the total reserves of registered or issued shares in the custody of the brokers when short sales have occurred.

It is not possible, however, for all investors to convert their shareholdings, as shown in their brokerage accounts, into stock certificates when such a share expansion has occurred. If all investors holding shares of a particular stock in their brokerage accounts tried to convert their holdings into stock certificates, brokers who had loaned out shares to short sellers would be forced to recall the loans to get the shares back. This, in turn, would force the short sellers who had borrowed the shares to buy back the shares in order to return the borrowed shares.

If the short sellers are able to buy back enough shares—that is, if enough investors who first wanted stock certificates are willing to sell their shares instead—then the remaining investors who do not sell can get stock certificates. In this case, the total shares held by investors will have contracted enough so that it matches the brokers' reserves of issued shares in their custody.

However, sometimes short sellers are not able to buy back the necessary shares at a reasonable price, and a short squeeze results. All investors holding this stock are refusing to sell except possibly at a very high price, and when this happens regulatory intervention or court action may be needed to resolve the situation. As long as this short squeeze remains in effect, however, it is not possible for all the investors holding this stock in their accounts to obtain stock certificates for their holdings.

4: Expansion of tradeable shares

The expansion of book entry holdings of shares by investors when short selling has occurred also represents an expansion of tradeable shares in the market. Every investor whose brokerage account shows that he holds a certain stock may sell that stock immediately, regardless of whether his or her broker is holding enough shares in custody on that day to make delivery of all the shares sold by customers from their accounts. The rules of the stock exchanges and of the National Association of Securities Dealers (NASD), which regulates over-the-counter trading, do not place any limits on the entry of sell orders just because a broker's reserves of shares in custody are less than what that broker's customers want to sell.

5. Statistics on short interests in stocks

The New York and American Stock Exchanges and the NASD compile monthly statistics on the aggregate short security positions reported by brokers and dealers. These statistics, which are released to the press and the public, list hundreds of companies whose stock has been sold short in significant volume by investors. Short selling, and the resulting share expansion, are thus very widespread phenomena.

To provide further information on the scale of short selling and share expansion, the subcommittee has compared the short interest statistics reported monthly by the exchanges and NASD with the individual companies' total shares outstanding.[8] The purpose of this analysis was to identify cases in which the share expansion through short selling was at least 5 percent of a company's shares. The appendix contains a listing compiled by the subcommittee showing 695 companies for which the short interest in their stock was at least 5 percent of the company's total shares outstanding at some time during the years 1986–90.

For 280 of these companies the short interest exceeded 10 percent of shares outstanding at its maximum, and for a smaller but still significant number the share expansion through short selling was over 20 percent.

B. REGULATION OF SHORT SELLING

Short selling is regulated under both Federal agency regulations and under certain rules of the stock exchanges and the NASD.

As described above, the Federal Reserve's margin regulations require a short seller to post a certain amount of additional cash margin, and to maintain afterward an appropriate amount of cash margin. This limits the amount of short selling an individual investor can do, based on his or her financial resources.

Certain Securities and Exchange Commission rules set important limits on short selling. SEC Rule 10a–1 (the "uptick rule") prohibits short sales of exchange-listed stocks except on or after a price "uptick." That is, the short seller must find a buyer who will pay at least one-eighth point more than the last sale price, or who will pay the same as the last sale price if the last change in the sale price of this stock was an increase. In theory, this rule is intended to prevent short selling from continually driving down the price of a stock, but evasion of this rule is possible, especially through overseas trading in stocks that can be traded in London, Tokyo, or other overseas markets. Moreover, this rule does not apply to stocks that are traded over-the-counter or in the NASDAQ system of the National Association of Securities Dealers. The NASD has proposed a similar uptick rule for NASDAQ trading, but has not taken final action to implement such a rule.

SEC Rule 15c3–3 sets important limits on the extent of securities lending. Except under special written agreements applicable to a particular stock, a broker may lend out only those customer shares that serve as collateral for the money the customers have borrowed from the broker on margin. The rule limits this to stocks having a value of no more than 140 percent of the amount borrowed. Therefore, if few brokerage customers are holding a particular stock in margin accounts—that is, if most investors have paid in full for their holdings of this stock and are holding it in cash accounts or in certificate form—then it may be difficult or impossible for brokers to borrow this stock. In this case normal short sales of this stock, in which borrowed shares are delivered to the buyer, may not be possible.

[8] A company's "total shares outstanding" (TSO) is the quantity of shares it has issued and sold to investors. This number of shares is available in certificate form. The term is misleading, however, because this number does not reflect any additional book entry shares created when short selling occurs. A company's TSO is therefore less than the total of investors' holdings of this stock when short selling has occurred.

SEC Rule 10b-21 prohibits short sellers from closing out a short position with shares received in a secondary offering of shares by the company. This does not directly regulate short selling itself, but it seeks to control a short-selling abuse in which investors would use short sales to drive down the price of a stock just prior to a new offering of shares, and would then close out their short position with shares obtained in the offering at the lower price they had forced the company to accept.

The New York and American Stock Exchanges and the NASD have rules that require a broker to determine, at the time a customer enters a short-sale order, that the appropriate number of shares are available to be borrowed to cover the short sale. The broker must locate the required shares before executing the short sale for the customer.

The NASD also has recently received final SEC approval of a "buy-in" rule, which provides that a broker whose customer requests a certificate for NASDAQ securities that he or she has purchased must force a buy-in of the necessary shares for cash or guaranteed delivery, at the expense of the seller's broker, if the customer's shares are not otherwise received through normal trade settlement procedures. Such a buy-in would typically only become necessary in cases where the broker handling a short sale is unable to borrow the necessary shares for delivery to the purchaser.

The NASD has also proposed, but has not received final SEC approval to implement, a "closeout" rule for short sales. This rule, if implemented, will require brokers, under certain circumstances, to close out customer short positions if delivery of the shares sold short has not been made by a certain number of days after the normal settlement date. There is no similar rule governing the delivery of shares sold short on the New York or American Stock Exchanges.

These rules typically provide blanket exceptions for short selling by exchange specialists and over-the-counter market makers. Specialists and market makers are generally permitted to engage in short selling on substantially more liberal terms than other investors.

C. SUBCOMMITTEE INVESTIGATION AND HEARINGS

1. *Company and investor complaints*

For years, investors and company executives (who are often major shareholders also) have complained about short-selling abuses. Many recent press reports of abuses, as well as other press features that dispute the reports of abuse, are reprinted in Appendix 9 of the printed subcommittee hearing record.

Many of the complaints have alleged that short sellers, after establishing a major short position in a particular stock, have aggressively circulated false rumors about the company's financial condition, problems with its products, or the health or integrity of its officers in an effort to drive down the stock price. It has also been frequently alleged that some elements of the press assist and cooperate with short sellers by printing very negative stories about the companies the short sellers have targeted.

In many cases short sellers are alleged to have contacted directly a company's major suppliers, customers, lenders, and institutional shareholders, often anonymously or under false pretenses, to aggressively suggest false or misleading "facts" about the company.

Other complaints have alleged that "naked" short selling has been employed to manipulate and drive down the price of a stock improperly. Short selling in which shares are not borrowed and are not delivered to the buyer is called naked short selling. This practice was described in a *Forbes* article in February 1988.[9]

Some complaints have been directed at the SEC. The SEC, it is alleged, is "soft" on short-seller abuse and fails to pursue cases of false rumors, even when the purpose of the false rumors is price manipulation. Some complaints have even alleged that the SEC actively assists short sellers by conducting investigations of companies in the stock of which short sellers have accumulated large short investments. These investigations assist short sellers because public announcement of such an investigation often causes other investors to sell such a stock, thereby driving down the price.

2. Survey of companies

In May and June 1989 the subcommittee mailed a questionnaire letter to approximately 200 companies that had had the short interest in their stock reach a ratio of at least 10 percent of their public float of shares at some time in the period from December 1986 through April 1989. (In the case of New York Stock Exchange listed companies, the subcommittee could not obtain float data and therefore compared the short interest of each company to its total shares outstanding.) The letter contained a series of questions asking what practical effect the short selling and the related activities of short sellers had had on the company, whether the company had experienced any disruptions or distortions of the proxy voting process, and how the company felt about three suggested changes in the regulation of short selling. The three regulatory ideas proposed in this letter were (i) mandatory public reporting of their short positions by short sellers if their positions exceed some percentage of a company's outstanding shares; (ii) an uptick rule for short sales of NASDAQ stocks; and (iii) a mandatory buy-in rule to reduce naked short selling.

The subcommittee received a total of 68 responses, for a response rate of about 34 percent. Thirty companies reported no problems or complaints arising from short-selling activity, while 38 reported problems of various sorts. Several of those reporting no problems had very substantial short positions arising from hedging or arbitrage transactions involving convertible securities, but did not feel there was any need to complain.

Widespread circulation of false rumors around the time of heavy short-sale activity was cited by 21 companies as a serious problem. They generally reported that these rumor problems, at the very least, made it necessary for company officials to devote inordinate amounts of time to reassuring stockholders, regulators, customers,

[9] "Naked came the short-sellers," by Phyllis Berman and Ronit Addis, *Forbes*, February 8, 1988.

and sources of debt financing, who were often seriously unsettled by the reports being circulated.

Thirteen companies characterized the short-sellers' activities as involving improper interference with their relationships with customers, major shareholders, suppliers, banks, etc. Generally they complained of numerous phone calls, often anonymous, to these parties from "analysts" attempting to suggest very negative, frequently false, conclusions.

Only a small number of companies asserted that naked short selling was a significant problem. Most companies responded that they had no factual basis for determining whether naked short selling was a problem because they could not obtain the necessary data from their exchange or the NASD.

No companies reported any complaints related to shareholder proxies.

Many companies that reported specific complaints also expressed the view that short selling is a legitimate market practice and that the only need is to curb specific abuses.

Out of the 68 substantive replies received, 37 commented in some manner on one or more of the three policy ideas suggested in the letter. Public reporting of large individual short positions was supported in 32 of the responses and opposed in 2. Imposing an uptick rule for short sales of NASDAQ stocks was supported in 22 responses (13 from OTC companies), and opposed in 3. A mandatory buy-in rule or some other step to prohibit naked short selling was supported in 34 responses and opposed in 2.

In addition, various rule changes to assure informed consent by investors whose shares are lent to short sellers were suggested by seven companies.

3. Subcommittee hearings

In order to hear testimony on the allegations of short-seller abuse and on the programs of the SEC and the self-regulatory organizations (SROs)[10] for controlling abusive practices, the Commerce, Consumer, and Monetary Affairs Subcommittee held three days of hearings in November and December 1989.[11] On November 28, the subcommittee heard testimony from three company executives whose companies had been the targets of short selling and who reported abusive practices by short sellers. The subcommittee also heard testimony from two industry experts who gave a broader overview of short selling and its abuses, and it received for the record a statement from Joseph Feshbach of Feshbach Brothers, a major short-selling investment partnership, commenting on the issues the subcommittee had raised.

On December 29, the subcommittee heard testimony from John Guion, of the National Association of OTC Companies,[12] and from the New York and American Stock Exchanges and the National Association of Securities Dealers (NASD). Mr. Guion reported on a survey his organization had conducted among 1,000 public compa-

[10] The stock exchanges and the NASD are self-regulatory organizations with substantial delegated responsibility for regulating equities trading and other aspects of the equities market.

[11] Subcommittee hearings, op. cit.

[12] Currently the Association of Publicly Traded Companies, APTC.

nies concerning their experience with short-selling abuses and their views regarding possible regulatory improvements, from which he concluded that there is very widespread support among public companies for fuller disclosure of short-selling activity. He reported the intention of his organization to recommend to the SEC a new public reporting rule applicable to any individual short seller who accumulates a short position equal to 5 percent or more of a company's total shares outstanding.

Edward Kwalwasser, representing the New York Stock Exchange, and Stephen Lister, representing the American Stock Exchange, described the role of the SEC's uptick rule in suppressing "bear raids" by short sellers and the manner in which the Exchanges, through various rules, control the spreading of misleading rumors and prohibit naked short selling. They both expressed skepticism regarding the subcommittee's concern that shareholders might lose proxy voting rights when broker-dealer firms lend customers' shares to short sellers. Mr. Lister also expressed concern that there might be unintended adverse effects from requiring public reporting of large individual short positions.

John Pinto and Gene Finn, testifying for the NASD, described the NASD's recent and proposed rule changes for strengthening their controls over naked short selling and other short-selling abuses. They opposed the extension of the SEC's uptick rule to NASDAQ trading, basing their analysis in part of a major study of short-selling regulation that had recently been completed by Irving Pollack, a former SEC Commissioner and senior regulatory official.[13] They also commented briefly on several other regulatory issues related to short selling.

Richard Ketchum, Director of the SEC's Division of Market Regulation, and John Sturc, Associate Director of the SEC's Division of Enforcement, presented the testimony of the Securities and Exchange Commission on December 6. They described at length the regulatory and enforcement programs of the SEC as they apply to short selling, and their prepared testimony also included detailed responses to a number of questions the subcommittee had submitted in advance. On the question of extending the uptick rule to NASDAQ securities, the SEC position was that they did not believe a need for this rule change had been demonstrated, but the SEC would continue to study the merits of this proposal. Regarding the proposal for public reporting of large individual short positions, they stated that the SEC does not favor public reporting that reveals potentially sensitive trading strategies, and furthermore that the SEC lacks authority to impose such a requirement without legislation.

4. Analysis of American Stock Exchange surveillance report

In 1987 the American Stock Exchange (ASE) investigated company allegations of possible manipulative activity in connection with short selling in the securities of three ASE-listed companies. The Exchange prepared and submitted to the SEC a lengthy surveillance report dated November 6, 1987, in which the Exchange re-

[13] "Short-Sale Regulation of NASDAQ Securities," by Irving M. Pollack, National Association of Securities Dealers, 1986.

ported finding no evidence of manipulation but recommended further inquiry by the SEC. The SEC provided a copy of this report to the subcommittee immediately prior to the 1989 hearings, with a request that it be treated as a confidential document because of its detailed data on individual security trades by certain individuals.

Following the hearings the subcommittee analyzed the surveillance report in substantial detail in order to evaluate the thoroughness of the American Exchange investigation.

5. Study of SEC investigations of short-sale target companies

Following the hearings the subcommittee inquired of the SEC by letter what percentages of formal investigations and informal inquiries opened by the SEC to investigate companies for accounting fraud or other fraudulent public disclosures involved companies where a short interest existed, at the time the Commission began its inquiry, of at least 5 percent of the company's total shares outstanding. The purpose of the subcommittee inquiry was to attempt to verify company complaints that the SEC often assisted short sellers by investigating companies that the short sellers had identified as targets.

The SEC responded that they did not have the necessary information in their possession to respond to this inquiry. The SEC did offer, however, to permit subcommittee staff to view listings of SEC formal and informal investigations opened regarding suspected cases of the sort specified by the subcommittee.

A subcommittee staff person therefore compiled from these SEC listings and from the published monthly short interest reports released by the NASD the necessary data to prepare a partial answer to the question. The compilation prepared by the subcommittee covers SEC investigations of NASDAQ companies opened between March 1988 and March 1989.

6. Analysis of NSCC fails data, December 1990

In order to investigate company allegations of naked short selling, the subcommittee requested from the National Securities Clearing Corporation daily tabulations of clearing shorts (failures to deliver securities by settlement date) and clearing longs (failures to receive securities by settlement date) for every trading day in December 1990. The subcommittee received daily data from NSCC showing clearing shorts that aggregated at least 10,000 shares in a given equity issue and that were due from selling brokers who had been short in that issue for at least 5 trading days. The subcommittee also received data showing daily clearing longs on a comparable basis.

The subcommittee then prepared summary tabulations from the data provided by NSCC. These tabulations show individual stocks in which the clearing short position at NSCC that was due from brokers who had been continuously short for at least 10 days averaged at least 20,000 shares throughout the entire month of December. The subcommittee compared these cases of substantial and persistent clearing shorts with the publicly reported investor short interest statistics for December 1990.

In these tabulations the subcommittee identified 31 New York Stock Exchange issues, 28 American Stock Exchange issues, 129

NASDAQ issues, and 54 issues the subcommittee could not identify as to market but which appeared to be non–NASDAQ over-the-counter issues. Many of the issues shown in these tabulations also were reported as having substantial investor short positions in the monthly statistical reports as of December 15, and several were issues that had been reported in the press as the targets of professional short sellers. Several others were the stocks of companies that have expressed complaints about short-selling abuse.

The subcommittee then, in March 1991, requested evaluations from the SEC, the New York and American Stock Exchanges, and the NASD as to whether the persistent clearing fails shown in the tabulations reflected naked short selling, and if not what other factors accounted for such persistent and substantial clearing fails.

The SEC has not responded to this inquiry. The New York Exchange has tentatively reported apparent rule violations in three cases but has not completed its review of the matter. The American Exchange reported finding instances of failure to deliver shares after both long sales and short sales but determined that most of the cases examined did not represent rule violations or naked short selling. The NASD did not find significant rule violations or naked short selling.

The subcommittee has not completed its investigation of these findings of substantial and persistent clearing fails in issues subject to active short selling but expects to be able to report on this investigation in 1992.

7. Investigation of New York Stock Exchange proxy voting rules

The subcommittee has been concerned from the beginning of its short-selling investigation that legitimate short selling might have unintended and potentially adverse effects on investors' proxy voting rights. The SEC and the SROs expressed the judgment in their hearing testimony that the subcommittee's concerns were unfounded. The subcommittee determined, nevertheless, to investigate this question more deeply in late 1990, and in conducting this aspect of its investigation the subcommittee has corresponded at length with the New York Stock Exchange during 1990 and 1991.

In this correspondence the NYSE has confirmed the subcommittee's basic supposition that short selling may occasionally lead to an inability on the part of brokerage firms to honor the proxy voting instructions of their customers. The subcommittee's analysis of this issue appears in Section VI.

II. The Functional Role of Short Selling

The committee finds that short selling has an important and constructive functional rule in the equity market.

As an investment opportunity, short selling enables investors with negative evaluations of particular individual stocks to invest their funds so as to profit if their evaluations prove to be correct. In doing this, short sellers bring into the pricing structure of the market a balancing influence. Their negative evaluations of stocks then play a role, along with the positive evaluations of other investors who hold the same stock long in their portfolios, in determining the market price of this stock. This participation by short sellers thereby tends to enhance the efficiency of the market pricing mechanism.

The committee finds it highly significant that, among the many market participants and issuers who have complained of short-seller abuse, virtually none have held the position that short selling as an investment practice is bad or should be stopped. On the contrary, many emphasized to the subcommittee their conviction that short selling, per se, is entirely legitimate and constructive, if done according to the rules. The committee shares this conviction.

Their complaints, and consequently the subcommittee's investigative efforts, have focused on questions of improving the short-selling mechanism and curtailing related abuses, so that short selling can most effectively serve its legitimate function in the market.

III. Abuse and Manipulation By Short Sellers

A. CREDIBILITY OF ABUSE ALLEGATIONS

The subcommittee's investigation of short selling has included extensive review of the allegations of short-seller abuse offered by affected issuers and investors or reported in the press. In addition to the widespread press reports, allegations of abuse were reported by witnesses in the subcommittee's hearings, by issuers who responded to the subcommittee's questionnaire, and by other issuers and investors in numerous unsolicited off-the-record contacts with the subcommittee. The subcommittee did not, however, attempt independent verification of their accuracy through field investigation.

Because of the lack of independent investigation and verification, the committee has not made any findings that certain of these allegations were conclusively demonstrated to be true. The committee cannot, therefore, report documentation of specific incidents of abuse by short sellers.

The committee has found, however, that many of the reports of rumor-spreading abuse are entirely credible and are strongly suggestive of abuse. Moreover, the widespread nature of these reports and the high degree of similarity among them constitute a highly consistent pattern. The committee finds, therefore, that a pattern of abusive and destructive rumormongering, targeted specifically at companies in the equity securities of which some short-selling investors have established major short positions, appears to be occurring.

Other reports have alleged direct price manipulation or other trading abuses by short sellers in the trading of target companies' shares. Many of these reports have alleged that certain parties were engaging in naked short selling, presumably with the cooperation of a major broker or dealer.

None of the reports of naked short selling were supported with direct evidence, and in its evaluation of these reports the subcommittee found the circumstantial evidence offered to be inconclusive. The charges of naked short selling do raise important questions of the proper functioning of the markets, however, and the subcommittee has therefore initiated a study of clearing and settlement delays and their relationship to short selling, as reported previously.

This study has not been completed, but the evidence examined so far suggests that naked short selling or its functional equivalent does occur in large volume in some equity issues. The committee does tentatively conclude, therefore, that the reports of naked short selling offered by issuers and other investors, while lacking direct supporting evidence, may nevertheless be true in some instances.

Other allegations of direct price manipulation by short sellers have appeared to the subcommittee to lack substance. For this reason the committee has concluded that, aside from the reports of spreading false rumors and engaging in naked short selling, many of the complaints about short-seller abuse are not soundly based and may reflect a misunderstanding of the short-selling process.

B. THE PSYCHOLOGICAL ENVIRONMENT

The committee's principal concern in its evaluation of short-selling issues has been broader than just whether specific abuses and violations have occurred and are being regulated. The committee is particularly concerned with whether:

a. The equity market functions fairly for investors who invest in the shares of companies that are actively sold short by other investors; and

b. Whether the equity market prices such stocks efficiently and appropriately so that these companies will continue to have access to the market for new capital on a sound and fair competitive basis.

The committee has found, in this connection, that the fairness and efficiency of the equity market for stocks that are actively targeted by short sellers suffer from serious disturbances that cannot be attributed solely to specific instances of short-seller abuse.

The pricing and trading of individual equity issues are highly dependent on subjective elements of psychology and perception among investors generally, and the committee finds that many investors and issuers have a perception that short sellers have great manipulative power over stocks. Moreover, the committee finds a widespread perception, expressed in many ways to the subcommittee, that the SEC is indifferent to the manipulative activities of the short sellers and assists them indirectly by their attitude of indifference.

The psychological environment is further affected by the fact that major short-selling investors function entirely anonymously. Under present reporting rules it cannot be known, except through a special investigation by the SEC, the exchanges, or the NASD, who is holding the major short positions in a particular stock.

The committee finds a strong undercurrent of disillusionment with the public equity markets and with the SEC in the viewpoints expressed by many investors and issuers whose shares are targeted by short sellers. Among these investors and issuers there appears to be a sense of being victimized by powerful but unknown abusers who do their will without restraint from any regulators. If these were isolated views, they might not be significant, but the committee finds them sufficiently prevalent to constitute a troubling pattern.

In some instances, as reported previously, the targets of short selling appear to have drawn conclusions about the manipulative power of short sellers without a solid factual basis, but this tendency of many investors to draw such unfounded conclusions is the fundamental reason for concern about the psychological climate.

The fact is that some short-selling partnerships possess very substantial financial resources and a capacity, financially speaking, to influence heavily or even dominate the trading activity in a small capitalization issue of stock over an extended period of time. When this general fact is combined in the minds of company executives and shareholders with the information that some unknown but presumably powerful party or parties is or are actively short selling a particular stock—and when these executives and shareholders also share a conviction that the SEC ignores abusive practices by the short sellers and does not ensure a fair market—it is readily understandable that these executives and shareholders of the affected issuer may reach exaggerated and ill-founded conclusions about the short-selling "threat." When such exaggerated reactions to active short selling become frequent and persistent, as the committee believes they have in many stock issues, then pricing efficiency and market fairness suffer.

Moreover, the impairment of pricing efficiency affects not just the immediate targets of short sellers but the entire class of firms, many of them small but some large as well, that are viewed in the investing community as potentially vulnerable to short-seller abuse. Given the perceived power of anonymous short sellers to manipulate the market, it is only ordinary prudence to many investors to avoid such issues altogether, which in turn unjustifiably depresses the pricing of such issues relative to others perceived as less vulnerable.

This analysis of pricing inefficiency would not be valid if short sellers do in fact possess the great capacity to manipulate prices and hurt companies that is widely attributed to them. That is, if these investor evaluations of the short-selling threat are soundly based and relatively accurate on average (i.e., statistically unbiased), then the resulting effects on pricing could be compatible with efficient market functioning. The foundation of this analysis of probable pricing inefficiency is that, on the contrary, the psychological environment surrounding short selling has led investors to systematically overestimate the manipulative power of short sellers. Although there appear to have been some cases of serious abuse with a potential for significant price distortions on individual issues, the committee does not believe, as a general matter, that short sellers possess the extraordinary manipulative power that is widely attributed to them.

This is precisely the environment in which improved public information is clearly needed. While not necessarily providing a complete solution, better public information is the natural first remedy for such difficulties. By injecting factual clarity, it reduces the scope for fear based on imaginative speculations and unfounded assumptions. The issue of improved public information is discussed in Sections IV and V below.

C. THE AMERICAN STOCK EXCHANGE SURVEILLANCE REPORT

In 1987 the American Stock Exchange received complaints from three companies that holders of short positions were engaged in downside manipulation of the company's stock. Each company reported that it was the target of malicious negative rumors which, it felt, were being spread by the short sellers as part of a scheme to depress the price of its stock. In addition, many negative press stories had appeared about these companies, notably in Barron's.

The American Exchange's Surveillance Department conducted investigations into the short selling of each company's stock. It compiled detailed trading data on these companies' stocks for certain study periods that ranged from 3 to 12 weeks and attempted to determine whether any of the short sellers had engaged in price manipulation in their trading during the study periods.

The trading data compiled in the investigation and the Exchange's findings were reported to the SEC. In each case, the Exchange concluded that none of the information it gathered revealed evidence of manipulation by short sellers. However, it stated that it could not determine whether certain principal short sellers had acted in concert. Moreover, since most of the principal short sellers were not members of the Exchange and therefore not subject to the Exchange's jurisdiction, it stated that the Exchange could not do a thorough investigation of the short-sellers' activities. It submitted the report to the SEC with a recommendation that the SEC should further investigate the activities of the short sellers to determine whether the short sellers had acted in concert to depress the stock prices.

The Exchange also made a limited attempt to evaluate the companies' claims of false rumors, but this work did not represent a thorough investigation. In its report the Exchange concluded that the charges of false rumors were a subject for the SEC to deal with. In particular, it recommended that the SEC should determine whether there had been any improper contact between the short sellers and the press.

The SEC did some additional investigation after it received the surveillance report. This included contacting the companies and the stock analysts that followed the companies, as well as searching various databases for negative articles or other information about the companies. Although it found negative articles from its database searches, the SEC said it did not find any articles which contained materially false information about the companies. In describing its response to the American Exchange's recommendation for further investigation, the SEC stated to the subcommittee that it found no indication of illegal activity by the short sellers in these cases and, moreover, that the SEC had brought action against one of the companies involved for improper accounting methods.

The subcommittee found, on close study of the Exchange's surveillance report, that the report contained both statistical discrepancies and unexplained information gaps. When questioned, the Exchange attributed the statistical discrepancies to human error but was unable to explain why certain information requested from one broker was never received. More importantly, the study periods selected by the Exchange for the three stocks did not correspond to the months when the reported short interest for these stocks was highest, or to the build-up of the short interest figures to their highest levels. Moreover, in the case of two stocks, high volume trading days occurred in the week immediately prior or subsequent to the study periods but were excluded from the study periods.

Finally, the Exchange's evaluation of the extensive trading data that was assembled lacked focus. It was never clearly stated what pattern they were looking for or what pattern would have raised concerns about manipulation. For this reason and because of the inadequacies cited above, the committee, while acknowledging the extensive effort of the Exchange, questions the effectiveness of its surveillance examination.

Moreover, the inadequacies found by the subcommittee should have been evident to the SEC but apparently were never detected. The committee finds, therefore, that the SEC's response and follow-up to the American Exchange surveillance report were superficial and did not represent a serious effort to investigate the company charges of manipulation by short sellers.

D. THE ROLE OF THE SEC

The Securities and Exchange Commission is responsible for enforcing the antifraud and antimanipulation provisions of the securities laws, and agency witnesses testified in the subcommittee's hearings that the agency performs this responsibility vigorously when evidence of illegal behavior by short sellers is brought to their attention. In support of this the agency testimony cited certain enforcement cases brought by the Commission where the behavior of short sellers was challenged.

Other witnesses questioned the adequacy of the SEC's efforts to control short-seller abuses, however. Moreover, several company officials have told privately of bringing complaints of short-seller abuse to the SEC without any apparent SEC action resulting. Some company officials even reported to the subcommittee that, after they brought their complaints to the SEC, the SEC turned around and investigated their own companies groundlessly for suspected accounting fraud, public disclosure violations, or other matters, without ever bringing formal charges.

The SEC has never, as far as the committee is aware, brought an enforcement case or even sought seriously to investigate a case in which the central allegation of abuse was the malicious dissemination of false or unverifiable negative reports about a public company, its officers, its products, or other matters that, if true or believed by investors, would be likely to influence negatively the trading price of the company's stock.

For this reason, the committee finds substantial basis for concern that the SEC's policing of the fairness of the markets in this respect may not be adequate.

The committee's concern regarding this aspect of the SEC's enforcement program is further heightened by the prepared testimony of Mr. Sturc for the SEC's Division of Enforcement. In explaining why the SEC has not found it practical to bring enforcement cases against short sellers in most instances, he stated:

> Finally, many of the complaints we receive about alleged illegal short selling come from companies and corporate officers who are themselves under investigation by the Commission or others for possible violations of the securities and other laws. When there is an obvious economic justification for short sales, it is extremely difficult to prove: . . . (ii) the material false statement/omission and fraudulent intent requirements of Rule 10b-5. This is particularly true in those situations where, for example, our investigation tends to show that at the time when short sellers were allegedly disseminating false rumors, in fact, the issuer was disseminating materially false financial statements.[14]

This statement by Mr. Sturc has the appearance of a de facto "no-action" assurance to short sellers concerning any actions they may take to disseminate false rumors about companies that are the object of SEC fraud investigations. Moreover, since the SEC does not bring formal charges against the company in many of the cases where it initiates an investigation, this statement represents a policy of ignoring possible cases of abuse by short sellers on the basis of unproven and potentially untrue suppositions about company behavior. The committee finds this policy very disturbing.

Finally, the committee finds that there has been an uncomfortably close direct working relationship between certain unknown short sellers and the SEC enforcement staff. Mr. Sturc acknowledged in the subcommittee hearing that the SEC staff "listen" when short sellers make allegations that a company is doing something wrong, because the short-sellers' information is often accurate.[15] Short sellers, in other words, frequently provide useful enforcement tips to the SEC staff.

That the SEC staff does frequently act on the tips provided by short sellers may also be inferred from a statistical survey the subcommittee staff conducted, with SEC cooperation, of SEC investigations of NASDAQ companies for accounting fraud or other fraudulent public disclosures during the period March 1989 through March 1990. During this period 24 percent of the formal investigations opened involving NASDAQ companies, and 17 percent of the informal investigations opened involving NASDAQ companies, were investigations targeted at companies in which the reported short interest in the company stock immediately prior to the opening of the investigation was at least 5 percent of the public float in that company's stock. That is, substantial percentages of all SEC investigations of NASDAQ companies during this period were investigations of short-seller targets.

The subcommittee does not find anything inherently improper in this pattern of enforcement investigations by the SEC. This pattern does, nevertheless, raise a troubling question. The question is whether the SEC's selection of investigation targets is biased in a manner that provides unwarranted assistance to the short sellers.

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[14] Subcommittee hearings, op. cit., p. 435.

[15] Subcommittee hearings, op. cit., p. 515.

The knowledge in the market that a company is the object of an SEC investigation for possible fraud is generally expected to disappoint or alarm investors and to directly cause a decline in the company's stock price. The opening of such SEC investigations after short sellers have established substantial short positions in the target companies' securities is therefore very beneficial to the short sellers. For this reason the SEC needs to exercise extreme caution in opening investigations of short-seller target companies, especially on the basis of tips from the short sellers, in order to guard against any appearance of bias favoring the short sellers.

Regardless of the appropriateness, from an enforcement perspective, of the investigations opened regarding possible fraud by short-seller target companies, the de facto working relationship between short sellers and the SEC enforcement staff has the effect of providing bounties to the short sellers for their enforcement tips when the enforcement investigations become known in the market. In this context, the committee finds it highly improper that the SEC staff should also exempt from any enforcement scrutiny the behavior of the short sellers whose tips they determine to act on, as Mr. Sturc testified.

IV. The Integrity of Information about Company Affairs

Accurate and timely information for investors is essential for a fair and efficient securities market. The unchallenged and unpunished circulation of false or misleading reports about company affairs is very destructive of fair markets. It discourages long-term investors from committing their funds to companies that have been made the targets of information distortions, and in this way it impairs and may even destroy these companies' access to the equity market for new capital.

The SEC does not take an evenhanded and balanced approach toward information integrity in the equity market. The SEC vigorously investigates suspected cases of misleading or false information released by company officials about their own companies, which is entirely proper regulatory scrutiny, but the SEC does not employ equal vigor on the other side. The SEC has not committed itself to a policy of suppressing false or manipulative rumor circulation by parties seeking to discredit a company or its officers or products, and it has not displayed any such commitment in practice through its enforcement program.

Small companies are especially vulnerable to campaigns of intentional distortion about their company affairs, for two reasons. First, they lack the resources usually available to a larger company to conduct an expensive information campaign to combat false rumors directly. Second, knowledge of their affairs among the financial press and among securities professionals, who may be able to evaluate false charges critically and render a constructive independent judgment, is generally much less widespread than in the case of large companies.

The SEC should adopt a formal policy and administrative program for improving the integrity of information flows about public companies, especially smaller companies. This program should include a commitment of resources to vigorous investigation of suspected cases of dissemination of false information or of unverifiable information under false pretenses (such as impersonation of company officers or regulatory authorities). The SEC should also evaluate the adequacy of the enforcement authority at its disposal for controlling information distortions about public companies, and should advise Congress of its recommendations for additional authority, if needed.

This commitment by the SEC is needed in part to provide greater confidence to investors that they can commit their funds to investments in small company stocks without excessive vulnerability to abusive information distortion by short sellers. A commitment of this nature by the SEC is needed to dissipate the unhealthy psychological atmosphere, referred to above, that adversely affects the markets for many stock issues in which there is substantial short-selling activity.

V. Market Efficiency and Market Information

A. Information About Short-Sale Trading and Share Expansion

In any asset market, expansion in the supply of a particular asset that investors must hold will normally drive down the price, at least temporarily. Only when there is a perfectly elastic demand for that asset, which is extremely rare in the stock market, will price be unaffected when the supply expands. An abrupt supply change, in particular, can be disruptive if it takes place without prior announcement and without advance preparation of the market.

The distribution of new shares of stock into the equity market through a company offering of new shares represents the kind of supply expansion that can be disruptive if done abruptly without prior warning. For this reason, among others, elaborate disclosure rules have been put in place so that investors are able to be fully informed about what is going on when a company sells new shares in this manner. Investors are thereby able to have a fuller understanding of the factors underlying any price decline or increased trading volume they may see in a stock in which a distribution of new shares is taking place or is planned.

Short selling causes a similar share expansion, as explained above. New investors must be induced to purchase the shares being offered by short sellers, or existing shareholders must be induced to increase their holdings, so that the increased quantity of shares can be absorbed. An unannounced share expansion that arises from short selling can therefore be just as disruptive to market pricing as an unannounced distribution of new company shares would be.

The recent price behavior and trading volume in a stock convey information to other investors in the market. The information that is conveyed is different, however, if new shares are being distributed by short sellers than if existing stockholders are selling their positions.

Shareholders who sell generally do not seek to profit from a further decline in the stock price, and they may not expect any decline. They may merely need cash or may prefer other investments. In fact, if they sell only part of their holdings, then they clearly want the rest of their shares to appreciate further. For these reasons their sales do not necessarily suggest a negative evaluation of the stock.

Short sellers, on the other hand, clearly expect and seek to profit from a decline in the stock price. Their motivations and expectations are different. When short sellers are active, other investors must expect that these short sellers hold a highly negative evaluation of the stock and may drive the price down through further short selling. Short selling, furthermore, has the added significance of expanding the market's total holdings of the stock, which may require a price decline merely to induce new investors to absorb the new shares.

For this reason, investors should have accurate and timely information about all significant distributions of new shares that arise because of heavy short-selling volume. In the absence of this information, investors are presently unable to distinguish between heavy sales by current stockholders and the introduction of new book entry shares into the market through short selling. As a result, they may inappropriately infer that existing stockholders who are reducing their holdings are responsible for an observation of heavy trading volume and a price decline when in fact these are due to a supply expansion caused by short selling.

The present reporting of short interest statistics by the exchanges and the NASD does not supply the necessary information to the market and is entirely inadequate for this purpose. Aggregated short interest data are reported monthly to the exchanges and the NASD by brokers and dealers and are disseminated through the public media several days later, so the net short sales from one monthly reporting date to the next, net of purchases to cover previous short sales, are eventually known. No other data on short selling in individual stocks is available to the market, however. Market participants cannot know, therefore, except on a delayed basis several weeks later, about changes in the supply of an issuer's shares through short selling.

These organizations should develop a method for collecting daily short-selling activity and weekly short interest data from brokers and dealers. They should then make this information available electronically to the market in aggregate form.

B. THE UPTICK RULE AS AN INSTRUMENT FOR IMPROVED INFORMATION

An uptick rule for short sales represents an indirect method for addressing this information gap. Moreover, as explained below, it acts as a stabilizing constraint on trading, allowing more time for the dissemination of information, when heavy short-selling pressure may otherwise be disruptive to pricing.

The present uptick rule (SEC Rule 10a–1), which is applicable to trading on the exchanges, should therefore be retained. Moreover, the SEC should expand the uptick rule so that, with appropriate modifications, it also applies to trading of over-the-counter stocks in the NASDAQ system of the NASD. NASDAQ trading should be subject to the same protections as trading of exchange-listed issues, for the protection of investors.

Under an uptick rule, all sales that set a lower price must be long sales, because short sales at such a lower price are prohibited.

This immediately gives market participants information about who is selling when the price is falling, since only current stockholders are permitted to sell at a lower price. This is information that is not available without an uptick rule.

An uptick rule also prevents the price of an equity from falling continually solely through short sales. Long sales must take place to establish each new lower price. This has a stabilizing effect when there is substantial short-selling pressure.

This stabilizing effect provides additional time for the dissemination of market information in connection with the offering of new shares by short sellers. By slowing down the distribution of new shares when there is substantial short-selling pressure, it provides more time for financial analysts, the press, and the company itself to circulate information about the company and about the additional shares being placed on the market by short sellers.

Allowing adequate time for the dissemination of information may be particularly important for small over-the-counter companies because the stock prices of such companies tend to be more vulnerable to disturbances caused by rumors and misinformation. One reason is that press coverage of these companies is often sporadic, with news releases issued by the companies themselves often being unreported in the media. In addition, fewer securities analysts or professional funds managers typically cover such companies, so there is a smaller established base of familiarity with such companies in the investment community.

Many people have questioned the effectiveness of the present uptick rule on the exchanges and, by implication at least, question whether any purpose would be served by implementing a similar rule for NASDAQ trading. This view appears to be based on a belief that short sales, whatever transitory price effects they may have, do not materially alter the long-run pricing of the issues sold short.

This position ignores the supply expansion resulting from short sales, or else it assumes that the supply expansion has no material price effect because the demand elasticity for all issues sold short is practically infinite. This is not a reasonable position for most stock issues, especially small issues.

Moreover, the supposedly transitory price effects of short sales can have important and lasting consequences for both investors and issuers and cannot be ignored. For example, short sales that drive down a company's stock price can disrupt a planned public offering of shares to raise new equity capital. Likewise, investors who purchase shares on margin are vulnerable to having their shares liquidated to meet margin calls if short sales drive down the price substantially for even a day. The uptick rule, by reducing issuers' and investors' vulnerability to such problems from transitory price movements, clearly is effective in stabilizing the market for exchange-listed stocks for the benefit of issuers and investors.

For this reason, the uptick rule should immediately be extended to trading in NASDAQ issues also.

C. DISCLOSURE OF MATERIAL INDIVIDUAL SHORT POSITIONS

Investors who acquire 5 percent or more of the shares of a company must report this fact to the SEC within 10 days, and the SEC filing is made public. However, short sellers who acquire a short position of this magnitude in a company's stock are not subject to any similar reporting requirement. Regardless of how large an investor's short position in the stock of an individual company, he or she may remain entirely anonymous.

The subcommittee has received very strong expressions of support from company executives and interested stockholders for the concept of a public reporting requirement for large individual short positions, analogous to the present reporting requirement for investors who acquire 5 percent of a company's shares. Moreover, no substantial opposition to this concept has been expressed to the subcommittee. In the subcommittee's hearings, the witnesses for the American Stock Exchange and the SEC expressed reservations about whether disclosure of major individual short positions might have unintended effects on the market and might represent an unwarranted disclosure of proprietary trading strategies, but these concerns were not expressed in a manner to reflect a position of opposition to the concept.

Moreover, as described above in Section III, the committee believes that the psychological atmosphere among investors and issuers regarding stocks targeted by short sellers exhibits a disturbing and unhealthy pattern that may seriously interfere with fair markets and efficient pricing, and the committee believes that the complete anonymity with which major short sellers are now permitted to operate contributes importantly to this unhealthy market psychology.

The committee therefore finds that such a public reporting requirement for large individual short positions is needed, for two closely related reasons. First, the committee believes that stockholders and issuers whose portfolio investments and business activities are under direct attack through the large-scale activities of sophisticated multi-million dollar short-selling partnerships have a right to know who the individual short sellers are in cases where their respective short investments are large enough to be material in relation to the total outstanding shares of the company; and second, the committee believes that the equity market will function more fairly and more efficiently if this information is available publicly.

The committee therefore recommends legislative enactment of such a reporting requirement. Although this reporting requirement might also be accomplished through SEC rulemaking, the SEC has recently stated in its concept release seeking public comment on the suggestion of such a reporting requirement that the agency's authority to implement such a rule for purposes of market information is not clear.[16] The committee therefore believes that legislation is the appropriate method for implementing this disclosure requirement.

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[16] SEC concept release on "Public Disclosure of Material Short Security Positions" (Federal Register, June 13, 1991, pp. 27280-85).

VI. Proxy Voting in Stocks Sold Short

A. The Basic Problem

As explained above, short selling expands investors' total beneficial holdings of a stock issue so that, in the aggregate, investors own beneficially more shares of that stock than the company has issued. In particular, investors whose shares are held for them in brokerage accounts by brokers and dealers own more shares of a stock that has been sold short than the brokers and dealers, as a group, hold for them as the record owners.

As a consequence, it is not possible for all beneficial owners of such a stock to exercise a proxy vote in full proportion to their beneficial ownership. Proxy votes can only be given for the shares actually issued by the issuing company and held in record ownership by the registered shareholders. When this number of issued shares is less than the number of shares owned beneficially by investors, as a result of short selling, it is not possible for all shareholders to have a proxy vote for all their shares.

Investors who hold shares in companies where such an expansion of beneficial ownership has occurred are not informed, however, of this potential constraint on their proxy voting. All customers of brokers and dealers generally receive proxy materials for the full amount of the shares in their accounts regardless of whether their broker or dealer will be able to honor and act on all proxy instructions received. The natural assumption of investors whose shares are held for their account by a broker or dealer, therefore, is that their proxy voting instructions will always be acted upon just as if they had record ownership of the same number of shares.

Moreover, there are no rules governing how brokers and dealers should handle a situation where their customers submit proxy voting instructions for more shares than they can act on. This situation is essentially unregulated and is left, consequently, to the discretion of the affected brokers and dealers. This situation is therefore very vulnerable to a form of proxy failure, to deception of customers, and to other abuses and distortions of the proxy voting process, as explained below.

The distribution of proxy materials to their customers by brokers and dealers and the giving of proxies by brokers and dealers on behalf of their customers are currently regulated by the New York Stock Exchange. The proxy rules of the New York Stock Exchange do not adequately address the circumstances that are created by short selling, however.

The proper remedy for these problems lies in rulemaking by the Securities and Exchange Commission. The SEC possesses broad authority under Section 14(b)(1) of the Securities Exchange Act of 1934 to regulate the giving of proxies by brokers, dealers, and other parties on behalf of their customers for shares owned beneficially by these customers. The SEC has not, however, issued any regulations under this authority concerning the giving of proxies.

The committee's specific recommendations for the regulation of proxy voting in issues sold short are stated in Subsection E, below.

B. PROXY FAILURE UNDER THE NYSE PROXY RULES

The New York Stock Exchange's proxy rules are of primary significance for governing how most brokerage firms handle proxies for their customers at present. The NYSE proxy rules apply to all aspects of proxy handling by all New York Stock Exchange member firms, a class that includes most of the brokerage industry. The NYSE rules apply to proxy solicitations for all companies, regardless of whether the company stock is listed for trading on the Exchange. In particular, this means that the NYSE proxy rules govern member firms' handling of proxies for companies listed on NASDAQ or the American Stock Exchange, as well as New York Stock Exchange listed companies.

1. Rule 451 ("Transmission of Proxy Material")

The NYSE's Rule 451 requires every member firm, upon receipt of the appropriate proxy materials and an assurance of reimbursement for expenses, to "transmit to each beneficial owner of stock which is in its possession or control the material furnished." The rule is silent regarding the beneficial owners of stock that the member firm is carrying for the account of customers but which the member firm does not have in its possession or control.

If a member firm has lent out all customer margin shares of a particular stock, then the firm will not have possession or control of the shares of any customer whose sole holdings of this stock are margin shares. All shares in the firm's possession or control will be cash or excess margin shares belonging to other customers. Rule 451 thus leaves open the possibility that, under certain plausible circumstances where stock has been lent out to short sellers, some margin customers of a broker or dealer may not receive proxy materials. The rule clearly does not require the distribution of proxy materials to such customers.

The NYSE has reported to the subcommittee, in response to a question about a situation in which a firm does not have in its possession or control shares purchased by cash customers, that "member organizations are required to provide every beneficial owner long on the stock record of the organization an annual report and proxy materials pursuant to Exchange rules."[17] Thus, in spite of the absence of any specific language to this effect in Rule 451, the NYSE is apparently interpreting its rule to require the furnishing of proxy materials to all beneficial owners, regardless of whether the member firm has the customers' shares in its possession or control.

2. Rule 452 ("Giving Proxies by Member Organization")

The Exchange's Rule 452, which deals with the giving of proxies by member firms for shares in customer accounts, is also silent regarding proxies for shares not registered in the name of the firm or its nominee, which would normally include shares that have been lent to short sellers for delivery to other investors or their brokers. The firm is only required under Rule 452 to give proxies "for stock

[17] NYSE letter of February 19, 1991, p. 2.

registered in its name, or in the name of its nominee, at the direction of the beneficial owner."[18]

In cases where the firm owns as record owner fewer shares on a proxy record date than the number of shares its customers own beneficially, and where the customers collectively return proxy instructions for more shares than the firm owns of record, the customers' proxy instructions cannot all be followed in full proportion to their beneficial ownership. Rule 452 is silent on how to interpret the meaning of the phrase "at the direction of the beneficial owner" in such circumstances, and the Exchange has not issued any instructions or guidelines to member firms on how to handle such a situation.[19]

The Exchange has, however, described with apparent approval what it calls "a practice" for handling such situations:

> Were an allocation to be undertaken, we understand it is a practice to give each fully paid and excess margin customer his or her vote as it is received. Remaining votes are then allocated * * * among the margin customers whose shares are not within the firm's possession or control, i.e., loaned out.[20]

This practice, while having an appearance of being equitable, appears to be in conflict with Rule 452. In the circumstance described previously, for example, where a member firm has lent out all customer margin shares of a particular stock and does not have record ownership of the shares of any customer whose sole holdings of this stock are margin shares, then all shares owned of record by the firm will be cash or excess margin shares belonging to other customers. If the firm distributes proxy materials to and receives voting instructions from such margin customers whose shares it does not presently hold, and if it gives proxies configured according to these instructions in accord with the practice described above, it will be acting in apparent violation of Rule 452. The violation arises because, by assumption in this example, these customers whose instructions are being acted upon are not the beneficial owners of the shares for which the firm, as record owner, is able to give proxies.

The occurrence of a violation in such a case does not necessarily imply that the practice described above is improper. It may imply only that Rule 452 is not formulated adequately to deal with such situations.

The inadequacy of Rule 452 is further illustrated by the fact that it is fully consistent with the Exchange's proxy rules and other applicable rules for a member firm to lend out all the customer shares of a particular stock issue (assuming all the customer shares were margin shares available for lending under the SEC's Rule 15c3-3), to solicit the proxy voting instructions of these customers, and then to disregard entirely the proxy voting instructions re-

[18] Under certain circumstances detailed in the rule, having distributed proxy materials to the beneficial owner in compliance with Rule 451 and having received no instructions by a certain date, it may give proxies for such shares without instructions.

[19] See the response to question 4 in the Exchange's letter of February 19, 1991, p. 4.

[20] NYSE letter of April 24, 1991, p. 4.

ceived from the beneficial owners. The New York Stock Exchange confirms this interpretation in its letter of April 24.[21]

3. Failure to receive shares from clearing

Present practice in clearing and settlement leads to substantial and persistent delivery delays in certain equity issues, so that member firms do not necessarily have possession or control or record ownership of their customers' securities even when they do not engage in securities lending or hypothecation. This phenomenon is amply demonstrated by tabulations, prepared by this subcommittee from data supplied by the National Securities Clearing Corp. (NSCC), showing substantial and persistent receive fails (i.e., clearing longs) in many NASDAQ issues in December 1990. When such receive fails are outstanding on a proxy record date, then even cash customers may be deprived of their proxy voting rights if enough of the cash customers submit proxy instructions to a firm that has not reduced its shares receivable to possession or control.

This buildup of substantial fails-to-receive in customer shares is apparently encouraged by the SEC. The NASD has reported that the SEC interprets Rule 15c3-3 in such a way that it is permissible for a member firm never to reduce to possession or control shares purchased for cash by cash customers, if the customer shares are receivable from (and guaranteed by) the National Securities Clearing Corporation.[22] Paragraph (d) of Rule 15c3-3 requires that a broker must take steps to obtain cash and excess margin shares that are more than 30 days overdue, but apparently the SEC has determined not to enforce this requirement with regard to shares receivable from NSCC.

4. Lack of equivalence between cash shares with broker-dealer and shares owned of record

As a result of this SEC policy, holding fully paid equity shares in a cash account with a broker or dealer is not equivalent, for purposes of proxy voting and corporate governance rights, to holding shares registered in one's own name as the owner of record. A beneficial shareholder who is also the owner of record of his or her shares has corporate governance rights, including rights to vote by proxy, that are specified under State law and each issuer's bylaws. A beneficial shareholder whose fully paid shares are carried for his or her account by a broker or dealer does not enjoy the same rights unconditionally, since the firm with which the account is held may not have record ownership of the shares even 30 or 60 or 90 days after their purchase.

Moreover, the broad discretion that brokers and dealers have to allocate votes as they wish when customers return proxy voting instructions for more shares than the firms hold of record[23] permits

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[21] See part (a) of the "Followup on Question 1" in the subcommittee's letter of March 7, 1991, and the response in the Exchange's letter of April 24, 1991, pp. 1–2.

[22] The NASD's 1986 report on "Short-Sale Regulation of NASDAQ Securities" (the Pollack Report) states in footnote 105 (page 51) that, under Rule 15c3-3, the SEC treats securities due from the Clearing Corporation for customer-related transactions as the equivalent of a fail-to-deliver less than 30 days, regardless of age. See subcommittee hearings, p. 320.

[23] See the description below in subsection 6 ("Broker discretion . . .")

them to curtail the votes of cash customers, if they wish to do so, even when their record ownership exceeds their customers' holdings of cash account shares.

The conditional or uncertain nature of the proxy voting process for such cash investors, as a result of the SEC's policy on shares receivable from NSCC and as a result of the broad discretion enjoyed by brokers and dealers to allocate votes arbitrarily, thus introduces a distinction between direct record ownership and beneficial cash ownership in a brokerage account that may be important to some shareholders.

5. Fair disclosure and customer deception

An important question of fair disclosure and possible deception by member firms arises from these circumstances. When a member firm distributes proxy materials to all customers shown in its stock record as beneficial owners of a particular stock, as the Exchange apparently expects the firm to do under Rule 451, then the firm is implicitly notifying them that their proxy instructions will be submitted to the issuer just as if the beneficial owners were record owners. The firm knows at the time the proxy materials are distributed what its own record ownership of shares was on the proxy record date, and thus it knows whether a sufficiently large return of proxy instructions would exceed its record ownership of shares. By failing to notify its customers of the possibility in such a case that their proxy instructions cannot all be acted upon, the firm is misleading its customers. It is implying to its customers that they have a right to have valid proxies, configured according to their instructions, given to the issuer when there is no such right, only a "best efforts" probability. This failure to notify customers of the conditional or uncertain nature of the proxy process can be construed as customer deception.

6. Broker discretion in the giving of proxies on contested and material matters

The NYSE's Rule 452 provides that a member firm must follow the voting instructions of the beneficial owners of stock, and may not vote shares in the absence of such specific instructions, when there is a contest as to the action to be taken at the company meeting or when the action to be taken includes authorization for a merger, consolidation, or other matter that may substantially affect the rights or privileges of the stock. However, as indicated above, there is no guidance in the rule itself or from the Exchange in any other form as to how a member firm is to handle a situation where it receives proxy voting instructions for more shares than it holds in record ownership. Moreover, the Exchange appears to approve of an allocation practice that, under certain circumstances, may result in the giving of proxies in violation of the rule.

Thus a member firm apparently enjoys substantial flexibility when it cannot act on all the instructions received, and in particular it presumably may select at its own discretion which voting instructions it will disregard, even if there is a contest or a proposal for a merger, consolidation, or change in the rights or privileges of the stock. If we suppose, for example, that a firm has received customer instructions for 10,000 more shares than it holds as record owner, then the firm presumably may select for discard all voting instructions, up to a maximum of 10,000, that it finds objectionable. It might specifically select for discard those customer instructions (up to 10,000) that oppose the management's proposals, or it might specifically select for discard those customer instructions (up to 10,000) that are not compatible with the preferences of a particular favored customer. This opportunity for discretionary selection of which customer instructions to implement in such cases is clearly incompatible with the principle underlying Rule 452, but the Exchange has not seen fit to apply this underlying principle to the particular circumstance of "overvoting."

C. EMPIRICAL SIGNIFICANCE AND MONITORING

1. Empirical significance—the NYSE's information

This foregoing analysis of the possible abridgement of proxy voting rights is not a mere hypothetical exercise. Although it characterized such situations as rare, the New York Stock Exchange acknowledged in its letter of April 24, 1991, that instances where customers' properly submitted proxy voting instructions could not be acted upon because of insufficient shares in the firm's record ownership have actually occurred.[24]

In its subsequent letter of June 4, 1991, the subcommittee then requested further information from the Exchange about specific cases where this has occurred, in order to illustrate the situations acknowledged generally in the Exchange's previous letter. The Exchange has not provided this information but has not rejected the factual premise underlying the subcommittee's request. The Exchange merely responded by letter on June 14 that this information is not in their possession and is not information that the Exchange would obtain in the normal course of business.

This response casts doubt on the reliability of the Exchange's characterization of these occurrences as rare, because the Exchange is essentially stating that they do not have firsthand knowledge regarding the frequency of these occurrences.

2. A plausible scenario

In fact, it is quite plausible that, contrary to the Exchange's characterization, such proxy voting failures may occur with some regularity. The most plausible scenario would involve the equities of smaller companies that are not widely held but in which there is a substantial short interest on the record date for proxy voting.

If a particular stock is not widely held in the investment community generally, then a small brokerage firm could easily have just one or a very few customers who hold this stock in their accounts. If just one customer with a large and active account owns a major position in this particular stock on margin, if the firm has lent out most or all of the customer margin stock of this issue prior to the proxy record date, and if the firm's other customers hold very little or none of this stock, then these circumstances make the situation

[24] The Exchange's letter of April 24, 1991, states ". . . the situation where a customer loses his or her proxy vote seldom occurs. . . . In the rare instance that such a situation occurs, discussions with member organizations indicate . . . ." (p. 3)

very vulnerable to a proxy voting failure. If this one active customer should decide to return proxy voting instructions, the firm will clearly be unable to honor these instructions.

The Exchange and the SEC staff have both asserted that, on average, brokerage customers return only a small portion of the proxy voting instructions provided to them for company annual meetings, and the committee has no basis for questioning this general characterization. The scenario of proxy failure suggested above is entirely compatible with this general statement, however, for it only requires one active margin customer with one small firm who decides to return proxy voting instructions.

The Exchange has also asserted that a firm that has lent out margin shares of an issue can recall the securities loans if needed to secure voting rights to honor customers' instructions.[25] Additional votes can only be secured in this manner if the loans are recalled before the proxy record date, which is before the firm knows how many customers will return voting instructions. Moreover, there is absolutely no incentive for firms to recall loans for this reason. there is no penalty whatever for not having sufficient shares to honor customer voting instructions, and recalling the shares is costly. The loans are a source of income that would be cut off if they are recalled, and recalling stock loans may also generate ill will with the borrowing brokers, thereby impairing the firm's opportunity to derive stock loan income in the future. Thus, member firms have no incentive to recall loans purely to provide proxy votes for margin customers.

For these reasons, the scenario of scattered but regularly occurring incidents of proxy voting failure is entirely plausible, notwithstanding the low average general frequency of customer voting and notwithstanding the theoretical opportunity for firms to recall securities loans before the proxy record date.

3. The absence of complaints

In its February 19 letter the Exchange cited the absence of customer, issuer, or member organization complaints as a reason for concluding that there have not actually been any instances where beneficial owners could not exercise their voting rights.[26] The Exchange's later acknowledgment of occasional instances of voting denial, notwithstanding the absence of complaints, demonstrates that the absence of complaints per se does not prove that there are no problems, but it may still be construed by the Exchange as an indication that whatever denials of voting rights have occurred are not of importance to investors or issuers.

Any such conclusion from the absence of complaints would not be justified. On the contrary, the absence of shareholder or issuer complaints that was cited by the Exchange might well not have any significance whatever. Brokerage customers do not have any way to learn that their voting instructions have not been executed according to their wishes, and so they have no basis upon which to make a complaint. Similarly, issuers also have no way of knowing

[25] NYSE letter of April 24, 1991, p. 2.

[26] ". . . in reality this has not occurred, judging from an absence of customer, issuer or member organization complaints." (NYSE letter of February 19, 1991, p. 3.)

of any such curtailment of proxy voting rights. If voting instructions are disregarded, only the brokerage firm or the proxy solicitation agent retained by the brokerage firm will know in the first instance what has happened.

As for member organization complaints, there is no motivation for a member organization to make a complaint about such a situation. Hence the absence of member complaints also has no significance.

4. Adequacy of the Exchange's compliance monitoring

The Exchange's admitted lack of firsthand knowledge about the frequency of actual cases where customers' properly submitted proxy voting instructions could not be acted upon because of insufficient shares in the firm's record ownership also raises a question about whether the Exchange is adequately monitoring member firms' compliance with Rule 452. This rule requires that member firms must have, and must maintain for 3 years, records showing all voting instructions received from customers and "a summary of all proxies voted by the member organization clearly setting forth total shares voted for or against or not voted for each proposal." Member firms thus must keep for 3 years records showing any discrepancies between the voting instructions received from customers and the proxies actually voted, and Exchange review of these records would have to occur if the Exchange is to monitor the firms for compliance with Rule 452. If the Exchange does not learn in the normal course of business about the instances where customer instructions could not be acted on, then this strongly suggests that the Exchange's examiners are not effectively monitoring the firms for compliance with Rule 452.

D. PROXY VOTING BY SHORT SELLERS

1. Proxy voting in excess of investors' net beneficial ownership

Under the present New York Stock Exchange proxy rules and distribution practices, proxy instructions will be solicited from investors who have no net beneficial ownership in the company involved if the investors have long equity positions offset by equal or greater short positions. Moreover, proxy instructions received from such investors will be acted upon by the broker as the holder of record to the extent of the broker's record ownership on the proxy record date. The NYSE rules take no note of offsetting short positions in customers' accounts in determining the eligibility of customers to receive proxy materials and to have their instructions acted upon.

It is common practice under appropriate circumstances for investors to hold offsetting long and short investment positions in a particular equity security. Long investors with an unrealized gain in a position may short "against the box" to lock in their profit while postponing realization of the profit for tax purposes. Short investors with an unrealized gain (due to a price decline) may "box" the short position by purchasing an equivalent long position, thereby locking in their profit and securing release of their margin, while postponing realization of the gain for tax purposes. Investors having such offsetting positions, and thus having no net investment position in the company's securities, are still treated under the NYSE's proxy rules as beneficial owners, as if there were no offsetting short positions in their accounts.

This opportunity under the NYSE proxy rules to control proxy votes without a net investment position may contribute to a reduction or denial of proxy voting to other beneficial owners. If the customers of a firm collectively return proxy instructions for more shares than the firm owns of record, such that the firm cannot act on all the proxy instructions received, then any partial fulfillment of the proxy instructions of investors having no net investment position will reduce, share for share, the ability of the firm to act on the instructions of other beneficial owners.

2. *Proxy manipulation through short sales*

This opportunity under the NYSE rules for an investor to control proxy votes without a net investment position also creates an opportunity for serious manipulation of the proxy process through proxy capture short selling. An investor wishing to gain control of a certain block of proxy votes would simultaneously purchase and sell short a suitable number of shares just before the proxy record date. The purchase would entitle this investor to receive proxy material and give voting instructions, while the offsetting short position would eliminate all financial risk from the transaction.

If the offsetting positions are purchased simultaneously, then there would be no net buying or selling pressure registered in the market, and the market price of the security would not be affected. If, in addition, the offsetting positions are purchased through the same broker or dealer, then presumably a small commission could be negotiated for the combined transactions. Moreover, unwinding the positions after the proxy record date had passed would only require the broker or dealer to offset the two positions on his books and records without further trading. Finally, the margin requirements for the trades would be minimized by having both positions in the same account.

If the firm through which the purchase trade is made already has record ownership of at least as many shares of the same stock for other customers, then the voting apathy of these other customers may enable the firm to give full effect to the voting instructions of the manipulator without obtaining record ownership of any more shares. Similarly, the firm handling the short sale (which may be the same firm) will generally not need to borrow shares for delivery, even assuming the firm has complied on the trade date with the requirement to ascertain the availability of shares for borrowing.

As a result of these factors, the transaction costs associated with a proxy manipulation of this nature may be quite low.

E. RECOMMENDATIONS

Section 14(b)(1) of the Securities Exchange Act of 1934 sets out the SEC's relevant authority as follows:

> It shall be unlawful for any member of a national securities exchange, or any broker or dealer registered under this title, or any bank, association, or other entity that ex-

ercises fiduciary powers, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, to give, or to refrain from giving a proxy, consent, authorization, or information statement in respect of any security registered pursuant to section 12 of this title, or any security issued by an investment company registered under the Investment Company Act of 1940, and carried for the account of a customer.

The SEC has not issued any regulations concerning the giving of proxies under this section of the 1934 Act. Moreover, according to the New York Stock Exchange, the SEC does not have a specific policy regarding shareholders' voting rights.[27]

The SEC should therefore promptly establish a policy concerning the proxy voting rights of the customers of securities brokers and dealers when short selling has expanded the beneficial ownership of individual stocks, and should then utilize its broad authority under Section 14(b)(1) of the Securities Exchange Act of 1934 to implement this policy.

The committee recommends further that the following specific elements should be included in any such SEC rule:

1. Require full disclosure to beneficial owners

Full and accurate disclosure should be provided by brokers and dealers to their customers both about any potential limits to their proxy voting rights and about actual curtailments of their proxy voting rights.

i. Brokers and dealers should be required to provide to all customers whose equity securities are carried in accounts with the firms full advance disclosure of all potential limitations on the customers' ability to exercise a proxy vote effectively, as a result of leaving their shares on deposit with the broker or dealer. This notice should be given at such time as each customer opens a margin account or any account other than a cash account for the carrying of equities long.

ii. Customers should also be specifically informed, after the fact, whenever any portion of their properly submitted proxy voting instructions cannot be acted upon and passed through to the company because the broker or dealer does not have record ownership of sufficient shares to act on all customer proxy instructions.

2. Limit proxy rights to NET beneficial ownership

Each broker or dealer should be prohibited from soliciting proxy voting instructions from or giving proxies at the direction of beneficial owners for more shares than the net amount owned beneficially by each beneficial owner, as shown on the books and records of the broker or dealer, after subtracting the short security positions of each beneficial owner. Customers having no net beneficial ownership in an equity security on the books and records of the broker or dealer, in that their short positions in that security equal or

[27] NYSE letter of April 24, 1991, p. 3.

exceed their long positions, should not be entitled to receive proxy materials or give proxy instructions.

3. Assure full proxy rights for cash account securities

The proxy voting rights associated with equity securities in customers' cash accounts should be fully protected, when not offset by short positions in the same securities with the same broker or dealer, so that these rights are identical regardless of whether the beneficial owners take direct record ownership of their shares or leave their shares on deposit with a broker or dealer. In order to implement this principle:

i. *Record ownership:* Brokers and dealers should be required at all times to promptly secure and to maintain record ownership of the number of shares of each equity security that their customers own beneficially in cash accounts. The only exception to this requirement should be for shares concerning which the beneficial owner has executed a written agreement permitting the lending of the shares and conforming to the requirements of Section (b)(3) of Rule 15c3-3. No exception should be provided for shares receivable from a clearing organization.

ii. *Priority in proxy voting:* The proxy instructions of the beneficial owners of securities held in cash accounts should always, without exception, receive first priority in the giving of proxies by a broker or dealer and should be acted upon in full, to the extent of each customer's net beneficial ownership, before the broker or dealer acts on the instructions associated with any other shares. In addition, a broker or dealer should always act in full on the instructions of a cash account beneficial owner even if those instructions are received late, such that the broker or dealer is required to execute new proxies in place of previously executed proxies.

iii. *Protection for cash account status:* Brokers and dealers should be prohibited from transferring customer security positions from customer cash accounts into any other status in order to evade the requirements set up for protecting the proxy voting rights associated with cash account shares. In addition, brokers and dealers should be required to execute within a specified brief time, such as 10 business days, all legitimate customer requests for the transfer of excess margin shares to a cash account. In addition, brokers and dealers should be required to place in a cash account all shares deposited by a customer or received for the account of a customer, unless these shares have already been sold or have been specifically designated by the customer for deposit to another type of account.

4. Set Uniform Procedure for Allocating Remaining Votes

Brokers and dealers should be required to allocate according to a uniform procedure, established by SEC regulation, all proxy votes that remain after giving full effect to the proxy voting instructions of the beneficial owners of cash account shares not offset by short positions. This principle must be observed so that the broker or dealer does not exercise discretion over which instructions to submit and which to disregard. Under this uniform procedure, all shares carried for the account of customers by a broker or dealer that are not held in a cash account should receive proxy voting rights in the same proportion to each customer's net beneficial ownership of shares with this broker or dealer, up to the limit of the votes available. This procedure would not distinguish between excess margin shares and margin shares for purposes of determining proxy voting rights.

5. Require reporting of proxy failures

Brokers and dealers should be required to report to the SEC, as they occur, all instances where they are unable to act fully on one or more customers' properly returned proxy voting instructions. This reporting should include separate information on the instructions received and the actions taken regarding (a) securities beneficially owned by customers in cash accounts and (b) all other securities beneficially owned by customers.

6. Provide for recordkeeping and other procedures to verify compliance

Brokers and dealers should be required to keep records of the proxy voting instructions received from customers and of the proxies voted by the firm in order to permit verification of their compliance with the proxy requirements.

APPENDIX

Stocks With High Short Interest, 1986–90

Alphabetical Listing

Company	City	State	Market	Maximum Shares Short	Maximum Short Ratio to TSO	Date
1ST AMERICAN BANCORP INC.	Boston	MA	NASDAQ	674,179	.066	Jan, 90
A P E CORP.	Waco	TX	NASDAQ	419,382	.073	Jan, 89
A S T RESEARCH	Irvine	CA	NASDAQ	1,941,562	.148	May, 90
A W BRANDS INC	White Plains	NY	NASDAQ	589,558	.065	Sep, 90
A.L. LABS CL.A	Fort Lee	NJ	NYSE	365,106	.066	Jun, 90
ACCLAIM ENTERTAINMENT	Oyster Bay	NY	NASDAQ	1,026,751	.055	Oct, 90
ADDINGTON RESOURCES	Ashland	KY	NASDAQ	1,412,656	.121	Aug, 89
ADOBE SYSTEMS INC	Mountain View	CA	NASDAQ	4,264,464	.206	Dec, 90
ADVANCED MICRO DEVICES	Sunnyvale	CA	NYSE	5,158,167	.066	Jul, 87
ADVANCED SYSTEMS INC.	Arlington Heights	IL	NYSE	677,523	.120	Dec, 87
ADVANTA CORP.	Horsham	PA	NASDAQ	1,166,809	.126	Mar, 90
AFFILIATED BANC CORP	Holyoke	MA	NASDAQ	373,203	.101	Dec, 89
AIR WIS SERVICES	Appleton	WI	NASDAQ	420,646	.057	Jul, 87
ALASKA MUTUAL BANCORP	Anchorage	AK	NASDAQ	210,010	.064	Oct, 87
ALCAN ALUMINIUM LTD.	Montreal, Quebec	Canada	NYSE	10,256,029	.077	Aug, 90
ALCO HEALTH SERVICES CORP.	Valley Forge	PA	NASDAQ	1,035,835	.082	Jul, 88
ALDUS CORP	Seattle	WA	NASDAQ	839,805	.068	Nov, 90
ALLEGHENY BEVERAGE	Cheverly	MD	NASDAQ	568,268	.069	Jun, 87
ALLEGHENY INTERNATIONAL	Pittsburgh	PA	NYSE	1,341,196	.124	Dec, 86
ALLIANCE PHARMACEUTICAL CORP.	San Diego	CA	NASDAQ	236,392	.234	Aug, 89
ALLWASTE INC	Houston	TX	NASDAQ	2,309,039	.077	Nov, 88
ALTUS BANK FSB	Mobile	AL	NASDAQ	356,975	.073	Jan, 90
AMDURA CORP.	Denver	CO	NYSE	925,575	.161	Mar, 90
AMRECO ENVIRONMENTAL	Kingsville	MD	NASDAQ	43,655,600	.244	May, 87
AMERICA WEST AIR	Tempe	AZ	NASDAQ	1,910,362	.125	Aug, 89
AMERICAN CITY BUSINESS JOURNALS	Charlotte	NC	NASDAQ	551,355	.136	Mar, 88
AMERICAN FRUCTOSE, CL. A	Stamford	CT	ASE	1,035,000	.103	Nov, 87
AMERICAN SAVINGS BANK (NY)	White Plains	NY	NYSE	1,010,050	.169	Mar, 90
AMERIFIRST BANK FSB	Miami	FL	NASDAQ	1,632,515	.167	Nov, 89
AMES DEPT STORES	Rocky Hill	CT	NYSE	2,695,752	.066	Mar, 90
AMGEN	Thousand Oaks	CA	NASDAQ	1,480,026	.080	Aug, 90
AMOSKEAG BANK SHARES	Manchester	NH	NASDAQ	944,379	.080	Feb, 90
AMPLICON, INC.	Santa Ana	CA	NASDAQ	393,985	.061	Apr, 87
AMRE INC.	Irving	TX	NYSE	1,648,300	.117	Feb, 90
AMVESTORS FINANCIAL	Topeka	KS	NASDAQ	762,190	.067	Jul, 88
ANACOMP, INC.	Indianapolis	IN	NYSE	7,769,930	.070	Dec, 87
ANTHONY INDUSTRIES	Los Angeles	CA	NYSE	368,849	.056	Dec, 88
APACHE CORP.	Denver	CO	NYSE	2,354,138	.059	Dec, 89
AQUANAUTICS CORP.	Alameda	CA	NASDAQ	552,225	.069	Mar, 87
ARCHER COMMUNICATIONS	Calgary, Alberta	Canada	NASDAQ	759,587	.077	Oct, 90
ARIZONA INSTRUMENT	Tempe	AZ	NASDAQ	272,675	.118	Aug, 89
ARMTEK CORP.	New Haven	CT	NYSE	656,900	.088	Jul, 88
ARROW ELECTRONICS	Melville	NY	NYSE	800,242	.070	Mar, 86
ARTRA GROUP INC.	Northfield	IL	NYSE	704,737	.221	Feb, 90
ARX INC.	Plainview	NY	NYSE	462,359	.077	Mar, 87
ASARCO INC.	New York	NY	NYSE	3,274,001	.078	Jun, 87
ASHTON-TATE	Torrance	CA	NASDAQ	1,320,057	.055	Feb, 87
ASTEX INTERNATIONAL, INC.	Tampa	FL	NASDAQ	291,000	.075	Apr, 90
ASSOCIATED NATURAL GAS	Denver	CO	NYSE	636,555	.130	Oct, 88
AT & E CORP.	San Francisco	CA	ASE	2,136,610	.105	Jun, 90
ATI MEDICAL	Las Vegas	NV	ASE	437,496	.086	May, 88
ATLANTIC FINANCIAL FEDERAL	Bala Cynwyd	PA	NASDAQ	259,192	.059	Sep, 89
AUTODESK, INC.	Sausalito	CA	NASDAQ	1,449,957	.061	Nov, 88
AUTOMATED LANGUAGE PROCESSING	Salt Lake City	UT	NASDAQ	362,680	.055	Sep, 88
AVERY INTERNATIONAL CORP.	Pasadena	CA	NYSE	2,401,865	.034	Sep, 90
AVMET, INC.	New York	NY	NASDAQ	610,473	.050	Oct, 87
AVX CORP.	New York	NY	NYSE	1,260,547	.097	Jan, 90
B L D E DEVELOPMENT CORP.	Coral Gables	FL	NASDAQ	1,157,952	.050	Aug, 90
BABBAGE'S INC.	Dallas	TX	NASDAQ	389,352	.074	Feb, 90
BAKER INTERNATIONAL CORP.	West Orange	CA	NYSE	4,326,718	.065	Mar, 87
BALFOUR, MACLAINE	New York	NY	ASE	299,075	.086	Jun, 86
BALLY MFG. CORP.	Chicago	IL	NYSE	8,309,831	.258	Nov, 90
BALTIMORE BANCORP	Baltimore	MD	NYSE	1,242,609	.098	Jun, 90
BANK OF BOSTON	Boston	MA	NYSE	9,186,844	.151	Sep, 90
BANK OF NEW ENGLAND CORP.	Boston	MA	NYSE	7,812,551	.114	Feb, 90
BANKWORCESTER CORP.	Worcester	MA	NASDAQ	1,017,165	.159	Oct, 90
BANNER INDUSTRIES, CL. A	Cleveland	OH	NYSE	1,974,925	.241	Aug, 90
BARNETT BANKS INC.	Jacksonville	FL	NYSE	3,409,397	.050	Mar, 90
BARRIS INDUSTRIES	Los Angeles	CA	NASDAQ	746,366	.069	Jul, 88
BARTON INDUSTRIES INC	Shawnee	OK	NASDAQ	403,891	.056	Jun, 90
BAYBANKS, INC.	Boston	MA	NASDAQ	3,870,056	.243	Sep, 90
BELMAC CORP.	Tampa	FL	ASE	265,122	.075	Oct, 88
[illegible]	Lakewood	NJ	NASDAQ	792,755	.070	May, 87
BEST BUY CO.	Bloomington	MN	NYSE	1,116,680	.136	Oct, 87

Alphabetical Listing

Company	City	State	Market	Maximum Shares Short	Maximum Short Ratio to 100	Date
BIO MEDICUS INC.	Eden Prairie	MN	NASDAQ	474,041	.078	Aug., 89
BIO RESPONSE, INC.	Hayward	CA	NASDAQ	855,499	.085	Dec., 87
BIO-TECHNOLOGY GENERAL CORP.	New York	NY	NASDAQ	570,409	.098	Mar., 88
BIOCRAFT LABS	Elmwood Park	NJ	NYSE	1,500,434	.107	Nov., 88
BIOMET INC	Warsaw	IN	NASDAQ	1,432,368	.052	Jul., 90
BIOTECHNOLOGY DEVELOPMENT CORP.	Newton	MA	NASDAQ	282,396	.086	Oct., 87
BIRMINGHAM STEEL CO.	Birmingham	AL	NYSE	612,237	.080	May, 88
BLACK & DECKER CORP.	Towson	MD	NYSE	6,190,138	.100	Dec., 90
BLOCKBUSTER ENTERTAINMENT	Ft. Lauderdale	FL	NYSE	6,201,404	.241	Dec., 90
BOARDROOM BUSINESS PRODUCTS	Long Beach	CA	NASDAQ	492,638	.066	Sep., 88
BOLAR PHARMACEUTICAL	Copiague	NY	ASE	3,011,982	.145	Dec., 89
BOSTON FIVE BANCORP	Boston	MA	NASDAQ	551,477	.076	Aug., 90
BOSTON TECHNOLOGY INC	Cambridge	MA	NASDAQ	1,482,183	.082	Aug., 90
BRAND COMPANIES, THE	Park Ridge	IL	NASDAQ	242,344	.052	Aug., 88
BRIGGS & STRATTON CORP.	Wauwatosa	WI	NYSE	1,127,336	.078	Jan., 90
BSN CORP.	Dallas	TX	ASE	420,400	.092	Aug., 87
BUFFETS, INC.	Eden Prairie	MN	NASDAQ	718,246	.088	Nov., 89
BURNHAM SERVICE CORP.	Columbus	GA	NASDAQ	250,438	.056	Nov., 87
BURNUP AND SIMS INC.	Ft. Lauderdale	FL	NASDAQ	1,195,368	.085	Oct., 89
BURRITT INTERFINANCIAL BANCORP	New Britain	CT	NASDAQ	347,409	.102	Oct., 90
BUSINESSLAND, INC.	San Jose	CA	NYSE	1,527,732	.062	Jun., 87
C COR ELECTRONICS	State College	PA	NASDAQ	116,395	.057	Jun., 87
C J I INDUSTRIES, CL. A	New York	NY	NASDAQ	202,506	.180	Jun., 88
C D C INTL INC.	Stamford	CT	NYSE	3,119,390	.157	Jun., 89
CABLEVISION SYSTEMS CORP.	Woodbury	NY	ASE	1,381,766	.179	Dec., 90
CABOT MEDICAL CORP.	West Langhorne	PA	NASDAQ	374,866	.055	Aug., 90
CADNETIX CORP	Boulder	CO	NASDAQ	1,387,984	.101	Jul., 88
CALFED INC.	Los Angeles	CA	NYSE	3,781,792	.148	Aug., 90
CALIFORNIA ENERGY CO.	San Francisco	CA	ASE	1,505,160	.071	Sep., 90
CALUMET INDUSTRIES	Chicago	IL	NASDAQ	156,340	.060	Jan., 90
CAMBRIDGE BIOTECH CORP.	Worcester	MA	NASDAQ	3,072,350	.104	Jul., 89
CANDELA LASER CORP.	Wayland	MA	NASDAQ	209,940	.069	Oct., 88
CAPITAL CITIES / ABC	New York	NY	NYSE	3,266,457	.078	Jul., 88
CAPITOL BANCORPORATION	Lansing	MI	NASDAQ	432,452	.134	Mar., 89
CARDINAL DISTRIBUTION	South Dublin	OH	NASDAQ	663,020	.118	Mar., 89
CARE PLUS, INC.	Ft. Lauderdale	FL	NASDAQ	3,557,407	.104	Jan., 87
CAREERCOM CORP.	Le Moyne	PA	NYSE	3,503,227	.134	Jan., 89
CARIBBEAN SELECT INC.	Highland City	FL	NASDAQ	614,928	.078	Jan., 90
CARMIKE CINEMAS, CL. A	Columbus	GA	NASDAQ	370,379	.106	Dec., 89
CARRINGTON LABS INC.	Dallas	TX	NASDAQ	827,390	.136	Jul., 90
CARTER HAWLEY HALE	Los Angeles	CA	NYSE	3,280,233	.057	Dec., 88
CARTERET BANCORP	Morristown	NJ	NYSE	674,976	.052	Jul., 88
CASEY'S GENERAL STORES	Ankeny	IA	NASDAQ	3,386,041	.118	Jul., 89
CASUAL MALE, THE	Shrewsbury	MA	NASDAQ	290,683	.053	Apr., 89
CATALINA LIGHTING	Miami	FL	ASE	465,521	.122	Oct., 89
CATALYST ENERGY CORP.	New York	NY	NYSE	3,203,430	.077	Jun., 88
CATALYST ENERGY DEVELOPMENT CORP.	New York	NY	NASDAQ	971,386	.055	Feb., 87
CELLULAR COMMUNICATIONS INC.	New York	NY	NASDAQ	3,767,248	.033	Mar., 88
CELLULAR INC.	Englewood	CO	NASDAQ	452,469	.104	Jun., 90
CENTERBANK	Waterbury	CT	NASDAQ	3,023,308	.084	Apr., 90
CENTEX TELEMANAGEMENT	San Francisco	CA	NASDAQ	3,535,888	.139	May, 90
CENTRAL BANKING SYSTEM	Walnut Creek	CA	NASDAQ	389,640	.094	Sep., 89
CENTRAL FIDELITY BANKS	Richmond	VA	NASDAQ	915,803	.054	Dec., 90
CENTRAL SPRINKLER CORP.	Lansdale	PA	NASDAQ	210,548	.070	Jul., 88
CERNER CORP.	Kansas City	MO	NASDAQ	303,091	.090	Jan., 87
CHAMPION PARTS INC.	Oak Brook	IL	NASDAQ	248,276	.077	Oct., 87
CHARTER FED SAVINGS BANK	Bristol	VA	NASDAQ	349,261	.085	Mar., 89
CHARTER ONE FINANCIAL, INC.	Cleveland	OH	NASDAQ	407,371	.070	Apr., 88
CHASE MEDICAL GROUP	Hialeah	FL	ASE	340,834	.134	Jan., 89
CHEMFIX TECHNOLOGIES	Metairie	LA	NASDAQ	442,331	.066	Jan., 90
CHEMICAL BANKING CORP.	New York	NY	NYSE	17,257,731	.266	Mar., 90
CHEMICAL WASTE MGT	Oak Brook	IL	NYSE	8,530,483	.085	Sep., 90
CHEYENNE SOFTWARE, INC.	Roslyn	NY	ASE	1,877,844	.194	Sep., 90
CHILD WORLD INC.	Avon	MA	NASDAQ	835,146	.073	Jun., 90
CHILI'S INC.	Dallas	TX	NYSE	687,826	.064	May, 90
CHITTENDEN CORP.	Burlington	VT	NASDAQ	253,047	.095	Sep., 90
CHOCK FULL O'NUTS	New York	NY	NYSE	1,476,688	.182	Aug., 89
CHRONAR CORP.	Lawrenceville	NJ	NASDAQ	1,037,734	.084	Aug., 88
CINEPLEX ODEON	Toronto, Ontario	Canada	NYSE	6,479,478	.274	Nov., 89
CIRCLE K	Phoenix	AZ	NYSE	5,810,028	.115	Sep., 89
CIRCUIT CITY STORES	Richmond	VA	NYSE	3,862,611	.054	Feb., 90
CIRRUS LOGIC INC.	Milpitas	CA	NASDAQ	1,218,282	.082	Dec., 90
CISCO SYSTEMS INC.	Menlo Park	CA	NASDAQ	761,468	.062	Oct., 90
CITIZENS FIRST BANCORP (NJ)	Glen Rock	NJ	ASE	1,621,090	.076	May, 90

Alphabetical Listing

Company	City	State	Market	Average Shares Short	Average Short Ratio to 100	Date
CITIZENS FINANCIAL CORP.	Bridgewater	NJ	NASDAQ	1,382,241	.074	Nov, 88
CLAYTON HOMES INC.	Knoxville	TN	NYSE	1,655,800	.102	Dec, 90
CLEAN HARBORS INC.	Quincy	MA	NASDAQ	1,242,400	.158	Apr, 90
COACHMEN INDUSTRIES	Elkhart	IN	NYSE	396,940	.079	Dec, 87
COAST SAVINGS FINANCIAL	Los Angeles	CA	NYSE	1,465,700	.110	Nov, 90
CODA ENERGY INC.	Dallas	TX	NASDAQ	925,445	.200	Mar, 90
COLECO INDUSTRIES	West Hartford	CT	NYSE	2,157,000	.121	Jul, 88
COLONIAL HIGH INCOME	Boston	MA	NYSE	1,312,709	.056	Mar, 89
COLOR SYSTEMS TECHNOLOGY	Marina del Rey	CA	ASE	422,001	.070	Oct, 88
COLOROCS CORP.	Norcross	GA	NASDAQ	1,568,901	.115	Jul, 90
COLUMBIA FIRST BANK, FSB	Arlington	VA	NASDAQ	232,157	.095	Apr, 89
COMMERCIAL CREDIT GROUP	Baltimore	MD	NYSE	2,139,919	.021	Nov, 88
COMMERCIAL INTERTECH	Youngstown	OH	NASDAQ	790,576	.071	Apr, 89
COMMONWEALTH SAVINGS & LOAN (FL)	Ft. Lauderdale	FL	NASDAQ	172,450	.096	Dec, 87
COMMONWEALTH SAVINGS (HOUSTON)	Houston	TX	NASDAQ	1,062,809	.109	Oct, 87
COMMUNITY NATL BANCORP	Staten Island	NY	NASDAQ	297,332	.115	Dec, 89
COMMUNITY PSYCHIATRIC CENTERS	Laguna Hills	CA	NYSE	2,784,141	.059	Dec, 90
COMPAQ COMPUTER	Houston	TX	NYSE	3,295,937	.086	Jul, 88
COMPRESSION LAB INC.	San Jose	CA	NASDAQ	1,118,357	.136	Dec, 90
COMPUTERVISION CORP.	Bedford	MA	NYSE	1,409,871	.052	Feb, 87
COMVERSE TECHNOLOGY INC.	Woodbury	NY	NASDAQ	4,447,590	.054	Feb, 89
CONCEPT DEVELOPMENT CORP.	Omaha	NE	NASDAQ	295,751	.083	Nov, 86
CONNAUGHT BIOSCIENCES	Toronto, Ontario	Canada	NASDAQ	1,543,806	.073	Oct, 89
CONNER PERIPHERALS	San Jose	CA	NYSE	4,944,841	.125	Mar, 90
CONSECO INC.	Carmel	IN	NYSE	628,997	.119	Mar, 87
CONSOLIDATED FREIGHTWAYS	Menlo Park	CA	NYSE	5,017,897	.117	Jun, 90
CONSTELLATION BANCORP	Elizabeth	NJ	NASDAQ	685,619	.086	Sep, 90
CONTINENTAL AIR HOLDINGS	Houston	TX	ASE	7,051,482	.100	May, 90
CONTINENTAL INFORMATION SYSTEMS	Syracuse	NY	NYSE	1,420,105	.111	Jun, 87
CONTINENTAL MEDICAL SYSTEMS INC.	Mechanicsburg	PA	NASDAQ	996,728	.071	Dec, 90
CONTINUUM CO., INC.	Austin	TX	ASE	434,000	.106	Aug, 88
COOPER COMPANIES	New York	NY	NYSE	3,585,300	.240	Jul, 88
COOPER DEVELOPMENT CO.	Mountain View	CA	NASDAQ	329,577	.102	Aug, 89
COPYTELE INC.	Huntington Station	NY	NASDAQ	1,476,314	.135	Oct, 87
CORESTATES FINANCIAL CORP.	Philadelphia	PA	NASDAQ	1,982,790	.055	Feb, 90
CORPORATE DATA SCIENCES, INC.	Manhattan Beach	CA	NASDAQ	737,832	.054	Oct, 90
CORRECTIONS CORP. OF AMERICA	Nashville	TN	NASDAQ	725,960	.081	Nov, 90
COSTCO WHOLESALE CO.	Kirkland	WA	NASDAQ	2,243,565	.092	May, 89
COUNTRYWIDE CREDIT IND.	Pasadena	CA	NYSE	953,659	.089	Sep, 87
CRESTMONT FEDERAL SAVINGS	Edison	NJ	NASDAQ	849,339	.119	Sep, 90
CROSSLAND SAVINGS FSB	Brooklyn	NY	NYSE	1,291,452	.087	Oct, 90
CUC INTERNATIONAL INC	Stamford	CT	NYSE	2,584,736	.119	Feb, 90
CYTOGEN CORP.	Princeton	NJ	NASDAQ	897,999	.075	Oct, 90
D B A SYSTEMS INC.	Melbourne	FL	NASDAQ	466,064	.192	Jul, 88
D S BANCOR INC.	Derby	CT	NASDAQ	750,788	.320	Oct, 90
DAISY SYSTEMS CORP.	Mountain View	CA	NASDAQ	2,347,496	.144	Nov, 89
DAMSON OIL	New York	NY	ASE	749,954	.080	Nov, 86
DARTMOUTH BANCORP INC.	Hooksett	NH	NASDAQ	397,883	.126	Nov, 90
DATA SWITCH CORP.	Shelton	CT	NASDAQ	1,407,363	.128	Jan, 89
DATA-DESIGN LABS	Cucamonga	CA	NYSE	344,006	.052	Dec, 89
DATAMAG INC.	Scottsdale	AZ	NASDAQ	1,004,525	.223	Jan, 90
DATASCOPE CORP.	Montvale	NJ	NASDAQ	366,477	.150	Aug, 88
DAXOR CORP.	New York	NY	ASE	279,582	.053	Mar, 87
DE SOTO INC.	Des Plaines	IL	NYSE	570,911	.102	Jun, 90
DEL WEBB CORP.	Phoenix	AZ	NYSE	824,900	.077	Jun, 89
DELL COMPUTER CORP.	Austin	TX	NASDAQ	1,186,315	.084	Jun, 89
DESIGNS, INC.	Chestnut Hill	MA	NASDAQ	529,033	.044	Jun, 87
DEVON ENERGY	Oklahoma City	OK	ASE	527,330	.041	Jun, 90
DIAGNOSTEK INC.	Albuquerque	NM	NASDAQ	1,020,913	.085	Nov, 90
DIGITAL MICROWAVE	San Jose	CA	NASDAQ	2,904,451	.216	Jan, 90
DIGITAL OPTRONICS CORP.	Brandon	NJ	NASDAQ	132,286	.062	Aug, 87
DIGITECH INC	Maryland Heights	MO	NASDAQ	768,768	.054	Aug, 88
DIME SAVINGS BANK	New York	NY	NYSE	2,400,360	.196	Sep, 90
DISEASE DETECTION	Irvine	CA	NASDAQ	9,002,422	.057	Apr, 89
DOLLAR GENERAL CORP.	Nashville	TN	NASDAQ	1,245,683	.066	Feb, 88
DOUBLE HELIX FILMS INC	New York	NY	NASDAQ	703,159	.210	Aug, 89
DRECO ENERGY SERVICES LTD.	Edmonton, Alberta	Canada	NASDAQ	323,713	.089	Dec, 90
DREXLER TECHNOLOGY CORP.	Mountain View	CA	NASDAQ	722,768	.108	Feb, 89
DREYERS GRAND ICE	Oakland	CA	NASDAQ	721,460	.118	Jul, 90
DRUG EMPORIUM INC.	Columbus	OH	NASDAQ	842,623	.084	Jul, 88
DURAMED PHARMACEUTICAL INC.	Cincinnati	OH	NASDAQ	183,769	.074	Dec, 88
DURR-FILLAUER MEDICAL, INC.	Montgomery	AL	NASDAQ	1,107,673	.144	Mar, 89
DUTY FREE INTL INC.	Ridgefield	CT	NASDAQ	908,113	.096	Aug, 90
DYCOM INDUSTRIES	West Palm Beach	FL	NYSE	688,950	.120	Aug, 89

Alphabetical Listing

Company	City	State	Market	Maximum Shares Short	Maximum Short Ratio to Flt	Date
EASTLAND FINANCIAL CORP.	Woonsocket	RI	NASDAQ	332,312	.058	Dec, 89
EDO CORP.	College Point	NY	NYSE	489,313	.070	Jan, 89
EGGHEAD, INC.	Issaquah	WA	NASDAQ	1,513,445	.093	Feb, 90
EL POLLO ASADO, INC.	Phoenix	AZ	NASDAQ	309,281	.097	Feb, 87
ELCOTEL INC.	Sarasota	FL	NASDAQ	209,450	.056	May, 88
ELECTRO-CATHETER CORP.	Rahway	NJ	NASDAQ	647,500	.193	Oct, 86
ELIOT SAVINGS BANK	Boston	MA	NASDAQ	419,249	.323	Nov, 89
ENERGY CONVERSION DEVICES	Troy	MI	NASDAQ	330,475	.053	Feb, 88
ENERGY SERVICE	Houston	TX	ASE	4,760,005	.104	Jun, 90
ENTERTAINMENT MARKETING	Houston	TX	ASE	1,305,991	.090	May, 87
ENVIROSOURCE INC	Stamford	CT	NASDAQ	300,108	.058	Jan, 90
ENZO BIOCHEM INC.	New York	NY	ASE	763,891	.068	Aug, 87
ENZON, INC.	South Plainfield	NJ	NASDAQ	698,118	.057	Aug, 90
EPITOPE INC.	Beaverton	OR	ASE	578,300	.060	Nov, 90
EQUIFAX INC.	Atlanta	GA	NYSE	4,882,165	.099	Dec, 90
ERLY INDUSTRIES INC.	Los Angeles	CA	NASDAQ	155,451	.065	May, 89
EUROPA CRUISES CORP.	Pensacola	FL	NASDAQ	795,639	.077	Sep, 89
EXCEL BANCORP INC.	Quincy	MA	NASDAQ	452,926	.074	Sep, 90
EXECUTIVE TELECARD	Nanuet	NY	NASDAQ	3,026,517	.147	Dec, 90
FACET ENTERPRISES	Tulsa	OK	NYSE	409,434	.082	May, 88
FAIRMONT FINANCIAL	Burbank	CA	ASE	594,891	.113	Dec, 89
FAMILY DOLLAR STORES	Charlotte	NC	NYSE	1,676,448	.054	Sep, 87
FASTENAL CO.	Winona	MN	NASDAQ	717,097	.081	Feb, 90
FEDDERS CORP.	Peapack	NJ	NYSE	3,409,678	.122	Feb, 89
FEDERATED GROUP (THE)	City of Commerce	CA	NASDAQ	655,893	.061	Oct, 86
FINANCIAL CORP. OF AMERICA	Irvine	CA	NYSE	2,210,762	.062	Dec, 87
FINANCIAL CORP. OF SANTA BARBARA	Santa Barbara	CA	NYSE	362,094	.060	Jan, 89
FINGERMATRIX, INC.	North White Plains	NY	NASDAQ	3,236,745	.115	Jun, 87
FIREPLACE MANUFACTURERS INC.	Santa Ana	CA	NASDAQ	671,001	.138	Sep, 89
FIRST CAPITAL HOLDINGS	Los Angeles	CA	NYSE	3,920,431	.126	Oct, 89
FIRST EXECUTIVE CORP.	Inglewood	CA	NASDAQ	10,072,297	.119	Feb, 90
FIRST FED. SAVINGS & LOAN (AUSTIN)	Austin	TX	NASDAQ	176,162	.079	Dec, 87
FIRST FEDERAL FINANCIAL SERVICES	Wooster	OH	NASDAQ	835,829	.136	Nov, 87
FIRST FEDERAL SAVINGS OF ARKANSAS	Little Rock	AR	NASDAQ	404,770	.310	Apr, 87
FIRST FINANCIAL MANAGEMENT	Atlanta	GA	NYSE	1,703,430	.065	Sep, 90
FIRST LIBERTY FINANCIAL CORP.	Doraville	GA	NASDAQ	325,480	.171	Oct, 88
FIRST PENNSYLVANIA	Philadelphia	PA	NYSE	3,274,029	.066	Feb, 87
FIRST WESTERN FINANCIAL CORP.	Las Vegas	NV	NASDAQ	1,226,342	.198	Nov, 90
FIRST WORLD CHEESE, INC.	Maplewood	NJ	NASDAQ	1,154,349	.238	May, 89
FISCHBACH CORP.	New York	NY	NYSE	317,360	.076	Dec, 89
FLEET/NORSTAR FINANCIAL	Providence	RI	NYSE	7,244,371	.087	Jun, 90
FLIGHT INTERNATIONAL GROUP	Newport News	VA	NASDAQ	385,049	.176	Dec, 89
FOOTHILL GROUP, CL. A	Los Angeles	CA	NYSE	463,046	.051	Aug, 89
FOREST LABS	New York	NY	ASE	1,333,950	.064	Dec, 90
FOREST OIL CORP.	Denver	CO	NASDAQ	520,926	.110	Oct, 86
FORTUNE FINANCIAL GROUP	Clearwater	FL	NASDAQ	408,250	.094	Nov, 90
FRANKLIN COMPUTER	Mt. Holly	NJ	NASDAQ	490,362	.081	Nov, 88
FRANKLIN ELECTRONIC PUBLISHERS INC.	Mt. Holly	NJ	NASDAQ	429,695	.083	Apr, 90
FREEPORT-MCMORAN INC.	New Orleans	LA	NYSE	3,160,932	.058	Jul, 90
FRISCH'S RESTAURANTS	Cincinnati	OH	ASE	601,825	.116	Nov, 89
FRUIT OF THE LOOM	Chicago	IL	ASE	6,504,148	.136	Dec, 90
FURON (see FLUOROCARBON)	Laguna Niguel	CA	NASDAQ	910,560	.130	Jun, 90
G TECH CORP.	Providence	RI	NASDAQ	1,173,973	.122	Oct, 87
G V MEDICAL INC.	Minneapolis	MN	NASDAQ	753,903	.136	Jul, 89
GALACTIC RESOURCES LTD.	Vancouver, B.C.	Canada	ASE	1,337,065	.061	Dec, 88
GANTOS INC.	Grand Rapids	MI	NASDAQ	780,464	.053	Dec, 90
GCA CORP.	Bedford	MA	NYSE	9,269,827	.978	Apr, 87
GENENTECH, INC.	San Francisco	CA	NYSE	5,558,491	.071	Dec, 88
GENERAL BINDING CORP.	Northbrook	IL	NASDAQ	460,257	.046	Nov, 90
GENERAL DEVELOPMENT	Miami	FL	NYSE	1,520,935	.160	Apr, 90
GENETICS INSTITUTE INC.	Cambridge	MA	NASDAQ	793,413	.056	Aug, 90
GEOTHERMAL RESOURCES INT'L.	San Mateo	CA	ASE	290,525	.059	Sep, 88
GIANT GROUP	Harleyville	SC	NYSE	559,025	.166	Oct, 89
GIBRALTAR FINANCIAL CORP.	Beverly Hills	CA	NYSE	1,402,203	.066	Mar, 87
GLENFED INC.	Glendale	CA	NYSE	5,004,602	.172	Dec, 90
GO-VIDEO, INC.	Scottsdale	AZ	ASE	975,759	.208	Nov, 88
GOLDEN VALLEY MICROWAVE FOODS, INC.	Minneapolis	MN	NYSE	1,757,702	.153	Mar, 90
GOLDOME, FSB	Buffalo	NY	NYSE	1,475,071	.060	May, 90
GREAT AMERICAN BANK FSB	San Diego	CA	NYSE	2,380,776	.105	Apr, 90
GREAT AMERICAN COMMUNICATIONS	Cincinnati	OH	NASDAQ	2,683,829	.085	Feb, 90
GREAT AMERICAN RECREATION	McAfee	NJ	NASDAQ	1,687,775	.481	Sep, 88
GREEN TREE ACCEPTANCE	St. Paul	MN	NYSE	2,075,380	.302	Jul, 90
GREENERY REHAB GROUP	Newton	MA	NYSE	505,389	.037	May, 90
GREENMAN BROS.	Farmingdale	NY	ASE	385,436	.064	Aug, 86

Alphabetical Listing

Company	City	State	Market	Maximum Shares Short	Maximum Short Ratio to TSO	Date
GREENWICH PHARMACEUTICALS	Fort Washington	PA	NASDAQ	3,414,953	.188	Oct, 88
GROLIER INC.	Danbury	CT	NYSE	2,124,807	.109	Jul, 87
GROUNDWATER TECHNOLOGY, INC.	Norwood	MA	NASDAQ	534,643	.063	Feb, 90
GROW GROUP	New York	NY	NYSE	1,175,742	.102	Aug, 89
GRUBLE, INC.	Venice	CA	NASDAQ	488,743	.128	Mar, 89
GUARDIAN BANCORP	Los Angeles	CA	AMEX	488,857	.134	Nov, 90
GUNDLE ENVIRONMENTAL SYS.	Houston	TX	AMEX	1,094,597	.114	Oct, 89
H.B.L.T., INC.	Houston	TX	NASDAQ	421,440	.114	Mar, 89
HANA BIOLOGICS, INC.	Alameda	CA	NASDAQ	527,170	.080	Aug, 88
HANDEX ENVIRONMENTAL	Morganville	NJ	NASDAQ	320,950	.062	Mar, 90
HARCOURT BRACE	Orlando	FL	NYSE	8,461,787	.091	May, 90
HEALTH IMAGES INC	Atlanta	GA	NASDAQ	400,818	.043	Jun, 90
HEALTHCARE COMPARE CORP.	Downers Grove	IL	NASDAQ	294,810	.051	Jan, 89
HEALTHCARE SERVICES GROUP	Huntingdon Valley	PA	NASDAQ	1,197,283	.234	Oct, 90
HEALTHSOUTH REHABILITATION	Birmingham	AL	NYSE	1,280,760	.127	Aug, 90
HECK'S INC.	Nitro	WV	NYSE	844,150	.097	May, 87
HELEN OF TROY CORP.	El Paso	TX	NASDAQ	741,701	.222	Nov, 88
HEMACARE CORP.	Sherman Oaks	CA	NASDAQ	150,158	.051	May, 87
HEMODYNAMICS INC.	Boca Raton	FL	NASDAQ	247,065	.080	Jul, 89
HERITAGE BANCORP, INC.	Holyoke	MA	NASDAQ	575,534	.077	Apr, 90
HIGHLAND SUPERSTORES, INC.	Plymouth	MI	NASDAQ	1,332,320	.073	Jul, 87
HITECH ENGINEERING	McLean	VA	NASDAQ	884,600	.404	Sep, 87
HOLLY FARMS CORP.	Memphis	TN	NYSE	1,359,690	.080	Oct, 87
HOME DEPOT INC.	Atlanta	GA	NYSE	7,174,157	.065	Dec, 88
HOME OFFICE REFERENCE LAB	Lenexa	KS	NASDAQ	844,113	.057	Sep, 89
HOME OWNERS SAVINGS BANK FSB	Boston	MA	NYSE	1,307,450	.220	Mar, 88
HOME SHOPPING NETWORK	Clearwater	FL	NYSE	6,387,031	.071	Mar, 88
HORN & HARDART	Las Vegas	NV	AMEX	1,620,035	.109	Aug, 89
HOUSEHOLD INTERNATIONAL	Prospect Heights	IL	NYSE	3,321,294	.044	Nov, 90
HOUSTON BIOMEDICAL	The Woodlands	TX	NASDAQ	290,160	.084	May, 89
HOUSTON INDUSTRIES	Houston	TX	NYSE	10,995,246	.093	Aug, 87
HOWARD SAVINGS BANK NJ	Newark	NJ	NASDAQ	1,324,353	.092	Nov, 90
HOWTEK INC.	Hudson	NH	AMEX	1,133,729	.340	Oct, 90
HUDSON FOODS, CL. A	Rogers	AR	NYSE	626,434	.153	Sep, 89
HUFFY CORP.	Miamisburg	OH	NYSE	712,991	.084	Oct, 89
ICN BIOMEDICALS	Costa Mesa	CA	AMEX	533,095	.051	Jun, 90
ICN PHARMACEUTICALS	Costa Mesa	CA	NYSE	3,395,076	.199	Sep, 87
IGI INC.	Vineland	NJ	AMEX	1,342,681	.205	Oct, 89
IMMUNEX CORP.	Seattle	WA	NASDAQ	1,040,523	.134	Jun, 90
IMREG INC., CL. A	New Orleans	LA	NASDAQ	1,398,807	.207	Dec, 88
INFORMATION RESOURCES, INC.	Chicago	IL	NASDAQ	1,422,540	.096	Sep, 89
INFORMIX CORP.	Menlo Park	CA	NASDAQ	706,334	.058	Jan, 90
INGLES MARKETS INC., CL. A	Asheville	NC	NASDAQ	387,655	.145	Feb, 90
INSPEECH, INC.	Norristown	PA	NASDAQ	834,301	.070	Sep, 88
INSPIRATION RESOURCES	New York	NY	NYSE	6,650,366	.107	Aug, 89
INTEGRATED COMPUTER GRAPHICS	Atlanta	GA	NASDAQ	261,099	.054	May, 87
INTEGRATED RESOURCES	New York	NY	NYSE	2,632,226	.223	Jul, 89
INTEL CORP.	Santa Clara	CA	NASDAQ	10,131,796	.055	Apr, 90
INTELLICALL INC.	Carrollton	TX	NYSE	781,422	.118	Nov, 90
INTELLIGENT ELECTRONICS	Exton	PA	NASDAQ	1,260,335	.158	Mar, 90
INTERCO INC.	St. Louis	MO	NYSE	3,825,978	.102	Mar, 87
INTERFACE INC., CL. A	LaGrange	GA	NASDAQ	1,141,397	.084	Sep, 90
INTERLEAF INC.	Waltham	MA	NASDAQ	1,022,889	.089	Oct, 88
INTERMARK INC.	La Jolla	CA	AMEX	907,300	.088	Nov, 87
INTERMEC CORP.	Everett	WA	NASDAQ	2,204,170	.266	Nov, 90
INTERNATIONAL CLINICAL LAB	Nashville	TN	NASDAQ	731,580	.098	Oct, 87
INTERNATIONAL GAME TECHNOLOGY	Reno	NV	NASDAQ	1,205,474	.145	Aug, 86
INTERNATIONAL LEASE FINANCE	Beverly Hills	CA	NASDAQ	2,368,590	.089	Jun, 90
INTERNATIONAL MICROCOMPUTER SOFTWR	San Rafael	CA	NASDAQ	12,577,349	.107	Jul, 87
INTERNATIONAL MINERALS & CHEMICALS	Northbrook	IL	NYSE	1,243,131	.054	Apr, 89
INTERNATIONAL MOBILE MACHINES	King of Prussia	PA	NASDAQ	5,599,085	.375	Oct, 90
INTERNATIONAL RECTIFIER CORP.	El Segundo	CA	NYSE	1,327,180	.110	Dec, 90
INTERNATIONAL TELECHARGE	Dallas	TX	AMEX	1,589,299	.104	Nov, 89
INTERNATIONAL TOTALIZATOR SYSTEMS	Carlsbad	CA	NASDAQ	436,336	.082	Jun, 90
INTERVOICE INC.	Dallas	TX	NASDAQ	979,807	.175	Jul, 90
INTREX FINANCIAL SVS	Andover	MA	NASDAQ	798,343	.180	Nov, 89
INVESTMENT TECHNOLOGIES INC.	Edison	NJ	NASDAQ	1,485,173	.072	Jun, 86
INVESTORS FINANCIAL CORP.	Richmond	VA	NASDAQ	400,868	.070	Mar, 90
ITEL CORP.	Chicago	IL	NYSE	3,344,018	.088	Jul, 87
J & J SNACK FOODS	Pennsauken	NJ	NASDAQ	226,738	.080	Nov, 86
JACKPOT ENTERPRISES	Las Vegas	NV	NYSE	497,096	.100	Oct, 89
JAN BELL MARKETING	Sunrise	FL	AMEX	2,142,220	.097	Apr, 90
JIFFY LUBE INTERNATIONAL INC.	Houston	TX	NASDAQ	3,284,481	.220	Apr, 89
JONES INTERCABLE CL. A	Englewood	CO	NASDAQ	897,196	.122	Jul, 90

Alphabetical Listing

Company	City	State	Market	Maximum Shares Short	Maximum Short Ratio to ADV	Date
K-V PHARMACEUTICAL, CL. B	St. Louis	MO	ASE	366,151	.077	Jan, 88
KAPPA NETWORKS	Rahway	NJ	ASE	257,792	.147	Jun, 88
KARLEN CORP.	San Bernardino	CA	NASDAQ	606,417	.116	Nov, 90
KAY JEWELERS, INC.	Alexandria	VA	NYSE	2,013,435	.162	Feb, 90
KEANE INC.	Boston	MA	ASE	212,409	.075	Mar, 90
KEYSTONE MEDICAL CORP.	Columbia	MD	NASDAQ	529,294	.088	Apr, 88
KIMMINS ENVIRONMENTAL SERVICE	Tampa	FL	NYSE	1,155,477	.125	Mar, 90
KIRSCHNER MEDICAL CORP.	Timonium	MD	NASDAQ	401,079	.171	Oct, 89
KNOWLEDGEWARE INC.	Atlanta	GA	NASDAQ	1,134,726	.102	Nov, 90
KOGER PROPERTIES	Jacksonville	FL	NYSE	1,446,937	.061	Oct, 90
L A GEAR, INC.	Los Angeles	CA	NYSE	6,487,509	.394	Sep, 90
L T X CORP.	Westwood	MA	NASDAQ	820,160	.088	Dec, 89
LA PETITE ACADEMY	Kansas City	MO	NASDAQ	929,567	.059	Aug, 88
LAMSON & SESSIONS	Cleveland	OH	NYSE	1,162,703	.101	May, 88
LANDMARK GRAPHICS CORP.	Houston	TX	NASDAQ	774,812	.093	Jun, 90
LANDMARK LAND CO.	Carmel	CA	ASE	1,077,750	.127	May, 90
[illegible] CO, INC.	Chicago	IL	NYSE	1,208,001	.060	Dec, 89
LASER INDUSTRIES LTD.	Tel Aviv	Israel	ASE	302,273	.043	Jun, 88
LASERSCOPE, INC.	San Jose	CA	NASDAQ	552,992	.085	Nov, 90
LECHTERS INC.	Harrison	NJ	NASDAQ	710,513	.099	Dec, 90
LEE PHARMACEUTICALS	South El Monte	CA	ASE	460,757	.114	Oct, 87
LEISURE CONCEPTS, INC.	New York	NY	NASDAQ	197,316	.051	Jul, 88
LEISURE TECHNOLOGY	Los Angeles	CA	NYSE	429,077	.144	Aug, 89
LEO'S INDUSTRIES	Long Beach	CA	ASE	347,900	.085	Jan, 90
LEWIS GALOOB TOYS	San Francisco	CA	NYSE	725,594	.080	Dec, 89
LIFELINE HEALTHCARE GROUP	Broken Arrow	OK	NASDAQ	180,010	.052	Aug, 89
LINCOLN BANCORP	Encino	CA	NASDAQ	307,180	.320	Jul, 87
LINDSAY MANUFACTURING	Lindsay	NE	NASDAQ	240,744	.126	Sep, 89
LIONEL CORP.	New York	NY	ASE	1,311,202	.096	Sep, 89
LOADMASTER SYSTEMS	Tucson	AZ	NASDAQ	326,482	.095	May, 87
LOGIC DEVICES INC.	Sunnyvale	CA	NASDAQ	264,215	.062	Oct, 90
LORIMAR-TELEPICS	Culver City	CA	ASE	3,957,654	.088	May, 86
LTV CORP.	Dallas	TX	NYSE	10,188,946	.099	May, 87
LYPHOMED, INC.	Rosemont	IL	NASDAQ	4,320,644	.144	Jul, 88
M I P S COMPUTER SYSTEMS	Sunnyvale	CA	NASDAQ	1,552,771	.076	Oct, 90
MANAGEMENT COMPANY ENTERTAINMENT	New York	NY	NASDAQ	976,339	.095	Jul, 90
MANUFACTURED HOMES	Winston-Salem	NC	ASE	266,350	.070	Apr, 89
MANUFACTURERS HANOVER	New York	NY	NYSE	2,643,612	.053	Jun, 88
MANVILLE CORP.	Denver	CO	NYSE	3,091,730	.129	Oct, 86
MARK CONTROLS CORP.	Skokie	IL	NASDAQ	140,544	.053	Feb, 87
MARK IV INDUSTRIES	Amherst	NY	NYSE	1,359,650	.095	Jul, 90
MARRIOTT CORP.	Bethesda	MD	NYSE	12,953,403	.103	May, 90
MARTIN LAWRENCE LTD. EDITIONS	Van Nuys	CA	NASDAQ	479,058	.059	Jun, 90
MATREX MEDICA / VITAL MEDICAL	Wheat Ridge	CO	NASDAQ	1,123,971	.050	Jan, 87
MAYTAG CORP.	Newton	IA	NYSE	5,057,930	.051	Jan, 89
MCDERMOTT INTERNATIONAL	New Orleans	LA	NYSE	4,037,019	.105	Mar, 90
[illegible]-MOBILE, INC.	Newark	NJ	NASDAQ	236,230	.065	Jan, 87
MEDALIST INDUSTRIES	Milwaukee	WI	NASDAQ	130,267	.057	Aug, 87
MEDCHEM PRODUCTS INC.	Woburn	MA	ASE	279,539	.060	Oct, 89
MEDCO RESEARCH, INC.	Los Angeles	CA	NASDAQ	1,946,182	.224	Oct, 90
MEDICINE SHOPPE INT'L	St. Louis	MO	NASDAQ	1,455,404	.204	Nov, 90
MEDICORE INC.	Hialeah	FL	ASE	270,430	.054	Sep, 86
MEDSTONE INTERNATIONAL	Irvine	CA	NASDAQ	787,060	.169	Nov, 89
MELRIDGE, INC.	Aurora	OR	NASDAQ	1,019,872	.144	Nov, 87
MENTOR CORP. (THE)	Santa Barbara	CA	NASDAQ	1,351,769	.122	Mar, 87
MERITOR SAVINGS BANK	Philadelphia	PA	NASDAQ	4,882,983	.139	Sep, 89
METRO AIRLINES, INC.	Dallas/FW Airport	TX	NASDAQ	705,380	.244	Jun, 90
MICHAEL FOODS, INC.	Minneapolis	MN	NASDAQ	1,176,080	.099	Aug, 90
MICROCOM INC.	Norwood	MA	NASDAQ	752,994	.082	Jun, 90
MICROGRAFX INC.	Richardson	TX	NASDAQ	423,679	.093	Dec, 90
MICRON TECHNOLOGY, INC.	Boise	ID	NASDAQ	2,347,289	.072	Mar, 88
MICROPOLIS CORP.	Chatsworth	CA	NASDAQ	667,378	.056	Apr, 89
MIDLANTIC CORP.	Edison	NJ	NASDAQ	3,487,984	.091	Sep, 90
MIDWAY AIRLINES, INC.	Chicago	IL	NYSE	1,494,315	.163	Sep, 90
MIDWEST COMMUNICATIONS CORP.	Highland Heights	KY	NASDAQ	628,891	.210	Jul, 87
MINISCRIBE CORP.	Longmont	CO	NASDAQ	2,369,270	.078	Feb, 89
MINSTAR INC.	Minneapolis	MN	NASDAQ	963,127	.064	May, 88
MOLECULAR BIOSYSTEMS, INC.	San Diego	CA	NASDAQ	975,631	.087	Aug, 88
MONTANA POWER	Butte	MT	NYSE	1,084,435	.070	Mar, 87
MULTIBANK FINANCIAL	Dedham	MA	NASDAQ	539,989	.074	Apr, 90
MYCOGEN CORP.	San Diego	CA	NASDAQ	531,610	.080	Jul, 87
MYLAN LABS	Pittsburgh	PA	NYSE	4,926,382	.136	Mar, 87
N E S B CORP.	New London	CT	NASDAQ	475,243	.054	Nov, 89
N F S FINANCIAL CORP.	Nashua	NH	NASDAQ	288,044	.097	Jan, 90

Alphabetical Listing

Company	City	State	Market	Maximum Shares Short	Maximum Short Ratio To TSO	Date
NATIONAL BUSINESS SYSTEMS INC.	Mississauga, Ontario	Canada	NASDAQ	1,350,358	.081	Feb, 88
NATIONAL COMMUNITY BANKS	Maywood	NJ	NASDAQ	815,703	.078	Nov, 90
NATIONAL DATA CORP.	Atlanta	GA	NASDAQ	1,001,546	.088	May, 90
NATIONAL DATACOMPUTER	Billerica	MA	NASDAQ	17,080,279	.133	Jun, 87
NATIONAL EDUCATION CORP.	Irvine	CA	NYSE	1,640,405	.072	Dec, 87
NATIONAL GUARDIAN CORP. (THE)	Greenwich	CT	NASDAQ	513,058	.051	Sep, 88
NATIONAL MEDICAL ENTERPRISES	Santa Monica	CA	NYSE	4,702,718	.060	Oct, 89
NEDAC, INC.	Lawrenceville	NJ	NASDAQ	477,000	.055	Sep, 87
NETWORK GENERAL CORP.	Menlo Park	CA	NASDAQ	1,183,679	.083	Sep, 90
NETWORK SECURITY CORP.	Dallas	TX	NASDAQ	842,534	.084	Jul, 87
NEW AMER. HIGH INCOME FUND	Boston	MA	NYSE	1,501,608	.055	Nov, 89
NEW ENGLAND CRITICAL CARE	Westborough	MA	NASDAQ	1,186,817	.195	Feb, 89
NEWBRIDGE NETWORKS	Kanata, Ontario	Canada	NASDAQ	2,081,103	.062	Apr, 90
NEWMARK & LEWIS	Hicksville	NY	ASE	610,900	.066	Sep, 86
NEWPORT PHARMACEUTICALS INT'L	Laguna Hills	CA	NASDAQ	1,352,736	.110	Apr, 90
NORTH AMERICAN VENTURES	Montvale	NJ	NASDAQ	2,550,083	.091	Aug, 87
NORTH STAR UNIVERSAL	Minneapolis	MN	NASDAQ	760,751	.085	Nov, 90
NORTHEAST SAVINGS, F.A.	Hartford	CT	NYSE	1,138,097	.217	Mar, 87
NOVACARE	Valley Forge	PA	NASDAQ	819,975	.044	Dec, 90
NOVELL, INC.	Provo	UT	NASDAQ	1,401,289	.051	Jun, 89
NU WEST INDUSTRIES INC.	Englewood	CO	NASDAQ	1,266,744	.085	Feb, 90
NUCORP INC.	Chicago	IL	NASDAQ	325,605	.074	Apr, 89
NWNL COS. INC.	Minneapolis	MN	NYSE	2,178,759	.169	Dec, 90
NYCOR INC.	Peapack	NJ	NASDAQ	422,237	.041	Jul, 88
O M I CORP.	New York	NY	ASE	2,403,594	.111	Jun, 89
O'BRIEN ENERGY SYSTEMS, CL. A	Philadelphia	PA	ASE	584,414	.119	Feb, 89
OCCUPATIONAL-URGENT CARE HEALTH	Sacramento	CA	NASDAQ	1,901,533	.206	Nov, 90
OCTEL COMMUNICATIONS	Milpitas	CA	NASDAQ	1,575,202	.075	Apr, 90
OFFICE DEPOT INC.	Boca Raton	FL	NASDAQ	1,031,376	.047	Oct, 90
OLD STONE CORP.	Providence	RI	NASDAQ	564,460	.063	Aug, 90
ON-LINE SOFTWARE INT'L	Fort Lee	NJ	NYSE	542,487	.086	Sep, 87
ONE BANCORP (THE)	Portland	ME	NASDAQ	727,072	.089	Mar, 90
ONE PRICE CLOTHING STORES	Spartanburg	SC	NASDAQ	459,322	.068	Oct, 89
OPTICORP	Petersburg	VA	NASDAQ	370,265	.077	Nov, 88
ORGANOGENESIS	Cambridge	MA	ASE	1,148,400	.180	May, 89
ORION CAPITAL CORP.	New York	NY	NYSE	523,974	.070	Sep, 89
OSHKOSH B'GOSH CL.A	Oshkosh	WI	NASDAQ	713,903	.056	Oct, 90
OWENS & MINOR	Glen Allen	VA	NYSE	435,769	.078	Jul, 87
P D K LABS INC.	Ronkonkoma	NY	NASDAQ	1,023,671	.220	Aug, 90
PACE MEMBERSHIP WAREHOUSE	Aurora	CO	NASDAQ	1,125,765	.086	May, 87
PACIFIC GAS & ELECTRIC	San Francisco	CA	NYSE	34,441,650	.097	Jun, 88
PACIFIC WESTERN BANCSHARES	San Jose	CA	ASE	1,128,250	.091	Nov, 90
PACO PHARMACEUTICAL	Lakewood	NJ	NYSE	217,117	.054	Apr, 87
PANHANDLE EASTERN CO.	Houston	TX	NYSE	11,690,519	.204	Feb, 90
PANTERA'S CORP.	St. Louis	MO	NASDAQ	1,247,990	.124	Jul, 88
PAR PHARMACEUTICAL	Spring Valley	NY	NYSE	1,772,962	.161	Mar, 87
PARAMETRIC TECHNOLOGY	Waltham	MA	NASDAQ	1,159,207	.154	Nov, 90
PATHE COMMUNICATIONS	Los Angeles	CA	NYSE	2,331,761	.209	Aug, 87
PATTEN CORP.	Stamford	VT	NYSE	1,194,634	.370	Feb, 87
PAYCHEX, INC.	Rochester	NY	NASDAQ	650,385	.376	Aug, 90
PENRIL CORP.	Gaithersburg	MD	ASE	131,400	.061	Nov, 86
PENWEST LTD.	Bellevue	WA	NASDAQ	752,847	.103	Dec, 90
PEOPLES HERITAGE FINANCIAL GROUP	Portland	ME	NASDAQ	1,497,740	.177	Dec, 89
PERPETUAL FINANCIAL	Vienna	VA	NASDAQ	1,589,560	.102	Feb, 90
PHARMACONTROL CORP.	Englewood Cliffs	NJ	NASDAQ	1,536,860	.248	Jul, 87
PHARMACY MANAGEMENT SERVICES -	Tampa	FL	NASDAQ	647,385	.051	Aug, 90
PHOENIX LASER SYSTEMS, INC.	Livermore	CA	NASDAQ	536,955	.064	Dec, 90
PHOENIX MEDICAL TECHNOLOGY	Andrews	SC	NASDAQ	359,705	.155	May, 89
PIEDMONT FEDERAL CORP.	Manassas	VA	NASDAQ	265,825	.096	Oct, 90
PIER 1 IMPORTS	Fort Worth	TX	NYSE	2,382,253	.086	Aug, 88
PIONEER FINANCIAL SERVICES INC.	Rockford	IL	NYSE	929,999	.165	Jul, 90
PIONEER SAVINGS BANK	Clearwater	FL	NASDAQ	206,312	.061	Mar, 89
PLY-GEM INDUSTRIES	New York	NY	ASE	1,034,062	.129	Aug, 86
POLIFLY FINANCIAL CORP.	New Milford	NJ	NASDAQ	221,045	.191	May, 90
POP RADIO CORP.	New York	NY	NASDAQ	312,503	.086	Sep, 90
PORTA SYSTEMS	Syosset	NY	ASE	472,625	.087	Dec, 89
POUGHKEEPSIE SAVINGS FSB	Poughkeepsie	NY	NASDAQ	270,779	.059	Sep, 89
POWELL INDUSTRIES INC.	Houston	TX	NASDAQ	575,806	.058	Jun, 90
PRE-PAID LEGAL SERVICES	Ada	OK	ASE	592,674	.060	Sep, 87
PREFERRED HOMECARE	Miami Lakes	FL	NASDAQ	848,244	.092	Sep, 89
PRICE COMMUNICATIONS	New York	NY	ASE	1,066,134	.140	Sep, 88
PRIME COMPUTER	Natick	MA	NYSE	2,440,062	.051	May, 87
PRIME MOTOR INNS	Fairfield	NJ	NYSE	6,240,676	.186	May, 90
PRODUCTION OPERATORS CORP.	Atlanta	GA	NASDAQ	512,942	.075	Jun, 90

Alphabetical Listing

Company	City	State	Market	Maximum Shares Short	Maximum Short Ratio to TSO	Date
PROPERTIES OF AMERICA, INC.	Wilmington	MA	NASDAQ	360,550	.125	Apr, 88
PROTEIN DATABASES	Huntington Station	NY	NASDAQ	14,437,325	.163	Sep, 88
PUBLIC SERVICE OF NEW HAMPSHIRE	Manchester	NH	NYSE	5,780,950	.155	Oct, 87
PUBLIC SERVICE OF NEW MEXICO	Albuquerque	NM	NYSE	2,124,811	.051	Apr, 89
PUEBLO INTERNATIONAL INC.	San Juan	PR	NYSE	254,463	.075	Feb, 88
PUGET SOUND BANCORP	Tacoma	WA	NASDAQ	7,098,861	.126	Nov, 90
Q MED, INC.	Clark	NJ	NASDAQ	1,085,365	.180	Aug, 87
Q V C NETWORK INC.	West Chester	PA	NASDAQ	894,341	.064	Oct, 87
QMAX TECHNOLOGY GROUP, INC.	Dayton	OH	NASDAQ	772,928	.132	Oct, 88
QMS INC.	Mobile	AL	NYSE	1,126,590	.099	Aug, 88
QUANTUM CHEMICAL CORP.	New York	NY	NYSE	2,195,478	.060	Sep, 90
QUICKSILVER INC	Costa Mesa	CA	NASDAQ	743,009	.125	Nov, 90
R G H TECHNOLOGIES, INC.	Los Angeles	CA	NASDAQ	844,484	.063	Jan, 90
RAMTEK CORP.	San Jose	CA	NASDAQ	400,146	.100	Mar, 88
RANGER OIL LTD	Calgary, Alberta	Canada	NYSE	4,985,279	.067	Sep, 90
REGENCY CRUISES, INC.	New York	NY	NASDAQ	1,976,965	.085	Apr, 87
REGINA CO. INC.	Rahway	NJ	NASDAQ	1,149,253	.127	Mar, 88
RESEARCH INDUSTRIES	Salt Lake City	UT	NASDAQ	349,192	.044	Sep, 89
REXENE CORP.	Dallas	TX	NYSE	2,333,201	.086	Sep, 89
RIGGS NATIONAL CORP.	Washington	DC	NASDAQ	766,547	.054	Aug, 90
ROBERT C [illegible] CO.	San Francisco	CA	NASDAQ	298,671	.113	Nov, 87
RORER GROUP, INC.	Fort Washington	PA	NYSE	2,665,666	.065	Oct, 89
ROUSE CO. (THE)	Columbia	MD	NASDAQ	4,190,923	.120	Oct, 90
ROYAL INTERNATIONAL OPTICAL	Dallas	TX	NYSE	507,200	.073	Aug, 88
ROYALPAR INDUSTRIES, INC.	West Hartford	CT	NASDAQ	743,928	.210	Nov, 87
RUDDICK CORP.	Charlotte	NC	ASE	341,600	.058	Sep, 89
RYKOFF-SEXTON, INC.	Los Angeles	CA	NYSE	394,153	.057	Aug, 87
RYMER FOODS INC.	Chicago	IL	NYSE	181,709	.060	Mar, 89
S C I SYSTEMS INC.	Huntsville	AL	NASDAQ	1,476,582	.071	Oct, 87
S TAYLOR COMPANIES INC.	Salt Lake City	UT	NASDAQ	1,181,838	.082	Mar, 88
SALICK HEALTH CARE, INC.	Beverly Hills	CA	NASDAQ	293,008	.044	Sep, 87
SANIFILL INC.	Houston	TX	NYSE	739,434	.054	Dec, 90
SARA LEE CORP.	Chicago	IL	NYSE	6,364,544	.061	Nov, 90
SCHERER (R.P.) CORP.	Troy	MI	NASDAQ	1,782,026	.244	Jan, 89
SCIMED LIFE SYSTEMS INC.	Maple Grove	MN	NASDAQ	2,626,604	.193	Dec, 90
SCOTT INSTRUMENTS CORP.	Denton	TX	NASDAQ	838,416	.084	Jul, 87
SEA CONTAINERS LTD.	Hamilton	Bermuda	NYSE	409,173	.051	Mar, 89
SEAFOOD INC.	Henderson	LA	NASDAQ	28,430,683	.099	Aug, 87
SEAGULL ENERGY	Houston	TX	NYSE	388,078	.052	Jan, 90
SECOR BANK FSB	Birmingham	AL	NASDAQ	278,640	.114	Mar, 88
SECTOR ASSOCIATES LTD.	Miami	FL	NASDAQ	359,995	.120	Jun, 90
SEQUA, CL. A	New York	NY	NYSE	481,470	.126	Aug, 90
SERVICE RESOURCES CORP.	New York	NY	NYSE	179,320	.085	Apr, 88
SHELBY WILLIAMS INDUSTRIES	Chicago	IL	NYSE	542,775	.083	Oct, 87
SHONEY'S INC.	Nashville	TN	NYSE	4,164,165	.112	Nov, 90
SHOREWOOD PACKAGING	Farmingdale	NY	NASDAQ	2,500,787	.124	Aug, 90
SHOWSCAN CORP.	Culver City	CA	NASDAQ	222,442	.076	Jun, 87
SIKES CORP, CL. A	Lakeland	FL	ASE	1,154,712	.140	Dec, 89
SILICON GRAPHICS, INC.	Mountain View	CA	NYSE	1,422,413	.129	Mar, 90
SILICON SYSTEMS CORP.	Tustin	CA	NYSE	639,514	.093	Nov, 88
SILICON VALLEY BANCSHARES	Santa Clara	CA	NASDAQ	751,071	.137	Nov, 90
[illegible] GREENHOUSE INC.	Tampa	FL	NASDAQ	1,345,666	.190	Oct, 89
SMITH INTERNATIONAL, INC.	Houston	TX	NYSE	1,434,423	.072	Nov, 90
SOFTSEL COMPUTER	Inglewood	CA	NASDAQ	1,060,695	.089	Apr, 90
SOFTWARE PUBLISHING	Mountain View	CA	NASDAQ	477,651	.055	Jun, 90
SOFTWARE SERVICES OF AMERICA	North Andover	MA	NASDAQ	424,359	.209	Jan, 89
SOFTWARE TOOLWORKS INC.	Novato	CA	NASDAQ	2,597,581	.115	Oct, 90
SOONER FEDERAL SAVINGS AND LOAN	Tulsa	OK	NASDAQ	232,763	.114	Nov, 87
SOUND ADVICE INC.	Dania	FL	NASDAQ	184,482	.080	Jun, 89
SOUTHEAST BANKING CO.	Miami	FL	NYSE	3,548,556	.106	Nov, 90
SOUTHLAND COMMUNICATIONS INC.	Santa Ana	CA	NASDAQ	512,922	.235	Apr, 90
SOUTHLIFE HOLDING (P4G)	Nashville	TN	ASE	262,279	.135	Oct, 88
SOUTHMARK CORP.	Dallas	TX	NYSE	4,711,812	.104	Oct, 87
SOUTHWEST FOREST INDUSTRIES	Phoenix	AZ	NYSE	446,773	.065	Jan, 87
SOUTHWESTERN PUBLIC SERVICE	Amarillo	TX	NYSE	3,164,814	.077	Aug, 88
SPAIN FUND, INC.	New York	NY	NYSE	589,836	.059	Jan, 90
SPECTRUM CONTROL INC.	Erie	PA	NASDAQ	406,362	.075	Mar, 90
SPECTRUM DIGITAL CORP.	Herndon	VA	NASDAQ	765,864	.095	Nov, 88
STAPLES, INC.	Newton	MA	NASDAQ	1,023,486	.104	Oct, 90
STAR STATES CORP.	Wilmington	DE	NASDAQ	465,423	.095	Aug, 90
STARS TO GO	Los Angeles	CA	NASDAQ	758,467	.090	Nov, 87
STATUS GAME CORP.	Newington	CT	NASDAQ	274,274	.058	May, 87
STERLING SOFTWARE	Dallas	TX	ASE	765,600	.170	Oct, 86
STUART HALL CO. INC.	Kansas City	MO	NASDAQ	417,882	.104	Dec, 89

Alphabetical Listing

Company	City	State	Market	Maximum Shares Short	Maximum Short Ratio to [illegible]	Date
STUDENT LOAN MARKETING	Washington	DC	NYSE	5,031,694	.080	Sep, 89
SUMMA MEDICAL CORP.	Albuquerque	NM	ASE	1,124,864	.076	Nov, 89
SUMMIT TECHNOLOGY INC.	Waltham	MA	NASDAQ	1,338,476	.153	Dec, 90
SUN ELECTRIC	Crystal Lake	IL	NYSE	1,320,619	.588	Apr, 89
SUN MICROSYSTEMS, INC.	Mountain View	CA	NASDAQ	5,006,455	.059	Mar, 90
SUN STATE SAVINGS & LOAN	Phoenix	AZ	NASDAQ	1,182,150	.202	Mar, 89
SUNRISE MEDICAL INC.	Torrance	CA	NASDAQ	385,126	.085	Dec, 90
SUNWEST FINANCIAL SERVICES INC.	Albuquerque	NM	NASDAQ	390,172	.073	Sep, 90
SURGICAL LASER TECHNOLOGIES	Malvern	PA	NASDAQ	523,729	.098	Jul, 90
SYNOPTICS COMMUNICATIONS INC.	Mountain View	CA	NASDAQ	435,749	.066	May, 89
SYNTECH INTERNATIONAL, INC.	Reno	NV	NASDAQ	410,334	.071	Dec, 88
SYSTEM SOFTWARE ASSOCIATES	Chicago	IL	NASDAQ	1,061,349	.139	May, 89
T 2 INDUSTRIES, INC.	Huntington Beach	CA	NASDAQ	607,044	.066	Apr, 87
T P I CORP.	Beltsville	MD	NASDAQ	907,449	.103	Oct, 87
T W HOLDINGS INC	Spartanburg	SC	NASDAQ	2,733,873	.051	Dec, 90
TALLEY INDUSTRIES	Phoenix	AZ	NYSE	461,087	.059	Feb, 89
TCBY ENTERPRISES	Little Rock	AR	NYSE	5,953,279	.149	Dec, 90
TCF FINANCIAL CORP.	Minneapolis	MN	NYSE	574,400	.080	Oct, 90
TELE-COMMUNICATIONS, CL. A	Denver	CO	NASDAQ	4,325,638	.085	Jan, 88
TELESPHERE COMMUNICATIONS, INC.	Oakbrook Terrace	IL	ASE	1,218,517	.072	Oct, 87
TELEX CORP.	Tulsa	OK	NYSE	1,580,534	.106	Feb, 87
TENDER LOVING CARE	Lake Success	NY	NASDAQ	373,804	.241	Apr, 87
TEXAS AIR CORP.	Houston	TX	ASE	9,506,412	.231	Mar, 90
THERMEDICS, INC.	Woburn	MA	ASE	987,536	.063	Jan, 87
THORTEC INTERNATIONAL, INC.	San Mateo	CA	NYSE	537,596	.083	May, 88
THOUSAND TRAILS, INC.	Bellevue	WA	NASDAQ	1,373,999	.066	Jan, 87
TIMEPLEX INC.	Woodcliff Lake	NJ	NYSE	446,808	.051	Jan, 89
TO-FITNESS, INC.	Bay Harbor Island	FL	NASDAQ	642,194	.145	Jun, 87
TODD SHIPYARDS	Seattle	WA	NYSE	249,339	.059	Aug, 87
TO[illegible] INC.	Englewood	CO	NASDAQ	2,609,547	.052	Jun, 88
TOM BROWN INC.	Midland	TX	NASDAQ	2,903,186	.073	Jun, 87
TONKA CORP.	Minnetonka	MN	NYSE	1,681,488	.213	Sep, 90
TOPPS CO. INC. (THE)	Brooklyn	NY	NASDAQ	822,876	.059	Nov, 88
TOSCO CORP.	Santa Monica	CA	NYSE	6,621,060	.151	Jul, 89
TRADITIONAL INDUSTRIES, INC.	Agoura Hills	CA	NASDAQ	697,305	.214	Feb, 89
TRIAD SYSTEMS CORP.	Livermore	CA	NASDAQ	847,048	.108	May, 89
TRIANGLE INDUSTRIES CL. A	New York	NY	NASDAQ	175,720	.142	Jul, 88
TRIDEX CORP.	New York	NY	ASE	165,755	.087	Dec, 86
TRIMEDYNE, INC.	Irvine	CA	NASDAQ	644,195	.070	Aug, 88
TRINITY INDUSTRIES	Dallas	TX	NYSE	2,374,274	.131	Sep, 89
TRITON ENERGY CORP.	Dallas	TX	NYSE	937,669	.061	Aug, 89
TUCSON ELECTRIC POWER	Tucson	AZ	NYSE	1,592,837	.063	Oct, 89
TWISTEE TREAT CORP.	Cape Coral	FL	NASDAQ	1,962,683	.091	May, 87
TYCO LABORATORIES	Exeter	NH	NYSE	2,567,312	.069	Jul, 88
TYCO TOYS, INC.	Mt. Laurel	NJ	NASDAQ	1,393,657	.239	Jun, 90
TYLER CORP.	Dallas	TX	NYSE	1,598,467	.091	Aug, 88
U F C A R C O INC.	Fort Worth	TX	NASDAQ	3,623,464	.108	Nov, 90
U S ENERGY CORP.	Riverton	WY	NASDAQ	138,300	.100	Apr, 90
U S F CORP.	Boston	MA	NASDAQ	993,757	.078	Aug, 90
ULTIMATE CORP.	East Hanover	NJ	NYSE	757,376	.077	Aug, 88
ULTRASYSTEMS	Irvine	CA	ASE	734,068	.095	Sep, 88
UNIFI, INC.	Greensboro	NC	NASDAQ	1,142,766	.128	Apr, 88
UNIONFED FINANCIAL	Brea	CA	NYSE	637,545	.131	Sep, 89
UNITED EDUCATION & SOFTWARE	Encino	CA	NASDAQ	345,477	.054	Jun, 88
UNITED HEALTHCARE CORP.	Minnetonka	MN	NASDAQ	1,470,592	.080	Aug, 89
UNITED MERCHANTS & MFG	New York	NY	NYSE	329,080	.034	May, 89
UNITED SAVERS BANCORP	Manchester	NH	NASDAQ	627,134	.133	Dec, 89
USF&G CORP.	Baltimore	MD	NYSE	8,154,435	.049	Mar, 89
USG CORP.	Chicago	IL	NYSE	2,919,601	.734	Oct, 89
USPCI, INC.	Oklahoma City	OK	NYSE	727,000	.051	Jan, 88
V BAND CORP.	Elmsford	NY	NASDAQ	668,360	.099	Oct, 88
VALERO ENERGY	San Antonio	TX	NYSE	4,428,416	.169	Aug, 89
VALLEY NATIONAL CORP.	Phoenix	AZ	NASDAQ	4,940,090	.250	Oct, 90
VARCO INTERNATIONAL	Orange	CA	NYSE	1,326,900	.074	May, 87
VARITY CORP.	Toronto, Ontario	Canada	NYSE	15,341,575	.074	Aug, 89
VENTURA ENTERTAINMENT GROUP	N. Hollywood	CA	NASDAQ	229,771	.077	Jun, 90
VERMONT FINANCIAL SERVICES CORP.	Brattleboro	VT	NASDAQ	294,535	.087	Sep, 90
VERONEX RESOURCES LTD.	Vancouver, B.C.	Canada	NASDAQ	374,957	.059	Sep, 87
VIACOM INTERNATIONAL INC.	New York	NY	ASE	4,861,632	.091	May, 87
VICORP RESTAURANTS, INC.	Denver	CO	NASDAQ	945,514	.104	Apr, 87
VIEW-MASTER IDEAL GROUP INC.	Portland	OR	NASDAQ	456,509	.097	Mar, 87
VIPONT PHARMACEUTICAL, INC.	Fort Collins	CO	NASDAQ	857,335	.145	Nov, 86
VITAGEN, INC.	Hialeah	FL	NASDAQ	678,675	.141	Feb, 87
VITALIS, INC.	Costa Mesa	CA	NASDAQ	1,402,915	.154	Aug, 87

Stocks With High Short Interest, 1986-90
Alphabetical Listing

Company	City	State	Market	Maximum Shares Short	Maximum Short Ratio to TSO	Date
VISTA CHEMICAL CO.	Houston	TX	NYSE	754,010	.093	Feb, 90
VIVIGEN INC	Santa Fe	NM	NASDAQ	237,710	.097	Nov, 90
W T D INDUSTRIES, INC.	Portland	OR	NASDAQ	342,349	.134	May, 90
WASATCH EDUCATION SYSTEMS CORP	Salt Lake City	UT	NASDAQ	7,604,544	.071	Oct, 88
WASHINGTON HOMES INC.	Waldorf	MD	NYSE	407,950	.086	Dec, 87
WAXMAN INDUSTRIES, INC.	Bedford Heights	OH	NYSE	665,013	.069	Jul, 89
WEITEK CORP.	Sunnyvale	CA	NASDAQ	490,285	.063	Sep, 90
WELBILT CORP.	New Hyde Park	NY	NASDAQ	487,523	.081	Jul, 88
WELLMAN, INC.	Shrewsbury	NJ	NYSE	1,830,754	.056	Aug, 90
WESTERN ACCEPTANCE CORP.	Las Vegas	NV	NASDAQ	10,327,400	.118	Nov, 87
WESTERN SAVINGS & LOAN ASSOC.	Phoenix	AZ	NYSE	1,131,544	.109	Jan, 89
WESTERN UNION	Saddle River	NJ	NYSE	5,990,986	.102	Dec, 88
WESTWOOD ONE, INC.	Culver City	CA	NASDAQ	1,326,897	.093	Feb, 90
WHEELING PITTSBURGH STEEL	Wheeling	WV	NYSE	961,975	.188	Dec, 88
WHOLESALE CLUB, INC.	Indianapolis	IN	NASDAQ	646,249	.144	Jul, 89
WINDMERE CORP.	Hialeah	FL	NYSE	2,536,680	.175	Nov, 89
WOLVERINE EXPLORATION	Fort Worth	TX	NASDAQ	865,651	.089	Jun, 90
WORLDS OF WONDER, INC.	Fremont	CA	NASDAQ	2,348,945	.105	Nov, 87
WYLE LABORATORIES	El Segundo	CA	NYSE	527,923	.052	Jan, 88
WYSE TECHNOLOGY	San Jose	CA	NYSE	1,573,112	.108	Oct, 87
XOMA CORP.	Berkeley	CA	NASDAQ	2,642,734	.198	Jun, 90
XSCRIBE CORP.	San Diego	CA	NASDAQ	435,381	.078	Jun, 90
X P GROUP INC.	St. Louis	MO	NASDAQ	472,183	.117	Dec, 90
YANKEE COMPANIES	Boston	MA	ASE	419,062	.094	May, 87
YORK INTERNATIONAL	York	PA	NYSE	799,604	.090	Jun, 88
YORK RESEARCH CORP.	New York	NY	NASDAQ	824,021	.134	Dec, 90
ZAPATA CORP.	Houston	TX	NYSE	1,267,000	.058	Aug, 87
ZENITH LABS	Ramsey	NJ	NYSE	4,281,183	.102	Mar, 87
ZONDERVAN CORP.	Grand Rapids	MI	NASDAQ	1,129,907	.248	Oct, 87

NOTE: This data was compiled by the Commerce, Consumer, and Monetary Affairs Subcommittee from short interest statistics and company data supplied by the New York Stock Exchange, American Stock Exchange, and National Association of Securities Dealers. TSO in column six is total shares outstanding. The market shown in column four is not necessarily the market in which this issue was traded when the maximum short interest or the maximum short ratio occurred, if this issue moved to a new market after that date. The date in column seven identifies the date when the maximum short ratio was observed.