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## SEC Urged To Step Up Attack On Short-Sale Abuses

By JUDITH BURNS

WASHINGTON -- U.S. securities regulators need to do more to curb short-selling abuses, a group of academics, business executives and former top regulators said Tuesday.

The Securities and Exchange Commission should close loopholes and enforce current rules against "naked" short selling, said Harvey Pitt, former SEC chairman and now chief executive of Kalorama Partners, a Washington, D.C., consulting firm.

"The agency has to make it clear that naked short selling in any form is prohibited," Mr. Pitt said at a midday press conference.

Short sellers aim to profit by borrowing shares for sale and replacing them later at a lower price.

"Naked" short sellers don't borrow shares they sell short, which can pummel stocks and facilitate market manipulation.

The SEC has sought to crack down on short-selling abuses in recent years, most recently with an interim rule requiring short sellers to deliver borrowed shares within three days of trade settlement. Mr. Pitt and others urged the SEC to make the requirement permanent and take other steps to stiffen pre-borrowing requirements, provide better tracking of stock-delivery failures, including those outside stock-clearing systems, and force buy-ins when delivery failures occur.

Replacing paper stock certificates with electronic shares would facilitate such changes and "that's clearly where we should be heading," Mr. Pitt added.

Current SEC rules allow short sales to occur provided brokers have a reasonable belief that the shares being sold short can be borrowed, which critics say creates a loophole that allows naked short selling to continue. They want to close such gaps and ensure short sellers return borrowed shares on time, preventing delivery failures. Some called for the SEC to include "ex-clearing" transactions between brokers that don't involve the Depository Trust & Clearing Corp.

Overstock.com Inc. President Jonathan Johnson III suggested "ex-clearing" delivery failures by prime brokers could exceed failures within the clearing system. The Salt Lake City online retailer is suing 11 prime brokers in state court in California, claiming they manipulated markets through naked short selling, and its chief executive has waged a high-profile campaign against short-sales abuses.

Some prime brokerage firms have complained that their stocks tumbled due to naked short selling, demonstrating that "they were all feeding the beast that was eating them," said John Tabacco Jr., CEO of Locatestock.com, an electronic stock-locate service.

Uniform federal action to attack short-selling abuses would be preferable to disparate state efforts, said North American Securities Administrators Association General Counsel Rex Staples.

"States are ready to act; we hope we don't have to," said Mr. Staples.

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