Title: What has Gary Gensler (Chair of the SEC) and Gurbir Grewal (SEC Head of Enforcement) done to protect retail investors against naked short selling and the manipulation of GME? IMO, The SEC won't enforce or protect retail investors until there is a complete regulatory overhaul!
Author: Cataclysmic98
Created 2021-12-03 18:13:05 UTC
Permalink: /r/DDintoGME/comments/r85ckm/what_has_gary_gensler_chair_of_the_sec_and_gurbir/
Url: https://www.reddit.com/r/DDintoGME/comments/r85ckm/what_has_gary_gensler_chair_of_the_sec_and_gurbir/

TL;DR: What action(s) has the new head of Enforcement at the SEC, Gurbir S. Grewal, taken since assuming his role on July 26, 2021? We need regulatory reform to address the naked short selling and manipulation of our markets! Gary Gensler may want to enact change, but due to regulatory capture the entire system needs an overhaul before retail investors see substantial change in protective oversight.

https://preview.redd.it/k1uhtxs48d381.png?width=288&format;=png&auto;=webp&s;=7d8ca209ce8c8ea77b19ae6d0037433a8d2aa98f

Regulatory Capture

Regulatory capture is an economic theory that says regulatory agencies may come to be dominated by the industries or interests they are charged with regulating. The result is that an agency, charged with acting in the public interest, instead acts in ways that benefit incumbent firms in the industry it is supposed to be regulating.

Regulatory capture has had an ever increasing impact on our financial markets. Financial regulators, like FINRA, DTCC, OCC, tend to consist largely of industry insiders, have overlapping interests with industry, and act primarily in the interests of those whom they regulate. ***Financial market deregulation, at the behest of the industry***, in the run-up to the financial crisis, combined with the retention of taxpayers guarantees for banks and the dramatic series of monetary and fiscal bailouts, are widely believed to have contributed greatly to the U.S. housing bubble and ensuing Great Recession of the 2008 financial crisis.

Regulations Regarding Naked Shorting (USD GME shares)

[The Financial Industry Regulatory Authority (FINRA)](https://www.investopedia.com/terms/f/finra.asp) is an independent, nongovernmental organization that writes and enforces the rules governing registered brokers and [broker-dealer](https://www.investopedia.com/terms/b/broker-dealer.asp) (BD) firms in the United States. Its stated mission is "to safeguard the investing public against fraud and bad practices. It is considered a [self-regulatory organization](https://www.investopedia.com/terms/s/sro.asp).

The [Securities and Exchange Commission (SEC)](https://www.investopedia.com/terms/s/sec.asp) is responsible for ensuring fairness for the individual investor, and FINRA is responsible for overseeing virtually all U.S. [stockbrokers](https://www.investopedia.com/terms/s/stockbroker.asp) and [brokerage firms](https://www.investopedia.com/terms/b/brokerage-company.asp). The SEC oversees FINRA and acts as the first level of appeal for actions brought by FINRA.

The SEC *banned* the practice of naked short selling in the United States in 2008 after the financial crisis. The ban applies to naked shorting only and not to other short-selling activities. Prior to this ban, the SEC amended Regulation SHO to limit possibilities for naked shorting by removing loopholes that existed for some brokers and dealers in 2007. Regulation SHO requires lists to be published that track stocks with unusually high trends in [failed to deliver](https://www.investopedia.com/terms/f/failuretodeliver.asp) (FTD) shares.

GameStop’s shares, GME, had a reported short interest (SI) of 220% of its float earlier this year (as reported in the Robinhood court documents). Short interest is the volume of FTD shares that have been sold short but have not yet been covered or closed out. Further to this, the [*SEC report released October 14, 2021*](https://www.sec.gov/files/staff-report-equity-options-market-struction-conditions-early-2021.pdf) *on Equity and Options Market Structure Conditions in Early 2021 clearly recognized that GME shares were shorted more than 100% of its float (page 25). This is a clear indication of* ***naked short selling****, also referred to as creating synthetic or counterfeit shares. What has been done to address this?* Nothing***.***

Also note the definition of FTD - shares that have been sold short but have not yet been ***covered*** or *closed out. There are many strategies to hide FTD through* ***covering*** *in lieu of closing positions, and there are many documented deep dives (DD) into how GameStop's FTD and short interest is much higher than reported due to the utilization of excessive derivative based covering strategies to hide the true SI and FTD of GME.*

Reddit library of DD: https://fliphtml5.com/bookcase/kosyg

What is Regulation SHO?

Regulation SHO, enacted by the SEC in 2005, established “locate” and “close-out” requirements. Rule 200(g) of Regulation SHO requires Broker-Dealers (BD) to mark all orders to sell stock as “[long,](https://www.investopedia.com/terms/l/long.asp)” “[short](https://www.investopedia.com/terms/s/short.asp),” or “short-exempt.” A sale order can be marked “long” only if two conditions are met. First, a seller must be deemed to own the security, which occurs only to the extent that it has a net long position in the security. Second, the BD must either (a) have possession or control of the security to be delivered, or (b) reasonably expect that the security will be in its physical possession or control no later than the settlement date of the transaction.

Unfortunately, some BD continue to ignore or mismark their short trades so they are not captured as FTDs. This is a common occurrence that can be verified by reviewing the FINRA fines administered over the last several years.

Example: a BD was fined for mismarking 96% of a certain hedge fund’s short sale orders of two separate issuers’ stock, totaling more than $250 million, as “long” or “short-exempt.” This mismarking allegedly generated $1.6 million in brokerage fees to the BD. The effect of the mismarking was that the hedge fund was able to sell the securities short even though it already had a short position in the securities and did not borrow or locate additional shares to sell short. Of course, selling the stock can also drive the price of the stock down, resulting in short positions becoming more profitable and being detrimental to owners of the stock who are long on the company.

Citadel, as a market maker, has to accept all buys and sells, gets a pass on many naked short selling rules. However, they have also been cited for misreporting short positions. For example, Rep. Vicente Gonzalez (D-TX) pointed out that in 2020, Citadel violated the Security Commission’s Reg SHO, the rule regulating short sales. On November 13, 2020, FINRA, the traders’ self-regulator, fined Citadel Securities $180,000 for failing to mark 6.5 million equity trades as short sales between September 14, 2015, and July 21, 2016. Citadel did not admit or deny the allegations but paid the fine.

The Manipulation

Manipulation is the “intentional interference with the free forces of supply and demand”. A manipulative trading strategy corrupts the market’s price formation process to generate a riskless profit (Jarrow, 1992). Stock market manipulators use a variety of devices, such as releasing false information about a company into the market, and employing trading strategies that impede the price formation process, such as naked shorting, wash sales, matched trades, and painting the tape; all of which inject misleading trading information into the market, to move market prices in the direction that benefits the manipulator (Thel, 1994).

[***Financial regulators***](https://www.investopedia.com/articles/economics/09/financial-regulatory-body.asp#state-insurance-regulators) ***that are supposed to provide oversight of the markets to protect investors rarely enforce many of the rules. When the rules are enforced, the fines or consequences are so minor as to translate to a slap on the wrist. Officially, it remains profitable to break the rules and just pay the fine. Market makers (MM) and short hedge funds (SHF) are known to treat the fines as just a cost of doing business.***

>Canada's self regulatory governance has its issues too:
>
>*The Auditor General has found the OSC regulator has* not *alerted the public to many potentially risky investments, and has failed to collect the majority of fines it imposed over the last decade.*
>
>Bonnie Lysyk says in her annual report that her office looked closely at 35 of the 2,029 cases between 2016 and 2021 that *the OSC took limited or no action on after being alerted to problems* by other regulators and whistleblowers.
>
>Lysyk's office found that in almost *half of the cases* it analyzed, the OSC had *sufficient information* to issue a warning about potentially harmful activity to investors, *but didn't.*
>
>When the OSC did find wrongdoing and imposed fines in other cases, the auditor general found the regulator often failed to collect money.
>
>Lysyk says another audit carried out by her office revealed the *OSC imposed $525 million in fines between 2011 and 2021, but only collected 28 per cent of that money*.
>
>***She says the OSC's collection rate is so poor in part because it*** **lacks the power to seize assets** ***from those with unpaid fines.***
>
>*Note: This is from the Canadian Press. December 1, 2021. \[Link in comments\]*

TL;DR; No deterrent by way of regulatory oversight or fines for the manipulation in our market! More reason to Buy, Hold, DRS & 'Share the Story'!

If you can, on other social media platforms beyond reddit - 'Share the Story' of the Manipulation, the benefits of DRS, and the need for Regulatory Change!

Opinion Only. Not advice. Do your due diligence to make an informed decision that is right for you as an individual investor.

DISCLAIMER *:* Information contained in this post has been compiled from sources believed to be reliable in nature. No representations or warranty, express or implied, is made by as to it’s accuracy, completeness or correctness. All opinions, estimates, and comments contained in this post are subject to change without notice and are provided in good faith but without legal responsibility. This is not financial advice, and neither I, nor any other person, accepts any liability whatsoever for any direct or consequential loss arising from any use of this post or the information contained herein