# Cramer on BloggingStocks: Shorts are Not and Should Not Be Equal

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*TheStreet.com's Jim Cramer says they're not just the opposite of longs -- they have the power to destroy companies.*

Today will be riotously ugly. Today's a day where you could take down a Capital One (NYSE: COF) (Cramer's Take) or a Citigroup (NYSE: C) (Cramer's Take) -- some bad credit card exposure there -- off of American Express (NYSE: AXP) (Cramer's Take). You can bang down Nat City (NYSE: NCC) (Cramer's Take) into oblivionville off of it and hammer Merrill Lynch (NYSE: MER) (Cramer's Take) to the point where you could hear the rumors fly of capital needs. Freddie (NYSE: FRE) (Cramer's Take), merciless Freddie, right at ya. Today's the day when the uptick rule would be the only friend to the notion of owning stocks without fear every minute, fear that they will break your stock. Today's the day that the uptick rule can save Lehman (NYSE: LEH) (Cramer's Take) from $14 or lower. Today's why we need it.

This is a must watch video on Naked Short Selling:


http://www.cnbc.com/id/15840232?video=799620804&play=1

Yet, every time I do a piece that talks about the need to reinstate the uptick rule or enforce the naked short laws, I am immediately greeted with the same nonsense: why should the longs get protection the shorts shouldn't? In fact, other than the usual gang of two -- Patrick Byrne and David Patch -- I don't get any positive feedback on these pieces like the one I did last night on "Mad Money."

Why aren't they treated equally? First, I question constantly how anyone could even think they are treated equally: I think the shorts are now heavily favored because they can instill fear and panic that the longs don't have the ability to do. They can destroy businesses -- the ultimate goal -- and the longs can't. I don't like that, I don't like it because the great history of the stock market shows that it works better if we regulate the shorts, to make it so they can't overwhelm the longs. The creation of wealth, not the destruction of wealth, is what the market is supposed to be about, it is why it is worth participating in at all, otherwise the mattress or bonds -- only good for the most solvent of operations -- make more sense. Wealth creation is what the stock market's about. That's not what the shorts are about. They can exert a well-needed discipline on valuation. They can even exert a regulatory role in the absence of any serious regulation about the finances of a company. But otherwise, their contribution to society can't really be stressed as something that should be the republic's goal to preserve and protect. The public's interest could do better without them.

Let's say the goals of the stock market are equal, wealth destruction and wealth creation. Then I would 100% favor total equivalence and would laugh at the uptick rules and the naked shorts rule that makes it so easy to sell stock without borrowing it. If you believe that wealth destruction deserves equal protection, I am dead wrong. I think that's a preposterous proposition, right down to the preamble of the Constitution.

Right now, today, we all know the truth: If you are a short-seller, the shorts are able to create an environment that can destroy the companies underneath, not just the stocks themselves. Certainly any company that has more capital than it needs does not need to be protected and can use the short-selling to buy in stock. But any company that needs credit as a method of operation, as all financials that are not levered do, can be effectively destroyed overnight by the shorts pushing the stocks down and sowing that panic that makes the companies vulnerable to closing.

Another joke of "equivalence," another edge the shorts have over the longs is the amount they can short vs. the amount that a company can buy. Using naked shorting, short-sellers can sell short as much stock they want on a given day. They can overwhelm any stock. The companies themselves, though, are strictly and severely limited to what they can buy. Why can't the rule be changed for the companies that do the buying to they are equivalent and not helpless to the shorts just flooding their stocks with supply on a given day? Why can't they buy as much as they want? Why are the companies regulated about what they can buy, but the shorts are able to sell an unlimited amount of stock -- at least for all but the sainted few financials in the temporary protection order that SEC Chairman Cox served up last week that went into effect yesterday?

More important, does anyone think that the fear created by shorts is less punishing than the greed longs can create? Does anyone think they are equivalent? Does anyone think that you can hype a financial, for instance, higher and quicker than you can destroy it?

There are sound psychological and financial reasons, not just historic reasons, for my view.

Notice, I am never for a minute denying that there aren't a lot of fraudulent companies out there or overvalued companies. Never for a minute am I against shorting. I made millions of dollars shorting. I did it following the old rules. I can tell you, when the old rules were in place and hedge funds weren't running the joint, often bigger than their target, I never heard anyone complain that the schematic was wrong or evil or misplaced or unfair. It was accepted that it wasn't in the market's interest to be able to raid companies down and it was acknowledged by all that you could destroy a company by attacking its stock recklessly through driving down all the bids with short sales that weren't legitimately borrowed.

The fact that there are so many people who defend this new system shocks me. Since when is it in the government or the peoples' interests NOT TO PROTECT solvent firms from needless runs on the bank caused by shorting?

The day I have to defend the right of legitimate institutions to exist and not be prey to short-sellers armed with rumors and no borrowed stock is a day I just think it is worth saying that the goal of the market is to lose as much as can be made or more. That's not how I view the goal of the markets. If you do, I think that you simply believe that I am dead wrong, and I welcome the disagreement.

These rules need to be put back in place. The slippery slope of ETF HOLDRs, that basically say, "You can bang down stocks, so why not get rid of the rules?" should also be turned upside down with a 10-cent tick rule, meaning you have to wait until you have a buyer willing to pay 10 cents higher. All of the academic work supporting this nonsense was done in a bull market vacuum encouraged by a laissez-faire administration that truly believes capitalism can regulate itself. If anything, if left to its own devices, it destroys itself. Even the communists, morons that they were, knew this.

Think about this view today as you lose huge amounts of money in this declining bear market.

You just might agree with me.

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*Jim Cramer is a director and co-founder of TheStreet.com. He contributes daily market commentary for TheStreet.com's sites and serves as an adviser to the company's CEO. At the time of publication, Cramer had no positions in the stocks mentioned.*