



July 29, 2021

RE: BIO Letter of Support on H.R. 4618

Dear Chairwoman Waters:

On behalf of the Biotechnology Innovation Organization's (BIO) 1000 member companies, thank you for introducing H.R.4618, the "Short Sale Transparency and Market Fairness Act." BIO is delighted to support your efforts and urges swift enactment of this important measure.

BIO is the world's largest trade association representing biotechnology companies, academic institutions, state biotechnology centers, and related organizations across the United States and in more than 30 other nations. BIO's members operate at the intersection of biology and technology to cure patients, protect our climate, and nourish humanity. As BIO looks to the future, we seek to advance disruptive innovation by 1) being a voice of science and for science; 2) uniting and empowering biotech innovators and their ecosystem to improve lives; 3) removing barriers to innovation; 4) championing broad access to biotech breakthroughs and scientific equality; and 5) catalyzing resilient and sustainable biobased economies.

H.R. 4618 would amend the Securities Exchange Act of 1934 to modernize the reporting requirements under section 13(f). These reforms would provide greater transparency and be especially important to our small and medium-sized innovators.

Investor positioning data, both long and short, is critical to market transparency and price formation, which are essential to the proper functioning of markets and the efficient pricing of risk. Transparency is a fundamental pillar of capital markets.

The vast majority of listed biotechnology companies are in the small and medium market capitalization space which leaves these innovative companies, who seek to bring disruptive technologies to market, susceptible to the vicissitude and rapid vacillations of short-term traders and short sellers.

This volatility, inherent to our segment of the market, is a core driver of our industry's structurally high insurance costs, which further erodes investor capital as managers are forced to allocate money away from core research and development operations.

Enhanced transparency via the more frequent and more complete publication of 13(f) data and of short seller positioning data would usher in a new era in capital market transparency, improve price discovery, and level the playing field for all market participants.

Biotechnology entrepreneurs, as with any other company in the business of innovation, rely on specialist investors to finance their niche endeavors. When these biotechnology entrepreneurs are looking forward, attempting to treat a myriad of ailments or tackling the various problems that society faces, they rely on the long-term perspective and understanding of specialist investors that are willing to finance the long pipelines and volatile path of translating scientific discovery into novel products and markets.



Knowing when and how to target these investors is crucial for biotechnology corporate planners to formulate funding strategies that are often projected several years forward. This entire planning process has been instrumental in financing innovation for decades.

This entire process begins and ends with 13(f) filing data.

Just as with seeking to plan a company's financial forward path, company managers must also carefully monitor and engage with existing shareholders. Understanding the composition of existing shareholders allows corporate representatives the ability to create strategic communications to address shareholder questions and concerns. This enables more fruitful interactions between management and shareholders while also ensuring that company executives' time is used wisely and efficiently on behalf of all stakeholders.

Moreover, understanding the current composition of shareholders is necessary when it comes to the positioning of activist investors. It is critical to be able to see the position of activists so that corporate managers can engage, understand priorities, solicit feedback, and resolve differences to avoid costly proxy fights down the road.

BIO understands that the presence of activists in the market is necessary and, in certain cases, beneficial to shareholder return. However, in many cases, these returns are short-term in nature and sacrifice long-term plans. It is necessary to engage with activists early on to better understand and bridge differences.

The alignment of all corporate stakeholders and the management of risks (including operational, financial, and legal risks) are all critical components of sound corporate governance, which, in part, relies on good data.

BIO also understands that short selling is a necessary market function that allows for efficient price discovery and the balance of expectations in markets. It is a key signal in the information content of markets that provides a natural balance to behavioral extremes often seen in markets without short selling.

However, in the small market capitalization space, the lack of liquidity allows short selling that can distort markets in the short run, increase volatility in already volatile space, and disturbs both the information content required by other investors and capital formation efforts derived from follow-on offerings for small public life sciences companies. An example of the latter point, who is going to participate in a follow-on offering (when public companies raise more capital by issuing more stock), when there is known short-selling betting against the company and prices are falling?

BIO has long supported legislation requiring the disclosure of short positions comparable to the current requirements for disclosures of long positions.

Transparency is the bedrock of our capital markets as it provides a clear, uniform, and accurate signals to participants. Short disclosures would be additive to this fundamental principle of our system and will greatly assist in the central tenets of our markets: price discovery, discounting, and the transfer of risk.

Carlo Passeri
Director of Capital Markets and Financial Services Policy
Biotechnology Innovation Organization

c.c.: Honorable Patrick McHenry