

## **Rule 304 (a)(4)- Request to Invoke or Amend**

Ms. Vanessa Countryman  
Secretary Securities and Exchange Commission  
100 F Street, NE Washington, DC 20549-1090

Filed via email

RE: Public Request for Rulemaking: Rule 304 (a)(4) Request to Invoke or Amend

Dear Ms. Vanessa Countryman,

This public request for rulemaking, in the form of a petition to the SEC, is to ask the SEC to invoke SEC Rule 304 (a)(4) to remove GME and AMC across all ATS dark pools for at least 14 days. If this rule does not allow for individual equities to be removed from ATS dark pools, then there is a flaw in this rule and it needs to be revised. If that is the case, we are petitioning for an amendment to this rule to allow for individual equities to be removed from all ATS.

This rule can be found on the Federal Register Release No. 34-83663, File No. S7-23-15 section 304 (a)(4).<sup>1</sup>

We, retail investors, are petitioning to invoke this rule for the stock tickers AMC and GME immediately because we believe that retail investors own a high percentage of the free float and yet, through ATS dark pools, the stock price is able to be suppressed by market makers, hedge funds, prime brokers and banks.

During the 3/11/2022 AMC Q4 earnings meeting<sup>2</sup> it was stated that retail investors own 90% of the legal free float of the stock. During the 3/17/2022 GME Q4 earnings meeting<sup>3</sup> we learned that retail investors own about 25% of the legal free float through just one brokerage, Computershare. These numbers are indisputable, however, since the announcement of these numbers 40-60% of the trades for these stocks have been traded in dark pools. This allows market makers to suppress the price even though there are more buy orders than sell orders for these stocks. To put it bluntly, we, retail investors, believe we are being cheated because the majority of the trades take place off lit exchanges and out of our hands. The numbers indicate that we are being robbed daily. If we are wrong then removing GME and AMC will have limited to no effect on the price and therefore market makers, hedge funds and banks shouldn't have any objections.

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<sup>1</sup> See Attachment 1 - SEC Release No 34-83663

<sup>2</sup> See Attachment 2 - AMC Earnings Meeting, page 19 paragraph 1

<sup>3</sup> See Attachment 3 - GME Earnings Report, Page 48

Since Q4 earnings on a daily basis GME and AMC have incredibly high dark pool trades. Here are just a few examples:

3/11/2022 - 45% of AMC's total volume was traded in ATS.<sup>4</sup> According to Fidelity data there were 3,637 buy orders versus 911 sell orders. The stock closed down over 6%.

41% of GME's total volume traded in ATS. Fidelity data showed 3,667 buy orders to 456 sell orders. The stock closed down 7% for the day.

3/14/2022 - 50% of AMC's total volume was traded in ATS. According to Fidelity data there were 3,786 buy orders versus 1,099 sell orders. The stock closed down over 5%.

44% of GME's total volume traded in ATS. Fidelity data showed 8,610 buy orders to 808 sell orders. The stock closed down 15% for the day.

3/24/2022 - 54% of AMC's total volume was traded in ATS. According to Fidelity data there were 4,300 buy orders versus 1,336 sell orders. The stock closed down 2%.

58% of GME's total volume traded in ATS. Fidelity data showed 3,511 buy orders to 2,613 sell orders. The stock moved up but only by .98%.

3/25/2022 - 56% of AMC's total volume was traded in ATS. According to Fidelity data there were 5,437 buy orders versus 2,953 sell orders. The stock closed down .37%.

60% of GME's total volume traded in ATS. Fidelity data showed 7,191 buy orders vs 4,680 sell orders. The stock moved up by only 6%.

3/31/2022 - 61% of AMC's total volume was traded in ATS. According to Fidelity data there were 5,119 buy orders versus 4,189 sell orders. The stock closed down over 4%.

57% of GME's total volume traded in ATS. Fidelity data showed 3,130 buy orders to 2,960 sell orders. The stock closed down .16% for the day.

4/5/2022 - 55% of AMC's total volume was traded in ATS. According to Fidelity data there were 3,130 buy orders versus 2,155 sell orders. The stock closed down over 9%.

57% of GME's total volume traded in ATS. Fidelity data showed 3,948 buy orders to 1,253 sell orders. The stock closed down 10% for the day.

4/6/2022 - 59% of AMC's total volume was traded in ATS. According to Fidelity data there were 2,694 buy orders versus 2,193 sell orders. The stock closed down over 3%.

54% of GME's total volume traded in ATS. Fidelity data showed 2,614 buy orders to 1,375 sell orders. The stock moved up by 1.9%.

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<sup>4</sup> All ATS off exchange data pulled from [AMC Dark Pool Statistics | ChartExchange](#), [GME Dark Pool Statistics | ChartExchange](#), [AMC Stock Quote | Price Chart | Volume Chart \(Amc Entertainment...\)](#) ([marketchameleon.com](#)), [GME Stock Quote | Price Chart | Volume Chart Gamestop](#) ([marketchameleon.com](#))

4/7/2022 - 54% of AMC's total volume was traded in ATS. According to Fidelity data there were 3,158 buy orders versus 1,900 sell orders. The stock closed down over 3%.

51% of GME's total volume traded in ATS. Fidelity data showed 2,841 buy orders to 988 sell orders. The stock closed down 4% for the day.

4/8/2022 - 53% of AMC's total volume was traded in ATS. According to Fidelity data there were 3,050 buy orders versus 1,381 sell orders. The stock closed down over 7%.

52% of GME's total volume traded in ATS. Fidelity data showed 1,923 buy orders to 802 sell orders. The stock closed down 2% for the day.

To further drive home the market manipulation, on Thursday March 31, 2022 GME announced a stock split dividend. The stock soared over 15% in after hours<sup>5</sup> due to the overwhelming positive response. All projections for Friday April 1st indicated it would be a strong bullish trading day. According to Fidelity GME was the #1 traded stock on Friday with 11,367 buy orders vs 6,425 sell orders<sup>6</sup>. The stock traded that day at around 13 Million in volume, but over 60% of trades went through ATS and the stock fell by around 5%. How is this not stealing from retail investors?

If the SEC has any hope of regaining investor confidence they must start enforcing the rules that are already in place or revise them so that they can be applied. Because of their unusually high retail investor interest GME and AMC provide the SEC the opportunity to begin regaining our trust by removing them from all ATS trading. To allow the price to be suppressed through dark pools is to allow market makers, hedge funds, prime brokers and banks to steal from retail investors by artificially suppressing the price of stocks we believe in and are buying daily. If retail investors are wrong about the price manipulation then pulling GME and AMC out of ATS for 14 days should cause no effects in the price action. But by taking the action, the SEC will be taking a major step in rebuilding retail investor trust and confidence.

Chair Gary Gensler has stated publicly that 90-95% of retail trades go off lit exchanges.<sup>7</sup> According to Stacey Cunningham, president of Intercontinental Exchange Inc's, "In some of the meme stocks that we've seen, or stocks that have a high level of retail participation, the vast majority of order flow can trade off of exchanges, which is problematic." She adds what we have seen in the trading numbers almost every day "That price formation is not really reflective of what supply and demand is."<sup>8</sup> If both the Chair of the SEC and the president of the NYSE see such tremendous danger and retail investors feel it in their portfolios daily, then the SEC is duty

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<sup>5</sup> See - [GameStop's Stock Split Isn't the Only News Shareholders Should Know | The Motley Fool](#)

<sup>6</sup> See Attachment - GME 4.1.22

<sup>7</sup> See - [The SEC has the power and obligation to suspend Dark Pools - InvestorTurf - Stock & Cryptocurrency news](#)

<sup>8</sup> See - ['Meme' stock prices may not properly reflect demand -NYSE president | Reuters](#)

bound to take action to stop abuse of ATS dark pools, either using the rules already in place or by amending the rule to make it useful.

Rule 304 (a) (4) would seem to allow the SEC to pull any stock out of dark pools, at any time, for up to 12 months. If this rule can not be applied this way, then we are asking for the rule to be amended to do so. At this time, shutting down all ATS dark pools is insurmountable, capricious and unnecessary. Taking such incredible action would no doubt lead to countless lawsuits. However, in the instance where individual stocks are being manipulated, the SEC should have the power to step in and correct the problem by removing that ticker from all ATS until the manipulation stops. This would also provide extra incentive for ATS dark pools to uphold the highest standards of operation and not allow manipulation to happen in the first place.

A simple internet search demonstrates that dark pool abuse is not far fetched or uncommon. History reveals that this is not an unreasonable request. We are just asking for two stocks with high retail interest to be withdrawn from all ATS dark pools for a minimum of 14 days. Of course it is in your purview to extend that timeframe.

Thank you for your time and consideration of this very important matter. We eagerly look forward to your response.