

Ackman Stands by Herbalife Pyramid Claim as He Reduces Short

By Duane D. Stanford - Oct 3, 2013

Billionaire hedge-fund manager [Bill Ackman](#) has reduced his equity short stake in [Herbalife Ltd. \(HLF\)](#), taking a loss even as he reiterated his allegation that the company is an illegal pyramid scheme.

In a letter to [Pershing Square](#) Capital Management LP's investors, Ackman said he replaced a portion of his original short position, that was valued at about \$1.5 billion, with long-term put options. The move lets Pershing still make money if the company fails "within a reasonable time frame" even as it reached an all-time high last month.

"We have not learned any facts that are inconsistent with our belief that the Company is a pyramid scheme that engages in unlawful and deceptive marketing practices," Ackman wrote. "In fact, there have been a number of materially positive developments that increase the likelihood of regulatory intervention and the Company's closure."

Herbalife has repeatedly denied Ackman's allegations and Barb Henderson, a company spokeswoman, today declined to comment on the letter.

Ackman declined to comment beyond the letter or elaborate on the move, which reduces the equity short position held by Pershing Square to 12 percent from 16 percent of the firm's \$10.8 billion portfolio, he told investors. Pershing funds declined by more than 5 percent in the third quarter and were little changed, net of all fees, for the first nine months of the year, according to

the letter.

"A Capitulation"

"Clearly there is capitulation in these actions," [Tim Ramey](#), an analyst with D.A. Davidson & Co. in [Lake Oswego, Oregon](#), said today in a note to investors.

Herbalife fell 6.6 percent to \$68.25 at the close in [New York](#), for the biggest one-day drop since May 22. The Cayman Islands-based company's [share price](#) has more than doubled this year.

"Short positions are often the fuel for why stocks go higher, the guys who are short cover because they can't take the pain, and you have other guys buying the stock just to bust the short," Alec Levine, an equity-derivatives strategist at Newedge Group SA in New York, said in a phone interview. "Now that there's no longer this enormous pressure on Ackman to cover his short, the buyers who think they can squeeze him are not there any more."

Bond Speculation

Ackman said Herbalife's recent share gain has been prompted by speculation that the company will initiate a \$2 billion investment-grade [bond issue](#) at an interest rate of 4 percent and use the proceeds to repurchase stock at \$75 a share. Ackman said he remains skeptical.

"Irrespective of whatever spin Ackman tries to put on this display of legerdemain, the man just screamed the first syllable in 'Uncle'," Robert Chapman, founder of hedge fund Chapman Capital LLC, who has been critical of Ackman's Herbalife allegations, said in an e-mail. His latest move "must have cost his investors an arm, leg and torso."

Pershing Square also was looking to protect itself against a short squeeze, Ackman wrote. In a short sale, an investor borrows stock and then sells the shares in anticipation of returning them

at a lower price in the future. A short squeeze occurs when other investors begin buying the same stock, pushing its price up and forcing the short seller to buy back the shares, possibly at a loss.

Ackman has accused Herbalife of swindling unsophisticated consumers with false get-rich promises using overpriced products that hide a pyramid scheme. He has urged U.S. regulators, elected officials and community activists to help shut it down.

Operators of pyramid schemes typically seek to make money by recruiting new members who pay fees to existing members rather than relying on just the sale of goods and services. The Federal Trade Commission has said modern pyramid schemes can use products to hide their true intent.

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