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September 18, 2006

Mr. James A. Brigagliano  
Acting Associate Director  
Office of Trading Practices & Processing  
Division of Market Regulation  
Securities and Exchange Commission  
100 F St., N.W.  
Washington, DC 20549

**RE: Proposed Amendments to Regulation SHO; File Number S7-12-06**

Dear Mr. Brigagliano:

TASER International, Inc. submits the following comments in response to the Commission's proposed amendments to Regulation SHO. We strongly support the Commission's effort to close regulatory loopholes which have permitted abusive naked short selling to persist despite the adoption of Regulation SHO. While we are encouraged by Commission efforts to reform the grandfather and market maker exceptions and support those efforts, we also believe further action must be taken to provide transactional transparency on fails to deliver.

As one of the few companies included on the SHO threshold securities list almost continuously since the list's inception, TASER International, Inc. (TASER) has struggled to protect our shareholders despite substantial evidence of market manipulation through abusive naked shorting. For example:

On February 15, 2005, while listed as a threshold security, an estimated 5.6 million TASER transactions involved fails to deliver on a trading volume of 22 million short sales.

Similarly, on March 22, 2005, while still listed as a threshold security, an estimated 8.8 million TASER sales involved fails on a trading volume of 19 million short sales.

Although significant fails to deliver might not in and of themselves prove illegal market manipulation, in enacting Regulation SHO the Commission recognized such transactions may indicate problems for securities on a threshold list. Certainly the high



volume of TASER fails and its continued threshold listing are strong evidence of irregular trades unhindered by current rules.

That evidence is reinforced by the large disparity in legally issued and outstanding stock in TASER (approximately 61 million shares) versus the number of shares voted at our 2005 annual meeting (over 82 million votes recorded). This discrepancy indicates the existence of 20 million phantom shares, nearly one-third our capital base. In 2006, we had roughly 10 million more shares voted than shares outstanding. While an improvement over 2005, the discrepancy is indicative of a significant problem that remains unresolved.

By requiring the timely close-out of all failures to deliver in threshold securities and theoretically reducing the number of potential fails, Regulation SHO was intended to protect shareholders from abusive naked short transactions. Unfortunately, two critical exceptions to Regulation SHO and an accompanying lack of transparency in fail to deliver transactions have deprived the regulation of much of its intended value and left shareholders subject to continued abuse. For this reason, TASER International supports the proposed amendments to reform the grandfathering and options market maker exceptions to Regulation SHO.

### **Grandfathering Under Regulation SHO**

While the grandfathering provisions of Regulation SHO were intended to forestall abrupt close-out volatility in securities with large pre-existing open positions, the exemption has had the unintended consequence of creating a special class of permanent open fails. This large and undefined body of stockless holdings diminishes shareholder value while remaining largely opaque and unaccountable to regulatory overseers.

For this reason, TASER supports the SEC's decision to close the grandfathering loophole. Recognizing the importance of market stability, we further support the proposed 35-day phase-in for settlement of existing open fails but believe that going forward a uniform close-out rule must be enforced.

TASER also strongly supports additional reforms to require the reporting of individual failed transactions, as discussed below. Although existing regulations require grandfathered positions to be closed out once traded by their original holders, the lack of reporting on individual transactions effectively prevents enforcement of the close out rule.



### **Options Market Maker Exception**

The Commission's proposal to limit the options market maker exception for threshold securities is a second critical step in ensuring market equity. The proposed amendment strikes an important balance in providing the flexibility required to maintain market liquidity while protecting shareholders from the devaluation of their investment through permanent open fails.

In addition to limiting the exemption as proposed, TASER urges the SEC to enhance the documentation requirements establishing a broker-dealer's eligibility for the market maker exception. Broker-dealers should be required to track and report failed positions. Absent this requirement, the SHO reforms currently proposed lack enforceability and substantial value.

### **The Need for Greater Transparency**

While the proposed amendments will do much to tighten the loop holes in SHO, the continued lack of transparency in failed transactions must be addressed. In its memo of August 21, 2006, the SEC's Office of Economic Analysis acknowledges cloudy NSCC data prevents the Commission from definitively identifying new fails versus grandfathered positions. The Office "estimates" the average daily percentage of grandfathered fails at 48% and "estimates" the number of fails that existed prior to the implementation of Regulation SHO which continue to persist. This lack of access to fundamental transaction information prevents investors, corporate overseers, and the government regulators charged with protecting their interests from gaining a true understanding of how and why fails are occurring and the impact of those transactions on shareholder value. For this reason the SEC should further amend Regulation SHO to require detailed and public reporting of all failed transactions.

### **The Utah Example**

On May 26, 2006, the State of Utah enacted legislation requiring broker-dealers licensed in Utah to notify that state's securities authority of failures to deliver on transactions involving shares of threshold-listed Utah securities. Settlement failures are required to be reported within 24 hours with substantial monetary penalties imposed on violators. The legislation is designed to shed light on failed transactions involving discreet trades and traders, allowing regulators and market participants to view the



actions of serial abusers, assess their impact on market activities, and pursue appropriate corrective action.

Without such visibility, market participants and regulatory overseers lack the information necessary to ensure fair and equitable trading. To ensure the proposed amendments to Regulation SHO achieve their desired effect, we encourage the Commission to broaden its proposal to require the prompt reporting of failed trades and the individuals involved in those transactions.

We appreciate the opportunity to comment on the proposed amendments to Regulation SHO and commend the Commission on its efforts to protect our markets' integrity and investors' future.

Sincerely,

Daniel Behrendt  
Chief Financial Officer

Douglas Klint  
General Counsel