Individual Investor
March 15, 2007

RE : Amendments to REG SHO *Release No.:* 34-54154, *File No.:* S7-12-06

Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-0609

Dear Secretary :

Data from a Freedom of Information Act (FOIA) request for the total number of failed deliveries on the NYSE shows that on Reg SHO's commencement date, January 03, 2005, there were <u>65 million</u> shares of failed deliveries in NYSE issues, with a total of <u>552 total issues</u> with greater than 10 thousand delivery failures. On the last date for which data was provided, May 31, 2006, there were <u>65 million shares</u> of failed deliveries in NYSE issues, and there were <u>590 total issues</u> with over 10 thousand delivery failures.

Simply put, Reg SHO has had no appreciable result in limiting either the number of failed deliveries, nor the number of issues affected, judging by the NYSE data - in fact, the number of issues with more than 10,000 shares that failed delivery has increased. **In another FOIA release by the SEC, it is seen that on the OTCBB, the number of delivery failures actually increased by the end of the reporting period, from <u>585 million shares</u> at the commencement of Reg SHO, to <u>679 million shares</u> on May 31, 2006**.

The careful selection criteria of FTD data by the NASD provided to the SEC is carefully chosen to make the appearance of a minimal impact on the market, the total number of issues and total number of shares that suffer from fail to deliver. However, the above data are the real and **complete numbers** available to the SEC for analysis that show a different picture.

Even the NASD doesn't hide the fact that the market maker exception and the grandfather clause legitimize endless and open ended delivery failures.

The Commission must realize that since FTDs and IOUs credited to investor accounts by broker-dealers are securities that are different from the real securities they represent and confer on the investors truncated rights of the real securities - but are not registered securities, broker- dealers are issuing and selling unregistered securities that violate both the 1933 and 1934 Securities Acts. And while the Commission can argue that these are "securities entitlements", these are in fact securities as defined by the Securities Acts.

The Commission has also not promulgated any formal rule or followed the rule making procedure set forth in the Securities Acts and the APA permitting broker-dealers to sell unregistered securities.

Quite simply, investors in securities must be made whole by stopping all ongoing delivery failures and by closing out all old ones. This is all very simple and common sense.