Ms. Florence Harmon
Acting Secretary Securities and Exchange Commission 100 F. Street, NE
Washington, DC 20549-9303
Re: Release No. 34-58773; File No. 87-30-08 Amendment to Regulation SHO Interim Final Temporary Rule

Dear Commissioners and Staff of the SEC,

I believe that if the regulators, SROs, exchanges and congressional oversight committees could get their arms around one seminal concept regarding abusive naked short selling crimes then legislation, regulation and enforcement in this arena could be much more effective.

This concept has to do with the "issuance" of shares on Wall Street. You are aware of the standard mode for issuing shares which is done by a corporation's board of directors through a "director's resolution". These shares then become "issued and outstanding" for all of the world to see. They have a designated "legal owner" at all times and they have been "registered" by the SEC.

The type of "issuance" that your prior legislative and enforcement efforts indicate that you have forgotten about or never entirely appreciated is the "issuance" of a special species of shares that occurs every time a failure to deliver occurs or every time a failed delivery is cured by the NSCC's "Automated Stock Borrow Program". This special species of shares TECHNICALLY has no "legal owner" and they are TECHNICALLY not "outstanding". They are essentially "issued" by those that fail to deliver the securities that they sold which is a rather troublesome concept as I'm sure you'll agree.

This special species of shares has to do with the phraseology used in UCC Article 8-501. Since the nominee of the DTC "Cede and Co." serves as the surrogate "legal owner" of all shares held in "street name" 8-501 was drafted to "remind" the DTC that they were only acting in that "legal owner" capacity for reasons associated with streamlining our clearance and settlement process.

Since "Cede and Co." is TECHNICALLY the "legal owner" of these shares the purchaser of shares that have yet to be delivered to its purchaser is relegated to be acting as a "securities entitlement" holder. As such UCC 8-501 mandates that the holder of the "securities entitlement" (the purchaser of the undelivered shares) be allowed "to exercise all of the rights and property interest that comprise that security".

The net effect of this phraseology meant to be a subtle reminder to the DTC not to try to leverage its role of being deemed the surrogate "legal owner" is that a failure to deliver essentially results in the "issuance" of this rather odd "share" that TECHNICALLY has no "legal owner" nor is it TECHNICALLY "outstanding". The problem is that this "share" is readily sellable just as if it was a legitimate share "issued" by a company's board of directors and is therefore incredibly damaging from a dilution point of view

because it contributes to the “supply” of that which is readily sellable whether it be legitimate shares or these special shares. These special shares add arithmetically to the number of legitimate shares that are already “issued and outstanding”. As such their presence predictably MANIPULATES share prices downwards.

The concept of those intentionally refusing to deliver that which they sold resulting in the “issuance” of incredibly damaging “shares without a legal owner” is rather troubling in that the invitation presents itself for securities fraudsters to establish massive naked short positions by simply refusing to deliver that which they sold while SIMULTANEOUSLY manipulating the share price downward which in turn creates value for the naked short position that was ILLEGALLY established if the failure to deliver was intentional. I think you can appreciate the “two for the price of one” aspect to this form of theft. This obvious invitation for abuse is what makes ANY failure to deliver worthy of inspection.

I can appreciate the fact that the concept of securities fraudsters being able to in essence cause the “issuance” of incredibly damaging “shares” is rather foreign at first but since the fact of whether or not that which is “issued” TECHNICALLY has a “legal owner” or not or is TECHNICALLY “outstanding” or not is immaterial from the point of view of the investor whose investment funds are being rerouted into the wallets of those accessing this “loophole” via intentionally refusing to deliver that which they sold.

The very concept of “CROOKS ISSUING SHARES” that create value for the naked short positions they have ILLEGALLY established via refusing to deliver that which they sold is rather frightening but it is exactly what is going on in this arena. What kind of a “rigged” casino would allow the mere methodology of placing a negative bet to alter the outcome of the bet? The “price discovery” mechanism does indeed need to tally all votes cast whether they be negative votes cast from short sales or positive votes cast from the purchase of shares but with the ability to literally “stuff the ballot box” with an infinite amount of these special shares then the “price discovery” process cannot work efficiently and is subject to intentional MANIPULATION.

With that being the reality you can imagine how a clearance and settlement system with integrity would aggressively treat ANY failure to deliver as an emergent measure needing to be “bought-in” promptly.

The fact that these special shares being issued are kept invisible to a corporation’s management team and prospective investors is also very troubling. The ’33 Securities Act (“The Disclosure Act”) clearly mandates that all information of a “material” nature regarding a prospective investment be made available to the investing public. The lack of these special shares being “outstanding” and therefore rendering them invisible to the public prohibits their disclosure to the investing public and encourages their issuance by securities fraudsters needing to operate in the darkness.

“Securities entitlements” are tricky. They were designed to serve as “accounting measures” to denote the DELAY of an imminent delivery. The DTCC’s default assumption is that all failures to deliver are associated with a “legitimate” delivery delay

wherein it was presumed that the delivery of the missing shares was just around the corner. This allows the "issuance" of these special shares but when the delivery failure was intentional then all of a sudden it's too late to in effect "cancel" the special shares that were mistakenly "issued" because the only way that can be done is to "buy-in" the failed delivery obligation.

Although the NSCC management has the congressional mandate "to act in the public interest, provide investor protection and to "promptly settle" all securities transactions as well as 15 of the 16 sources of empowerment to execute "buy-ins" they still have the audacity to plead to be "powerless" to execute buy-ins despite the fact that they are the ONLY cure available when an abusive NSCC participant absolutely refuses to deliver that which it sold and that the fear of a buy-in represents the only source of meaningful deterrence to these crimes. They are also the only means to "cancel" the special shares that were mistakenly "issued" when the default assumption as to the legitimacy of the delivery delay was incorrect.

How can one explain this mysterious behavior of this SRO known as the NSCC which is supposed to be acting as "the first line of defense against market abuses" like naked short selling? It might have something to do with the NSCC management doing exactly what their bosses the abusive NSCC participants/co-owners want them to do since they are the ones refusing to deliver that which they sell. It is usually a good idea for employees to look after the financial interests of their bosses should they want to remain employed.

If you at the SEC could only get your arms around the concept involving the "issuance" of these special shares then the emergent nature of ANY failure to deliver will jump out at you because of the ability of securities fraudsters to intentionally "stuff the ballot box" with negative votes during the voting procedure associated with the "price discovery" process. The ability to establish massive naked short positions by merely refusing to deliver that which you sell while SIMULTANEOUSLY forcing the share price down represents the ability to easily create a "positive feedback loop" resulting in the investment funds of U.S. citizens being rerouted into the wallets of those abusive NSCC participants that merely refuse to deliver that which they sell. What could be easier?

The insanity of removing the protective benefits of the "uptick rule" in the midst of this ability to create "positive feedback loops" is beyond description. The ability to qualify for having made a "locate" by merely having "reasonable grounds" to believe that your "locate" would result in delivery by T+3 is equally unconscionable. That policy has only made the "bogus locate" a form of currency amongst securities fraudsters. I'll give you a "bogus locate" for shares of company "A" if you provide me one for company "B". An appreciation for the "issuance" of these special shares and the accessibility of these "positive feedback loops" would have forewarned you that many parts of REG SHO were essentially dead on arrival.

Sincerely,

Dr. Jim DeCosta