The International Association of Small Broker Dealers and Advisors

1620 Eye Street, NW, Suite 210 Washington, DC 20006202-785-8940 ext. 108

pchepucavage@plexusconsulting.com,www.iasbda.com

The International Association of Small Broker-Dealers and Advisers.www.iasbda.com submits the following comments on the proposed Reg. SHO amendments.We note that as a result of the sub prime debacle ,the number of stocks on the threshold list has risen significantly and the numbers in fn 28 are no longer relevant.We believe that given the opportunity to naked short the mortgage industry for a large immediate profit and an expectation of minimum sanctions, a rise in the threshold list was inevitable as Dr. Boni found in her study leading up to Reg. SHO.Recent numbers on threshold securities over the month of August 2007 indicate a substantial increase in companies listed taking place as the market volatility has also increased. In January 2005 the first threshold security list contained 73 NYSE Companies and 102 NASDAQ companies. By October of 2005 those numbers were down to 39 and 79 respectively. On August 20, 2007 the NYSE had 120 companies listed (64% Increase from January 2005) while the NASDAQ was up to 162 Companies (59% Increase). A review of the recent trading in Thornburgh Mortgage-tma leading to its inclusion on the threshold list, will be instructive in this regard.IF NAKED SHORTING BEGINS TO AFFECT THE MORTGAGE MARKET IN THE UNITED SATES IT AFFECTS A MUCH LARGER PORTION OF AMERICAN SOCIETY BEYOND THE SECURITIES INVESTMENT COMMUNITY.

The proposed amendments however continue to attempt to solve the problem of naked shorting through prolonged and complex rulemaking that fails to address a basic issue even though the Release itself notes in numerous places that fails should not be allowed to remain outstanding indefinitely. That is the issue that has confused many commenters who wonder how certain securities can remain on the threshold list indefinitely.We note the curious language in fn 2 that starts with"investors must settle their securities transactions in three days" and ends with"failure to deliver securities on t+3 does not violate the rule". However deliberate failure does violate the rules.The answer to this puzzle is that the current rules for short and long sales do not require a ***verification*** that the securities are available to be sold. For short sales only a ***locate*** is required and

for long sales the proposed rule in essence requires only ***marking a locate*** rather than a verification that the stock is where the customer claims it is.Noting where the customer says the stock is proves nothing about the stock.For example, customers often indicate long availability after borrowing overseas.We note that the original proposed amendments asked for comment on the locate requirement and new disclosure requirements In our previous comment letter we noted the locate requirement history and we believe that the NASD history of Rule 3370 marking would reveal very few enforcement actions. In other words marking location is not verifying location,but locating and marking gives the bd a free pass to take the order and no longer be concerned about whether the stock ever comes in.Similarly allowing market maker exemptions may be necessary for immediate liquidity but why do they need indefinite exemptions?These requirements look good as prophylactic measures but in reality they burden all bd's without any substantive benefit toward solving the naked short problem.We also believe a more aggressive enforcement program is necessary where penalties begin with the profits made and then add a significant sanction.

Reg. SHO's close out is an ex post facto remedy that attempts to cure the problem after the damage is done.Indeed fn 25 indicates that the close out may result in another fail.A short seller can close and then immediately reestablish the position with minimum risk. The remedy lies in preventing the fail before it occurs by requiring borrows or confirmation of long positions before the trade.We believe there is a simpler solution here which is to say that any transaction that does not settle in 13 days must be reported and explained to FINRA . That time frame could be expanded to 35 days for all market makers.The reporting regime could include an ability to request an extension from FINRA.The threshold list would remain so that its securities are publicly disclosed.The reporting requirement could be on a monthly basis and would replace the need to surveil locates and markings.The information would inform FINRA and the SEC as to exactly why the fails are taking place. Firms acting in good faith should suffer no consequences from these reports and the reports would identify serial naked shorters.We think that smaller trades of less than a 1000-5000 shares could be exempted.

In summary we are proposing that the Commission not impose the recordkeeping burdens of its amended reg SHO and impose a monthly reporting requirement with an explanation and ability to request an extension.We are not suggesting a Utah automatic fine for failing to report nor are we suggesting that these additional reports be made public.Nor do we suggest that a failure to report is an automatic violation or a pre-borrow

requirement. We believe that the simplicity of such requirement would answer many critics who cannot understand why securities are not required to be delivered in a specified time period. Most importantly it would impose a discipline on market makers and hedge funds to continue to try to remedy their fail positions..

If the Commission cannot agree with this proposal then we suggest that a verification requirement be imposed rather than a locate or marking requirement.In the case of short sales it would be a pre-borrow or decrementing requirement. In the case of long sales it would be a confirmation with whoever holds the customer securities.

Peter J. Chepucavage
General Counsel
Plexus Consulting