CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

DAVID CHAVERN
VICE PRESIDENT AND
CHIEF OF STAFF

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202-463-3101 • 202-463-5327 FAX
dchavern@uschamber.com

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Ms. Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: Release Number 34-54154; File Number S7-12-06

Dear Ms. Morris:

The U.S. Chamber of Commerce is the largest business federation in the world, representing the interests of some three million companies of every size and industry. We believe that naked short selling continues to be a serious problem for a number of public companies, and we appreciate the opportunity to comment on the U.S. Securities and Exchange Commission's (SEC's) proposed amendments to Regulation SHO.

Regulation SHO was a well-intentioned attempt to address the problem of naked short selling, and it did result in some significant improvements. However, serious settlement failures persist and companies are still on the Threshold List for too long. These companies have an extremely limited capacity to redress the situation because they are unable to obtain detailed information about the failures that are affecting the trading in their stocks.

Short-term failures to deliver can occur for legitimate reasons. The SEC itself has stated that a failure to deliver is not necessarily a violation of securities laws or regulations. However, persistent failures to deliver— such that issuers are placed and remain on the Threshold List for extended periods— should not occur and are damaging to companies and their shareholders. The impact can be particularly acute on small and entrepreneurial companies where the volume of non-delivered shares is high as compared to the total number of outstanding shares. These problems, in turn, have the effect of making our public capital markets less attractive to these companies and less competitive overall.

In that regard:

- We support the elimination of the "grandfather provision." This provision is not important to support legitimate short selling, and it can create a perverse incentive for market manipulators. By naked shorting and failing to deliver in large volume, manipulators can not only push a stock down, but also push a stock onto the Threshold List— thus grandfathering the manipulative failure to deliver from mandatory buy-in requirements.

- We also support the proposed tightening of the close-out requirement under the market maker exception. Thirteen days should be sufficient time to close-out a failure to deliver related to an options position that has expired or been liquidated.

- Additionally, issuers must be able to receive better information about settlement failures in their shares. Currently, the Threshold List simply contains lists of companies and dates and does not quantify the number of shares that were not delivered. Companies and investors have very little information about the underlying activity in the stock. As a start, we would suggest that the aggregate volume of failures to deliver be reported daily for each threshold security.

- As referenced in the questions accompanying the proposed amendments, we believe that the SEC should strongly consider stricter locate requirements in order to prevent multiple short sales from the same security. In addition, we would further support a requirement that all short sellers of threshold securities either (i) have possession of the stock in question, (ii) have entered into a bona fide contract to borrow in advance of the sale, or (iii) have identified the security as being on an "easy-to-borrow" list.

- Certain of the suggestions above could be construed as having a potentially negative effect on liquidity for certain short trades. We believe that the appropriate way to address these concerns is to fix problems in the stock lending market that make it difficult to borrow shares legitimately. The SEC should conduct an intensive study of the stock lending market with an eye toward relaxing regulatory barriers to the efficient functioning of the market. As an example, restrictions in

Rule 15c3-3.b.3 make it unnecessarily cumbersome to lend shares out of cash accounts. These restrictions can be eased without reducing necessary shareholder protections, thus improving liquidity.

In summary, short selling plays a critically important role in our capital markets. It provides a valuable incentive for investors to ferret out the truth and the means to correct over-optimistic market valuations. It stands as an inherent constraint on long-side fraud. Short selling also provides an important risk management tool that allows investors to hedge risks and keep derivative prices in line with the cash market. The Chamber strongly supports policies that flexibly allow for legitimate short selling.

However, under the current system there are still too many naked short sales that are not legitimate. Trades are executed without the basic economic discipline of supply and demand— and, accordingly, naked shorting is used to manipulate markets and purposefully drive down thinly traded stocks to the detriment of investors and our capital markets generally. We applaud the SEC's review of the problems presented by abusive naked short selling, and we strongly support efforts to tighten Regulation SHO to restrict the practice.

Sincerely,

David C. Chavern
Vice President
Capital Markets Programs

cc: Christopher Cox, Chairman, U.S. Securities and Exchange Commission
Paul S. Atkins, Commissioner, U.S. Securities and Exchange Commission
Roel C. Campos, Commissioner, U.S. Securities and Exchange Commission
Kathleen L. Casey, Commissioner, U.S. Securities and Exchange Commission
Annette L. Nazareth, Commissioner, U.S. Securities and Exchange Commission
Robert L. D. Colby, Acting Director, Division of Market Regulation, U.S. Securities and Exchange Commission
John W. White, Director, Division of Corporation Finance, U.S. Securities and Exchange Commission