



# STATE OF UTAH

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September 8, 2006

**Via Electronic Submission**

Nancy M. Morris, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549-1090

Re: Comments on Amendments to Regulation SHO  
File No. S7-12-06

Dear Ms. Morris:

As Governor of the State of Utah, I urge the Commission to quickly adopt the proposed amendments to Regulation SHO and take additional steps to reduce abusive short selling, delivery failures, and shareholder disenfranchisement. The State of Utah believes taking strong action to eliminate these abuses is necessary for three distinct reasons: promoting market integrity, enhancing shareholder protection, and encouraging economic development.

**Market Integrity, Shareholder Protection, and Economic Development**

Citizens will be willing to invest in the capital markets only if they have confidence in the integrity of those markets. These investments represent the capital that provides wealth creation for investors and fuels expansion plans for employers. Ensuring that those capital markets are as free as possible from manipulative influences, that the markets treat all investors fairly, and that the markets are transparent in their operations is imperative to our financial system. The integrity of the markets must be protected.

Furthermore, it is not enough that the financial markets have integrity; investors must believe in the integrity of the markets. If investors lack confidence in those markets, their capital will flow to other uses. Creating market integrity requires that the markets and the regulators be vigilant in preventing manipulation – and any appearance of manipulation. To the extent that purchasers of securities are not having their shares delivered or voting rights of shareholders are compromised or company share prices are being depressed artificially by abusive short selling or that manipulators are deliberately seeking to depress share prices, investor confidence will fall. Restoring investor confidence requires both additional enforcement attention by the SEC **and** additional regulatory changes to enhance transparency surrounding short selling.

Economic progress is advanced best if companies can find the capital needed to expand their operations. Historically, much of that capital has come from the financial markets. However, if the markets and regulators cannot ensure that the trading of shares in those companies will be free of artificial manipulations, those companies will be constrained in their growth and may seek funding from other sources or from overseas. We owe a duty to those companies to provide fair markets that are free of manipulations.

### SEC Proposals

I encourage the Commission move quickly to adopt the proposed changes to Regulation SHO on July 19, 2006. Grandfathering must be eliminated. There is no justification for securities transactions prior to 2005 to continue to have delivery failures or to grandfather positions established before threshold designation of a security. The options market maker exception needs to be amended to require that delivery occur promptly after any underlying options positions have expired. To permit positions by options trading to remain open after the options have expired is to invite artificial influences on the trading of the securities themselves.

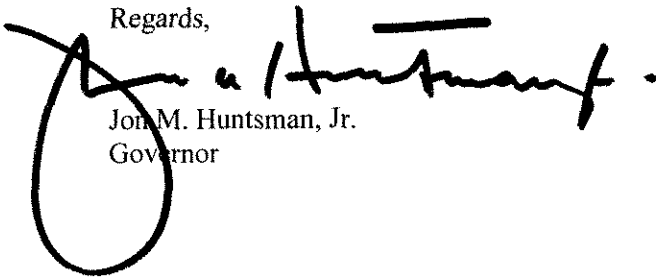
### Additional Recommendations

The recommendations are a positive step forward, but inadequate to counter the abuses that appear to be occurring by those engaging in abusive short selling. The Commission should act quickly to take the following additional steps to increase transparency and prevent manipulative trading:

- Shorten the 13-day close-out deadline;
- Lower the triggers for threshold determination;
- Require daily disclosure of the aggregate volume of the fails in each threshold security;
- Mandate pre-borrowing in every transaction where a broker-dealer has an unresolved fail and for all short sells of a security where there are unresolved fails;
- Require that "locates" be confirmed and that lenders decrement their offers of a "lend";
- Require additional disclosure of fails information by clearing agencies and broker-dealers, including disclosure of fails resulting from ex-clearing transactions;
- Mandate that broker-dealers disclose to their customers the consequences of delivery failures and stock lending where the customer has been affected; and
- Require that clearing agencies change their treatment of fails including allocating fails to broker-dealers or implementing mandatory buy-ins, have the Continuous Net Settlement system identify which delivery failures result from short transactions, and require clearing agencies to cooperate with investigations by state securities enforcement agencies.

Additional information about these recommendations can be found in the comment letter being submitted by the Utah Division of Securities. I urge the Commission to act promptly and aggressively in halting further abuses.

Regards,



Jon M. Huntsman, Jr.  
Governor