**BEFORE THE**
**COMMODITY FUTURES TRADING COMMISSION**

**OPEN MEETING TO EXAMINE**
**FUTURES AND OPTIONS TRADING IN THE METALS MARKETS**

**March 25, 2010**

**WRITTEN STATEMENT BY**
**JEFFERY BURGHARDT,**
**VICE PRESIDENT, NORTH AMERICAN METAL PROCUREMENT**
**AND GLOBAL UTILITIES, LUVATA BUFFALO**

**ON BEHALF OF**
**THE COPPER AND BRASS FABRICATORS COUNCIL, INC.**

I am Jeff Burghardt, Vice President for North American Procurement and Global Utilities for Luvata in Buffalo, New York. This written statement is submitted by the Copper and Brass Fabricators Council, Inc. ("the Council"), which appreciates the opportunity to present its views in this matter.

The Council is a non-profit membership trade association that dates from 1964. Membership is open to any person, firm, or corporation engaged in the fabrication or production in the United States of products made, in whole or in part, from copper or copper alloys. The Council's member companies generally are engaged in the production of copper and copper alloy sheet and strip, rod and bar, plumbing tubing, OEM or air-conditioning tubing, wire, extrusions, shapes and profiles, forgings, and fittings. These products are used chiefly in the automotive, construction and electrical/electronic industries. There are currently eighteen member companies that produce over 80 percent of all copper and brass mill products produced in the United States. The Council's list of members is attached.

Among the areas on which the Council focuses are activities in connection with regulatory action, including legislation, rules, controls, stockpiling, and similar measures that affect fabricators of copper and brass products. Absolutely critical to the Council's members is the availability of copper units at commercially viable prices.

In the last several years especially, the markets for copper cathode and copper-based scrap have been subject to previously unprecedented fluctuations. The Commission's open meeting today to consider futures and options trading in the metals markets is timely.

It is our belief that investment funds have been the major driver behind the record high prices we have seen in many commodities in recent years, including copper, the primary raw material in our business. These high prices, which we do not believe are warranted based on fundamentals, have caused major challenges for our industry, including increases in working capital and, even more damaging, substitution. One only has to look at the copper industry to see the disconnect between fundamentals and price. In the last year, the price of copper has increased over 100%, while at the same time the quantity of material stored in warehouses has also increased substantially. Thus, while the copper market was in surplus, the price more than doubled.

Because of these high prices primarily, but also the high volatility, we completely support the CFTC in taking action to reduce the influence of investment funds in the commodity markets. Commodity markets were established to be the benchmarks for establishing prices for the underlying commodity. This has always been, and should be, their primary function. However, today, it seems as though they have become primarily investment vehicles, with prices many times having little correlation to costs or fundamentals.

We believe that if investment funds were to have smaller positions in the markets it would greatly reduce the volatility and bring prices more in line with fundamentals and costs. These results would be beneficial to our industry, our customers, and the economy in general.

However, while we completely agree with the Commission that this situation warrants careful attention and would like to see action taken, we would like to offer a different method to accomplish this goal. We feel the method you are proposing would be very challenging to implement effectively. The questions that you sent out on position limits highlight the complexity of this method. Issues such as developing quantitative methods, % versus fixed number of contracts, spread trades, exemptions to be granted, etc., just highlight the complexity of this approach. In addition, if the limits were set high, they could end up impacting few if any firms and not accomplishing the goal.

We would like to suggest the CFTC consider a different approach to the challenge. It is our belief that imposing a significantly higher initial margin requirement for investment funds would be a more effective solution. While imposing position limits would potentially affect a few large investment funds, if any, raising the initial margin requirement would affect all investment funds immediately. Investment funds target a % of their portfolio to invest in a commodity. By raising the initial margin requirement, the number of contracts investment funds are trading will be reduced. While imposing position limits could achieve these goals, we see higher margins as a better solution.

Raising the initial margin amount offers several advantages. First and foremost, the system is already in place. Investment funds are already charged a higher amount for initial margins than hedgers or manufacturers. It would simply be a matter of changing the amount currently charged, which could be done at any time. The fact that the system is in place and being used today offers a significant advantage in ease of implementation and should minimize any confusion. This approach should also be much easier than position limits to monitor and control, as it eliminates the need to deal with many of the questions which arise when trying to manage position limits. Again, this change would also immediately affect all investment funds across the board, regardless of size. This is another advantage compared to position limits, which, if they are set high, could end up having an impact on few if any investment funds.

For these reasons, we feel that increasing initial margin amounts charged to investment funds will be a more effective solution to the problem. However, in any solution that is implemented, we would not want to see position limits put on hedgers or see the initial margin changed for this group either. Futures markets are critical for us to use in establishing prices and being able to manage the price risk in our business. We only use futures markets as necessary in our day-to-day business to hedge our price risk, and it is critical we can do this in a cost-effective manner.

In summary, lower volatility and prices that reflect over time the real demand/supply situation, not the excesses of speculation, would both be very beneficial to our industry. We fully support the CFTC in looking to limit the impact of investment funds in the commodity markets. However, we would appreciate your consideration of using initial margins as the approach to accomplish this purpose rather than position limits. As I stated previously, a higher initial margin would offer the benefits of utilizing existing systems, while impacting all investment funds immediately by reducing the number of contracts they can trade for a specific amount of money they have to invest.

Regardless of the approach taken, the Copper and Brass Fabricators Council would be glad to work with the Commission if we can be of any assistance in developing an effective solution and appreciate being able to be here today on this important topic.

Attachment