Testimony of

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Regarding

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Hello. I am very pleased to have been asked by the Commission to testify at this hearing.

I am the president & CEO of John J. Lothian & Company, Inc., a market focused new media firm and Commodity Trading Advisor. In addition to being a CTA, I am a futures broker. In the latter, I am president of the Electronic Trading Division of The Price Futures Group, Inc., a Chicago-based Introducing Broker. I am here representing my own views.

At my last visit to the Commission, I noted that futures markets have two primary functions; price discovery and risk transfer. The futures and options markets on metals are no different, though each of the metals markets has unique aspects to them. Copper is largely an industrial commodity, used in construction, electronics and other areas where electricity or heat is conducted or water flows. Gold, on the other hand, is largely an investment vehicle, with the majority of its trade tied to a system of belief that holds that gold has eternal and historic use as a store of wealth and as an alternative to "fiat" currencies.

The price discovery process in gold, a commodity without national borders or branded interests, is a global one. The two primary locations for the price discovery process are in London and New York. In London, the market is dominated by OTC trade, while in the New York it is dominated by futures trading. However, in today's world of electronic futures trading, the physical location of the market is not as important as that of the legal, logistical and capital trading capabilities of the major market participants. Today, a major participant in the NYSE Liffe US Mini Gold or CME Group COMEX gold futures is just as able to participate in the market from India as someone standing on a futures exchange trading floor in Chicago. The location of the price discovery process in the futures market moves with business day and the traders. It rotates around the world, from market center to market center. Each market may have a unique set of rules, laws, regulations and eligible participants, but they all play off each other. The most open and transparent metals markets are in London and New York, but Zurich and Tokyo also play prominent roles.

Transparency is the key component to consider when looking at the price discovery process. The other is the number of players able to participate freely in the market, which is why I am biased toward futures markets as the key price discovery venue. OTC markets - by their very nature - limit the number of participants to the largest of players. Futures markets are more inclusive; however, the magnitude and nature of trade on the OTC markets and its ramifications for price discovery should not be discounted.

Gold and silver futures prices have highest degree of transparency and widest participation, providing more investors and traders globally with price information than any other source.

For example, in recent years, gold and silver trading has moved from the trading floors of the COMEX and Chicago Board of Trade to an electronic market. Additionally, gold, silver, platinum, palladium and copper have been offered in an ETF format, which has opened up investment and trading in these products to a broader audience of investors and traders. Both of these changes have opened up these markets to a much larger, more diverse global audience of participants. As a case in point toward the value of electronic trading, market access problems which plagued the gold and silver markets at

COMEX in September of 1999 have been resolved by more access to efficient electronic futures and futures options markets. Where traders once in the chaotic days of September 1999 could not tell for days whether an order was filled, today they see their filled orders in a fraction of a second.

Gold is the most international of commodities. No one nation has a compelling right to monopolize or dominate the price discovery process. More and more futures exchanges around the world are introducing precious metals trading, catering to their local market participants and impacting the global price discovery chain.

Gold has little industrial value. Rather, its value is based largely on a system of belief of its value as a store of wealth and as a replacement for paper money. No longer do nations back their currency in gold.

However, history is replete with examples where gold has served as a risk management tool for times when nation's ability to repay its debt has been in doubt. In times of war, when the debt of a nation could be worthless depending on the outcome of the war, people have flocked to gold to hedge this default risk. Consider gold historically as the ultimate Credit Default Swap.

I believe gold emerged from the commodity bull market of recent years and financial crisis of 2008 as the commodity to own because there was no natural political constituency calling for lower gold prices. When the price of crude oil went up to $147 a barrel, cries of protest came from far and wide from energy consumers. The political pressure bearing down on speculators and financial hedgers in commodities became a market factor. Not so for gold. If anything, the opposite occurred.

Gold became the commodity of choice in which to invest, not only because of its unique political dynamics, but also because of the dramatic rise in public debt used to offset the impact of the financial crisis of 2008. Rising concerns about governments' ability to repay the public debt through taxation renewed gold's value as a global CDS. The rush to invest in gold, gold derivatives like futures, or securities like ETFs, only fueled more demand as prices took off and breached historic levels. Also, low interest rates reduced the costs associated with holding physical gold and other metals, contributing to higher prices.

The rise in political populism in the US also plays into the role of gold in our society, in individual and hedge fund portfolios and brings to the surface historical pressures between creditors and debtors. There are those who openly espouse the view that gold and silver prices should be dramatically higher, that gold and silver prices are manipulated by central bankers and others to somehow keep inflationary expectations low. This narrow view of the nature of inflationary expectations is intellectually dishonest.

Back in the late 1970s, when gold and silver had historic price moves amid higher levels of inflation, we did not have as many risk management tools to hedge against inflation as we do today. Back in the 1970s, some traders and investors used soybeans, pork bellies and gold and silver as a proxy to hedge against inflation. Bond futures were still in their infancy and Eurodollar futures had yet to be invented. Today we have liquid futures markets around the world for investors, governments, corporations and individuals to hedge their specific inflation risks.

Those who believe the gold and silver markets are manipulated to keep prices low are nothing more than politically opportunistic rent seekers in my book. They are parasites on the body public profiting from selling fear and seeking political change that will benefit their world view and related market position. By selling views which undermine trust in the listed metals futures markets, metals ETF securities and even the physical gold holdings of the US government, these charlatans foster a view that distorts the metals markets and impacts efficiency. Healthy skepticism is right and proper; dogmatic mistrust is merely pseudo-skeptical behavior which cherry-picks evidence to "support pre-existing beliefs." (Wilson)

Specifically about position limits, when I testified in August, I wrote the following:

> I believe that position limits, while a necessary tool for moderating market volatility and speculative fervor, should be applied consistently to speculators. I believe financial hedgers, including index traders, ETFs and ETNs should be exempt from position limits. I believe they play a bona fide economic role, similar to that of commercial hedgers, and therefore should be exempt.

In precious metals markets like gold, the category of "financial hedger" should be interpreted very broadly. While there are bona fide hedgers who mine and produce gold, or consume it for electronics or jewelry, this activity dwarfs the trade of those using gold positions or holdings to hedge against political or financial uncertainty. Even the physical metals holdings of the central banks themselves could be considered a financial and political hedge.

For those who see gold as a substitution for holding other assets, including US dollars, any action which restricts their ability to move into and out of physical metals, futures or ETFs will be viewed negatively. These actions will not produce the intended effects. Position limits on financial hedgers in the U.S. will merely move global interest in U.S. markets to other markets outside the U.S.

Position limits on gold should be liberally interpreted and exclude financial hedgers. However, there should be greater transparency for concentrated holdings of metals, whether public funds or private investments. Accountability reporting should be expanded as positions grow larger.

If adopted by the CFTC, speculative position limits:

> Should exempt bona fide hedgers, including financial hedgers.
>
> Should be set dynamically by the Commission on a regular pre-defined interval.
>
> The Commission should take into consideration the size of the participation of commercial and financial hedgers and the volatility of the market.
>
> The Commission should have the ability to set divergent position limits for long and short speculators.
>
> Position limits for speculators should be for a fixed number of contracts for that particular interval. The limits should be applied to all months, with different levels set separately for delivery months.
>
> Spreads should be counted on a gross basis again the limit, meaning a long and a short is two contracts.
>
> Position limits should be aggregated across markets for positions held by one controlling entity, or person.

Lastly, I ask the Commission to act carefully in regard to proposing speculative position limits in metals before Congress acts on the issue of OTC trading in general. I believe acting hastily could put the futures markets at a competitive disadvantage to the OTC markets and non-US futures markets.