TESTIMONY OF

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DIVISION OF SUPERVISION
FEDERAL DEPOSIT INSURANCE CORPORATION

ON

TELEMARKETING FRAUD

BEFORE THE

SUBCOMMITTEE ON COMMERCE, CONSUMER, AND MONETARY AFFAIRS
COMMITTEE ON GOVERNMENT OPERATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

9:30 AM
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ROOM 2247, RAYBURN HOUSE OFFICE BUILDING

Good morning, Mr. Chairman and members of the subcommittee. Thank you for the opportunity to express the views of the Federal Deposit Insurance Corporation on the important subject of telemarketing fraud, particularly as it relates to precious metals financing. The FDIC staff has prepared detailed answers to the questions contained in your letter of invitation, which are attached to this statement.

BANK FINANCED PRECIOUS METAL SCHEMES

We join in your concerns regarding telemarketing fraud, including schemes related to precious metal lending programs, especially when the situation involves a federally-insured financial institution. The detection and deterrence of bank fraud are major areas of focus for the FDIC. In an effort to combat all types of bank fraud, including schemes involving precious metals financing, we have established a cadre of examiners who have received specialized training in fraud detection and investigative techniques.

From our review of this matter, it appears that fraudulent schemes involving precious metal lending occur infrequently and are primarily perpetrated by precious metal dealers or brokers who are not related to any particular financial institution and, therefore, would not be supervised by the FDIC.

In 1987, in response to correspondence from Gerald Lewis, Comptroller of the Department of Banking and Finance for the State of Florida, we reviewed the area of precious metals financing. Comptroller Lewis brought to the federal regulators' attention a situation of concern to his office regarding telephone solicitations for the purchase of precious metals. In response to Comptroller Lewis' correspondence, we conducted an informal telephone survey with the two regions, New York and San Francisco, responsible for supervising the four banks which Mr. Lewis mentioned in his letter. Very shortly thereafter, in July 1987, we examined two of the banks specifically for the purpose of reviewing their policies, procedures, and practices with respect to precious metals financing. With the exception of Valley State Bank in California, the other banks were not perceived to present problems in the precious metals financing area. Valley State Bank failed in September 1987, partly as a result of its involvement with a precious metal dealer.

At the June 10, 1987, meeting of the FFIEC Task Force on Supervision, the subject of precious metals financing was discussed. Based on the small number of institutions involved in such programs, the task force determined that this was not a significant bank problem. Each of the federal bank regulators felt additional regulations were unnecessary and each situation would be better handled on a case-by-case basis by the primary regulator.

The FDIC is aware of fewer than ten state nonmember banks, out of the over 8,000 we supervise, which are, or have been, engaged in precious metals lending. In your letter of invitation, you indicated the

Subcommittee had been advised of nine banks which were involved in precious metals lending programs. One of the nine is a Canadian bank, one is a national bank and two have been closed by the chartering authority. Of the remaining five banks, at least one has ceased its precious metals activities.

We reviewed our consumer complaint records and found we have received only one complaint regarding precious metals lending. That complaint was filed with us in 1987 and was directed primarily at the broker from whom the consumer purchased the precious metal and not at the bank.

We recently contacted our eight regional offices to ascertain from those most familiar with the institutions what types of precious metals programs are being utilized presently. Generally, the banks are relying on the collateral value when making precious metals loans and none are maintaining loan-to-collateral margins in excess of 80%. Our examiners have reviewed the banks' practices and controls and have been generally satisfied with their findings.

In December, 1974, the FDIC issued a Statement of Policy on Gold. While this statement is directed particularly to banks involved in, or contemplating, transactions in gold, the principles enunciated in it are equally applicable to other precious metals or numismatic items. As a normal and routine part of our examination process, we review the policies, procedures, and practices of the banks which engage in these activities. Any failure to give adequate consideration to the Statement of Policy would be brought to management's attention in the examiner's report comments.

As for the investor and consumer protection aspects of precious metals programs, we believe these are best addressed by the Commodity Futures Trading Commission, the Federal Trade Commission, and the Federal Reserve System. From an investor standpoint, we believe the CFTC should be granted explicit jurisdiction, by statutory amendment if necessary, over precious metals dealers, including registration and licensing requirements and rulemaking authority to establish appropriate standards for conducting retail sales of precious metals.

From the consumer protection aspects, certainly the Federal Trade Commission should have a role, as well as the Federal Reserve System which has unfair and deceptive practices jurisdiction with respect to the banking industry. While we are not advocating additional bank regulation in this area, and do not believe it is necessary, the FDIC stands ready to enforce whatever requirements or standards are developed by these agencies insofar as they may apply to insured nonmember banks under our supervisory jurisdiction.

Thank you, Mr. Chairman. I would be happy to answer any questions you or other members of the Subcommittee may have.