

Opening Statement Senator Susan M. Collins Special Committee on Aging

“Exploring the Perils of
the Precious Metals Market”

April 30, 2014

Chairman Nelson, since you and I assumed leadership of this committee, we have conducted five hearings on the various scams, swindles, and cons used by fraudsters to separate America's seniors from their hard-earned money. Today's hearing is the sixth. It is indeed a sad commentary on human nature that the cruelty of the scammers who target our nation's elderly seems limited only by their creativity -- and never by their conscience.

Today's hearing focuses on a particularly appalling scam -- the so-called "sale" of precious metals to seniors, who are eager to avoid the dangers of the stock market, trying to find a safe haven for their life savings, seeking to protect their financial independence, and wanting to pass some portion of their nest egg along to their children and grandchildren. I say so-called "sale" because, as we have discovered in our investigation, a key feature of this scam is to get the customer to pay real money for a fiction -- gold, silver, platinum, or palladium -- that the scammer never delivers, and often doesn't even own.

These scammers use dubious sales tactics to steer their victims into highly leveraged derivatives contracts where the victim acquires, not precious metal, but a piece of paper. Too often, victims are not told they are purchasing a derivatives contract, nor are they told that leverage greatly increases the risk that they could lose their investment if the precious metal drops in value. And of course, they are not told of the exorbitant fees built into the contracts that practically guarantee they will lose money.

One company brazenly operated a Ponzi scheme that bilked 945 investors out of at least \$90 million over an 11 year period, until it was shut down by federal regulators.

Over the past several years, federal and state prosecutors around the country have been pushing back against this type of fraud, and I am pleased to say they have met with some success. In preparation for this hearing, we looked at 34 federal cases involving more than 9,100 victims who lost a total of nearly 300 million dollars. As a result of federal action, many of these scammers have faced steep penalties, and some victims have been able to recover part of their financial losses.

Despite these successes, precious metals fraud remains the sixth most significant form of financial fraud in the U.S., according to a report by the Enforcement Section Committee of the North American Securities Administrators Association (NAASA). The vice-chair of that committee, Judith Shaw, is the head of the Maine Office of Securities, which I oversaw during my tenure years ago as the Commissioner of Professional and

Financial Regulation. While Ms. Shaw is unable to join us in person today, she has provided written testimony which I would like to submit for the Record.

Ms. Shaw describes how con artists monitor the markets to figure out what type of scam they should run. When the stock market looks like a bad place to put your money, as it did a few years ago, fraudsters know that seniors will turn to gold and silver which they perceive as safe investments. That makes them vulnerable to precious metals scams.

Maine has been fortunate to avoid the worst of these precious metals cases, a fact Administrator Shaw attributes in part to the aggressive enforcement of Maine's Commodities law and Transient Sales law. She warns, however, that scammers may have neglected Maine due to the fact that our elderly population is less wealthy than those of other states.

There may, of course, be many good reasons to invest a portion of any well-managed, diversified portfolio in precious metals, and there are many reputable dealers who can help investors acquire those metals. Our focus today is not on legitimate dealers in precious metals, but on those who would use these metals as a tool to defraud the elderly.

Thank you, Chairman Nelson, for calling this important hearing. I look forward to hearing from our witnesses.