SOUND MONEY: PARALLEL CURRENCIES AND THE ROADMAP TO MONETARY FREEDOM

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CONTENTS

SOUND MONEY: PARALLEL CURRENCIES AND THE ROADMAP TO MONETARY FREEDOM

Thursday, August 2, 2012

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC MONETARY
POLICY AND TECHNOLOGY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:04 a.m., in room 2128, Rayburn House Office Building, Hon. Ron Paul [chairman of the subcommittee] presiding.

Members present: Representatives Paul, Luetkemeyer, Schweikert; and Green.

Chairman PAUL. This hearing will come to order. Without objection, all Members' opening statements will be made a part of the record.

I also ask for unanimous consent to place in the record a letter with an attachment from Dr. Edwin Vieira, who could not appear on this panel today.

Without objection, it is so ordered.

I will now recognize myself for 5 minutes to make an opening statement. First, I want to welcome our panel today to discuss a very important issue dealing with monetary policy. We have had a series of hearings and discussions in this committee dealing with monetary policy, mostly directed around Federal Reserve policy and the Federal Reserve.

Today, there will not be that much emphasis on the Federal Reserve itself, but rather on money: on money, the issue of what it means; what our history is like on money; whether we can have parallel currencies; and what the founders might have thought about parallel currencies.

The world is in the midst of a crisis today, and many of us believe it is related to a deeply flawed monetary system, a deeply flawed understanding of what money should be, a rejection of the notion that money should have real value and that money originated in the marketplace rather than originating from a computer over at the Federal Reserve.

And though today the general public, as well as the financial markets, have a difficult time wanting to accept that or even understand it, ultimately it is the nature of money that I believe we will have to come to grips with, and make a decision about. Because as we speak, they are meeting in Europe and the ECD's are deciding what to do and manipulating their money and credit, as well as we here in the United States.

We in this country have been given some benefits, definitely, by being able to issue the reserve currency of the world. And because there is no definition to money, and because we can create money out of thin air, we have had some advantages.

But the whole world is engulfed in this problem because of this lack of determination, a lack of desire to understand what money is all about. So today, we want to discuss that, and get the testimony from our witnesses to try to further understand the nature of money and credit, and whether it is necessary to have a precise definition.

Also, really, we want to talk about parallel currencies, concurrencies circulate next to each other. And I think the answer is rather clear. They are doing it all the time internationally. Currencies are circulating all the time, and in the computer age, they adjust their values rather quickly.

But the question is, can we have parallel currencies within the United States? Would it be legal? Does it contradict the Constitution? What would the States' role be in this? And what can they do? Under these circumstances, it does raise a lot of questions, because it raises tax questions and the authorities on how they are going to respond and what one can do with currencies without having the wrath of Big Brother and Big Government coming down on us, and saying, "No, you can't do that."

But today, we have an absolute monopoly control over money and credit. They are managing a money that they can't even define. And then they wonder why we have chaos in the marketplace. I see a time coming where there will be a response to the problems that we have, a response that I will endorse. And that is for monetary reform.

But it won't happen because of our hearing today. I know we are going to have a great hearing and great testimony, and there will be lots of words of wisdom. But we are not going to walk away and all of a sudden the world is going to say, "You know, that makes a lot of sense. We have to deal with this."

The one thing that I am convinced of with the current system that we have, because we don't deal with the issue of money, is the financial system worldwide is going to get a lot worse, because they are not admitting the truth of what is happening. Because the system that we have, we have had for so many years and so many decades that it has encouraged a system of horrendous debt.

And not only are many of our companies and banks and States and countries insolvent, they wonder why we have a problem. But if they don't admit to it, and think that, well, the solution is just creating more money. So that is an overwhelming task for that reform.

But in the meantime, is there anything that we can do to emphasize and to promote the interests of, and the understanding of what sound money would be by just permitting parallel currencies? Why can't we have the freedom to do this? We claim we live in a free country and a free society, but are we allowed to have parallel currencies, are we allowed to have competition, are we allowed to have something in addition to a cartel and a monopoly that has controlled money and credit and has created a worldwide monster for which they have no answers?

That is the reason I think this is a very, very important subject. And once again, I want to welcome our panel. I would like to know now if any other Members have an opening statement. No? Okay, thank you.

I will now introduce our guest speakers and the members of the panel. Our first guest, Mr. Nathan Lewis, is the principal of Kiku Capital Management, a private investment firm, and author of "Gold: the Once and Future Money," which is now published in five languages.

His writings can be found in the Financial Times, Forbes, and Dow Jones Newswires, among others. He has appeared on television networks, including Bloomberg TV and CNBC, and has been featured in several television documentaries.

Dr. Richard Ebeling is a professor of economics at Northwood University in Midland, Michigan. He is recognized as one of the leading members of the Austrian School of Economics. He is the former president of the Foundation for Economic Education, and author of "Political Economy, Public Policy, and Monetary Economics." Dr. Ebeling earned his Ph.D. in economics from Middlesex University in London.

Mr. Robert Gray is founder and executive director of the American Open Currency Standard. He is responsible for the creation and successful implementation of more than 150 circulating community currencies and silver-, gold- and copper-based token fundraising programs.

Mr. Gray helped issue the official currency of the free and independent Lakota Indian Nation, and also founded the Mulligan Mint, a full-service mint in Dallas, Texas.

Without objection, your written statements will be made a part of the record, and you will now be recognized for a 5-minute summary of your testimony.

I now recognize Mr. Lewis.

STATEMENT OF NATHAN LEWIS, PRINCIPAL, KIKU CAPITAL MANAGEMENT LLC

Mr. LEWIS. Thank you. The phrase "parallel currencies" tends to sound rather novel and experimental to us today, living in the United States. However, most people in the world are using parallel currencies today. U.S. dollars or euros are accepted in trade in goods and services.

In many countries that suffer from low-quality domestic currencies, the largest corporations finance themselves with dollar-denominated debt. The governments of such countries themselves issue dollar-denominated government bonds. By the end of World War II, the U.S. dollar, which had been considered an emerging market currency in 1900, had proved to be the most reliable currency in the world.

In practical terms, this meant that the U.S. dollar remained on a gold standard system while once-prominent European currencies were devalued and political situations became unstable. The dollar thus became the parallel currency of choice worldwide.

In 1971, the United States abandoned its then-nearly two-century-old commitment to the gold standard system. At this point, historically, currencies were often discarded for whatever the highest quality, most reliable alternative was which, in practice, meant a gold standard currency from a large developed country.

Despite the U.S.'s poor currency management since 1971, the alternatives have been even worse. This why the U.S. dollar remains the most popular currency in the world, and serves as a parallel currency in many, if not most, countries today.

Today, there are no particularly onerous barriers against using a parallel currency in the United States. People are free to do business in euros or Russian rubles if they so choose. There are over 150 currencies in the world, all of which could conceivably be used as parallel currencies within the United States or other countries.

However, all of them are floating fiat currencies generally of lower quality than the U.S. dollar or euro. There is hardly any reason to introduce another. Plus, the most meaningful new parallel currency to be introduced in the United States or in another country would be one based on gold.

Although the use of other countries' national currencies is largely accepted in the United States, the issuance of alternative currencies within the United States can run afoul of what are collectively known as "legal tender laws," both de jure and de facto. The one person who attempted to issue a gold- and silver-based parallel currency in the United States was arrested in 2009 and convicted of charges related to counterfeiting and declared to be a domestic terrorist.

Gold, today, is regarded as a collectible, and subject to a different system of taxation than if one were to do a similar transaction using foreign currency such as euros or Canadian dollars. In addition, purchases or sales of small quantities of gold are subject to sales taxes in many States.

Thus, in practice, the U.S. Federal Government makes a powerful effort to suppress the introduction and use of alternative gold- and silver-based currencies today. This state of affairs has become intolerable to many. In 2011, the State of Utah declared that it would consider U.S. Mint gold and silver coins and monetary instruments based on these coins to be legal as currency.

This included the removal of all State-level taxes on transactions in gold and silver bullion. Twelve other State legislatures have had similar bills proposed. The Utah example could serve as a template for similar Federal-level legislation to legalize gold- and silver-based currencies within the United States. According to a study of 775 floating currencies by Mike Hewitt, no floating fiat currency has ever maintained its value.

The average life expectancy of a floating fiat currency was found to be 27 years. The U.S. dollar, which has been a floating fiat currency for 41 years now, is thus an unusual example of longevity. However, today's extreme reliance upon easy money approaches to deal with economic problems, with the Federal Reserve promising unprecedented zero percent policy rates for years, and real interest rates deeply negative, suggests to many that the floating fiat dollar does not have a long or successful future.

Governments of China, Russia, Malaysia, Switzerland, the Gulf States, and others have complained about the potential consequences of today's aggressive easy money techniques not only at the Federal Reserve, but also the European Central Bank, the

Bank of England, and the Bank of Japan, and have made preliminary steps toward a future alternative, including discussions of new gold-based parallel currencies.

On the international scale, the parallel gold-based currency, or many such currencies, would help ease this transition and form the basis of a new monetary order if that should become necessary. Each individual would be free to make increasing use of the gold-based alternative as it best suited their interests.

It would be no great day of transition, but a smooth, extended process, perhaps over years. The existence of a high-quality alternative could help people avoid much of the potentially disastrous consequences if today's floating fiat currencies meet the same end as the 599 floating currencies that no longer exist.

Thank you.

[The prepared statement of Mr. Lewis can be found on page 50 of the appendix.]

Chairman PAUL. I thank you.

And now, we will go to Dr. Ebeling.

STATEMENT OF RICHARD M. EBELING, PROFESSOR OF ECONOMICS, NORTHWOOD UNIVERSITY

Mr. EBELING. Chairman Paul, and members of the subcommittee, I would like to thank you for this opportunity to share some ideas on this important theme of sound money, parallel currencies, and the roadmap to monetary freedom.

To discuss a possible roadmap to monitor a freedom in the United States requires us to first determine what may be viewed as sound or unsound money. Through most of the first 150 years of U.S. history, sound money was considered to be the one based on a commodity standard, most frequently gold or silver.

In contrast, the history of paper, or fiat, monies were seen as an account of abuse, mismanagement, and financial disaster, and therefore were viewed as unsound monies. The histories of our own American Continental notes during the Revolution, the assignat during the French Revolution, and the greenbacks and the Confederate notes during the American Civil War all warned of the dangers of unrestricted and discretionary government power over the monetary printing press.

That result was that in the second half of the 19th Century, all of the major countries of the world moved towards a monetary standard based upon a commodity, in this case, gold.

The important matter to be emphasized—that while it assured a degree of monetary stability while governments basically followed the rules of the gold standard—that is, a fixed ratio was established between a unit of gold and the amount of notes or account deposits that were extended after a deposit was made; the ability to redeem them at that fixed rate; the monetary authority of the central banks at that time basically following the rules of the road of limiting the amount of notes or accounts open to the amount of gold that had been deposited, withdrawing notes and accounts when gold was withdrawn, the fact remains that it still was a system of government-managed money.

And once the ideologies and philosophies of the time changed and the shift was to a more activist government policy in the 20th Century of government targeting price levels, government attempting to influence and manipulate output and employment or inflation targets and so on, the reins of ability to manipulate the monetary system were already in the hands of the authority given responsibility for money and credit in the economy.

That raises the entire issue as to whether it is desirable to have government managing a monetary and banking system at all. The free market case for competition in general and, therefore, a similar case in the case of money is the fact that competition in a market does at least two essential things.

First, it decentralizes the impact of errors. If a businessman makes a mistake in his entrepreneurial judgments, it may have a negative effect on himself, some of his employees, or a few suppliers of the good that he produces. But it is decentralized. It does not affect the entire economy. When a central bank makes a mistake, its impact is potentially on the entire economy as a whole, since the monetary authority influences interest rates in general, affects the supply of money in the economy in general, distorts relative prices, and impacts the general rate of inflation in the economy as a whole.

Second, it is only through competition that we discover innovative and creative ways to give people the things that they want. And this, market advocates have argued, is no less true in the case of money. If government did not monopolize the control of money, individuals in the market would determine what commodities such as gold and silver they choose to use as media of exchange.

What type of financial intermediation and forms of financial intermediation they found most advantageous and profitable to use. And a diversity of such forms—as banks offered different features, issuing their own notes based upon commodity money deposits—and therefore acting as a check and a balance on each other to give consumers what they wanted while restraining their ability to abuse their particular individual authorities.

So how would one move towards such a system of free banking and competitive choice in currency? I would like to suggest the following steps.

First, the repeal of the Federal Reserve Act of 1913 and all complementary and related legislation giving the Federal Government authority and control over the monetary and banking system.

Second, the repeal of the legal tender laws, giving the government the power to specify the medium of exchange through which people will transact and enter into contract.

Third, repeal all restrictions and regulations on the free entry into banking business and the practice of interstate banking.

Fourth, repeal all restrictions on the right of private banks to issue their own bank notes and to open accounts denominated in foreign currencies or in weights of gold and silver.

Fifth, repeal all Federal and State government rules, laws, and regulations concerning bank reserve requirements, interest rates, and capital requirements.

And sixth, abolish the Federal Deposit Insurance Corporation. Any deposit insurance arrangements and agreements between banks and their customers and between associations of banks should be private, voluntary, and market-based. In the absence of government regulation of this type, we would naturally move towards a system of competitive currencies and free banking.

Thank you.

[The prepared statement of Dr. Ebeling can be found on page 26 of the appendix.]

Chairman PAUL. I thank the gentleman.

And now, we will go to Mr. Gray.

STATEMENT OF ROBERT J. GRAY, EXECUTIVE DIRECTOR, THE AMERICAN OPEN CURRENCY STANDARD

Mr. GRAY. Thank you, Mr. Chairman, and members of the subcommittee. My name is Rob Gray, and I was asked to testify today on the theory of competing currencies and the practical challenges that make such a theory difficult or impossible to implement.

For nearly 5 years now, I have successfully directed the American Open Currency Standard, the standard for private voluntary silver, copper, and gold currencies that compete with each other, not against the U.S. dollar. Allow me to clarify. We do not consider AOCS-approved medallions produced and traded in our private barter marketplace competition at all to the U.S. Federal Reserve note.

Because fair competition, as one would find in the free market, assumes the existence of a level playing field, existence of a standard set of rules. Those players who wish to compete honestly do so by simply relying on the merit of the value that they bring to the market.

Well, no fair challenge can be made between honest men and thieves. Now let me be clear that when I say, "thieves," I refer directly to the current private central bank and the men in government who allow it to exist. It brings us to a critical point. According to your employee handbook, article one, section eight says that Congress shall have the power to coin money and regulate the value thereof.

I would argue that since 1913, Congress has failed to do the job with which it has been tasked. In the free market, since our inception, the Open Currency Standard has enjoyed nearly 5 years of growth and success, and our mission of issuing a means that allows valuable exchanges among those who produce.

In the next 5 years, we expect to expand our offerings and to increase our ability to keep up with the demand for our private currency. We are doing the job today that Congress would not. But back to theory. The use of community currencies here in the United States became popular back in the early 1930s.

At the time, the theory was that a group of the world's most powerful men were intentionally and systematically removing currency from circulation, creating artificial scarcity of money across the country. Small cities and towns felt it worse than anyone, but life did go on.

Then, during the greatest economic depression the country had ever seen, individuals across the country developed their own mediums of exchange. They still needed things like food, clothing, and daily essentials; they still needed to live. And they didn't have time to sit around and wait for the government to fix the problem.

And so, according to historical records, thousands of community currencies were created, circulated, and traded in places where the scarcity of dollars was interfering with humans' desire to live. Individuals took it upon themselves back then to secure the means for their own survival and potential prosperity.

More recently, community currencies have sprung up across Europe, as the euro and other national currencies become increasingly unavailable and undependable. Today, communities all across the eurozone trade their own money instead of the euro. Community currencies today are not simply a good idea in theory.

Right now, alternative and complementary currencies circulate widely across the country in many different forms. Ithaca, New York, has Ithaca Hours that are loosely based on the value of time. Berkshire, Massachusetts, uses a fiat-backed fiat system. And many more communities circulate gold, silver, and copper AOCS-approved barter tokens as a medium of exchange.

As for the practical challenges in the issuance and circulation of complementary currencies, there are plenty. In a voluntary system, those that participate in the trading of private currencies must deal with the possibility of counterfeiting, fraud, scarcity, acceptance, accounting, storage, and other issues, all without the luxury of Big Brother holding a gun to anyone's head to ensure their success.

But even with all these risks, the market still moves on. As in any free market, good ideas circulate with success and bad ones eventually fade away. Participants voluntarily choose to accept and circulate the highest quality currencies in exchange for their best production.

Merchants accept complementary currencies based on the premise that someone else is willing to do the same thing later. Issues arise and are worked out by the market with only one light to guide them—the mutual exchange of value. No guns, no laws, nor force, just the willingness to think outside the box and act on principle.

Complimentary currencies are not new, in theory or in practice. Private currencies circulated long before governments erected themselves to interfere. But what is new, however, is the public's apathy towards the government and the Federal Reserve, and their policies. You have managed somehow for the last 100 years to convince the citizens of this country that you are relevant.

But now, just recently, we are beginning to see the tides change on this. And once it catches on, you will be rendered completely obsolete. The greatest hurdle you will face over the next 100 years is trying to convince We the People that you are still necessary in spite of your failure to get the job done.

Sure, some will rely on your for handouts. That is what they have always known their entire lives, and they will be slaves right up to the point of their own destruction. But they don't know any better, and I don't blame them for their ignorance. In the future, you will not have to worry about Million Man Marches or citizen journalists trying to catch you on camera.

What you need to fear is no one paying attention to you. The next American revolution will be fought not with bullets and bombs, but instead it will be won with the opposite consciousness.

To that end, I am here today to propose a solution. My understanding of this committee is that you want to be part of the solution.

You want to believe that you are doing something good for the country. And so today, the greatest gift that you can offer to the people that you clearly represent—not to the legislature, but directly to the public—is what I call "IR–1207," Individual Resolution 1207, commonly referred to as "Ignore the Fed."

Store your wealth in silver, bank with non-fractional banks that pay real money on deposits, use the card service network to satisfy dollar obligations, do not try to compete with the Federal Reserve system; simply ignore them.

I ask you to leave the Fed their Federal Reserve notes and leave us our gold, silver, and copper. Do not push to redefine whatever representations we choose for our wealth. Let the Fed do what it wants with their legal tender, so long as they leave our money alone. I warn you, honest money legislation is a wolf in sheep's clothing.

The greatest thing this body can do is exactly what it has done so far: absolutely nothing. All I ask is that you stay out of the market's way. The people in our world are very happy to go right along saving you from your own destruction by producing value against all odds, regulations, codes, and challenges that you throw our way, but leave our money alone.

It doesn't belong to you, and it never will. The bottom line is very simple. Humanity is not going to wait for permission to survive. Things that cannot go on forever simply won't. The market will move on with or without you. And based on your rate of success to date, our preference is certainly without you.

Thank you for the time.

[The prepared statement of Mr. Gray can be found on page 41 of the appendix.]

Chairman PAUL. Thank you. I will now yield myself 5 minutes for questioning.

First off, I would like to talk about the legal tender laws a little bit more. I want to pose a question for all three of you. It was mentioned in your testimony about how important legal tender laws are and whether or not we can ignore them.

How important are the legal tender laws, and how important is it that we get rid of the legal tender laws if we really want to have a parallel currency and be assured that we can do it? Can we ignore it? Should we work to repeal it? How far can you go without dealing with this issue?

Because it does provide the monopoly that will not go away easily. So if each one of you could expand your thoughts on the importance of legal tender laws and what we should try to do, and is it absolutely necessary that we do something before we can advance the cause of competition or parallel currencies?

Mr. Lewis?

Mr. LEWIS. Although I think that some communities are using small-scale metallic currencies, more or less under the radar, if a large corporation—let us take Ford Motors, for example—would begin to do business in gold and silver coins or related currencies, they would immediately come under Federal scrutiny and basically be prevented from doing so.

What I would like to see is basically for gold and silver, and currencies based on gold and silver, to be treated as legal currency within the United States. In practice, this will require a declaration of some sort to make it effective. And ultimately, at the very least, to be able to treat gold and silver the same way we treat euros or Canadian dollars today.

We can all do business in them in the United States, even though they are not necessarily declared as legal tender, and so on and so forth. It would be better to have a more official declaration to say, yes, we accept gold and silver as a legitimate means of monetary transaction and a legitimate foundation for business.

Chairman PAUL. Thank you.

Dr. Ebeling?

Mr. EBELING. Yes. Anyone who has traveled in a country that has been experiencing severe, or even hyperinflation knows that in spite of official legal tender laws—that is, the government declaring a certain money or its currency the lawful money—people start using alternative currencies that they view, given their circumstances, as having more confidence in shorter certain value.

So in spite of laws and regulations, at the end of the day what people will choose to use as money, even when it breaks the law, they will follow what they view as most effective and self-interested for themselves in the marketplace to secure their wealth and their transaction opportunities for themselves and their families.

But the fact remains that while the market, in a sense, finally supersedes and no longer recognizes government laws when it becomes serious enough, it is crucially important if we could eliminate the legal tender restrictions in the United States. Because basically, it would say that now individuals—and the law, the government, the courts—will respect the contracting and the exchanging of any form of medium of exchange that the individual citizens of the society choose to use.

That would go a long way. For example, a well-known Nobel Laureate, Austrian economist Friedrich Hayek, once made the case for what he called "choice in currency." He was doing this before the euro in the context of Europe. But he said one way to tame the inflationary tendencies of government is to allow citizens within their own country just to use the currencies of other countries within their domestic exchanges if they choose.

To be able to say I don't trust, and have confidence in, the monetary authority to restrain itself in issuing excessive quantities of that money. Also, if you eliminated the legal tender laws, then the people themselves would decide do we want to use dollars, do we want to use alternative to dollars, how much do we want to use notes, how much do we want to use, actually, coins of various sorts?

And it would be basically saying consumer sovereignty, consumer choice. But if we could do that, that would be the essential roadway, and path, to restoring a system of monetary freedom. But if, in the United States, we were to ever experience—and, of course, we hope we never do—a serious and hyperinflation, the market would basically tell the government what it thinks of its money because people will choose to use alternative currencies of choice.

Chairman PAUL. Thank you.

Mr. Gray?

Mr. GRAY. Mr. Chairman, before addressing or issuing the answer to that question, can you please summarize for me your understanding of the legal tender laws as they exist today?

Chairman PAUL. Not at this moment. I would like you to answer the question first.

Mr. GRAY. My answer is, very simply, leave them alone. My understanding of the legal tender laws is that the U.S. dollar, the Federal Reserve note, can be used to satisfy debt obligations. We don't need to change that at all. There is no law that restricts us from privately minting coinage—tokens, medallions as we refer to them.

There is no law that restricts us from engaging in private barter transactions with other men. And so, we don't need to change anything about the legal tender laws in order to do exactly what we are doing right now.

Chairman PAUL. Okay.

I now yield 5 minutes to Mr. Luetkemeyer from Missouri.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

As you talk about the different parallel currencies, I think we have a parallel currency situation over in Europe right now that is pretty obvious. How is the euro working over there, in your judgment, all three of you?

Mr. EBELING. I will begin by saying I think it is an unmitigated disaster. The fact is, this was not a choice by the people either making their demonstrated choice in market exchanges or even in a political vote or a referendum. This was basically imposed upon many of the E.U. countries as a discretionary choice of the politicians.

Some of the more prominent countries wanted to have a unified currency so as to be able to have the political clout to look down the dollar in the eye, to be explicit. That is my view of why the French were pushing it. The result is that this currency has been imposed upon systems that follow different regulatory paths, different fiscal paths in terms of debt and deficits, all of which has created this problem.

A lot of people in Europe are saying, "Oh, it would be disastrous if the Greeks pulled out and reestablished the drachma," for example, or "the Spaniards were to reestablish a peso," for instance. I think that would be the path to denationalize, or rather deinternationalize this monetary system because it is not working.

And it is dependent upon a central bank in one location to make the monetary choices and decisions for all of the hundreds of millions of people who participate in this system, rather than allowing even the competition of the national central banks, as had existed before. Because if you felt that the lira was being inflated, people escaped into marks.

That was the pattern in the post-war period. Where does an Italian escape to now as easily as into the market as was historically the case? So even in terms of competitive national currencies, the unification under the euro has been a disaster, and certainly for the freedom of the people there.

Mr. LUETKEMEYER. Mr. Lewis?

Mr. LEWIS. I would generally agree with Dr. Ebeling. I don't think the euro is a case of a parallel currency so much as a shared monopoly currency. With parallel currency, the idea is having the choice of two highly viable alternatives. For example, the euros, maybe, in Turkey, where the Turkish lira has a rather poor history, often people use Deutsch Marks in the past and now use the euro.

So I think that is probably a bad example of a parallel currency. Thank you.

Mr. LUETKEMEYER. Mr. Gray?

Mr. GRAY. I think the key thing to consider with what is going on right now in Europe, besides the fact that there is just no confidence whatsoever in the banking system is that still, in our country here today, we do have confidence in our currency, we do have confidence, for the most part, in the banking system, for whatever reason.

And that is very different over in Europe right now. As soon as money shows up and the banks are unfrozen, the people make a run on the bank. They pull out as much currency as they can, they turn it into anything they can get their hands on that is valuable; whether that is another currency, or hard goods, or gold and silver.

It is the same thing that we are seeing now that we saw in hyperinflation just before World War II, where the race was on to get rid of the currency as quickly as possible. The advantage we have right now is that we don't have that yet in our country. And I think the opportunity that lies before us is to help the people of this country get out of that system, deleverage the system, so that they don't have to experience the panics and the fear that are being experienced right now in Europe today.

Mr. LUETKEMEYER. You had a key word there that really describes all monetary systems and, basically, even economics. And that is "confidence." If people don't have confidence that the money that they are exchanging for goods is worth that amount of money, or whatever it is, there is very little transaction that takes place.

And so really, even at the highest levels of the biggest banks, we found in 2008 that it wasn't necessarily the entity that they were dealing with. It was the confidence in that entity to be able to transact business.

And so basically, you have a fall-back on confidence, which leads me to the question with regards to what we are talking about this morning, sound money and parallel money. If you work in a different monetary system parallel to another one, where is the level of confidence going to come from that allows that business to be transacted in a parallel currency?

Mr. GRAY. The simple answer to that question is the confidence comes from the fact that the currency is not based on debt. Every national fiat currency is put into circulation through loans and debt.

And so people today are starting to understand that there is so much money out there that people owe in loans, mortgages, credit card bills, all these derivatives out there—trillions and trillions of dollars—and all that money has to be paid back eventually.

That is where the lack of confidence comes from. And so when you start thinking and talking about alternative currencies, especially those that are issued in gold, silver, copper, and something real, some sort of commodity, people who understand the concept begin to realize that those are debt-free currencies that don't need to be paid back at some point to some bank.

Think about all the money that the people of America owe to the banks. Think about all the people who are in debt, all the States and the municipalities, the colleges, universities. Everyone is in debt. The real question is, who owns the other side of that debt?

And that is where the lack of confidence comes from. The fact that people are starting to ask that question, and realize that there is really no money out there to begin with.

Mr. LUETKEMEYER. I see my time is up.

Thank you, Mr. Chairman.

Chairman PAUL. Thank you.

If the gentleman from Arizona is ready, he could be recognized. If not, we can wait a couple of minutes. Are you ready? Okay, thank you. I will go on and have a second round of questions.

The question of taxation comes up with money, as well, because we think money is a commodity. And our government tends to think that any time you have a commodity transaction, you pay taxes on it. You have sales taxes and you have capital gains taxes. And that, I think, curtails this development of parallel currencies.

And I don't know how we could ignore this if we really want to promote some competition or allowing another currency. Because if you tax one currency but not another one, it is hardly a parallel currency. It is at a tremendous disadvantage.

So if a parallel currency really got off the ground, because of the conditions or the people became knowledgeable and they thought it was wise to do it, the people in Washington don't like to have their powers undermined. So they have the power of the IRS.

Isn't this a significant concern, or do you think we can just sort of bypass it, and say, "Well, it's a problem, but not a big problem. We will just go do our thing, and it can work." What is your opinion about the tax issue when it comes to a parallel currency, all three of you?

Mr. LEWIS. I think there are—just as you can have under-the-table transactions in U.S. dollars, small-scale that maybe you don't report to the IRS, you can also do so. And maybe people are doing so with gold and silver coins or copper coins today. But as soon as you get the business of any scale, you can't break the laws that easily.

I think that ultimately, just as you say, we have taxes that apply to transactions in dollars, capital gains taxes, for example. We have taxes that apply to transactions in euros and Canadian dollars and many other currencies. We have many thousands of corporations doing business in many currencies worldwide.

I think we should recognize that because gold and silver and related instruments are not recognized as currencies, they are under a different system of taxation. Gold, for example, has a different tax rate because it is a collectible. But I think more importantly, let's just take a very simple transaction. I wanted to buy a car from the Ford Motor Company, I wanted to pay them in gold coins, U.S. Mint American Eagles produced by the government.

When I give the gold coin to the auto dealer, that would be considered basically a sale of the coin and you would have to pay capital gains tax, taxes on what the dollar value of the coin was when you acquired it and when you dis-acquired and so on and so forth. Which is very different than if I were to, for some reason, do the same transaction in euros where that would not apply.

So I think that at the very minimum, we should endeavor to treat these the way we would treat other national currencies today, which we are actually doing business in. Not so much in the United States, but what American citizens, the American corporations are doing every day and accountants are very familiar with how this works.

So I think that there is definitely something for the Federal Government to do there to legitimize that and treat it as the same way we treat other national currencies today.

Thank you.

Mr. EBELING. Yes, I would argue that the parallel way of thinking about this is, in international trade, what we call the most favored nation clause. Any agreement that you reached with country X, you give the same best-favor treatment with import duties and so on to all other countries with which you trade.

The parallel argument would be that the government should recognize that anything that people use as a medium of exchange in transactions should be viewed as anything that they have historically viewed as a transaction. Basically, that there shouldn't be these extra taxes. That was just pointed out.

So that if people are now using gold and silver coins, the transaction should be more taxed or treated in a different way than any transaction with the Federal Reserve's own note. That gives a level playing field with neither an advantage nor disadvantage for the use of one currency versus the other.

Because otherwise, the government creates stumbling blocks and hurdles to give people those fair and level playing field choices. So the parallel should be some taxing of media of exchange along this notion of the most favored nation clause.

Chairman PAUL. Mr. Gray?

Mr. GRAY. First of all, Mr. Chairman, I want to clarify that we are not tax experts and we are not allowed to give tax advice, nor do we give tax advice to anyone who participates in our system. Our job is, very simply, to issue the currency and make sure we guarantee the weight and the purity. So we are just keeping an eye on what is going out there.

But tax applications vary from State to State, municipality to municipality. Some States, some cities and towns, allow you to barter. They say, well, you can do 100 barter transactions per month or per year, and they don't look at is as being under the table or underhanded. They look at it as just being private trade that is not a taxable event.

Certainly, my understanding is that the Federal Government would like us to report the profit or gain from any transaction. That is kind of strange because in a barter transaction, there is not really any profit or gain on either side of it. But in our voluntary system, we encourage the participants to explore and decide for themselves based on their own morals and values what their tax obligation is, and to report and to remit accordingly.

Chairman PAUL. Thank you.

Now, I recognize Mr. Luetkemeyer from Missouri again.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Following up again on my comments earlier with regards to the confidence in the system and the ability to protect the citizens whenever you transact business like this, Dr. Ebeling, I think in your testimony you abolish the Federal Deposit Insurance Corporation. While you may not like it, that is also one of the things that adds confidence to the person who deposits money in the bank. To realize that if they deposit the money there, they are going to be able to get it back. Without that, the consumer is going to have to do an awful lot of work.

And as you gentlemen have described this morning, parallel monetary systems—you are going to put a tremendous onus on the individual to make sure that they get value back for whatever they exchange their money for, and that that money will have value down the road so they will not lose value and business continue to be transacted in that same form.

And so, I think one of the advantages of the system we have now is that it takes a lot of the work in trying to find ways for the money to be able to be secured and have confidence in away from the consumer. Am I wrong in that, or do you agree with that statement?

Mr. EBELING. I think that the problem with deposit insurance is that it creates a degree of confidence, but a false sense of security. The fact is, is that the impression is made that the bank is serving as a depository for your money and that it is always guaranteed to be gotten back.

The fact is, you put money into a bank to earn interest. The bank can pay you interest only through one way, and that is extending it and pooling your savings with others to worthy borrowers. They pay interest for the loan, the bank receives that loan. They take what they view as their service charge for financial intermediation, and then you as the depositor receive your interest, whether it be a savings account or most forms of checking accounts which pay interest now.

The fact is, you are putting your money at risk. You are lending it to others through the bank's good services. Federal Deposit Insurance has created this impression as if there is no risk with your money. And the fact is, I think the people would be more cautious and more attentive to the nature of the bank that they are doing business with, what the track record of the bank is in managing your funds, along with those of other depositors.

And on that basis, seeing what private insurance or guarantees or other forms of assurances bank competitively would establish. We take for granted that when you go in and buy, for example, a microwave or an oven or a refrigerator, what if it doesn't work?

Most large companies, for brand name reputation, give you various warranties and guarantees. And it is important for the company's success to stand by and guarantee that warranty and guarantee. Various banks, for competitive advantage, would offer various types of, perhaps, guarantees and warranties on deposits, but with the understanding that nothing is certain.

In a money market mutual fund, you realize that the value of your account may go up or down depending upon the value of the portfolio of the company with which you are dealing. The fact is, that is the case of a bank, too.

Mr. LUETKEMEYER. You are mixing apples and oranges here. You are talking about an investment account, where you know that the money is going to be invested and it has the ability to go up and down, versus a deposit where you put the money in and you are going to write checks on that account.

And I think the deposit insurance takes some of the risk away. Over the last 4 years, we as a society have been educated to the fact that banks manage risk. That is what they do. Before, people thought they just take deposits, make loans, and turn around and pay out dividends and interest and whatever.

That is not what happens. They manage risk. And so, the deposit insurance actually minimizes the risk. It doesn't take it all away, but it minimizes it so that it gives some level of confidence to that investor. And I don't think you can sit there and say that somebody who invests in a money market account or some sort of investment account at the bank, that is a totally different relationship between the bank and the individual customer.

I have some concerns about that.

Mr. EBELING. If I could just sort of follow up on that, the mistake is that people view their checking accounts—I have a checking account, as I know you have—you feel as if, well, I have deposited my paycheck and I can draw that money down by writing checks or using my debit card, etc.

The fact is, that is not a warehouse deposit or like a safety deposit box. The fact is, under our current banking system that money is then taken—which you are viewing as 100 percent accessible to you—and using it as part of their investment funds to lenders. It is at risk as much as a savings account is, where you know that during the period of like a time deposit your money is being lent out to a lender.

The fact is, to a borrower, the same things applies with our checking accounts. People are given a false sense of security that this is not an investment account, when it is. It is as much of a risk as when you put your money in the bank and a savings account and you more consciously know the bank is using your money for a period of time with a risky loan.

Checking accounts are, in fact, with our system no different. And if you didn't have deposit insurance, I would suggest that people would become more aware of it and be more cautious, informed and intelligent in what type of banking institution they did business with.

I am talking about the long-run, institutional incentives of a system.

Mr. LUETKEMEYER. I see my time is up. Thank you, Mr. Chairman.

Chairman PAUL. Thank you.

I now recognize the gentleman from Arizona, Mr. Schweikert.

Mr. SCHWEIKERT. Thank you, Mr. Chairman. This may be a slightly more ethereal question, but I am trying to also understand how much of this is actually going on around us. And actually, also, if you have ever looked at the differential in high transaction cost jurisdictions: high sales tax; the barter economy; some of these things I now see on the Internet.

What was one of them called? Something "coin," where you can actually develop—what was it?

Mr. GRAY. Big Coin, I believe?

Mr. SCHWEIKERT. Yes. And I think there are two or three versions of that, where, because of certain transactions or uses of Web sites or these things, you actually build accounts. How much of this is there already, even though in the scale it may be very small?

Is there actually, in sort of the barterer of economy, of this Internet exchange of value that is out there? I remember there was an explosion of it in the early 1980s, very early 1980s, when inflation—so I would trade something with my dentist for this. And even though inflation and other things, I knew I was getting a certain service for a certain service.

What is out there today?

Mr. GRAY. It is pretty substantial. The first thing to take a look at is the gray and black economics of the world which, right now, are really the only segment of the global marketplace that is actually growing. A lot of that is done with barter, direct trade. Some of it is done with alternative community currency, some of it is done with gold and silver.

So it is happening right now across the globe in a very big way. In the United States, there are probably 400 to 600 different community currencies in circulation right now. The total value of the currency in circulation is probably somewhere between $1 billion and $5 billion, I would estimate.

So it is small, but it is consistently growing.

Mr. SCHWEIKERT. I don't think a lot of folks even understand. My little sister was part of a baby-sitting exchange. She puts in so many hours, and she gets so many hours over there. In many ways, that was a barter economy, and folks don't realize they were basically transacting value for value.

What happens if we wake up tomorrow and a handful of our trading partners, competitors move to a basket or currencies? And so China and a couple other countries say, "We are going to do this new blended currency." Does that actually now create a new method of exchange?

I have been trying to figure out if that actually creates an additional value of exchange with which we would have to deal.

Mr. GRAY. I think on the macro level in the global economy, yes, it does. As far as the micro level and the baby-sitters and the pet groomers and people in small towns and cities across the country, I don't think they would notice that any more than they notice, and are affected by, the international currency problems we have right now.

So I think, yes, globally sure.

Mr. SCHWEIKERT. But where that more comes from, Mr. Chairman, and to whoever would like to answer this, I don't know how often you see this, but I used to see it in the old days. A contract would have a gold clause in it, particularly contracts that were coming out of the late 1970s, very early 1980s when there was high inflation, saying, "Hey, we are going to write the contract denominated in U.S. dollars, but there will be a gold peg on it so if somehow inflation might—by the time we are going to do the takedown."

I am curious if we are seeing any more of that type of hedging. And that is actually what a blended commodity currency would do, also. I told you this was going to be a bit ethereal.

Mr. EBELING. I think what is sometimes being proposed, the Chinese and the Russians have talked about this instead of the dollar as an international currency for a lot of transactions. What this idea of a basket of commodities or series is, is to try to have an index of what currency A, let us say the U.S. dollar, is worth as sort of an index, or composite, of these other currencies to determine some value.

But the fact is that what would still be traded is actually some currency A for currency B. But the market estimate of what currency A is worth in relation to currency B would be that the currency B would, in fact, have its value based upon some composite index. It is a way of determining the exchange ratio, not so much that you would be trading the basket of the currencies for this other good, or this other currency.

Mr. SCHWEIKERT. And my fear is, often—and my good friend, Mr. Luetkemeyer, I think, that was also part of the dialogue of it—sometimes, it is not only you get back your dollar-for-dollar invested, but what was the actual ultimate purchasing power of that dollar when you get it back.

And I think that is actually a much more honest way to look at the value of a transaction.

Mr. EBELING. Right. And see, what happens—again, as I mentioned in an earlier question—is that if you have traveled in a country that is dealing with a severe or a hyperinflation, the uncertainty and instability of that nation's own currency has reached such a point that people no longer either use that currency, or they calculate its real value in another currency, whether it be, let us say, a dollar or an ounce of gold.

And they say that based upon this other currency, that is what we are going to view as the value of my own currency in buying commodities.

Mr. SCHWEIKERT. Mr. Chairman, I know I am way over time. But if you have done lots of traveling, particularly in the third world, you will often see, here is the price in the local and here is the price, as I had an experience in Myanmar. There was a price for green, which was U.S. currency.

So thank you, Mr. Chairman.

Chairman PAUL. Thank you.

We will be having a vote shortly, but I believe we have time for another round of questions. I have a question for Dr. Ebeling. And it is a more generalized and philosophic question. Under the system we have today, it is very unfair to one group, where another group, I think, benefits.

And if you look at runaway inflation, it is not usually those who have been able to park their money overseas and escape the harm. Many times it is the average person who had savings in accounts and they lose everything. I think what we are dealing with on a monetary system is a reflection of a bigger philosophy.

And that is the philosophy of government, big government, and why we spend so much money. And money is not so much a means of exchange, like it should be. It is the vehicle for taxation. Because we have big government for various reasons and there is never enough tax money. But there is also the printing press and there is the printing of money.

Which is really a tax on the people, the middle class and the poor. Many people endorse that system because they have been convinced that the current system is helpful to the poor. We can have housing programs and we can provide welfare, and they really like the system. They don't want to give up on it.

Now, we might agree that a sound monetary system would be more fair and it wouldn't be beneficial to the very, very wealthy and to the Wall Streets and the bankers. But what about if we got a little further along on parallel currencies?

Do you see any way this could give a temporary reprieve, or would it once again been seen oh, this is just another gimmick to protect the rich, and the poor don't know anything about this, they can't use this currency, and it is really not a solution; it doesn't even address the subject of this inequity in the system that we have today.

Do you have any thoughts on that at all?

Mr. EBELING. Yes, I think that is an important point. We can see the problem sort of magnified as one reads about it in the press, for example, is what has happened in Greece right now. The fact is, is that for years, decades, the Greek government promised more than it has turned out it can pay for, either with taxes or with continuing borrowing.

That is one of the reasons some in Greece want to return to a drachma so they can just print the money that they need to cover the promises for which the real resources in the society are not available. It is the long run versus the short run.

In the short run, if the government can tax, borrow or print money, it can create the illusion of generating wealth and benefits and special opportunities for various segments of the society. But in the longer run, the problem is that eventually the piper has to be paid. The tax money runs out.

Or it can't borrow anymore, or it becomes very expensive, as the Spanish and the Italians are now finding, as well as the Greeks. Or they resort to printing money. But at the end of the day printing money dilutes the value of every unit of money in people's pockets. It destroys savings, it undermines the ability to undertake exchanges. It diminishes the ability for profit-making decision-making. And therefore, it is most devastating on the poor.

The analogy is like the kid who goes to the circus and he eats too much cotton candy. And his Uncle Bob who took him said, "Gee, I am sorry that you have a tummy ache, so to make you feel better here's more cotton candy." That is just exacerbating the problem. At the end of the day, the boy gets home and he has a big tummy ache.

And that is what has to be emphasized, the illusion—

Chairman PAUL. Okay, I want to interrupt for a minute because I want to know about whether the parallel currencies affect this in any way, positively or negatively. Or does it help this inequity and this disadvantage over the kind of system we have today?

Mr. EBELING. Yes, I would argue that if people had a choice in currency—whether they be rich, middle-income or poor—they would have a way to park their income and wealth in an alternative medium of exchange, a unit of account, that they could have greater security of, that its value is more certain and more stable based upon their fears and expectations about the trend their own national currency is following.

Chairman PAUL. So there is even an advantage to incrementalism in moving in this direction if it is available to the people rather than saying, "Well, we can't do a thing until we repeal the Federal Reserve Act," and that sort of thing.

Mr. EBELING. Absolutely.

Chairman PAUL. Okay, very good.

Now, I want to go to Mr. Luetkemeyer, if he has another question.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

To follow up on that, how do you protect the citizen to make sure that they don't get slipped up on with going to alternative or parallel currencies? How do they have, how can they enable—we have a whole group of folks here this morning. How can each one of them know that if they want to transact business and each one of them a different currency, it is going to be something that they will be able to trade down the road?

Mr. LEWIS. This relates to your previous comment about confidence. In practice, it will be a process of some institution establishing a track record. And also the institution being sort of visibly considered to be a long-term—

Mr. LUETKEMEYER. So in other words, whether it is a country or city or a state, whatever entity produces the currency there will have to be a certain level of confidence in that entity to be able to—

Mr. LEWIS. Right.

Mr. LUETKEMEYER. There would—

Mr. LEWIS. And it will have to be earned. You can't decree it. You can't have an advertising campaign. We are kind of talking about these very small kind of neighborhood currencies. And on a larger scale, that might be where we would begin.

On a larger scale, it could be Citibank, it could be the State of Utah. I know some of my colleagues here would be appalled at the idea of the U.S. Federal Government issuing a parallel gold currency. But I think it is an interesting idea.

Or it might be the state of Russia. In practice, the one that has the most confidence will be the one that people use. The reason that people used the U.S. dollar after World War II is because it had a long history, over 100 years, of sticking to the gold standard. It had a stable political system, it was militarily impervious.

And that is why they used that instead of the currency of China or what have you. It will be, ultimately, a process of track record, and probably very large organizations will dominate.

Mr. LUETKEMEYER. Okay, Mr. Lewis, we have before us this morning your book. I was trying to read the cover and the back of it here, as well as the inside slips. Can you just briefly tell me how you would like to see us—or could be enabled to be able to move over to the gold standard? What are your thoughts on it?

Mr. LEWIS. Ideally, you would all have an epiphany and understand that this is the best system for all of us. However, in practice, one of the reasons we are here today, I think, is that typically, people have these epiphanies after a tremendous catastrophe. It happened many, many times in the past.

Usually, things go all the way. You don't stop halfway and say, "Oh, I think I know where this is going. Let us stop now and switch to a gold standard system." Usually, you end up in disaster. Whether it be China in 1949; the hyperinflation, Japan in 1949; hyperinflation, United States in 1784; hyperinflation, Germany 1923.

Hyperinflation, you tend to end up with some kind of catastrophe beforehand. One of the nice things about the parallel currency idea is maybe you can avoid that process, that political cycle. You could establish something, even by the Federal Government or by very many means, and you could have the two options available.

So when people simply decide to do business in one currency or another—say I am going to write the contract in U.S. gold dollars, not U.S. Bernanke bucks, they will start to buy and sell and do business in that way. And then over a period of a few years, perhaps, people will just naturally decide which system they like better, the Bernanke system or the gold system, and they can migrate and, eventually, have a very smooth, non-disruptive transition between one and the other, ideally.

Mr. LUETKEMEYER. But even in your system of moving over to the gold standard, there still has to be a level of confidence and that as the backup, as the standard, would it not?

Mr. LEWIS. You would have to have—ultimately every currency has an issuer. And ideally, that issuer will have a track record of managing the currency correctly. And will likely probably be, in my opinion, a large institution, maybe a national government, maybe a State government, maybe a—maybe a large bank, maybe some other large institution that emerges.

We are simply not going to have the entire United States do business in a currency that is issued by something in—a little storefront in Miami or something of that sort when we get to that scale. So the institution will earn the confidence.

Mr. LUETKEMEYER. All right, thank you.

Thank you, Mr. Chairman.

Chairman PAUL. I thank the gentleman.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for Members to submit written questions to these witnesses and to place their responses in the record.

This hearing is now adjourned. I appreciate your appearance today. Thank you very much.

[Whereupon, at 11:08 a.m., the hearing was adjourned.]

A P P E N D I X

August 2, 2012

United States House of Representatives
Committee on Financial Services
Subcommittee on Domestic Monetary Policy
Hearing on Sound Money: Parallel Currencies and the Roadmap to Monetary Freedom
August 2, 2012

Congressman Ron Paul
Statement for the Record

One of the most pressing issues of our time is the push for monetary freedom. The only sound monetary system is one which protects sound money and allows consumers, businesses, and investors the freedom to transact in the currency of their choice. The importance of sound money is summed up nicely by Ludwig von Mises: "It is impossible to grasp the meaning of the idea of sound money if one does not realize that it was devised as an instrument for the protection of civil liberties against despotic inroads on the part of governments." It is no wonder that governments fight tooth and nail against sound money, as sound money protects the well-being of the middle class and the poor while preventing the expansion of government.

Governments throughout history have sought to monopolize the issuance of money, either directly or through the creation of central banks. The growth of central banking in the 20th century allowed governments to monetize their debt in an indirect manner while still ensuring a ready market for government debt. And central banks' slow but sure debasement of the currency allowed governments to repay their debts in devalued money. What debtor would not want such a sweetheart deal?

Indeed, the 20th century witnessed a revolt by governments against the strictures of sound money. In some countries such as Weimar Germany the revolution came quickly and the results were both immediately apparent and instantaneously disastrous. In other countries such as the United States, the revolt came more gradually, with the destructive effects of money printing only recently becoming apparent to more and more Americans.

Over the past 100 years, the Federal Reserve has continually pumped new money into the economy, resulting in a 96 percent devaluation of the dollar. This devaluation does not affect everyone equally, as the banks who receive this new money first benefit from using it before prices rise, while average Americans suffer the price rises first and receive only a trickle of money well afterward. In this way the Fed enriches Wall Street while impoverishing Main Street, leading to a growing disparity of wealth.

The wealthy are always able to protect the value of their assets against inflation to an extent that the middle class and poor cannot. Anyone with enough money and resources can set up a foreign bank account denominated in euros or Hong Kong dollars, or purchase gold and silver that will be safely stored in London or Singapore. The rich are best able to purchase precious metals, the only ones able to invest in high-yielding hedge funds, and the ones most able to shelter their assets from punitive taxation.

All the legislation and regulation that ostensibly protects the average American from losing money in fact does exactly the opposite. It keeps the average American from being able to defend against inflation by investing in precious metals, forces him into mediocre investment opportunities that do not even keep up with inflation, and leaves him at the mercy of the taxman. Compared to their counterparts in other countries, the average American has far fewer financial options available to them.

Mexican workers can set up accounts that are denominated in ounces of silver, and can take delivery of that silver whenever they want, tax-free. In Singapore and some other Asian countries, individuals can set up bank accounts denominated in gold and silver. Debit cards can be linked to gold and silver accounts so that customers can use their gold and silver to make point of sale transactions, a service which is only available to non-Americans. In short, Americans have far fewer options to protect their wealth than citizens of many foreign countries do.

The solution to this problem is to legalize monetary freedom and allow the circulation of parallel and competing currencies. There is no reason why Americans should not be able to transact, save, and invest in the currency of their choosing. Unfortunately, decades of government restrictions and regulations have hampered and prevented the circulation of parallel currencies and destroyed the familiarity of Americans with any sort of money aside from Federal Reserve Notes or bank deposits denominated in U.S. dollars. The thought of introducing parallel currencies undoubtedly scares many people who understandably wish to minimize their financial risk.

All financial activity is fraught with risk. Most people understand the risks inherent in stock or bond investment, but the risk of holding savings accounts or cash is still drastically under-appreciated. Everyone is familiar with the maxim "Don't put all your eggs in one basket" and investors and savers are constantly urged to diversify their portfolios, yet the U.S. government continues to set roadblocks that force Americans to transact and save in dollars that continue to depreciate.

According to the government's official figures, price inflation runs around two percent per year which means that, since interest rates on savings accounts are near zero, the real rate of return on savings accounts is negative. Anyone holding a savings account or cash is losing nearly two percent of the value of his savings per year with this relatively mild inflation. Some private economists estimate that actual price inflation is running closer to nine percent per year, which would make the loss from holding dollars enormous.

Even greater danger comes during bouts of hyperinflation, such as during Weimar Germany and more recently in Zimbabwe. But when Zimbabwe's dollar became worthless, people began to use U.S. dollars, South African rand, and Zambian kwacha to conduct transactions. Similarly in Weimar Germany, many individuals resorted to using dollars, pounds, and precious metals. So despite the economic hardship wrought by hyperinflation, not all economic activity ground to a halt, largely due to the circulation of parallel currencies. Should the United States ever face a hyperinflationary crisis, which due to the Fed's quantitative easing is very possible, the only means of survival would be through the use of parallel currencies.

It is horribly unjust to force the American people to do business with a dollar that is continuously debased by the Federal Reserve. Forcing a monopoly currency with legal tender status onto the people benefits the issuer (government) while harming consumers, investors, and savers. The American people should be free to use the currency of their choice, whether gold, silver, or other currencies, with no legal restrictions or punitive taxation standing in the way. Restoring the monetary system envisioned by the Constitution is the only way to ensure the economic security of the American people.

Testimony for the Subcommittee on Domestic Monetary Policy and Technology, on "Sound Money: Parallel Currencies and the Roadmap to Monetary Freedom, Thursday, August 2, 2012.

Sound Money, Monetary Freedom, and the Government

By Dr. Richard M. Ebeling
Professor of Economics
Northwood University
Midland, Michigan 49640

> The gold standard alone is what the nineteenth-century freedom-loving leaders (who championed representative government, civil liberties, and prosperity for all) called "sound money." The eminence and usefulness of the gold standard consists in the fact that it makes the supply of money depend on the profitability of mining gold, and thus checks large-scale inflationary ventures on the part of governments.
>
> Ludwig von Mises[i]

To discuss a possible roadmap to monetary freedom in the United States requires us to first determine what may be viewed as a "sound" or "unsound" money. Through most of the first 150 years of U.S. history, "sound money" was considered to be one based on a commodity standard, most frequently either gold or silver. In contrast, the history of paper, or fiat, monies was seen as an account of abuse, mismanagement and financial disaster, and thus "unsound" money.

The histories of the Continental Notes during the American Revolution, the *Assignats* during the French Revolution, and then Greenbacks and the Confederate Notes during the American Civil War, all warned of the dangers of unrestricted and discretionary government power over the monetary printing press.[ii] This view was summed up in the middle of the nineteenth century by the famous British economist, John Stuart Mill, whose *Principles of Political Economy* was a widely used textbook for decades not only in his native Great Britain, but in the United States, as well:

> The issuers may add to it indefinitely, lowering its value and raising prices in proportion; they may, in other words depreciate the currency without limit. Such a power, in whomsoever vested, is an intolerable evil.... To be

> able to pay off the national debt, defray the expenses of government without taxation, and in fine, to make the fortunes of the entire community, is a brilliant prospect, when once a man is capable of believing that printing a few characters on bits of paper will do it . . . There is therefore a preponderance of reasons in favor of a convertible, in preference to even the best-regulated inconvertible currency. The temptation to over-issue, in certain financial emergencies is so strong, that nothing is admissible which can tend, in however slight a degree, to weaken the barriers that restrain it.[iii]

Episodes of great inflations in countries like Germany, Austria, and China in the twentieth century only have reinforced the advocates of "sound money" on the dangers of paper money in the hands of any political authority.[iv]

The importance of a monetary system based on gold, therefore, is that it limits the range of discretion open to governments to manipulate the quantity and value of money. The fundamental rule that the supply of money in the economy is anchored to the profitability of gold production as determined by market forces depoliticizes the monetary system to a significant degree.

Given an established redemption ratio between bank notes and deposit accounts and a quantity of gold on deposit in banks; given fixed reserve requirements on checking and other forms of bank deposits; given an established rule of the right of free import and export of gold between one's own country and the rest of the world; and assuming that the political authority with responsibility over the country's monetary system does not interfere with these conditions and rules, then political influences on the value and quantity of money would be minimized.

The Gold Standard in Practice

In the second half of the nineteenth century most of the major nations of the world put into place national monetary systems based on gold. By the fact that such a large number of countries had each linked their respective currencies to gold at some fixed rate of redemption in this manner, there emerged an international gold standard. A person in any one of those countries could enter any number of established, authorized banks and trade in a certain quantity of bank notes for a stipulated sum of gold, in the form of either coin or bullion. He could transport that sum of gold to any of the other gold-based countries and readily convert it at a fixed rate of exchange into the currency of the country to which he had traveled.

As Murray Rothbard expressed it in, *What Has Government Done to Our Money?*

> The world was on a gold standard, which meant that each national currency (the dollar, pound, franc, etc.) was merely a name for a certain definite weight of gold. The "dollar," for example, was defined as 1/20 of a gold ounce, the pound sterling as slightly less than 1/4 of a gold ounce....

> This meant that the "exchange rates" between various national currencies were fixed, not because they were arbitrarily controlled by government, but in the same way that one pound of weight is defined as being equal to sixteen ounces.[v]

Why did governments recognize and (with occasional exceptions) follow the rules of the gold standard through most of the nineteenth century? Because the gold standard was considered an integral element in the reigning political philosophy of the time, classical liberalism. As the German free-market economist Wilhelm Roepke explained in *International Order and Economic Integration*:

> The international "open society" of the nineteenth century was the creation of the "liberal spirit" in the widest sense, [guided by] the liberal principle that economic affairs should be free from political direction, the principle of a thorough separation between the spheres of government and of economy . . . The economic process was thereby removed from the sphere of officialdom, of public and penal law, in short from the sphere of the "stat'" to that of the "market," of private law, of property, in short to the sphere of "society."[vi]

At the same time, said Roepke,

> This [liberal] principle also solved an extremely important special problem of international integration . . . i.e., the problem of an international monetary system . . . in the form of a gold standard . . . It was a monetary system which rested upon the structural similarity of the national systems, and which made currency dependent, not upon political decisions of national governments and their direction, but upon the objective economic laws, which applied once a national currency was linked to gold . . . But it was at the same time a phenomenon with a moral foundation . . . The obligations, namely, which a conscientious conformity with the rules of the gold standard imposed upon all participating countries formed at the same time a part of that system of written and unwritten standards which . . . comprised the [international] liberal order. [vii]

In the nineteenth century, the ruling idea had been liberty. The wealth of nations was seen as arising from individual freedom in a social order respecting private property in the means of production. The relationships among men, it was believed, should be based on voluntary exchange for mutual benefit. Just as there were no inherent antagonisms among men in a free market within the same nation, there were no inherent antagonisms among men living in different nations. The mutual gains from trade could be expanded by extending the principle of division of labor to a global scale. If men were to benefit from those possibilities, a stable, sound, and trustworthy monetary order had to assist in the internationalization of trade. Gold was considered the commodity most proven through the ages to serve that function. And preservation of the gold standard, therefore, was given a prominent place among the limited duties assigned to the classical-liberal state in that earlier era.

In the nineteenth century there also was a greater humility among those who constructed and implemented various government economic policies. There was a general agreement with Adam Smith's observation that "the statesman, who should attempt to direct private people in what manner they ought to employ their capitals, would not only load himself with a most unnecessary attention, but assume an authority which could safely be trusted, not only to no single person, but to no council or senate, and which would nowhere be so dangerous as in the hands of a man who had the folly and presumption enough to fancy himself fit to exercise it."[viii]

The Gold Standard, Central Banking, and Changing Monetary Policy Goals

The classical liberals were deeply suspicious of government abuse of the printing press. They believed that only a monetary system under which all bank-issued notes and other deposit claims were redeemable on demand for gold could act as a sufficient check against the abuse and debasement of a currency.

However, even in the high-water mark of classical liberalism in the nineteenth century, practically all advocates of the free market and free trade believed that money was the one exception to the principle of private enterprise. The international monetary order of the last century, of which Wilhelm Roepke spoke in such glowing terms, was nonetheless the creation of a planning mentality. The decision to "go on" the gold standard in each of the major Western nations was a matter of state policy.

A central-banking structure for the management and control of a gold-backed currency was established in each country by its respective government, either by giving a private bank the monopoly control over gold reserves and issuing banknotes or by establishing a state institution assigned the task of managing the monetary system within the borders of a nation. The United States was the last of the major Western nations to establish a central bank, but it finally did so in 1913.

Central-banking authorities were given the power and responsibility to manage the gold reserves at their disposal and the quantity of notes and other bank deposit claims outstanding to maintain the soundness of the monetary system and to counteract various short-term fluctuations in the national currency's foreign-exchange rate, the balance of payments, and the quantity of financial credit available in the country's economy. Their policy "tools" included manipulation of short-term interest rates and the buying and selling of private-sector bills of trade and securities.

While the goals for monetary policy may have been considered modest and limited in the eyes of the classical liberals of the nineteenth century, it remained a fact that the monetary system was a subject for national government policy. In an era of relatively unrestricted free-market capitalism, money and the monetary system were a "nationalized industry." And as such, even most of the advocates of economic liberty argued for monetary socialism and monetary central planning. They failed to call for and defend the privatization of the most important commodity in a market economy – the medium of exchange.

What they forgot was that once a government has control and responsibility for the monetary system within a country, little was outside the power of that government to influence and manipulate. This was clearly stated by a prominent German economist named Gustav Stolper while a refugee in the United States from war-torn Europe during the Second World War:

> Hardly ever do the advocates of free capitalism realize how utterly their ideal was frustrated at the moment the state assumed control of the monetary system . . . A "free" capitalism with government responsibility for money and credit has lost its innocence. From that point on it is no longer a matter of principle but one of expediency how far one wishes or permits governmental interference to go. Money control is the supreme and most comprehensive of all government controls short of expropriation.[ix]

As a result, when economic collectivism, socialism, and interventionism gained popularity and power in the early decades of the twentieth century, money was the one area in which the central-planning ideal was already triumphant. For a hundred years, now, in the United States it had been taken for granted that the state should have either direct or indirect monopoly control over the supply of money in the market.

In the nearly one hundred years since the First World War, the goals assigned to monetary central planning changed, but the instrument for their application remained the same – central bank management of the money supply. In the 1920s, Federal Reserve policy was heavily focused on "price level" stabilization; its result was generating a variety of imbalances between saving and investment that set the stage for the Great Depression.[x]

Beginning in the 1930s, under the growing influence of Keynesian Economics the goal was to influence the levels of aggregate employment and output in the economy. After the disastrous experience with Keynesian-generated "stagflation" in the 1970s – a combination of significantly rising prices and persistently high unemployment – the monetary authorities in the 1980s and 1990s focused on slowing down and "controlling" inflation.[xi] In the late 1990s, the Federal Reserve switched back to a more "activist" monetary policy that fed the excesses of the "high tech" bubble that went bust shortly after the turn of the new century. Then, in 2003, fearful of hypothetical "deflationary" forces,[xii] the Federal Reserve went on a policy of monetary expansion that created the monetary and credit wherewithal that produced the housing and investment and consumer spending boom that went dramatically burst in 2008 – and from which we are still attempting to recover, especially in terms of employment.[xiii]

In addition, throughout the last century, governments – including the United States government – loosened the limits that gold placed on the ability of their central banks to expand the money supply and manipulate the amount of credit created and issued through the banking system to further changing monetary and fiscal goals. For decades, now, governments – including the United States government – have completely eliminated this "break" on their discretionary monetary policy by virtually ending any connection between the paper currencies they control and gold.

The world economy operates in an economic environment of paper monies under the monopoly control central banks.

Central Banking is a Form of Central Planning – With the Same Defects

One of the primary benefits of economic freedom is that it decentralizes the negative effects that may arise from ordinary human error. Every one of us makes decisions that we hope will produce outcomes we desire.

Yet the actual outcomes from our actions often fail to match up to the hopes that motivated them. A businessman who misreads market trends in planning his private company's production and marketing strategies may experience losses that require him to cut back his activities, resulting in some of his employees' losing their jobs and in resource suppliers' experiencing fewer sales because the loss-suffering businessman reduces his orders for what they have for sale.

But the negative ripple effects from his entrepreneurial mistakes are localized within one corner of the overall market. Other sectors of the market need not be directly penalized or subject to the unfortunate effects of his poor judgment. Profit-making enterprises can freely go about their business hiring, producing, and then selling the goods that they have more correctly anticipated the consuming public actually desires to buy.

Under government central planning, however, errors committed by the central planners are more likely to have an impact on the economy as a whole. Every sector of the economy is directly interlocked within the centrally planned blueprint for the allocation of resources, the quantities of different goods and services to be produced, and the distribution of the output to the consuming public.

Centralized failures in resource use or production decisions more directly affect every sector of the economy, since nothing can happen in any of the government-run industries independently of how the central planners try to fix their mistakes. Everyone more directly feels the consequences of the central planners' errors and must wait for those planners to devise a revised central plan to correct the problem.

Monetary central planning suffers from the same sort of defect. Changes in the money supply emanate from one central source and are determined by the monetary central planners' conceptions of the "optimal" or desired quantity of money that should be available in the economy. Their central decision can indirectly influence the pattern of interest rates (at least in the short run) and the market structure of relative prices and inevitably bring about changes in the general value, or purchasing power, of the monetary unit. The monetary central planners' policies work their way through the entire economy, possibly bringing about a cycle of an inflationary boom followed by general economic downturn or even depression.

Halting the inflation and bringing an unsustainable boom to an end depends upon the monetary central planners' discovery that things "may have gone too far" and a decision by them to reverse the course of monetary policy. Many, if not most, sectors of the market will then have to modify and correct investment, production, and employment decisions that had been made under the false, inflationary price signals the central planners' monetary policy has artificially created. Capital, wealth, and income spending patterns in the market will have been misdirected and partly wasted because of the errors committed by the monetary central planners.

The opponents of central banking have argued that the occurrence of such errors would be less frequent and discovered more quickly under a system of competitive free banking. Any private bank that "over-issued" its currency would soon discover its mistake through the feedback of a loss of gold or other reserves through the interbank clearing process and withdrawal by its depositors. The bank would realize the necessity of reversing course to ensure that its gold- and other-reserve position was not seriously threatened and avoid the risk of losing the confidence of its own customers because of heavy withdrawals by depositors.

Moreover, the effect of such a private bank's following a "loose" and "easy" monetary policy would be localized by the fact that only its banknotes and check money would be increasing in supply because of the additional spending of those to whom that bank had extended additional loans. It could neither force an economy-wide monetary expansion throughout the entire banking system nor create an economy-wide price-inflationary effect. Any negative consequences, while being unfortunate, would be limited to a relatively narrow arena of market decisions and transactions.

Free Banking and the Benefits of Market Competition

One of the strongest arguments that advocates of the free market have made over the last 200 years has been to point out the benefits of competition and the harmfulness of government-supported monopoly. In a competitive market, individuals are at liberty to creatively transform the existing patterns of producing and consuming in ways they think will make life better and less expensive for themselves and other members of society as a whole.

Wherever legalized monopoly exists, the privileged producer is protected from potential rivals who would enter his corner of the market and supply an alternative product or service to those consumers who might prefer it to the one marketed by the monopolist. Innovation and opportunity are either prevented or delayed from developing in this politically guarded sector of the economy. Production methods remain unchanged or are modified only with great delay. Product improvements are slow in being developed and introduced. Incentives for cost efficiencies are less pressing and, when utilized, are often only sluggishly passed on to consumers in the form of lower sale prices.

Those who have the vision and daring to enter the market and successfully innovate and create newer or better products than the existing suppliers are offering are stymied or blocked from doing so in the protected sectors of the economy. They are forced to apply their entrepreneurial drive in less-profitable directions or are dissuaded by the political restrictions from even attempting to do so. The product improvements they would have supplied to the consuming public remain invisible "might-have-beens" lost to society.

Furthermore, as Friedrich A. Hayek especially emphasized, market competition is the great discovery procedure through which it is determined who can produce the better product with the most desired features and qualities and at the lowest possible price at any given time.[xiv] It is the peaceful market method through which each participant in the social system of division of labor finds his most highly valued use as judged by the relative pattern and intensity of consumer demand for the various goods supplied. Competition's dynamic quality is that it is a never-ending process. In the arena of exchange, every day offers new opportunities and allows entrepreneurs and innovators to create new opportunities that they are free to test on the market in terms of possible profitability.

Every political restriction or barrier placed in the way of competition, therefore, closes the door on some potential creativity, risk-taking, and entrepreneurial discovery of more efficient and rational uses of men, materials, and money in the interdependent and mutually beneficial relationships of market specialization and cooperation. The choice is always between market freedom and political constraint, between the competitive process and governmentally created monopoly.

This general argument in favor of market competition and against politically provided monopoly is no less valid in the arena of money and banking. The participants in the market may choose money they find most advantageous to use, or government can impose the use of a medium of exchange on society and monopolize control over its supply and value. The benefit from market-chosen money is that it reflects the preferences and uses of the exchange participants themselves. Participants in the market process will sort out which commodities offer those qualities and characteristics most useful and convenient in a medium of exchange. As the Austrian economists persuasively demonstrated, while money is one of those social institutions that are "the results of human action but not of human design," it nonetheless remains the spontaneous composite outcome of multitudes of individual choices freely made by buying and selling in the marketplace.

The alternative is what the American economist Francis A. Walker referred to in 1887 as "political money." Political money is one that the government determines shall be used as money and whose supply "is made to depend upon law or the will of the ruler." He warned that under the best of circumstances the successful management of a government-controlled money would "depend upon an exercise of prudence, virtue and self-control, beyond what is reasonably and fairly to be expected of men in masses, and of rulers and legislators as we find them." Governments would, in the long run, always be tempted to abuse the printing press for various political reasons.[xv]

But besides the dangers of political mischief, the fact is that the government monetary monopoly prevents the market from easily discovering whether, over time, market participants would find it more advantageous to use some particular commodity or several alternative commodities as different types of media of exchange to serve changing and differing purposes. The "optimal" supply of money becomes an arbitrary decision by the central monetary monopoly authority rather than the more natural market result of the interactions between market demanders desiring to use money for various purposes and market suppliers supplying the amount of commodity money that reflects the profitability of mining various metals and minting them into money-usable forms.

But commodity money, as history has shown, has its inconveniences in everyday transactions in the market. There are benefits from financial depositories for purposes of safety and lowering the costs of facilitating transactions. But what type of financial and banking institutions would market participants find most useful and desirable under a regime of money and banking freedom? The answer is that we don't know at this time precisely because government has monopolized the supplying of money; and it imposes, through various state and federal regulations, an institutional straitjacket that prevents the discovery of the actual and full array of preferences and possibilities that a free market in monetary institutions might be able to provide and develop over time.

The increasing globalization of commerce, trade, and financial intermediation during the last several decades has certainly demonstrated that there is a far greater range of possibilities that market suppliers of these services could provide and for which there are clear and profitable market demands than traditionally thought 20 or 30 years ago. But even in this more vibrant global competitive environment, it remains the case that whatever options have begun to emerge has done so in a restrictive climate of national and international governmental regulations, agreements, and constraints.

Suppose that monetary and banking freedom were established.[xvi] What type of banking system would then come into existence? Some advocates of monetary freedom have insisted that a free banking system should be based on a 100 percent commodity money reserve. Others have argued that a free banking system would be based on a form of fractional-reserve banking, with the competitive nature of the banking structure serving as the check and balance on any excessive note issue by individual banks.

Until monetary and banking freedom is established, we have no way of knowing which of the two alternatives would be the most preferred. This is for the simple reason that under the present government-managed and government-planned monetary and banking system, market competition is not allowed to demonstrate which options suppliers of financial intermediation might find it profitable to offer and which options users of money and financial institutions would decide are the ones best fitting their needs and preferences.

Given the diversity in people's tastes and preferences, the differing degrees of risk people are willing to bear for a promised interest return on their money, and the variety of market situations in which different types of monetary and financial instruments might be most useful for certain domestic and international transactions, it probably would be the case that a spectrum of financial institutions would come into existence side by side. At one end of this spectrum would be 100 percent reserve banks that guaranteed complete and immediate redemption of all commodity money deposits, even if every depositor were to appear at that bank within a very short period of time.

Along the rest of the spectrum would be various fractional-reserve banks at which lower or no fees would be charged for serving as a warehousing facility for deposited commodity money. Their checking accounts might offer different interest payments depending on the fractional-reserve basis on which they were issued and on the degree of risk or uncertainty concerning the banks' ability to redeem all deposits immediately under exceptional circumstances.

Some banks might offer both types: they might issue some bank notes and checking accounts that were guaranteed to be 100 percent redeemable on the basis of commodity money deposited against them; and they might issue other bank notes and checking accounts that, under exceptional circumstances, were not 100 percent redeemable.

And these banks might offer "option clauses" stipulating that if any designated notes or checking accounts were not redeemed on demand for some limited period of time, the note and account holder would receive a compensating rate of interest for the inconvenience and cost to himself.

Whether most banks would be closer to the 100 percent reserve end of this spectrum or farther from it is not - and cannot be - known until the monetary and banking system is set free from government regulation, planning, and control. As long as the government remains as the monetary monopolist, there is just no way to know all the possibilities that the market could or would generate. Indeed, for all we know, the market might devise and evolve a monetary and banking system different from that conceived even by the most imaginative free-banking advocates.

Competition is thwarted by government monopoly money, and the creative possibilities that only free competition can discover remain invisible "might- have-beens." How then can the existing system be moved towards a regime of monetary and banking freedom?

For a System of Monetary and Banking Freedom

The great tragedy of the twentieth century was the arrogant and futile belief that man can master, control, and plan society. Man has found it difficult to accept that his mind is too finite to know enough to organize and direct his overall social surroundings according to an overarching design. The famous American journalist, Walter Lippmann, neatly explained the nature of this problem in his 1937 book, *An Inquiry into the Principles of the Good Society*:

> The thinker, as he sits in his study drawing his plans for the direction of society, will do no thinking if his breakfast has not been produced for him by a social process that is beyond his detailed comprehension. He knows that his breakfast depends upon workers on the coffee plantations of Brazil, the citrus groves of Florida, the sugar fields of Cuba, the wheat farms of the Dakotas, the dairies of New York; that it has been assembled by ships, railroads, and trucks, has been cooked with coal from Pennsylvania in utensils made of aluminum, china, steel, and glass. But the intricacy of one breakfast, if every process that brought it to the table had deliberately to be planned, would be beyond the understanding of any mind. Only because he can count upon an infinitely complex system of working routines can a man eat his breakfast and then think about a new social order. The things he can think about are few compared with those that he must presuppose.... Of the little he has learned, he can, moreover, at any one time comprehend only a part, and of that part he can attend only to a fragment. The essential limitation, therefore, of all policy, of all government, is that the human mind must take a partial and simplified view of existence. The ocean of experience cannot be poured into the bottles of his intelligence.... Men deceive themselves when they imagine that they can take charge of the social order. They can never do more than break in at some point and cause a diversion.[xvii]

Money is one of those institutions that owes its origin and early development to social processes beyond what individual minds could have fully anticipated or comprehended.[xviii] But money's evolution has been constantly "diverted" from what would have been its market-determined course by governments and political authorities that saw in its control an ability to plunder the wealth of entire populations.

Debasement and depreciation of media of exchange through monetary manipulation has been the hallmark of recorded history. To prevent such abuses and their deleterious effects, advocates of freedom supported the gold standard to impose an external check on monetary expansion. Paper money was to be "convertible," redeemable on demand to banknote and checking account holders at a fixed ratio of redemption.

But even this limit on government-managed money was eliminated in the twentieth century by the hubris of the central-planning mentality, under which money, too, was to be completely under the control of the monetary central planners as part of the vision of designing and directing the economic affairs of society.

Monetary central planning is one of the last vestiges of generally accepted out-and-out socialist central planning in the world. The fact is that even if monetary policy could somehow be shielded from the pressures and pulls of ideological and special-interest politics, there is no way to successfully centrally manage the monetary system.

Government can no more correctly plan for the "optimal" quantity of money or the properly "stabilized" general scale of prices than it can properly plan for the optimal supply and pricing of shoes, cigars, soap, or scissors.

The best monetary policy, therefore, is no monetary policy at all. The advocate of the free market believes that ending all trade restrictions or barriers and permitting free trade would eliminate the need for foreign trade policies.

He also believes that the need for domestic regulatory policies would be eliminated by abolishing the regulatory agencies and repealing the antitrust laws and simply permitting market-guided competition and exchange.

And logically the need for monetary policy would be eliminated by abolishing government monopoly control and regulation over the monetary and banking system.

As Austrian economist Hans Sennholz once concisely expressed it,

> We seek no reform law, no restoration law, no conversion or parity, no government cooperation: merely freedom.... In freedom, the money and banking industry can create sound and honest currencies, just as other free industries can provide efficient and reliable products. Freedom of money and freedom of banking, these are the principles that must guide our steps.[xix]

An Agenda for Monetary Freedom

So what steps might be undertaken to move the American economy in the direction of establishing a regime of monetary freedom? At a minimum, they should include the following:

1. The repeal of the Federal Reserve Act of 1913, and all complementary and related legislation giving the federal government authority and control over the monetary and banking system.

2. The repeal of legal-tender laws, that gives government power to specify the medium through which all debts and other financial obligations, public and private, may be settled. Individuals, in their domestic and foreign transactions, would determine through contract the form of payment they mutually found most satisfactory for fulfilling all financial obligations and responsibilities into which they entered.

3. Repeal all restrictions and regulations on the free entry into the banking business and in the practice of interstate banking.

4. Repeal all restrictions on the right of private banks to issue their own bank notes and to open accounts denominated in foreign currencies or in weights of gold and silver.

5. Repeal of all federal and state government rules, laws, and regulations concerning bank-reserve requirements, interest rates, and capital requirements.

6. Abolish the Federal Deposit Insurance Corporation. Any deposit insurance arrangements and agreements between banks and their customers and between associations of banks would be private, voluntary, and market-based.

In the absence of government regulation and monopoly control, a free monetary and banking system would exist; it would not have to be created, designed, or supported. A market-based system would naturally emerge, take form, and develop out of the prior system of monetary central planning.

What would be its shape and structure over time? What innovations and variety of services would a network of free, private banks offer to the public over time? What set of market-determined commodities might be selected as the most convenient and useful media of exchange? What types of money substitutes would be supplied and demanded in a free-market world of commerce and finance? Would many or most banks operate on the basis of fractional or 100% reserves?

There are no definite answers to these questions, nor can there be. It is deceptive to believe, as Walter Lippmann explained, that we could comprehend and anticipate all the outcomes that will arise from all the market interactions and discovered opportunities that the complex processes of the free society would generate. It is why liberty is so important. It allows for the possibilities that can only emerge if freedom prevails. It's why monetary freedom, too, must be on the agenda for economic liberty in this new twenty-first century.

End Notes:

[i] Ludwig von Mises, "The Gold Problem," [1965] in *Planning for Freedom* (South Holland, Ill: Libertarian Press, 1980); see, also, Richard M. Ebeling, *Austrian Economics and the Political Economy of Freedom* (Northampton, MA: Edward Elgar, 2003), Chapter 5: "Ludwig von Mises and the Gold Standard," pp. 136-158.

[ii] On the American Continental Notes, the French Revolutionary Assignats, and the Greenbacks and Confederate currency during the American Civil War, see, J. Laurence Laughlin, *A New Exposition of Money, Credit and Prices*, Vol. II (Chicago: University of

Chicago Press, 1931), pp. 147-185 & 302-341; Edwin W. Kemmerer, *Money* (New York: MacMillan, 1935) pp. 173-197 & 230-270; and, Richard M. Ebeling, "Inflation and Controls in Revolutionary France: The Political Economy of the French Revolution," in Stephen Tonsor, ed., *Reflections on the French Revolution* (Washington, D.C.: Regnary Gateway, 1990) pp. 138-156; and Richard M. Ebeling, "The Great French Inflation," *The Freeman: Ideas on Liberty* (July/August, 2007) pp. 2-3.

[iii] John Stuart Mill, *Principles of Political Economy, with Some Applications to Social Philosophy* (Fairfield, N.J.: Augustus M. Kelley, [1871] 1976) pp. 544-546.

[iv] For a brief history of the great inflations during and after the First World War, and especially in Germany and Austria in the early 1920s, see, Richard M. Ebeling, "The Lasting Legacy of World War I: Big Government, Paper Money, and Inflation" *Economic Education Bulletin*, Vol. XLVIII, No. 11 Great Barrington, MA: American Institute for Economic Research, November 2008); and on the hyperinflation in China during the 1930s and 1940s, see, Richard M. Ebeling, "The Great Chinese Inflation," *The Freeman: Ideas on Liberty* (December 2004), pp. 2-3.

[v] Murray N. Rothbard, *What Has Government Done to Our Money?* (Auburn, AL: Ludwig von Mises Institute, 1990) p. 23-24.

[vi] Wilhelm Roepke, *International Order and Economic Integration* (Dordrecht, Holland: D. Reidel Publishing, 1959) p. 75.

[vii] Ibid., pp. 76-77.

[viii] Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (New York: New Modern Library, [1776] 1937), Book IV, Chapter II, p. 423.

[ix] Gustav Stolper, *This Age of Fable in the Political and Economic World* (New York: Reynal & Hitchcock, 1942), p. 42.

[x] For an analysis of the Federal Reserve policy in the 1920s, and the contrasting interpretations on the causes and cures for the Great Depression given by the Austrian Economists and the Keynesians, see, Richard M. Ebeling, *Political Economy, Public Policy, and Monetary Economics: Ludwig von Mises and the Austrian Tradition* (London/New York: Routledge, 2010), Chapter 7: "The Austrian Economists and the Keynesian Revolution: The Great Depression and the Economics of the Short-Run," pp. 203-272.

[xi] On the "stagflation" of the 1970s, see, Gottfried Haberler, *The Problem of Stagflation: Reflections on the Microfoundation of Macroeconomic Theory and Policy* (Washington, D.C.: American Enterprise Institute, 1985).

[xii] See, Richard Ebeling, "The Hubris of Central Bankers and the Ghosts of Deflation Past," *In Defense of Capitalism & Human Progress* blog (July 5, 2010), http://blogs.northwood.edu/indefenseofcapitalism/2010/07/05/the-hubris-of-central-bankers-and-the-ghosts-of-deflation-past-by/

[xiii] On the current economic crisis, see my testimony before the House of Representatives Subcommittee on Domestic Monetary Policy and Technology delivered on May 11, 2011: Richard M. Ebeling, "Monetary Policy, the Federal Reserve, and the National Debt Problem," *In Defense of Capitalism & Human Progress* blog (May 11, 2011), http://blogs.northwood.edu/indefenseofcapitalism/2011/05/.

[xiv] F. A. Hayek, "Competition as a Discovery Procedure," [1969] in *New Studies in Philosophy, Politics, Economics and the History of Ideas* (Chicago: University of Chicago Press, 1978) pp. 179-190.

[xv] Francis A. Walker, *Political Economy* (New York: Henry Holt, 1887) p. 352. After the last one hundred years of even further monetary mischief and abuse than those in the nineteenth century had learned from, Walker's further comment is more pertinent today than when he wrote it, p. 353: "The man who advocates government issues [of paper money], without being prepared to show reasonable ground for believing that they will not be so abused as to accomplish more evil than of benefit, is not entitled to be listened to. After the experiences of the last hundred years intelligent men rightly refuse to take the trouble even to discuss political schemes that assume an impossible virtue, or which disregard the actual conditions under which alone they could be set to work."

[xvi] The literature on the potential, nature and workings of a private, competitive banking system with complete monetary freedom is large. Among the important works are: Ludwig von Mises, "Monetary Stabilization and Cyclical Policy [1928] in *On the Manipulation of Money and Credit* (Indianapolis, IN: Liberty Fund, 2010); Mises, *Human Action: A Treatise on Economics* (Chicago: Henry Regnary, 3rd revised ed., 1966), pp. 440-448; Mises, *The Theory of Money and Credit* (Indianapolis, IN: Liberty Fund, [1953] 1981) pp. 434-438; Vera Smith, *The Rational of Central Banking and the Free Banking Alternative* (Indianapolis, IN: Liberty Fund, [1936] 1990); F. A. Hayek, "Denationalization of Money: An Analysis of the Theory and Practice of Concurrent Currencies," [1978] in Stephen Kresge, ed., *The Collected Works of F. A. Hayek*, Vol. 6: *Good Money, Part II* (Chicago: University of Chicago Press, 1999) pp. 128-229; Lawrence H. White, *Free Banking in Britain: Theory, Evidence, and Debate, 1800-1845* (Cambridge: Cambridge University Press, 1984); White, *Competition and Currency: Essays on Free Banking* (New York: New York University Press, 1989); White, *The Theory of Monetary Institutions* (Wiley-Blackwell, 1999); George A. Selgin, *The Theory of Free Banking: Money Supply Under Competitive Note Issue* (Totowa, N.J.: Rowman & Littlefield, 1988); Selgin, *Bank Deregulation and Monetary Order* (New York: Routledge, 1996); Kevin Dowd, *Private Money: The Path to Monetary Stability* (London: Institute of Economic Affairs, 1988); Dowd, *The State and the Monetary System* (New York: St. Martin's Press, 1989); Dowd, *Laissez-Faire Banking* (New York: Routledge, 1993); Kevin Dowd, ed., *The Experience of Free Banking* (New York Routledge, 1993); Steven Horwitz, *Monetary Evolution, Free Banking and Economic Order* (Boulder, CO: Westview Press, 1992); Murray N. Rothbard, *The Case for a 100 Percent Dollar* (Auburn, AL: Ludwig von Mises Institute, 1991); Mark Skousen, *Economics of a Pure Gold Standard* (Auburn, AL: Ludwig von Mises Institute, 1988).

[xvii] Walter Lippmann, *An Inquiry into the Principles of the Good Society* (Boston: Little, Brown, 1937) pp. 30 & 32.

[xviii] Carl Menger, "On the Origin of Money," [1892] in Richard M. Ebeling, ed., *Austrian Economics: A Reader* (Hillsdale, MI: Hillsdale College Press, 1910) pp. 483-504.

[xix] Hans Sennholz, *Money and Freedom* (Cedar Fall, IA: Center for Futures Education, 1985) pp. 77 & 83.

Date: August 2^{nd}, 2012

Author: Robert J Gray, Executive Director of the American Open Currency Standard

Re: Testimony before the Subcommittee on Domestic Monetary Policy & Technology

Mr. Chairman and Members of the Committee,

My name is Rob Gray and I was asked to testify today on the theory of competing currencies, and the practical challenges that make such a theory difficult or impossible to implement.

For nearly 5 years now, I've successfully directed the American Open Currency Standard - the standard for private voluntary and complementary currencies that compete against each other, *not* against the US dollar. Allow me to clarify: we do not consider AOCS Approved medallions produced and traded in our private barter marketplace 'competition' to the US Federal Reserve Note. Because "fair competition", as one would find in the "free market", assumes the existence of a level playing field, the existence of a standard set of rules. Those players who wish to compete honestly do so by relying simply on the merit of the value they bring to the market.

No fair challenge can be made between honest men and thieves. Let me be clear that when I say thieves: I refer to the current private central bank and the men in government who allow it to exist.

This brings us to a critical point: according to your Employee Handbook, Article 1, Section 8 says: "The ***Congress*** shall have the Power ...To coin Money, regulate the Value thereof...". For anyone who has been a manager or business owner, it is not uncommon to find that you may have an employee who may choose to not do the work that is delegated to them, or even that they simply do it very badly. When such a time comes it is necessary for the manager or owner to step in and do the work themselves. I would argue that since 1913, Congress has failed to do the job with which it had been tasked. We the people are now bypassing you and are no longer waiting for you to make it right. It is far better to simply walk away from the system. We are walking away from toxic thoughts, relationships, investments and careers. We are taking the hard intellectual journey to rid ourselves of the indoctrination that keeps us in this system. We are realizing the power we have in ourselves and the everyday choices that we make to either empower some soulless collective or our own families. We are realizing that we simply need to withdraw our time, energy, and money from banks, politicians and corporations that do not serve our interests.

In the time since our inception, the American Open Currency Standard has enjoyed nearly five years of growth and success in our mission of issuing a means that allows valuable exchanges among men who produce. In the next five years, we expect to expand our offerings and to increase our ability to keep up with the demand for our private currency. We are doing the job Congress would not.

The use of community currencies here in the US became popular back in the early 1930's. You see, at the time, the theory was that a group of the world's most powerful men, many of them international bankers, were intentionally and systematically removing currency from circulation, creating an artificial scarcity of money across America. Small cities and towns felt it worse than anyone. But life did go on.

Then, during the greatest economic depression this country had ever seen, individuals across this country developed their own mediums of exchange. They still needed things - food, clothing, daily essentials - they still needed to live, and they didn't have time to wait for the government to fix the problem, and they certainly weren't going to rely on the same bankers that caused the crash to offer solutions. And so, according to historical records, thousands of community currencies were created, circulated and traded in places where the scarcity of dollars was interfering with the human desire to live, and the market's desire to trade. And since their elected employees were not doing the job for which they were hired, these individuals took it upon themselves to secure the means to their own survival and potential prosperity.

More recently, community currencies have sprung up across Europe as the Euro and national fiat currencies become increasingly unavailable and undependable. Today, communities all across the Eurozone trade their own money instead of the Euro.

Community currencies are not simply a good idea in theory; they are necessary, alive, and true examples of the free market's unwillingness to be artificially manipulated. Right now alternative and complementary currencies circulate widely across this country and in many different forms: Ithaca, New York uses a local fiat currency based loosely on the value of time; Berkshire, Massachusetts uses a fiat-backed fiat system, while many more communities circulate gold, silver and copper AOCS Approved barter tokens as a medium of exchange. How they are issued, accepted, accounted for and reported varies widely, as the participants and procedures are as different as the markets they serve.

As for practical issues to overcome in the issuance and circulation of complementary currencies, there are plenty. In a voluntary system, those that participate in the trading of private currencies must deal with the possibility of counterfeiting, fraud, scarcity, acceptance, accounting, storage and other issues, all without the luxury of big brother holding a gun to anyone's head to ensure their success.

Even with all the risks, the market moves on. As in any free market, good ideas circulate with success, and bad ones eventually fade away. Participants voluntarily choose to accept and circulate the highest quality and most valuable currencies in exchange for their best production. Merchants accept complementary currencies based on the premise that someone else is willing to do the same later. Issues arise and are worked out by the market with only one light to guide them: the mutual exchange of value. No guns, no laws, no force: just the willingness to think outside the box and act on principle.

Complementary currencies are not new, in theory or in practice. Further, private currencies circulated long before governments erected themselves to interfere. What's new, however, is the public's apathy towards you and your policies. You've managed for the last hundred years somehow to convince the citizenry that you're relevant. Now, just recently, we're beginning to see the tides change on this. And once it catches on, you'll be rendered completely obsolete.

The greatest hurdle you will face over the next few years is trying to convince "we, the people" that you are still necessary in spite of your failures to get the job done. Sure, some will continue to rely on you for hand-outs; it's what they've known their entire lives and they will be slaves right up and to the point of their own destruction. They don't know any better and I don't blame them for their ignorance. But as you continue to squeeze the life out of the middle class, watch out for their greatest weapon: apathy. They may not be ready to admit it, but soon they'll turn their backs on you and never believe another lie - the lie that you are willing and able to do the job for which you were hired. In the future you will not have to worry about million man marches or citizen journalists trying to catch you on camera. What you need to fear is no one paying attention to you. The next American revolution will not be fought with bullets and bombs; it will be won with the opposite consciousness.

"It is well enough that people of the nation do not understand our banking and monetary system, for if they did, I believe there would be a revolution before tomorrow morning." ~Henry Ford

To that end, I'm here today to propose a solution. My understanding of this subcommittee is that you desire to be part of the solution. You want to believe you're doing something good for the country. Today, the greatest gift you can offer to the people you clearly represent is to introduce, not to the legislature but directly to the public, what I call IR 1207 - Individual Resolution 1207 - commonly referred to as 'Ignore the Fed'. Store your wealth in silver. Bank with a non-fractional bank that pays real money on deposits. Use the card services network to satisfy dollar obligations. Do not try to compete with the federal reserve system: ignore them. This country has succeeded in doing away with two central banks already over the course of its history - it is learning to do the same again.

Congressman Paul: on July 13, 2011, you asked Federal Reserve Chairman, Ben Bernanke, a question: 'Is gold money?' I ask that same question of you here today: is gold money? Is silver money? They most certainly are not. At least not by the current definition as handed down by Congress' money-issuing surrogate, the Federal Reserve. And that's just fine.

I respectfully petition you, sir, to seriously reconsider your position on this matter. The government has perverted the word money. My wife is a nutritionist, and she tells people, 'If your grandparents wouldn't recognize it as food, don't eat it.' I suggest to you that if your great-grandparents wouldn't recognize it as money, don't accept or spend it.

A great philosopher once said "When destroyers appear among men, they start by destroying money, ..." Today, conventional wisdom tells us that money is a worthless pile of paper. And for the last 100 years Congress has for a third time (again) shunned its responsibility when it comes to issuing money. Since the creation of the Federal Reserve and Congress' abdication of their responsibility, the dollar has lost 98% of its value. I don't suspect anyone would call that stellar job performance. I must be blunt and say that, as employees, Congress, you have not been successful in your charge to "...coin money and regulate the value thereof..." and therefore your services in this area are no longer needed. It is sad that even the men and women in this chamber either do not understand the system they serve or are so dependent upon the system's favors that they dare not speak in opposition to it.

"**It is difficult to get a man to understand something**, when his salary depends upon his not understanding it!" ~Upton Sinclair

I ask you to leave the Fed their money and leave the people our silver, gold and copper. Do not push to redefine whatever representations we choose for our wealth as 'money'. Let the Fed do what it wants with their 'money', so long as they leave us alone. I warn you: 'honest money legislation' is a wolf in sheep's clothing. The record of Congress over time has proven that it will make a miserable failure of this aspect of human survival as it has so many others.

The greatest thing this Congress can do is exactly what you've done so far: nothing.

"The nine most terrifying words in the English language are, "I'm from the government and I'm here to help." -- Ronald Reagan.

I will not facilitate this government to "help" understand, control and ultimately destroy alternative currencies. All I ask is that you stay out of our way. The people in our world are happy to go right along saving you from your own destruction by producing value against all the odds, regulations, codes, and challenges thrown our way. But leave our money alone. It doesn't belong to you, and it never will.

If you really want to help, I would recommend that instead of trying to DO something, you could start by undoing some things. But that list is far too long for me to get into here today and as a responsible employer, I'll allow you some room for creativity.

One last thing I would like to leave you all to ponder...

How is it possible for every single person in the world to be in debt with credit card debt, student debt, consumer debt, auto debt, and mortgages?

How is it possible that every small business and corporation in the world is also in debt?

And finally how is it possible that every single local, county, province, state and nation on earth is also in debt?

Who owns the other side of that debt?

When you understand that, maybe just maybe, something positive will come out of this chamber.

The bottom line is simple: humanity is not going to wait for permission to survive. Things that cannot go on forever... won't. The market will move on - with or without you. And, based on your rate of success to date, our preference is without you.

I thank you for your attention to this matter of life and death.

There are thousands hacking at the branches of evil to one who is striking at the root. -Henry David Thoreau

Nathan Lewis
nathan@newworldeconomics.com

Nathan Lewis is the author of ***Gold: the Once and Future Money*** *(2007), now available in five languages. He writes a weekly column for Forbes.com, and is the principal of Kiku Capital Management LLC. His website is: newworldeconomics.com*

Written testimony for the United States House Committee on Financial Services, Subcommittee on Domestic Monetary Policy and Technology, August 2, 2012.

Use of Parallel Currencies

The phrase "parallel currencies" tends to sound rather novel and experimental to us today, living in the United States. However, most people in the world are using parallel currencies today. Many of us have found that, when traveling to some foreign countries, that shops and restaurants are happy to accept U.S. dollars in return for their goods and services. Often, people there also use U.S. dollars among themselves, in their own commerce and business dealings. In this case, the U.S. dollar is serving as a parallel currency, alongside the currency issued by the domestic government, such as Costa Rican colón or Vietnamese dong.

In such places, the U.S. dollar is used not only by sidewalk vendors, but often by the largest corporations in the country. Throughout Latin America, until only a few years ago, large corporations would typically finance their operations with loans or debt denominated in U.S. dollars. Indeed, the governments of these countries themselves borrowed in dollars, issuing dollar-denominated government bonds. After many decades of bad experience, nobody would buy a bond denominated in the local currency, which the government could devalue at a whim. Before the introduction of the Euro in 1999, German marks were popular throughout Europe. During the 1990s, governments with a history of poor currency management, such as that of Greece, issued government debt denominated in German marks.

It is perhaps only in the United States, and more recently in the eurozone, that people are not already accustomed to using a variety of currencies in their daily business and commerce. Large U.S. corporations regularly do business in a variety of currencies, and investors commonly buy or sell foreign stocks or bonds using foreign currencies. For most of us, however, we have no reason to use the Ukrainian hryvna in our daily affairs. We would much rather use dollars.

Ukrainians, at some points in their history, have also preferred to use U.S. dollars. Why is that? It is because the dollar has consistently been one of the best-managed, highest-quality currencies in the world. For 182 years, from the founding of the United States in 1789 to 1971, the United States government adhered to the principle of a gold standard for the dollar, even if, in practice, it deviated from that ideal from time to time. The United States was following the example demonstrated by the best European governments, especially Britain, whose gold standard system can be traced to 1698.

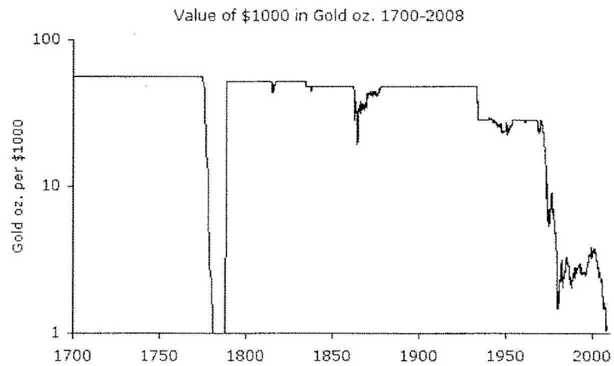
However, during the 20th century, those European governments made a mess of things numerous times, and their currencies became unreliable. The British pound, like most of the currencies of Europe, became a floating currency at the onset of World War I, and soon depreciated in value. People didn't even know if France or Britain would exist after the war.

In the early 1920s, more European currencies became unreliable, with the hyperinflation of the German mark perhaps the best remembered example. By 1926, Europe had mostly reconstructed the world gold standard system that existed before the war, just in time for the chaos of the Great Depression. During the Great Depression, currencies everywhere were devalued, led by Britain in 1931. Also, we tend to forget today that several European governments also defaulted on their sovereign debt during the 1930s, including Austria, Germany, Greece, Hungary, Poland, Romania and Turkey.

By the end of World War II, the U.S. dollar, which had been considered an emerging-market currency in 1900, had proved to be the most reliable currency in the world. It thus became the parallel currency of choice worldwide, and U.S. tourists in the 1950s found that they could spend their dollars throughout Europe. The British pound still had some fans, but after a devaluation in 1949 and again in 1967, few people were willing to give Britain any more chances.

In 1971, the United States abandoned its then nearly two-century-old commitment to the gold standard system. At this point, historically, currencies were often discarded for whatever the highest-quality, most reliable alternative was, which in practice meant a gold standard currency from a large developed country. However, a consequence of the U.S.'s abandonment of the gold standard in 1971, due to the nature of the Bretton Woods system, was that other governments' currencies left gold too. There was no gold standard alternative in the world.

Since 1971, the value of the U.S. dollar has fallen from 1/35th of an ounce of gold to about 1/1600th of an ounce today. The dollar today is worth only 1/46th of its value during the Kennedy administration. As bad as this is, the alternatives have been even worse. This is why the U.S. dollar remains the most popular currency in the world, and serves as a parallel currency in many, if not most, countries today.



After several centuries of stability, the dollar became a floating fiat currency in 1971. Since then, it has fallen to about 1/46th of its prior value. The decline in the 1780s represents the hyperinflation of the Continental dollar.

Use of parallel currencies in the U.S. today

Today, there are no particularly onerous barriers against using a parallel currency in the United States. People are free to do business in euros or Russian rubles if they choose to. It would be easier if there were no tax consequences from this, such as a capital gains tax. This is the case in Switzerland or Hong Kong, where people can do business in the currency of their choice without tax issues. At least one country, Zimbabwe, has no official currency, but rather a formal multi-currency policy where people can do business using any currency the like. In practice, this has turned out to be primarily U.S. dollars, with some use of South African rands.

Historically the preferred currency of business, in any country, is one based on a gold standard system. British pounds, and later U.S. dollars, became the preferred parallel currency throughout the world for this reason. It was the currency people chose to use instead of their own government's fiat junk.

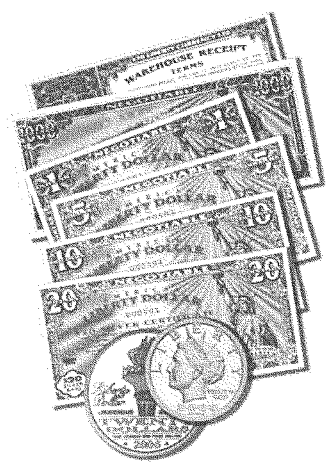
Some people today, including myself, think that the United States should return to the monetary principles of the country's first 182 years – in other words, a gold standard system. However, that idea remains contentious, particularly among those who believe that a currency should be used as a tool for economic manipulation. Our present chief currency manager, Benjamin Bernanke, spent his academic career arguing for the merits of economic manipulation via currency manipulation. A gold standard system would prevent such things.

However, even among academics who share Mr. Bernanke's viewpoints, the idea of letting people choose whatever currency suits them best remains a popular one. The concept of parallel currencies, including those based on gold, within the United States seems to be relatively uncontroversial among the economic mainstream.

Today, there are over 150 currencies in the world, all of which could conceivably be used as parallel currencies within the United States or other countries. However, all of them are floating fiat currencies, generally of lower quality than the U.S. dollar or euro. There is hardly any reason to introduce another. Thus, the most meaningful new parallel currency to be introduced, in the U.S. or in another country, would be one based on gold.

Difficulties of using gold- and silver-based parallel currencies in the U.S. today

Although the use of other countries' national currencies is largely accepted in the U.S., the issuance of alternative currencies within the U.S. can run afoul of what are collectively known as "legal tender laws," both *de jure* and *de facto*. Beginning in 1998, a private businessman, Bernard von NotHaus, issued a system of coinage and paper bills called Liberty Dollars that represented warehouse receipts for gold and silver bullion. The notes and coins bore no resemblance Federal Reserve Notes or U.S. Mint coins. About 250,000 people apparently participated in the system. Although other alternative currencies have existed, such as "Phoenix dollars," Baltimore's "BNote," "BerkShares," "Ithaca Hours," and "bitcoin," this was apparently the only such system based on gold and silver.



Liberty Dollar notes and coins.

In 2006, the U.S. Mint issued a press release stating that the U.S. Justice Department had determined that using Liberty Dollars was a Federal crime. The press release stated:

> Under 18 U.S.C. § 486, it is a Federal crime to pass, or attempt to pass, any coins of gold or silver intended for use as current money except as authorized by law. ...
>
> NORFED's "Liberty Dollar" medallions are specifically marketed to be used as current money in order to limit reliance on, and to compete with the circulating coinage of the United States. Consequently, prosecutors with the United States Department of Justice have concluded that the use of NORFED's "Liberty Dollar" medallions violates 18 U.S.C. § 486, and is a crime.

In 2007, the Federal Bureau of Investigation (FBI) raided the warehouse used by the Liberty Dollar system at the Sunshine Mint in Coeur D'Alene, Idaho, confiscating a reported $7 million of gold and silver bullion. The seizure warrant was for money laundering, mail fraud, wire fraud, counterfeiting, and conspiracy.

In 2009, von NotHaus was arrested and charged with: one count of conspiracy to possess and sell coins in resemblance and similitude of coins of a denomination higher than five cents, and silver coins in resemblance of genuine coins of the United States in denominations of five dollars and greater, in violation of 18 U.S.C. § 485, 18 U.S.C. § 486, and 18 U.S.C. § 371; one count of mail fraud in violation of 18 U.S.C. § 1341 and 18 U.S.C. § 2; one count of selling, and possessing with intent to defraud, coins of resemblance and similitude of United States coins in denominations of five cents and higher, in violation of 18 U.S.C. § 485 and 18 U.S.C. § 2; and one count of uttering, passing, and attempting to utter and pass, silver coins in resemblance of genuine U.S. coins in denominations of five dollars or greater, in violation of 18 U.S.C. § 486 and 18 U.S.C. § 2.

In 2011, von NotHaus was convicted on several counts, and faced up to 15 years of jail time. In 2011, von NotHaus was labeled a domestic terrorist by the FBI.

Conceivably, people today could do business using gold coins produced by the U.S. Mint, such as the popular American Eagle gold and silver coins. However, they too would face unusual difficulties. Despite its long history as the foundation of monetary systems in the United States and elsewhere, gold today is regarded as a "collectible," and subject to a different system of taxation than if one were to do a similar transaction using foreign currencies such as euros or Canadian dollars. The capital gains tax rate on "collectibles" held for one year or longer is 28%, compared to 15% for stocks and bonds.

For example, if a house were purchased using U.S. Mint gold coins, the transfer of the coins to the seller would be regarded as a "sale" of gold bullion for tax purposes, and subject to capital gains taxes. If the same transaction were done with euros, no such taxes would apply. (Capital gains taxes would apply to the eventual sale of the house, and if the euros were converted back to dollars.)

In addition, purchases or sales of small quantities of gold are subject to sales taxes in many states. California, for example, charges sales tax on bullion sales of less than $1,500. Thus, a businessman who wished to pay employees using a 1/10th ounce U.S. Mint gold bullion coin, or one-ounce U.S. Mint silver coins, may face sales taxes on his "sale" of the bullion coins to the employee. (No such sales taxes apply to purchases of euros.)

Also, transactions in gold bullion are now subject to onerous surveillance, which does not apply to similar transactions in foreign currencies. To give an idea of the present state of affairs, here is some information from bullion dealer metallixdirectgold.com:

> 4. COMPLIANCE WITH GOVERNMENT AGENCIES; RECORDED CONVERSATIONS.
>
> A. Documentation for Payment. Several states require that we obtain your driver's license number or other government-issued identification and a sworn statement from You as to the Merchandise and compliance with applicable law before we process any payment to You. Certain localities require completion of forms and a waiting period for a transaction in precious metal. If merchandise contains by weight or volume 50% or more of precious metal and is valued at more than $3,000, federal anti-money laundering laws obligate us to obtain certain completed forms and identity information from you before we process the transaction (such local, state and federal documentation, "Compliance Documents"). You agree to supply such Compliance Documents to us upon our request. . If You fail to provide such Compliance Documents to us within 5 Business Days after the date of our notice to You requesting such information, we have the option to terminate the proposed Transaction and return your Merchandise in the form in which You furnished it to us or in a different form in accordance with this Agreement without providing You with additional notices.

Thus, in practice, the U.S. Federal Government makes a powerful effort to suppress the introduction and use of alternative gold- and silver-based currencies today.

This state of affairs has become intolerable to many. In 2011, the State of Utah declared that it would consider U.S. Mint gold and silver coins (and monetary instruments based on these coins) to be legal as currency. This included the removal of all state-level taxes on transactions in gold and silver bullion. The Utah example has been widely followed. Twelve other state legislatures have had similar bills proposed[1]. The Utah example could serve as a

[1] South Carolina, North Carolina, Alabama, Virginia, Tennessee, Missouri, Idaho, California, Colorado, Washington, Indiana and Minnesota.

template for similar Federal-level legislation to legalize gold and silver (and associated monetary instruments) as currency within the United States.

Parallel Currencies Issued by National and State Governments

In the last decade, some governments have taken steps to introduce gold-based parallel currencies, intended to circulate alongside their existing currencies, and to be used internationally.

In 2002, the prime minister of Malaysia proposed the introduction of a gold dinar currency, for use throughout the Islamic world. In 2006, gold dinar coins (containing 4.25 grams of gold) were introduced by the government of the Malaysian state of Kelantan. This was followed by the state of Perak in 2011. The coins have been quite popular. However, the effort to create a usable international currency based on the gold dinar has been hindered, in my opinion, by the fact that small denomination banknotes and coins have not yet been issued. Gold coins are much too valuable (have a high denomination) to be useful in small daily transactions by themselves. Also, banking arrangements based on the new currency have apparently not been established yet.

Malaysian gold dinar and silver dirham coins, produced by the state of Kelantan. In 2002, the prime minister of Malaysia stated the intent to create a gold dinar system to serve the entire Islamic world.

In 2011, the Swiss Parliament began discussions on the creation of a gold franc, which would be issued by the Swiss national government and circulate in parallel with the existing Swiss franc, a floating fiat currency. The initiative is part of the "Healthy Currency" campaign sponsored by the conservative Swiss People's Party.

Governments of the Gulf States have discussed a common currency tentatively named the khaleeji, which some have speculated would be based on gold. In August 2011, the Dubai Multi Commodities Center introduced a gold coin, called the khalifa, intended to serve as legal currency. The DMCC is in talks with the central bank of the UAE to designate the coin as legal tender throughout the UAE and Middle East.

Proposed khalifa coin, intended to serve as legal currency in the Gulf States region.

What if the U.S. Federal government itself issued a parallel currency, in particular one based on a gold standard system? It could be quite popular both in the U.S. and abroad. The U.S. Federal government already has a long history of this. From 1882 to 1933, the Federal government issued gold certificates – a form of banknote, or paper money, redeemable for gold bullion – that constituted a major part of the U.S. currency system. During that time, both U.S. Treasury gold certificates and National Bank Notes issued by a menagerie of private banks circulated alongside. The gold certificates were more popular, due to their uniformity and the fact that people trusted the reliability of the Federal government far more than the small commercial banks of the day. In 1914, gold certificates accounted for 32% of circulating currency in the United States.

U.S. Treasury Gold Certificate, series 1922. These gold certificates circulated alongside many other types of banknotes, including Federal Reserve Notes and National Bank Notes. People were free to choose which banknote they preferred.

If the Federal government does not wish to undertake such a program, a state government, such as the State of Utah, could conceivably issue its own parallel currency.

Historically, before 1971, there was little reason for national governments to issue their own parallel currencies, because their primary currencies were already operating on a gold standard system. However, there is at least one example: in 1922, the Russian government introduced the gold-based chervonets currency, to circulate alongside the ruble, which at the time was a floating fiat currency. By 1947, the ruble itself had been pegged to gold, thus negating any need for a parallel gold-based currency. Thus, the chervonets was retired.

1937 Russian gold chervonets banknote. The chervonets was introduced by the Russian national government as a parallel currency to the floating fiat ruble in 1922.

A similar example comes from Germany. In November of 1923, a new currency based on gold, the rentenmark, was introduced to replace the hyperinflated Reichsmark. For a short period, the two currencies circulated alongside, the rentenmark pegged to gold and the reichsmark continuing its plunge into oblivion. The rentenmark was quickly adopted by all, and the Reichsmark in effect disappeared from circulation.

German rentenmark banknote. The rentenmark was introduced by the nationally-sanctioned Rentenbank as a gold-based parallel currency, at first circulating alongside the hyperinflated reichsmark.

Gold and silver have reportedly been declared legal currency in China, and major state-owned commercial banks there now offer gold- and silver-denominated bank accounts.[2]

Significance of gold-based parallel currencies today

The discussion today around parallel currencies is part of a broader discussion: whether to have a currency that can be manipulated for economic effect, or to have a currency which is as stable and reliable as possible, free of human intervention. Traditionally, these have been known as "soft money" and "hard money," and, in practice, have meant either a floating fiat currency, or a gold standard system. The two options are, for the most part, mutually exclusive: it is not possible to have a gold standard system and a policy of monetary manipulation together for any length of time.

Both options have been used, by one government or another, for literally thousands of years. We have a lot of experience in these matters. For the entire post-medieval history of capitalism -- stretching from the Italian city-states of the Renaissance era, through the heyday of Amsterdam as the world's financial center in the 17th century, through the entire history of the Industrial Revolution with London as the world's financial center in the 19th century, into the 20th century with the U.S. as the leader of the capitalist world – a gold standard system was the preferred monetary foundation.

The worldwide transition to floating fiat currencies, or "soft money," in 1971 reflected the increasing popularity of currency manipulation ideas beginning in the 1930s. However, it also reflected simple incompetence. It was an accident. In 1971, the Bretton Woods gold standard system had delivered twenty years that were among the most prosperous in

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[2] See for example: http://businesstimes.com.vn/chinas-banks-use-gold-as-legal-currency/

world history. There was no reason to change it. President Nixon himself said that the end of the gold standard in August 1971 would be temporary. Indeed, he tried to reinstate it with the Smithsonian Agreement in December 1971, which he called "the most significant monetary agreement in the world."

Thus, it is not surprising today that we are again trying to find a way back to the world gold standard system, which worked so well for literally centuries.

Rather than endlessly debating the merits of one system or another, a simpler method is to make both options available, and allow people to choose which they prefer. Just as people in Turkey today choose to do business either in the Turkish lira or euros, as suits their needs, people in the U.S. or elsewhere could choose to do business either in floating fiat dollars or some gold-based alternative.

According to a study of 775 floating fiat currencies by Michael Hewitt[3], no floating fiat currency has ever maintained its value. In 20% of cases, they were destroyed in hyperinflation; 21% were destroyed by war; 12% disappeared in independence; 24% underwent a monetary reform; and 23% exist today, awaiting their final outcome. The average life expectancy of a floating fiat currency was found to be 27 years.

The U.S. dollar, which has been a floating fiat currency for 41 years now, is thus an unusual example of longevity. However, today's extreme reliance upon "easy money" approaches to deal with economic problems – with the Federal Reserve promising unprecedented zero percent policy rates for years, and "real" interest rates deeply negative – suggests to many that the floating fiat dollar does not have a long or successful future. Unfortunately, with world currency arrangements still very dollar-centric, the management of the dollar has consequences for everyone. Governments of China, Russia, the Gulf States and others have complained about the potential consequences of today's aggressive "soft money" techniques -- not only at the Federal Reserve but also the European Central Bank, Bank of England, and Bank of Japan -- and have made preliminary steps toward a future alternative.

[3] Hewitt, Michael. "The Fate of Paper Money," dollardaze.org, January 7, 2009. http://dollardaze.org/blog/?post_id=00405

At a G8 meeting in July 2009, Russian President Dmitry Medvedev illustrated his call for a supranational currency to replace the dollar with a coin that he called a sample of a "united future world currency." The coin is half-ounce gold bullion coin. Such a "supranational currency" would be, in effect, a parallel currency, used alongside national currencies.

The coin held by President Medvedev.
source: futureworldcurrency.com

On the international scale, a parallel gold-based currency, or many such currencies, would help ease this transition, and form the basis of a new monetary order if that should become necessary. Each individual would be free to make increasing use of the gold-based alternative, as it best suited their interests. There would be no great day of transition, but a smooth extended process perhaps over years. The existence of a high-quality alternative could help people avoid much of the potentially disastrous consequences if today's floating fiat currencies meet the same end as the 599 floating currencies that no longer exist.

If the United States government wishes to retain its leadership role in world monetary affairs, I suggest that this alternative be created in the United States – either by federal or state governments themselves, or by allowing private institutions to do so. Otherwise, governments that are clearly establishing the foundation for a future dollar alternative, likely based on gold, will take that role in the future.

Edwin Vieira, Jr.

52 STONEGATE COURT
FRONT ROYAL, VIRGINIA 22630
Telephone: 540-636-9378
e-mail: <edwinvieira@megapipe.net>

27 July 2012

The Honorable Ron Paul
Chairman, Subcommittee on Domestic Monetary Policy and Technology
Committee on Financial Services
United States House of Representatives
203 Cannon House Office Building
Washington, D.C. 20515

Dear Dr. Paul:

Attached hereto is a brief study on some of the basic legal issues surrounding the use of "alternative currency" in the United States, which I should appreciate being considered and included in the record of the hearing to be held on this subject on 2 August next.

In the present economic climate, I can think of few matters more important than for Congress to secure the right of all Americans to protect themselves against debasement of their money by having available the option of employing currencies other than Federal Reserve Notes in their day-to-day transactions.

Although these are, of course, simply the views of only a single individual (albeit one who has looked into these matters rather extensively over the years), I hope that the attached study will prove useful to that end.

Your servant,

Edwin Vieira, Jr.

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attachment

SOME OBSERVATIONS ON THE LEGALITY OF "ALTERNATIVE CURRENCY" IN THE UNITED STATES

by EDWIN VIEIRA, JR.

For the purposes of this study, an "alternative currency" will be defined as United States gold or silver coins[1] which are used in normal financial transactions in preference to Federal Reserve Notes[2] or United States base-metallic coins.[3] Although the Federal Reserve System and Federal Reserve Notes are burdened with many constitutional infirmities,[4] this study will assume *arguendo* that these problems are not material.

I. Present law already allows Americans to use "alternative currencies": on the one hand, Federal Reserve Notes irredeemable in either gold or silver;[5] and, on the other hand, United States gold and silver coins, specifically gold "American Eagles" and silver "American Liberty" coins.[6]

A. In general, *all* "United States coins and currency (including Federal Reserve notes * * *) are legal tender for all debts, public charges, taxes, and dues."[7] In particular, American Eagle and American Liberty coins are "legal tender", too.[8]

In practice, any contract or other obligation for which the medium of payment is denominated in undefined or undifferentiated "dollars",[9] such as by the use of "the dollar sign" ("$") without more, is payable in whatever "legal-tender" United States coin or currency, the value of which Congress has set in some number of "dollars" pursuant to its power "[t]o coin Money[and] regulate the Value thereof",[10] the debtor wishes to tender.

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[1] *See* 31 U.S.C. § 5112(a)(7) through (10), *and* 5112(e).

[2] *See* 12 U.S.C. § 411.

[3] *See, e.g.*, 31 U.S.C. § 5112(a)(1) through (6).

[4] *See* Edwin Vieira, Jr., *Pieces of Eight: The Monetary Powers and Disabilities of the United States Constitution* (Chicago, Illinois: R R Donnelley & Sons, Inc., GoldMoney Foundation Special Edition [2011] of the Second Revised Edition of 2002), Volume 2, at 1401-1524.

[5] *Compare* 12 U.S.C. § 411 *with* 31 U.S.C. § 5118(b) and (c).

[6] 31 U.S.C. § 5112(a)(7) through (10), *and* 5112(e).

[7] 31 U.S.C. § 5103.

[8] 31 U.S.C. § 5112(h).

[9] *See* 31 U.S.C. § 5101.

[10] U.S. Const. art. I, § 8, cl. 5.

B. Americans can, however, avoid this effect of the "legal-tender" law by entering into so-called "gold-clause contracts", which specify that *only* a certain type of coin or currency—typically, gold or silver coin—may be used as the medium of payment. As relevant here, "'gold clause' means a provision in or related to an obligation" which "give[s] the obligee a right to require payment in * * * a particular United States coin".[11] Such "particular United States coin" is the *only* "legal tender" for such a contract. "[E]xpress contracts to pay coined dollars can only be satisfied by the payment of coined dollars. They are not '*debts*' which may be satisfied by the tender of * * * notes".[12]

1. "Gold-clause contracts" have a constitutional basis. The Constitution provides that "[n]o State shall * * * make any Thing *but* gold and silver Coin a Tender in Payment of Debts".[13] This amounts to an explicit constitutional reservation of the States' right, power, *and duty* to "make * * * gold and silver Coin a Tender".[14] Most "Debts" for which "gold and silver Coin" would naturally be "a Tender" would arise out of "gold-clause contracts", in which the parties have explicitly chosen such "Coin", and only such "Coin", as their medium of exchange and therefore "Tender". Thus, the Constitution *requires* the States to recognize and enforce their citizens' "gold-clause contracts".

That being so, the Constitution disables Congress from prohibiting or inhibiting the enforcement of "gold-clause contracts" in the States' courts. In addition, "[t]he judicial Power [of the United States] shall extend * * * to Controversies * * * between Citizens of different States".[15] Such "Controversies" which involve the enforcement of "gold-clause contracts" usually must be decided under the particular State laws pursuant to which the contracts were negotiated. Perforce of the Constitution, all of the States are required to enforce such contracts in their courts specifically by the payment of the gold or silver coin the contracts designate as the sole allowable "Tender". So, because the courts of the United States must follow State law on this matter, Congress cannot prohibit or otherwise impair the enforcement of such "gold-clause contracts" in the courts of the United States.

2. "Gold-clause contracts" have a statutory basis, too. Any American may now enter into private contracts that "give the obligee the right to require payment in * * * gold", or "a particular United States coin or currency", or "United States money measured in gold

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[11] 31 U.S.C. § 5118(a)(1)(B).

[12] Bronson v. Rodes, 74 U.S. (7 Wallace) 229, 254 (1869). *Accord*, Butler v. Horowitz, 74 U.S. (7 Wallace) 258, 260-261 (1869). *See* Dewing v. Sears, 78 U.S. (11 Wallace) 379, 380 (1870) (court judgment on a "gold-clause contract" must be "entered for coined dollars * * * instead of * * * notes equivalent in market value")

[13] U.S. Const. art. I, § 10, cl. 1 (emphasis supplied).

[14] *See* U.S. Const. amend. X.

[15] U.S. Const. art. III, § 2, cl. 1.

or a particular United States coin or currency".[16] (Perforce of the Constitution, the States may enter into such contracts. As a practical matter, however, the United States have disabled themselves from entering into such contacts.[17])

II. At the present time, the use of United States gold and silver coin as an "alternative currency" pursuant to "gold-clause contracts" has two practical limitations.

A. The amount of American Liberty and American Eagle silver and gold coinage being minted is not optimal. The present statutes require that those coins shall be minted and issued "in quantities sufficient to meet public demand".[18] "Public demand" is now gauged by the sale of the coins "at a price equal to the market value of the bullion [measured in Federal Reserve Notes] at the time of sale, plus the cost of minting, marketing, and distributing such coins".[19] The correct method for determining the true public demand for silver and gold coinage, however, is so-called "free coinage", whereby the Mint coins all of the silver and gold that the public presents for coinage.[20] Adoption of "free coinage" would surely produce more coinage than the present scheme.

B. Perhaps of more immediate consequence is the problem of how a "gold-clause contract" providing for the payment of United States gold or silver coins should be valued, particularly for purposes of taxation. For instance, is the value of a "gold-clause contract" which stipulates payment in (say) ten "$50" American Eagle gold coins[21] the aggregate face value of those coins ("$500"), or the much greater "dollar" value of the Federal Reserve Notes against which those coins would exchange in the free market? The Internal Revenue Service and various State agencies generally take the position that the value of such a contract for purposes of taxation is the latter. But the correct answer, for all purposes, is the former ("$500").

1. American Eagle and American Liberty coins are minted pursuant to statutes enacted under Congress's constitutional authority "[t]o coin Money, [and] regulate the Value thereof".[22] They are therefore "lawful money" by definition. They are also specifically constitutional "currency", because the only use in the Constitution of a word related to

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[16] 31 U.S.C. § 5118(a) and (d).

[17] *See* 31 U.S.C. § 5118(b) and (c).

[18] 31 U.S.C. § 5112(e) and (i)(1).

[19] 31 U.S.C. § 5112(f)(1) and (i)(2)(A).

[20] *See, e.g.*, Act of 2 April 1792, ch. 16, § 14, 1 Stat. 246, 249.

[21] 31 U.S.C. § 5112(a)(7).

[22] 31 U.S.C. § 5112(a)(7) through (10), *and* 5112(e), *enacted under aegis of* U.S. Const. art. I, § 8, cl. 5.

"currency" is the reference to "current Coin of the United States".[23] More generally, they are "currency" because they are "[c]oined money * * * authorized by law" which, when "gold-clause contracts" are involved, "in fact circulate[s] from hand to hand as the medium of exchange".[24] And they are designated "legal tender", on an equal basis with all other United States coins and currency.[25]

The statutes providing for American Eagle and American Liberty coins explicitly set their values at their face values.[26] The coins announce their values on their faces.[27] And no other statute sets any other values for these coins, or purports to delegate authority to anyone to set other values by regulation or otherwise. Therefore, the coins' values as "lawful money", "currency", and "legal tender" are their face values, and nothing else.

2. Today the United States have a "dual monetary system", consisting of: (i) gold and silver coinage; and (ii) Federal Reserve Notes and base-metallic coinage which the United States refuse to redeem in gold or silver.[28]

Different United States coins and other currency have different economic purchasing powers in the marketplace. For example, a "$10" American Eagle gold coin or ten "$1" American Liberty silver coins both buy far more than a "$10" Federal Reserve Note or "$10" face value in base-metallic coinage. This economic discrepancy, however, is irrelevant to *the legal values as money* of these various coins and currency. Applying *mutatis mutandis* the controlling case-law with respect to a "dual monetary system" and "gold-clause contracts" in the United States—

> the laws for the coinage of gold and silver [in the present United States Code] have never been repealed or modified. * * * And the emission of gold and silver coins * * * continues * * * .
>
> Nor have those provisions of law which make these coins a legal tender in all payments been repealed or modified.
>
> It follows that there [a]re two descriptions of money in use * * * ,

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[23] U.S. Const. art. I, § 8, cl. 6.

[24] *See Black's Law Dictionary* (rev. 4th ed. 1968), at 458 ("currency"), 459 ("current money").

[25] 31 U.S.C. §§ 5112(h) and 5103.

[26] 31 U.S.C. § 5112(a)(7) ("[a] fifty dollar gold coin"), (a)(8) ("[a] twenty-five dollar gold coin"), (a)(9) ("[a] ten dollar gold coin"), and (a)(10) ("[a] five dollar gold coin"); *and* § 5112(e)(4) ("'One Dollar'" in silver).

[27] 31 U.S.C. § 5112(e)(4) ("have inscriptions of * * * the words * * * 'One Dollar'") (American Liberty); *and* § 5112(i)(1)(B) ("have inscriptions of the denominations") (American Eagles).

[28] *See* 31 U.S.C. § 5112(a)(7) through (10), (e), and (i); 12 U.S.C. § 411; 31 U.S.C. §§ 5112(a)(1) through (6), (b), (c), and (d), *and* § 5118(b) and (c). No legal disability prevents Federal Reserve Banks from redeeming their notes in gold. *See* 12 U.S.C. § 354. It is the banks' practice not to do so, however.

> both authorized by law, and both made legal tender in payments. The statute denomination of both description [i]s dollars; but they [a]re essentially unlike in nature. The coined dollar [i]s * * * a piece of gold or silver * * * . The [Federal Reserve Note i]s a promise to pay a coined dollar * * * . It [i]s impossible, in the nature of things, that these two dollars should be the equivalent of each other, nor [i]s there anything in the currency acts purporting to make them such * * * .
>
> If then, no express provision to the contrary be found in the acts of Congress, it is a just and necessary inference, from the fact that both descriptions of money were issued by the same government, that contracts to pay in either [a]re equally sanctioned by law. It is, indeed, difficult to see how any question can be made on this point. Doubt concerning it can only spring from that confusion of ideas which always attends the introduction of varying and uncertain measures of value into circulation of money.[29]

> One owing a debt may pay it in gold coin on in legal-tender notes of the [Federal Reserve System], as he chooses, unless there is something to the contrary in the obligation out of which the debt arises. A coin dollar is worth no more for the purposes of tender in payment of an ordinary debt than a note dollar. The law has not made the note a standard of value any more than coin. It is true that in the market, as an article of merchandise, one is of greater value than the other; but as money, that is to say, as a medium of change, the law knows no difference between them.[30]

Cases such as *Bronson* and *Thompson* stated the law of America's "dual monetary system" and "gold clauses" until 1933-1934. When Congress then prohibited the private ownership of gold and declared certain "gold clauses" unenforceable, those cases became temporarily obsolete.[31] They were *not* overruled, however. The private ownership of gold was statutorily

[29] Bronson v. Rodes, 74 U.S. (7 Wallace) 229, 251-252 (1869). It is no longer entirely true that "[t]he [Federal Reserve Note i]s a promise to pay a coined dollar". Federal Reserve Notes must be redeemed for "lawful money". 12 U.S.C. § 411. Both the Treasury and the Federal Reserve Banks will redeem Federal Reserve Notes with United States base-metallic coinage. *See, e.g.*, 31 U.S.C. 5112(a)(1) through (6). But the Treasury refuses under color of statute to redeem them for gold or silver coin. *See* 31 U.S.C. § 5118(b) and (c). And the banks as a matter of practice refuse to perform such redemption, too. This refusal of the Treasury and the banks is the reason that United States gold and silver coinage constitutes an "*alternative* currency", and not an integral part of the Federal Reserve System's currency, in contrast to the original arrangement specifically as to gold. *See* Act of 21 December 1913, ch. 6, § 16, 38 Stat. 251, 265-267.

[30] Thompson v. Butler, 95 U.S. 694, 696 (1878).

[31] *See* Norman v. Baltimore & Ohio R.R., 294 U.S. 240 (1935).

permitted in 1973-1974.[32] "Gold clauses" (other than for the United States) were allowed statutorily *post*-1978.[33] And the minting of American Eagle and American Liberty coins was authorized in 1985.[34] At that point, *Bronson*, *Thompson*, and related cases once again provided, and today continue to provide, the controlling legal standards, as the United States Court of Appeals for the Fifth Circuit recently recognized by explicitly relying on *Thompson* in *Crummey* v. *Klein Independent School District*.[35]

On these points, the differences between the United States Treasury Notes at issue in *Bronson* and *Thompson*, on the one hand, and Federal Reserve Notes, on the other, work against the latter. Both were or are obligations of the United States, "legal tender", and irredeemable in gold or silver coin. But the Treasury Notes issued directly from the Treasury, whereas Federal Reserve Notes are "issued at the discretion of the Board of Governors of the Federal Reserve System". And the Treasury Notes were explicitly designated as "lawful money", whereas Federal Reserve Notes are to be "redeemed in lawful money" (and obviously cannot be the very things in which they are to be redeemed).[36]

No decision of the Supreme Court has overruled, limited, or even questioned *Thompson* or *Bronson*. So lower courts must follow these precedents "no matter how misguided the judges of those courts may think [them] to be".[37] *A fortiori*, all other governmental agencies are bound by the principles stated in these decisions.

Because, as the Court of Appeals opined in *Crummey*, "'[b]y statute it is established that federal reserve notes, on an equal basis with other coins and currencies of the United States, shall be legal tender'", it must also be "'established'" that American Eagle and American Liberty coins are "'legal tender'" "'on an equal basis'" with Federal Reserve Notes.[38] So, "[a]s legal tender, a dollar is a dollar, regardless of the physical embodiment of the currency".[39] Any attempt by a court or an agency such as the IRS to re-value a "gold-clause contract" in terms of some United States coin or currency other than the "particular

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[32] Act of 21 September 1973, Pub. L. 93-110, § 3, 87 Stat. 352, 352; Act of 14 August 1974, Pub. L. 93-373, § 2(b) and (c), 88 Stat. 445, 445.

[33] Act of 28 October 1977, Pub. L. 95-147, § 4(c), 91 Stat. 1227, 1229.

[34] Act of 9 July 1985, Pub. L. 99-61, Title II, 99 Stat. 113, 115; Act of 17 December 1985, Pub. L. 99-185, 99 Stat. 1177.

[35] No. 08-20133 (5th Cir. 2008) (unpublished opinion).

[36] *Compare and contrast* Act of 25 February 1862, ch. 33, § 1, 12 Stat. 345, 345; Act of 18 March 1869, ch. 1, 16 Stat. 1; *and* New York *ex rel.* Bank of New York v. Board of Supervisors, 74 U.S. (7 Wallace) 26, 30-31(1869), *with* 12 U.S.C. § 411 and 31 U.S.C. § 5118(b) and (c).

[37] Hutto v. Davis, 454 U.S. 370, 375 (1982).

[38] Slip Opinion at 3, *quoting* United States v. Wangrud, 533 F.2d 495, 495 (9th Cir. 1976).

[39] Slip Opinion at 3.

United States coin" in which the contract is payable, where such re-valuation results in a value in "dollars" more or less than the aggregate face value of the "particular United States coin" the contract specifies, thereby attempts to "[re-]regulate the Value" and change the "legal tender" character of that coin contrary to the express determination of Congress. The power to "regulate the Value" of money and "to declare what is and what is not 'legal tender'", and at what value in "dollars" particular coins or other currency shall be taken as such, however, "lies with Congress and not the Courts" or any other governmental body.[40]

3. The contrary contention is frivolous. The Supreme Court has described claims "so attenuated * * * as to be absolutely devoid of merit" in several ways: as "wholly insubstantial", "obviously frivolous", or "no longer open to discussion".[41] "A claim is insubstantial * * * if 'its unsoundness so clearly results *from the previous decisions of* ***this*** *court* as to foreclose the subject'".[42] As explained above, "the previous decisions of *this* court"—that is, the Supreme Court—in *Bronson*, *Thompson*, and related cases establish beyond question that, where "gold-clause contracts" are concerned, "[a] coin dollar is worth no more for the purposes of tender in payment of an ordinary debt than a note dollar. The law has not made the note a standard of value any more than coin."[43]

Congress itself has approved the use of "gold-clause contracts" according to these principles. When Congress authorized private "gold-clause contracts" by statute in 1977, its Members knew the applicable law as stated in *Thompson, Bronson,* and other decisions of the Supreme Court.[44] Also, because Congress was fully aware of its own constitutional power "[t]o * * * regulate the Value" of "Money",[45] it knew that it could effectively modify or overrule the holdings in those cases as to how "gold-clause contracts" should be valued in "dollars".[46] Yet Congress has never taken any such action.

With the statutory authorization of "gold-clause contracts" in 1977, Congress recreated essentially the same "dual monetary system" which existed during and after the Civil War. Congress then strengthened this system in 1985, by authorizing the minting of American Eagle gold and American Liberty silver coins as "legal tender" and "in quantities

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[40] *See* U.S. Const. art. I, § 8, cl. 5, *and* Linne v. Baker, 1986 WL 9502, at *3, *aff'd*, 826 F.2d 129 (D.C. Cir. 1987).

[41] *See* Newburyport Water Co. v. Newburyport, 193 U.S. 561, 579 (1904); Bailey v. Patterson, 369 U.S. 31, 33 (1962); Hannis Distilling Co. v. Baltimore, 216 U.S. 285, 288 (1910); Levering & Garrigues Co. v. Morrin, 289 U.S. 103, 105 (1933); McGilvra v. Ross, 215 U.S. 70, 80 (1909).

[42] Goosby v. Osser, 409 U.S. 512, 518 (1973) (emphasis supplied).

[43] Thompson, 95 U.S. at 696.

[44] *See* Cannon v. University of Chicago, 441 U.S. 677, 696-697 (1979).

[45] U.S. Const. art. I, § 8, cl. 5.

[46] *See* Albernaz v. United States, 450 U.S. 333, 341-342 (1981).

sufficient to meet public demand".[47] At both times (and ever since unto today as well), Congress knew that:

(i) This "dual monetary system" consists of paper currency not redeemable in gold or silver coin (United States Treasury Notes then, Federal Reserve Notes now) and United States gold and silver coins.

(ii) Under this system, individuals can choose, through "gold-clause contracts", to employ United States gold and silver coins as their media of payment to the exclusion of Federal Reserve Notes.

(iii) As a matter of law, perforce of Congress's monetary statutes as applied under the rule enunciated in *Thompson*, the value of a "gold-clause contract" is the aggregate face value in "dollars" of the coins involved.

(iv) As a matter of fact, equal face values of United States gold and silver coins and of Federal Reserve Notes do not have equal purchasing powers in the marketplace. Therefore,

(v) Individuals who employ "gold-clause contracts" might obtain some tax benefits therefrom—*unless Congress enacted a statute preventing that result, along the lines of a statute it enacted shortly after the Civil War, when America's first "dual monetary system" existed.*[48] But,

(vi) No such statute was in force in 1977 or 1985. And Congress has enacted no such statute since then.

One may posit numerous, and compelling, reasons why Congress created and has maintained such a "dual monetary system", including:

• to enable Americans, by increasingly employing gold and silver coin in preference to Federal Reserve Notes, to pressure the Federal Reserve System into adopting policies that would stop the depreciation of those notes relative to specie;

• to enable Americans to protect themselves financially against the

[47] 31 U.S.C. § 5112(e), (h), and (i)(1).

[48] *See* Act of 13 July 1866, ch. 184, § 9, 14 Stat. 98, 147, *amending* Act of 10 March 1866, ch. 15, §§ 3 through 5, 14 Stat. 4, 5, *repealed by* Act of 14 July 1870, ch. 255, § 1, 16 Stat. 256, 256. *See* Pacific Insurance Co. v. Soule, 74 U.S. (7 Wallace) 433, 440-443 (1869).

consequences of the Secretary of the Treasury's failure to perform his duty to "redeem gold certificates owned by the Federal reserve banks at times and in amounts the Secretary decides are necessary to maintain the equal purchasing power of each kind of United States currency";[49]

• to provide Americans with an alternative currency (and a set of market prices denominated in such currency) that could enable the markets to continue to function even if the Federal Reserve System should collapse in hyperinflation or depression; and

• to supply the several States and the United States with an alternative currency then in use by many Americans on the basis of which public business could be conducted even were the Federal Reserve System to collapse.[50]

In any event, *the very existence of this "dual monetary system", unrestricted by statute with respect to the calculation and payment of taxes, establishes that Congress has authorized and empowered Americans to employ that system to the maximum extent they desire and for the maximum benefit that it can afford them,* ***even with respect to taxes.***

III. Notwithstanding the foregoing, certain practical problems in the use of United States gold and silver coin as "alternative currency" remain. Fortunately, the solutions are not particularly difficult:

A. Congress should enact a statute under its powers "[t]o lay and collect Taxes" and "[t]o coin Money, [and] regulate the Value thereof",[51] or the President should promulgate a directive under his power and duty to "take Care that the Laws be faithfully executed",[52] requiring the IRS and all other agencies of the United States to follow the rule of valuation set in *Thompson* v. *Butler*. And under its power "[t]o coin Money, [and] regulate the Value thereof", Congress should enact a statute requiring the same compliance from all State

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[49] 31 U.S.C. § 5119(a). If the Secretary fulfilled this duty, the exchange-rate between Federal Reserve Notes and United States gold coin would immediately become close to unity, because a one-ounce American Eagle gold coin is statutorily denominated "$50", and the statutory standard for the redemption of gold certificates is "$42-2/9" *per* ounce. *Compare* 31 U.S.C. § 5112(a)(7) *with* § 5117(b).

[50] A model statute for the adoption of an "alternative-currency system" by the States can be found in E. Vieira, Jr., *Pieces of Eight*, *ante* note 4, Volume 2, at 1664-1666.

[51] U.S. Const. art. I, § 8, cls. 1 and 5.

[52] U.S. Const. art. II, § 3.

agencies.[53]

It might be objected that, in a system of taxation with "progressive" rates, applying the rule of *Thompson* would encourage individuals to enter into "gold-clause contracts" simply to reduce their tax-liabilities through the lesser number of "dollars" that would be involved in such transactions (as opposed to the same transactions when conducted on the basis of Federal Reserve Notes as the media of payment). The best way to deal with this possibility, however, would be for Congress (and the States' legislatures) to require that taxes on transactions effected with United States gold and silver coins be paid with the same type of coins involved in those transactions. Thus, taxpayers would file specific returns for "gold-clause contracts" payable in gold, and pay the taxes on those transactions in gold; they would file specific returns for "gold-clause contracts" payable in silver, and pay the taxes on those transactions in silver; and would file general returns for all other transactions conducted in Federal Reserve Notes, and pay the taxes on those transactions in such notes.

B. As noted above, the first step in maximizing the amount of gold and silver coinage available for use as alternative currency must be to reinstate "free coinage" in the United States Mint.

A second valuable step would be for Congress to declare by statute that specifically designated foreign gold and silver coins will be "legal tender for debts" at their values in terms of American Eagle or American Liberty coins.[54] For example, a foreign gold coin that contained one ounce of pure gold would be valued at "$50";[55] a foreign silver coin that contained one ounce of pure silver would be valued at "$1";[56] and coins of other weights would be valued proportionately. This would effectively incorporate all of the reliable gold and silver coinage of the entire world into the monetary system of the United States. If the same procedure were applied to bullion, all of the gold and silver of any form useful as money to be found anywhere in the world would in principle be incorporated into that system.

The imprudence in not taking these steps, in the face of the present worldwide monetary and banking crisis, speaks for itself.

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[53] *See* U.S. Const. art. VI, cl. 2. A model statute can be found in E. Vieira, Jr., *Pieces of Eight, ante* note 4, Volume 2, at 1663-1664.

[54] *Contrast* the present provision on this subject, in 31 U.S.C. § 5103. Congress has taken this route in the past. *See* E. Vieira, Jr., *Pieces of Eight, ante* note 4, Volume 1, at 199-205.

[55] *See* 31 U.S.C. § 5112(a)(7).

[56] *See* 31 U.S.C. § 5112(e).