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CFTC Charges Monex Deposit Company, its Affiliates, and their Principals in Multi-Million Dollar Fraudulent Precious Metals Scheme

CFTC alleges that defendants deceived thousands of retail customers who lost hundreds of millions of dollars in connection with illegal, off-exchange leveraged precious metals transactions

Washington, DC – The U.S. Commodity Futures Trading Commission (CFTC) announced that on September 6, 2017, it filed a civil injunctive enforcement action in the U.S. District Court for the Northern District of Illinois against three affiliated companies located in Newport Beach, California, **Monex Deposit Company**, **Monex Credit Company**, and **Newport Services Corporation** (collectively, **Monex**), and Monex's principals **Louis Carabini** and **Michael Carabini**. The CFTC Complaint charges the Defendants, among other claims, with defrauding thousands of retail customers nationwide out of hundreds of millions of dollars, while executing thousands of illegal, off-exchange leveraged commodity transactions.

James McDonald, the CFTC's Director of Enforcement stated: "Today, we announce the filing of one of the largest precious metals fraud cases in the history of the Commission. As alleged, the Defendants defrauded thousands of retail customers—many of whom are elderly—out of hundreds of millions of dollars as part of a multi-year scheme. Fraud in our markets, like that alleged here, undermines confidence, reduces transparency, and harms competition. As this investigation shows, we'll work tirelessly to detect and prosecute fraud of the sort that's alleged here."

CFTC Commissioner Sharon Bowen commented: "I am proud to support this enforcement action. The kind of massive fraud alleged here goes to the heart of our core mission as an agency, and mine as a Commissioner. I came to the Commission committed to investor protection. And I leave with that commitment unshaken."

According to the Complaint, Monex offers leveraged trading in gold, silver, platinum and palladium to retail customers through its "Atlas" program. Monex deceptively pitches leveraged trading through the Atlas program as a safe, secure and profitable way to invest in precious metals, the Complaint alleges. In reality, however, nearly everyone who placed leveraged trades in an Atlas account between July of 2011 and March of 2017 lost money, the Complaint alleges. According to the Complaint, over 12,000 trading accounts were used to place leveraged precious metals trades resulting in more than $290 million in customer losses between July 16, 2011 and March 31, 2017. The Complaint alleges that in order to push customers into the Atlas program and to generate trades, the Defendants employed high-pressure sales tactics, systematically downplayed the risks associated with the Atlas program, and falsely promised customers that Monex would act as the customers' fiduciary and would always act in those customers' best interests. As a result of Defendants' conduct, many customers lost their life savings, while Monex and its owners pocketed millions of dollars, the Complaint alleges.

The Complaint further alleges that Defendants' leveraged commodity transactions are unlawful because they were not, and are not, executed on or subject to the rules of a regulated exchange, as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, effective July 16, 2011.

The Complaint also alleges that the Defendants were required to register as Futures Commission Merchants (FCMs) but failed to do so in violation of the Commodity Exchange Act. Individual Defendants Louis and Michael Carabini are charged directly with the offering of the unlawful

leveraged commodity transactions and charged with the fraud and registration violations as controlling persons of Monex who knowingly induced the underlying violations or failed to act in good faith.

The CFTC is seeking preliminary injunctive relief to enjoin Monex from continuing to market the Atlas program to retail customers, and appointment of a monitor over Monex for the Atlas trading accounts. The requested preliminary injunction Order would prohibit the Defendants from trading, soliciting orders, committing fraud, or engaging in business activity related to contracts or transactions regulated by the CFTC until there is a final decision on the merits. In its continuing litigation, the CFTC seeks disgorgement of ill-gotten gains, restitution for the benefit of defrauded pool participants, civil monetary penalties, permanent registration and trading bans, and a permanent injunction from future violations of federal commodities laws, as charged.

The CFTC Division of Enforcement staff members responsible for this action are Carlin Metzger, Michael Frisch, Eric Schleef, Brigitte Weyls, Joseph Konizeski, Jeffrey Gomberg, Scott Williamson, and Rosemary Hollinger. The CFTC Division of Enforcement also thanks the Division of Market Oversight Surveillance Staff for its assistance.

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CFTC's Precious Metals Customer Fraud Advisory

The CFTC has issued several customer protection Fraud Advisories that provide the warning signs of fraud, including the Precious Metals Fraud Advisory, which alerts customers to precious metals fraud and lists simple ways to spot precious metals scams.

Customers can report suspicious activities or information, such as possible violations of commodity trading laws, to the CFTC Division of Enforcement via a Toll-Free Hotline 866-FON-CFTC (866-366-2382) or file a tip or complaint online.

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