UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE COMMODITY EXCHANGE, INC. SILVER FUTURES AND OPTIONS TRADING LITIGATION	1:11-md-02213-RPP

AMENDED CONSOLIDATED CLASS ACTION COMPLAINT

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Plaintiffs complain, on knowledge as to their own conduct, of Defendants (see ¶¶22-29) as follows:[1]

SUMMARY OF ALLEGATIONS

1. **Unlawful conduct.** (a) On June 26, 2007 and between March 17, 2008 and October 27, 2010 ("Class Period"), Defendants combined, conspired and agreed to restrain trade in, fix, and manipulate prices of silver futures and options contracts traded in this District on the Commodity Exchange Inc. ("COMEX") division of the New York Mercantile Exchange ("NYMEX"). Defendants thereby have violated Section 1 of the Sherman Act, 15 U.S.C § 1.

(b) Also during the Class Period, certain of the Defendants, including JP Morgan (as defined in ¶¶22-25), have uneconomically and intentionally acted to

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[1]Plaintiffs' information supporting their allegations made on information and belief include: (a) reports of statements by Commodity Futures Trading Commission ("CFTC") Commissioner Bart Chilton that the silver market has been and is being manipulated; (b) public news reports about the investigation by the CFTC of manipulation in the silver market; (c) news reports of JP Morgan's recent decision to close trading operations; (d) reports showing the recent reduction in the concentration of open interest in the silver futures contracts held by commercial firms; (e) reports of silver and gold prices and silver futures and silver options prices; (f) reports of trading activity, open interest and other aspects of silver futures, and silver options trading; (g) webcasts and statements of the March 25, 2010 Meeting of the CFTC to Examine Futures and Options Trading in the Metals Markets; (h) the following public reports: CFTC Commitment of Traders Reports; CFTC Bank Participation Reports; Bank For International Settlements OTC Derivatives Market Reports; Comptroller of the Currency Quarterly Reports On Bank Trading and Derivatives Activities; and the CFTC May 13, 2008 "Report on Large Short Trader Activity In the Silver Futures Market."; and (i) other investigation including that reflected in specific allegations.

manipulate prices of COMEX silver futures contracts and options contracts, and to monopolize the Relevant Market as defined in Count Four. Such conduct violates Section 9(a) of the Commodity Exchange Act, 7 U.S.C § 13b, and Section 2 of the Sherman Antitrust Act 15 U.S.C. §2.

2. **Purpose and Means**. Defendants have effected their foregoing restraint of trade and manipulation in order to profit themselves. Defendants have caused declines in the price of COMEX silver, and COMEX options, and also stabilized such prices through diverse means. These means include (a) a dominant and manipulative short position and market power manipulation; (b) repeated manipulative and uneconomic trades and trade manipulation; (c) false trades made to facilitate a trade manipulation; and (d) other acts.

3. **Market Power Manipulation**. (a) JP Morgan, gradually acquired control, between March 17, 2008 and August 2008, of an enormously large ounce short position in COMEX silver futures and silver that previously was held by Bear Stearns. *See* Factual Allegations II.B.2 *infra*. This short position and JP Morgan's existing COMEX short silver positions gave JP Morgan substantial market power in COMEX silver futures contracts.

(b) For example, by August 15, 2008, JP Morgan held significantly more net short COMEX silver positions than the next three largest traders on

COMEX combined. JP Morgan frequently held 24-32% of the open interest in **all** COMEX silver futures short contracts then trading. Moreover, JP Morgan also sometimes held 30-40% of the short open interest in the important COMEX silver futures contracts expiring in the "front" months.

(c) As JP Morgan gradually acquired its total control of these large COMEX short positions, and thereafter, COMEX silver prices substantially decreased and substantially underperformed COMEX gold prices.

(d) Conversely, when the control resulting from JP Morgan's concentrated short position in COMEX silver futures began to decline substantially after the CFTC's March 25, 2010 public hearing on manipulation, COMEX silver prices snapped back and substantially outperformed COMEX gold futures prices.

4. **Manipulative and Uneconomic Trades**. (a) During the Class Period, JP Morgan also made large manipulative trades that repeatedly caused sudden, unreasonable and artificial fluctuations in COMEX silver prices which profited JP Morgan. *E.g.*, Factual Allegations II.B.1 and 4 *infra*.

(b) One of these episodes occurred on August 14 and 15, 2008. JP Morgan's trades caused a very large decline of almost $1.41 per ounce, or approximately 12%, in COMEX silver futures. This represented an approximately $220,000,000 increase in the value of JP Morgan's COMEX silver short positions.

(c) Another of these occurred on June 26, 2007. See Factual Allegations II.B.1 *infra*.

(d) The plausibility of the allegations of silver manipulation on June 26, 2007 and August 15, 2008 can be seen through an analysis of the silver market including an analysis against the gold benchmark. This "benchmarking study" covers a four-year period from January 3, 2005 through December 31, 2008, containing 1,004 trading days.[2] As a benchmark for silver prices and trading volumes, the analysis incorporated similar measures for gold. The various results of the study, described more fully below, demonstrate that both price and volume movements in silver futures around the options maturity dates of June 26, 2007[3] and August 15, 2008 were unusual and statistically significant both compared to their history as well as price and volume movements in gold. These findings support the allegations of manipulation on those days and inconsistent with an explanation that the market was functioning normally and competitively on those dates. In summary, the analysis finds:

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[2] The source of the futures data is CSI (csidata.com). CSI states:" CSI's historical coverage includes all commodity markets gathered from over 80 futures exchanges traded worldwide. More than 99% of the markets in CSI's inventory extend from the very first day of trading. The breadth of futures information includes, grains, currencies, world stock indices, metals, mercantiles, financials, energy and more." CSI supplies yahoo.com and other commercial users.

[3] Silver futures options expiration occurs four business days prior to the end of the month preceding the option contract month. If the expiration day falls on a Friday or immediately prior to an Exchange holiday, expiration will occur on the previous business day. See, http://www.cmegroup.com/trading/metals/precious/silver_contractSpecs_options.html.

- The fall in spot and all futures silver prices on June 26, 2007 and August 15, 2008 is highly unusual and highly statistically significant.
- Spot and futures silver prices declined significantly more than the declines in physical gold prices on both June 26, 2007 and August 15, 2008.
- After taking into account contemporaneous moves in gold, the declines in silver prices on both June 26, 2007 and August 15, 2008 were still statistically significant.
- The decline is silver prices cannot be attributed to movements in gold.
- Regression analysis confirms that silver prices declined in an unusual fashion on these two days even after taking into account gold.
- The June 26, 2007 option expiration date was unique as compared to other expiration dates and it was characterized by an unusually large silver price decline.
- This evidence is consistent with manipulation of the silver market on both June 26, 2007 and August 15, 2008.

- In addition to a large price decline, silver futures also experienced higher relative increases in trading volumes on both June 26, 2007 and August 15, 2008 compared to its recent history as well as compared to trading volumes in gold futures during the same days.
- The results of regression analysis indicate that the increases in silver trading volume cannot be explained by the normal relations between the trading activity between silver and gold.
- The majority of the increase in trading volume during June of 2007 came directly from the July 2007 maturity contract. This evidence is consistent with the explanation that the July 2007 maturity silver futures contract was used to manipulate the silver prices around June 2007.
- The majority of the increase in trading volume during August 2008 came directly from the September 2008 maturity contract. This evidence is consistent with the explanation that the September 2008 maturity silver futures were used to manipulate the silver prices around August 2008.

- Although Plaintiffs do not believe that platinum and palladium should be used as benchmarks to silver, if these two metals are included in the studies of gold as a combined composite benchmark, the results of the analysis would also be robust. So, for example, regression analysis confirms that silver prices declined in an unusual fashion on these two days even after taking into account gold, platinum and palladium, and the results of regression analysis indicate that the increases in silver trading volume cannot be explained by the normal relations between the trading activity between silver and the other precious metals – gold, platinum and palladium.

5. **Large Uneconomic Sales To Depress Prices**. Although June 26, 2007 and August 15, 2008 were extraordinary days that stand out, Plaintiffs do not allege that JP Morgan's large manipulative trades were limited to these very notable dates. On the contrary, during the regime of JP Morgan's dominant COMEX short position, the COMEX silver futures market was plagued by the following pattern of uneconomic conduct. Large sell orders hit the COMEX silver futures market and moved COMEX prices down sharply. Factual Allegations II.B.1, 3, 4, 5, and 7. This frequently happened during a time of day when there was very low or no COMEX trading. This conduct is wholly contrary to the

economic and rational investment conduct of selling gradually to receive the best price for a sale. This causes lower COMEX prices than one would receive if one gradually sold reasonable amounts especially during the more active trading times of day.

6. Selling large amounts in a compressed time period, especially during an illiquid (or low trading) time of day, is a classic manipulative device to intentionally depress prices. These large uneconomic trades did cause the prices of silver in the COMEX market to be lower than they otherwise would have been during the Class Period.

7. **CFTC Commissioner Comment**. (a) Such depressions of the prices of COMEX silver futures through large uneconomic trades greatly benefited JP Morgan's extraordinarily large COMEX short position.

(b) Specific examples of these uneconomic trades were reported to CFTC Commissioner Bart Chilton during 2009-2010. This includes by a market professional who is registered with the National Futures Association and has been a long time participant in the COMEX silver futures markets. Factual Allegations II.B.5 *infra*.

(c) Also, these types of trades were reported to the CFTC by other persons. *Id.* Plaintiffs further specifically allege that Commissioner Bart Chilton

made public statements, including on October 26, 2010, to the effect that he believed there had been manipulation or related unlawful conduct in the COMEX silver futures market.

> "I believe that there have been repeated attempts to influence prices in the silver markets. There have been fraudulent efforts to persuade and deviously control that price. Based on what I have been told by members of the public, and reviewed in publicly available documents, I believe violations to the Commodity Exchange Act (CEA) have taken place in silver markets and that any such violation of the law in this regard should be prosecuted."

Bart Chilton, *Statement at the CFTC Public Meeting on Anti-Manipulation and Disruptive Trading Practices,* October 26, 2010. *See* ¶¶ 122-129 *infra*.

(d) Many other instances of this large manipulative selling occurred throughout the Class Period. Factual Allegations II.B.7.

(e) Based on the facts and circumstances alleged herein, it is plausible that JP Morgan made many of these large uneconomic trades alleged in II.B.3, 5 or 7.

8. **Saxo Combination**. More than twenty five additional instances of this manipulative selling occurred following the appearance of a highly unusual fake trade on the Saxo Bank silver and FOREX trading Platform. *See* Exhibit A. JP Morgan and Deutsche Bank assisted Saxo in providing this trade platform. II.B.7 *infra*. However, this Saxo trade platform repeatedly published a fake trade

through March 2010 that did not appear on trade platform e-Signal. See Ex. A.

9. It was highly unusual for Saxo Bank to let a fake trade repeatedly appear on the Saxo Bank platform. *See* II.B.7 *Infra*.

10. In fact, the fake trade consistently appeared at the same time of day. This was between 5:45 p.m. and 6:00 p.m. when there was a lull in trading.

11. Moreover, the price of the fake trade was far removed from the immediate remainder of the other trades. Third, every fake trade involved a violent down drop that appeared on the chart and immediately returned.

12. The individual and cumulative effect of the more than twenty five plus COMEX price drops that occurred after the Saxo signal, was to cause COMEX prices to be lower than they otherwise would have been.

13. **Coordination**. Further, JP Morgan had other relationships. For example, JP Morgan's silver trader who, when he was with Bear Stearns, helped create the large COMEX short position, had joined JP Morgan by June or July 2008. After joining JP Morgan, this trader then regularly communicated with the head silver traders at HSBC. *See* II.B.2 and 3.

14. **"During-After" Comparisons**. (a) During the Class Period, from March 17, 2008 until March 25, 2010, when the CFTC held a hearing related to the manipulation of COMEX silver futures prices, COMEX silver prices greatly

underperformed COMEX gold prices; the price of COMEX gold increased by approximately 9% but the price of COMEX silver futures **decreased** 17%. But after the threats by the public government hearing on March 25 to expose anyone manipulating silver, and the subsequent announcement by JP Morgan alleged at ¶87 hereafter this prior relationship dramatically reversed. Specifically, COMEX silver prices increased by approximately 40% from March 25, 2010 to October 27, 2010. No fundamental changes in supply or demand for silver, including industrial demand, occurred during this time period. Gold prices increased by only 21% during this time period.

(b) The foregoing "price signature" of manipulation is not explainable by any changes in supply and demand. This "price signature" directly results, at least in substantial part, from the increase in JP Morgan's COMEX short silver futures positions and the increase in Defendants' manipulative acts during the March 17, 2008 – March 25, 2010 period, followed by JP Morgan's decrease in the concentration of its large short position and additional reductions in JP Morgan's unlawful activities in the COMEX silver market after the March 25, 2010 public government hearing on manipulation.

15. As a direct result of Defendants' unlawful conduct alleged herein, the prices of COMEX silver futures and options were artificial during the Class Period

and Plaintiffs and members of the Class suffered losses, were injured in their property, and suffered actual damages.

JURISDICTION AND VENUE

16. Silver is a "commodity" and is the "commodity underlying" silver futures and options contracts traded on the COMEX, as those terms are defined and used in Section 1a(4) and 22 of the CEA, 7 U.S.C. §§ 1a(4) and 25(a)(1)(D), respectively.

17. This action arises under Section 1 of the Sherman Act, 15 U.S.C. § 1, Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15 and 26, and Section 22 of the CEA, 7 U.S.C. § 25.

18. This Court has jurisdiction under Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15(a) and 26, Section 22 of the CEA, 7 U.S.C. 25, and 28 U.S.C. §§ 1331 and 1337.

19. Venue is proper in this District pursuant to 15 U.S.C. §§ 15(a), pursuant to Section 22 of the CEA, 7 U.S.C. § 25, and 28 U.S.C. § 1391(b), (c) and (d). The Defendants transacted business in the Southern District of New York, the claims arose in the Southern District of New York, and a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of New York. Defendants' unlawful acts manipulated the prices of COMEX silver

(sometimes, "silver") contracts which were traded in this District in which COMEX is located, at One North End Avenue, New York, New York. As used herein, COMEX silver contracts means COMEX silver futures contracts, and COMEX options on such contracts.

20. Defendants made use of the means and instrumentalities of transportation or communication in, or the instrumentalities of, interstate commerce, or of the mails in connection with the unlawful acts and practices and courses of business alleged in this Complaint.

PARTIES

21. During the Class Period, the named Plaintiffs hereto transacted in COMEX silver futures and options contracts and lost money and were injured in their property as a result of Defendants' unlawful conduct.

a. Plaintiff Alan J. Antin transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct. This includes losses on June 26, 2007 in the July 2007 and September 2007 COMEX silver contracts, and on August 15, 2008 in the September 2008 COMEX silver contract.

b. Plaintiff Blackbriar Holdings, LLC transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

c. Plaintiff CLAL Finance Mutual Fund Management, Ltd. transacted in COMEX silver futures and options contracts during the Class Period and was injured in its property as a result of Defendants' unlawful conduct.

d. Plaintiff Steven B. Crystal transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

e. Plaintiff Steven B. Crystal Trustee for the Estate of Norman S. Crystal transacted in COMEX silver futures and options contracts during the Class Period and was injured in their property as a result of Defendants' unlawful conduct.

f. Plaintiff Crystal Investment Partners LLC transacted in COMEX silver futures and options contracts during the Class Period and was injured in its property as a result of Defendants' unlawful conduct.

g. Plaintiff Christopher DePaoli transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

h. Plaintiff Paul Feldman transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct. This includes losses on August 15, 2008 in the December 2008 COMEX silver contract.

i. Plaintiff Gamma Traders I, LLC transacted in COMEX silver futures and options contracts during the Class Period and was injured in its property as a result of Defendants' unlawful conduct.

j. Plaintiff Rebecca A. Hougher transacted in COMEX silver futures and options contracts during the Class Period and was injured in her property as a result of Defendants' unlawful conduct.

k. Plaintiff Dr. Robert Hurt transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

l. Plaintiff Paul D. Kaplan transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

m. Plaintiff Gordon Kost transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result

of Defendants' unlawful conduct. This includes losses on August 15, 2008 in the December 2008 COMEX silver contract.

n. Plaintiff Teresa Kuhn transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

o. Plaintiff Shawn Kuo transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

p. Plaintiff Carl F. Loeb transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

q. Plaintiff Kevin J. Maher transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

r. Plaintiff Eric Nalven transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

s. Plaintiff J. Scott Nicholson transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

t. Plaintiff Robert Nepo transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct. This includes losses on June 26, 2007 in the July 2007 COMEX silver contract.

u. Plaintiff Marlene Stulbach transacted in COMEX silver futures and options contracts during the Class Period and was injured in her property as a result of Defendants' unlawful conduct.

v. Plaintiff Keith Wagner transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

w. Plaintiff Wayne W. Willetz transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

x. Plaintiff Vincent Yacavino transacted in COMEX silver futures and options contracts during the Class Period and was injured in his property as a result of Defendants' unlawful conduct.

22. Defendant JP Morgan Chase & Co. is a Delaware financial holding company with its principal place of business in New York, New York. JP Morgan Chase & Co. is a leading global financial services firm and one of the largest banking institutions in the United States with $2.1 trillion in assets, $164.7 billion in stockholders' equity, and operations in more than 60 countries.

23. Defendant J.P. Morgan Clearing Corp. ("JPMC"), formerly known as Bear Stearns Securities Corp. is a Delaware corporation with its corporate offices in Brooklyn, New York. JPMC is a subsidiary of J.P. Morgan Securities Inc. which is a wholly owned subsidiary of JPMorgan Chase & Co. JPMC is a registered Futures Commission Merchant with the CFTC.

24. Defendant J.P. Morgan Securities Inc. ("JPMS") is a Delaware corporation with its principal place of business in New York, New York. JPMS is a wholly owned subsidiary of JPMorgan Chase & Co. JPMS, through JPMC, provides securities and futures clearing, customer financing, securities lending and related services.

25. Defendant J.P. Morgan Futures Inc. ("JPMFI") is a Delaware corporation with its principal place of business in New York, New York. JPMFI is a U.S. futures commission merchant and wholly owned subsidiary of JPMorgan Chase & Co. JPMFI provides research, sales, execution and clearing services in

futures and options across fixed income, equity, foreign exchange and commodity asset classes. JPMFI holds the U.S. accounts of JPMorgan Chase's global futures and options business customers.

26. Plaintiffs have entered into a tolling agreement with HSBC Holdings plc ("HSBC Holdings"), HSBC Securities (USA) Inc. ("HSBC USA"), and HSBC Bank USA, National Association ("HSBC NA"). They are not named as Defendants in this amended complaint.

27. John Doe Defendants 1-10 are persons, whose identities are presently unknown to Plaintiffs, who performed, participated in, furthered, and/or combined conspired or agreed with JP Morgan to perform the unlawful act alleged herein, including acting as JP Morgan's broker in the restraint of trade, fixing of prices, and manipulation of silver futures and silver options traded on the COMEX.

28. John Doe's 11-20 are persons who manipulated or aided and abetted the manipulation of COMEX silver futures prices as alleged herein.

29. As used herein, Defendants refers to the John Doe Defendants and the JP Morgan Group Defendants. As used herein, JPMorgan Chase & Co., J.P. Morgan Clearing Corp., J.P. Morgan Securities Inc. and J.P. Morgan Futures Inc. are sometimes collectively referred to as "JP Morgan" or "JPM"

FACTUAL ALLEGATIONS

I. Background

30. Wholly unlike the securities markets, in the commodity futures market (a) more than 99% of the contracts do not result in delivery and may remain open for multi-month periods with no delivery of the commodity, and (b) at any given time, one-half of the participants in the futures market are "short" and one-half of the participants are the buyers of a contract or "long".

A. Overview of COMEX Silver Futures and Options Contracts

31. Silver futures contracts and silver options contracts are traded on COMEX.

32. COMEX, a division of the New York Mercantile Exchange ("NYMEX"), has been designated by the CFTC as a contract market pursuant to Section 5 of the CEA, 7 U.S.C. § 7. COMEX submits to the CFTC various rules and regulations for approval through which COMEX designs, creates the terms of, and conducts trading in various precious metals futures and options contracts, including futures and options contracts for silver. COMEX is an organized, centralized market that provides a forum for trading silver futures and options contracts.

33. COMEX provides standardized silver futures contracts with delivery dates commencing with the next calendar month and potentially extending as far as 60 sequential months into the future depending upon the month in which the contract was executed. Typically, there are approximately twenty COMEX futures contracts trading at any given time. Trading is conducted for delivery during the current calendar month; the next two calendar months; any January, March, May, and September falling within a 23-month period; and any July and December falling within a 60-month period beginning with the current month. The "soonest" two expirations are referred to as the "front" months, and are the most actively traded months.

34. A silver futures contract is an agreement to buy or sell a fixed amount of silver at a date in the future. The COMEX specifies the terms of trading, including the trading units, price quotation, trading hours, trading months, minimum and maximum price fluctuations and margin requirements.

35. Trades of silver futures contracts on the COMEX have two "sides." The "long" side represents the buyer of a contract who is obligated to pay for the silver and take delivery. The "short" side represents the seller of a contract who is obligated to receive payment for the silver and make delivery. If a market participant holds its position to the end of the settlement period for a silver futures

contract, the market participant is obligated to "go to delivery." That is to say, upon the settlement date, the "futures" contract for a particular month becomes a present contractual obligation for the purchase and sale of the physical silver. Longs must take delivery and shorts must make delivery of 5,000 troy ounces per contract over the course of the contract month. The price for the silver that goes to delivery is the "settlement price" of the COMEX silver futures contract.

36. Only a small percentage of all futures contracts traded each year on COMEX and other exchanges result in actual delivery of the underlying commodities. Instead, traders generally offset their futures positions before their contracts mature. For example, a purchaser of a silver futures contract can cancel or offset his future obligation to the contract market/exchange clearing house to take delivery of silver by selling an offsetting futures contract. The difference between the initial purchase or sale price and the price of the offsetting transaction represents the realized profit or loss.

B. <u>Short Option Positions</u>

37. There are two types of options, calls and puts. A call gives the holder of the silver option the right, but not the obligation, to buy the underlying silver futures contract at a certain price, the strike price, up until some point in the future - options expiry. Conversely, the put gives the holder the right, but not the

obligation, to sell the underlying silver futures contract at the strike price up until options expiry. Puts are usually bought when the expectation is for falling prices; a call is usually purchased when the expectation is for rising prices. The price at which an option is bought or sold is the premium.

38.There are various ways to use options to "go short," i.e., bet that the price of silver will decrease. One can sell a futures contract, which confer upon the seller an obligation to deliver silver at a pre-specified date in the future at a pre-specified price. One can also buy put options, which confers upon the buyer of the put option the right, but not the obligation, to sell silver to a buyer at a pre-specified strike price up until options expiry. Alternatively, one can sell call options, which confers upon the buyer of the call option the right, but not the obligation, to buy silver from the seller at a pre-specified strike price up until options expiry. The seller of the call option, in exchange for the option premium, commits to selling the futures contract at the strike price, at the buyer's election, until options expiry.

39.In the cases above (or any other method in which an entity creates a short position), the entity that is short benefits as prices fall. In the case of selling a futures contract, the seller at time of contract expiration simply offsets his position by purchasing a futures contract and pockets the difference in prices. In the case of

a call option, the seller benefits if the prevailing price is below the strike price because it collects the option premium and pays nothing to the purchaser.

40. At expiry, if the price of silver exceeds a call option's strike price, the rational holder will exercise the call option, which means the seller of the call option, if unhedged, will have to sell the futures contract at the strike price and cover their position, paying the difference between the prevailing price and the strike price. Conversely, if the price of silver falls short of the strike price, the call option expires out of the money and a rational holder of the call option will not exercise it. When options are out of the money, it means that there is no economic justification to exercise the option. So, for example, there is no economic justification to exercise a call option with a $12 strike price if the underlying futures contract is trading at $11. Conversely, if the underlying futures contract is trading at $12.50, there is a strong economic justification to exercise the call option and purchase the futures contract at $12 and then sell it for a $0.50 gain.

41. Likewise, at expiry, if the price of silver exceeds the strike price, the put option expires out of the money. Conversely, if the price of silver falls below the strike price, the buyer will exercise the put option, which means the seller of the put option, if unhedged, will have to purchase a futures contract at the strike price and cover their position, paying the difference between the prevailing price

and the strike price.

42.In cases in which an entity creates a short position, the entity benefits as prices fall. In the case of selling a futures contract, the seller at time of contract expiration simply offsets this position by purchasing a futures contract, pocketing the difference in prices. In the case of a call option, the seller benefits if the prevailing price is below the strike price because the seller collects the option premium and pays nothing to the purchaser. In the case of a put option, the seller benefits if the prevailing price is above the strike price because the seller collects the option premium and pays nothing to the purchaser.

43.Silver options expire on a fixed day, usually four business days before the month prior to the delivery month of the underlying futures contract. Just prior to options expirations, it is not uncommon for there to be many outstanding out-of-the money options positions. If the futures contract does not fluctuate significantly, the seller of the out-of-the money option will net the option premium. However, if the price of the futures contract moves enough so that the option becomes in-the-money, the seller of the option will have to cover their unhedged options position. Such covering can exaggerate a futures price move because, when the unhedged futures position is covered, the purchase or sale of the futures contract occurs in the direction of the initial price move. So, for example, if a

trader has sold out-of-the-money puts, and the price of the futures contract drops so that the put moves into the money, the trader will have to sell the futures contract in order to cover the unhedged option position. That is, being short in-the-money puts at expiration is equivalent to being long futures contracts. A trader in this position will sell the futures contracts to offset their long position from the puts. If a trader, or group of traders, are short a large enough number of the puts, the hedging (i.e., selling of futures) to cover their position will have the effect of driving the price of the futures contract still lower.

44.The effect of price movements on options positions is accentuated by the use of the Black-Sholes type model to value options. The Black-Sholes options pricing model is a formula that creates a "delta", which estimates the equivalent futures position for an options portfolio. An option that is well in the money close to expiration will have a delta of approximately 1 for a call or negative 1 for a put, meaning that owning the option is equivalent to being long 1 futures contract for the call or short 1 futures contract for the put. Likewise, an option that is far out of the money close to expiration will have a delta of approximately 0, because it is unlikely that the option move to an in-the-money position.

45.As an option nears a point of being in the money, the delta of the option approaches 0.5. Many option traders use the measure of delta expressed in

the Black-Sholes type models to hedge their delta exposure. This means that if they hold many options, even if the delta is substantially less than one (and the option is out of the money), they may need to sell or buy futures to hedge their delta exposure. So, for example, if a trader is short 100 out-of-the-money puts whose delta is 0.25, in order to be "delta neutral", the trader must sell 25 futures contracts.

46. For the periods alleged below, JP Morgan purchased put options with strike prices that, prior to expiration, were far below the price of the underlying silver contracts. These "far out the money options" were nearly always purchased from traders that used some variation of the Black-Sholes trading model. JPM was fully aware that a trader using any Black-Sholes type trading model would hedge their short option positions based largely upon the option's delta, i.e. the risk (represented on a scale of 0-1) that the option would be exercised. JPM also knew that options trading at prices far out of the money, particularly those that were set to expire shortly, would be assigned a delta near 0 and left largely unhedged by the traders who sold them. JPM was also aware that any sudden and unexpected decline in future prices would cause option deltas to skyrocket, perhaps to as high as 1, and send the sellers of far outside of the money puts scrambling to sell futures in order to hedge their newfound option risk. In such a selling frenzy, JPM would

be able to purchase silver futures at prices far below what they had been trading only hours, if not minutes, earlier. In addition, the decline in future prices would allow JPM to profitably exercise options that shortly before seemed certain to expire worthless.

47. As discussed more fully below, on several occasions, including on June 26, 2007 and August 15, 2008, JPM intentionally manipulated the price of silver futures contracts at or near the time of expiration for the express purpose of forcing the holders of short, out of the money options to cover their positions.

C. Physical and Futures Prices for the Underlying Physical Commodity are Directly Related to One Another

48. The futures price is the market's consensus of the expected spot price for the underlying physical commodity at a specified future date. Because the futures price is nothing more than an expectation of the future spot price, both futures and physical prices must be and are, in fact, correlated. For example, if the futures price in a contract negotiated today for delivery next month starts to rise, this indicates that the market believes spot prices will rise next month. The rise in the future price for next month delivery will cause a reaction today among producers and consumers of the commodity.

49. For the producers of the commodity, the increase in the price of that commodity for delivery next month makes it more profitable to shift sales from the

current month to the next month. Conversely, for buyers of physical silver, the increase in price for delivery next month creates an incentive for them to purchase today rather than waiting until next month when the price increase is expected. Thus, the increase today in futures price (for delivery next month) has caused producers to decrease the available supply of the commodity and prompted buyers of physical silver to increase their demand. The decrease in supply coupled with the increase in demand, causes today's spot prices for the commodity to increase. The same causal economic story (albeit in reverse) prevails if futures prices decline.

50. Therefore, changes in futures prices for delivery months into the future have tangible effects on physical spot prices today. Put statistically, futures prices and physical spot prices are linked and correlated.

II. Through Their Enormously Concentrated Short Positions, JP Morgan Had the Power to and Did Suppress COMEX Silver Futures and Option Contract Prices

A. The COMEX Silver Futures and Options Contracts Market is Susceptible to Manipulation

51. The silver futures market is a thin market. The number of futures contracts traded in the silver market is small, *i.e.*, thin, in comparison to markets involving other commodities. For instance, in August 2008, there were only 129,240 open interest silver futures contracts, *i.e.*, silver futures contracts that had

not yet settled, as opposed to 1.25 million open interest NYMEX Light Sweet Crude Oil futures contracts and 408,430 open interest COMEX gold futures contracts during the same period.

52. The relatively sparse number of silver futures contracts regularly traded on COMEX enabled large banks, such as JP Morgan, to manipulate the price of silver futures contracts during the Class Period by flooding the market with orders for a disproportionate number of contracts.

53. In addition, the market for COMEX silver futures and options contracts is highly concentrated with only a handful of participants controlling a large number of futures and options contracts.

54. Prices in the silver futures and options market respond much more to large orders, large trades, and large positions than do prices in other commodity markets.

B. Substantive Allegations

1. JP Morgan's Manipulation On June 26, 2007, The Day of July Futures Options Expiration

55. Options on the July 2007 silver futures contract expired on June 26, 2007. According to one witness, prior to this options expiry, JP Morgan purchased sizeable of out of the money puts in July 2007 futures between the strike prices of $12.75 and $12.00. JP Morgan knew that if silver future prices traded below these

strike prices, they could reap a profit by exercising the options, *i.e*., selling the futures contract at the higher strike prices. For example, if the market traded down to $12.25, JPM could exercise their put options to sell futures contracts at $12.75 and then immediately replace those futures contracts from the market at $12.25, a profit of $25,000 for each 10 put option contract that it held.

56. Although there was no market-based reason for a negative price movement on this options expiration day, JP Morgan intentionally drove the price of July 2007 silver futures lower through large volume trades and "spoof orders." Spoof orders are high volume orders in the market that are not designed to be executed but, because traders can see that the orders exist, the orders provide a strong, deceptive signal that the market is headed in a certain direction. JPM placed these large volume (spoof) sell orders for silver futures just above the price at which the market was trading. Those orders served as a ceiling or weight on the market that deceptively encouraged other traders to sell futures in the belief that the market was going to trade lower, because large sell orders implied some fundamental weakness in the market price.

57. JP Morgan depressed the price of silver futures through volume trades and spoof orders on June 26, 2007, for the purpose of forcing traders who were short out-of-the-money puts to be forced to cover their positions as they attempted

to remain “delta neutral”. Traders who were short put positions that came into or near the money as a result of the manipulation were forced to sell July 2007 futures, further reducing prices. When the prices were near the $12.15 low, JP Morgan purchased the futures contracts from the traders who were forced to cover their short put positions. JP Morgan also exercised its put options. In this way, JP Morgan profited on the manipulation.

58. JP Morgan executed its trades on this day through, at least, a futures floor broker named Marcus Elias. Marcus Elias was a former classmate and wrestling teammate of Chris Jordan, a senior silver trader at JP Morgan. After the close of floor trading on June 26, 2007, Marcus Elias acknowledged that he had executed purchase trades for JP Morgan at or near the lows of the market. Marcus Elias also executed sell orders on behalf of JP Morgan in the morning, which contributed to the price declines, and then purchased futures on behalf of JP Morgan subsequently as the market bottomed.

59. Simply viewing the price movement of July futures that occurred on June 26, 2007 provides concrete evidence of the manipulation. On June 25, 2007, the day before expiration of the options on the July 2007 silver futures contract, the July 2007 silver futures contract settled at $12.877.

60. On expiration day, however, the market traded from that settlement price, $12.877, all the way down to a low of $12.15 in the afternoon. The high trade on the day was $12.74. The silver futures market traded lower on June 26, 2007, despite the fact that other, related markets, such as gold, remained relatively stable, decreasing only by about 1.4%. The silver price decrease, in contrast, was very large in relation to typical silver futures price movements, at 4.6%. Historically, silver future movements are often correlated with gold price movements. There was no new information that came to market that day that would have provided the catalyst for such a strong downward move in price.

a. Evidence shows that spot and all silver futures prices fell substantially on June 26, 2007. The decline in spot silver price on June 26, 2007 was equal to 4.88%. Due to tight arbitrage relations, spot and all futures prices must move by similar magnitudes to prevent arbitrage opportunities. In fact, on June 26, 2007, silver futures prices fell by 4.63%, 4.63%, 4.68%, 4.65%, and 4.64% for June, July, August, September and December 2007 maturity contracts, respectively. Similarly, on the same day, silver futures prices fell by 4.64%, 4.63%, 4.63%, and 4.61% for January, March, May and July 2008 maturity contracts, respectively. The fall in spot and all futures silver prices on June 26, 2007 is highly unusual. They are also highly statistically significant.

b. In comparison, on June 26, 2007, spot gold prices only fell by 0.57%. Spot and futures silver prices declined significantly more than the declines in physical gold prices on June 26, 2007.

c. Although plaintiffs disagree that platinum and palladium should be used as benchmarks, the prices for platinum and palladium fell by 1.17%, and 1.34% respectively. Spot and futures silver prices declined significantly more than the declines in physical platinum and palladium prices on June 26, 2007.

d. The relationship between silver and gold prices on June 26, 2007 is shown in the Table 1 attached as an exhibit to these allegations. This table shows that on June 26, 2007, silver prices fell by 4.88%. In comparison, gold prices fell only 0.57% on the same day. Thus, the fall in silver prices exceeds the fall in gold prices on that day. Although plaintiffs disagree that platinum and palladium should be used as benchmarks, the composite of precious metals (gold, platinum and palladium) prices fell only 1.1% on the same day.

e. A regression analysis was undertaken to determine whether silver price movements on June 26, 2007 were unusual after taking into account the usual movements in gold prices. To determine whether movements in gold prices in general can explain the movements in silver prices, this regression analysis is conducted. The dependent variable is the daily returns to silver cash prices. The independent variables are daily returns to gold prices. In addition, two indicator variables are constructed that take on a value of one on June 26, 2007 and August 15, 2008, and zero otherwise, respectively. The results of the regression analysis are shown in Table 2, attached as an exhibit to these allegations.[4]

f. First, this Table 2 demonstrates that the declines in silver prices on June 26, 2007 (and on August 15, 2008) relative to a typical normal day between January 3, 2005 and December 31, 2008 are highly unusual and statistically significant. Second, the results also indicate that gold prices are important benchmarks for silver prices. Movements in gold prices explain about 37% of the variation in daily movements in silver prices. On average, a 1% move in average gold price, holding all else constant, indicates a 0.93% move in silver

[4] To ensure that the residuals are well behaved, a first-order autoregressive model was fit to the residuals in model 4. Nevertheless, the results are qualitatively similar with and without the AR(1) residual model.

price in the same direction. Finally, after taking into account contemporaneous moves in gold prices, the declines in silver prices on both June 26, 2007 and August 15, 2008 remain statistically significant. Silver prices moved abnormally by about 4% even after taking into account movements in gold prices on both of those two dates. Both of these abnormal price movements are statistically significant at the 5% level. Thus, the decline is silver prices cannot be attributed to movements in gold prices. This analysis confirms that silver prices declined in an unusual fashion on these two days even after taking into account gold price movements. This evidence supports the manipulation explanation of the silver market on both June 26, 2007 and August 15, 2008.

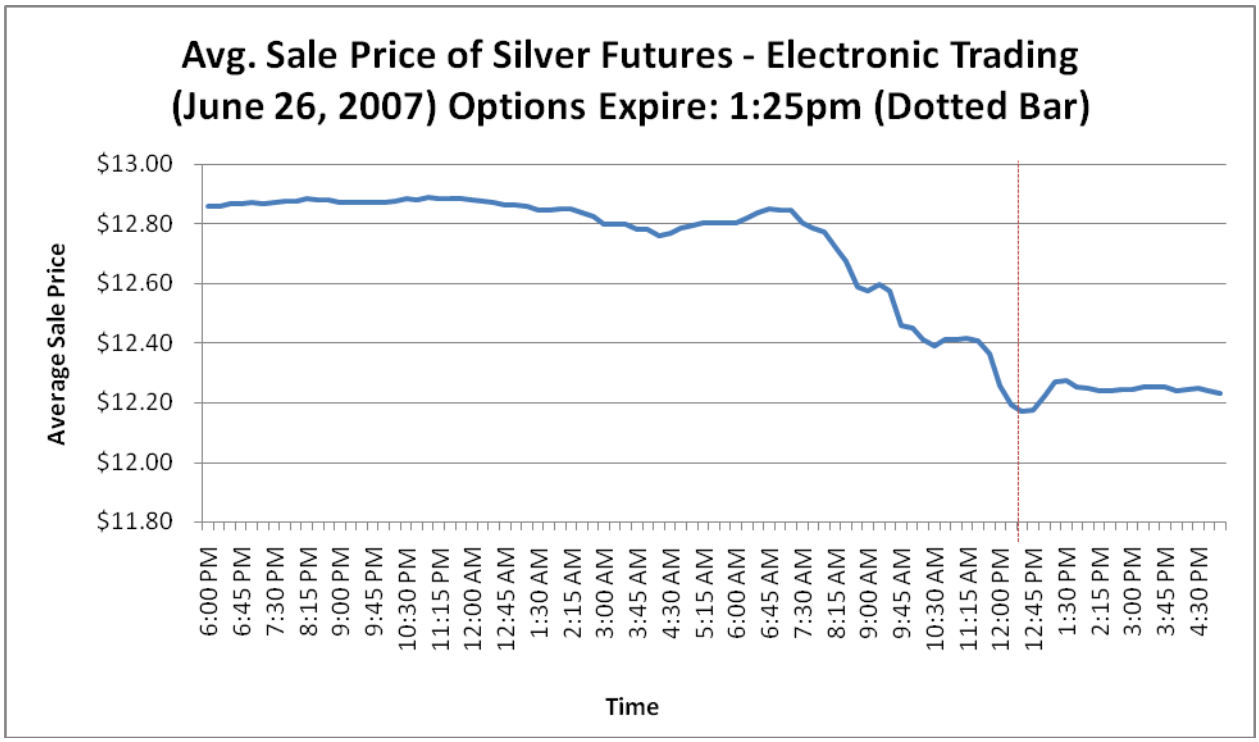
g. Although plaintiffs disagree that platinum and palladium should be used as benchmarks, when a regression analysis was undertaken the declines in silver prices on June 26, 2007 and on August 15, 2008 relative to a typical normal day between January 3, 2005 and December 31, 2008 are also found to be highly unusual and statistically significant. After taking into account contemporaneous moves in other precious metals prices, the declines in silver prices on both June 26, 2007 and August 15, 2008 remain statistically significant. Silver prices moved abnormally by about 4% even after taking into account movements in gold, platinum and palladium prices on those two dates. Both of these abnormal price

movements are statistically significant at the 5% level. Thus, the decline is silver prices cannot be attributed to movements in gold, platinum or palladium prices. This analysis confirms that silver prices declined in an unusual fashion on these two days even after taking into account gold, platinum and palladium price movements. This evidence is consistent with manipulation explanation of the silver market on both June 26, 2007 and August 15, 2008.

h. In addition, the Tables 3.1, 3.2 and 3.3 (attached as exhibits to these allegations) examine silver price behavior during other nearby silver futures options expiration dates around mid-2007. In general, these price changes are relatively small and they cannot be distinguished from other silver price changes during nearby days. A regression analysis shows that none of the silver price changes on these nearby option expiration dates is statistically significant. Moreover, these price changes remained statistically insignificantly different from zero after taking into account the contemporaneous changes in gold prices, as well (not shown). Although plaintiffs disagree that platinum and palladium should be used as benchmarks, these price changes also remained statistically insignificantly different from zero after taking into account the contemporaneous changes in gold, platinum and palladium prices, as well (not shown). This evidence indicates that

the June 26, 2007 option expiration date was unique and it was characterized by an unusually large silver price decline.

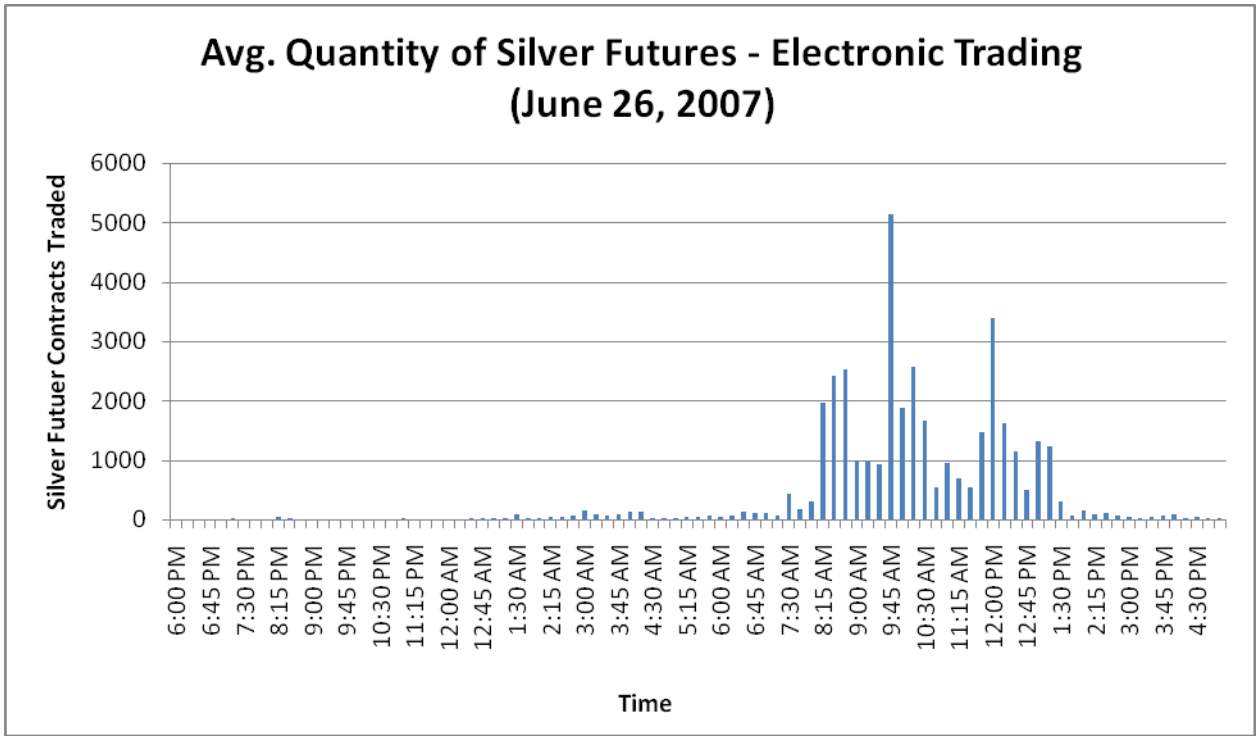
61. After the floor session closed on the 26th at 1:25 pm, the July 2007 silver futures ceased to descend and trading stabilized. The graph below shows the price movements that occurred for the June 26, 2007 electronic trading day, which as a technical matter begins 45-minutes after the previous day's trading – June 25, 2007 at 6:00pm.



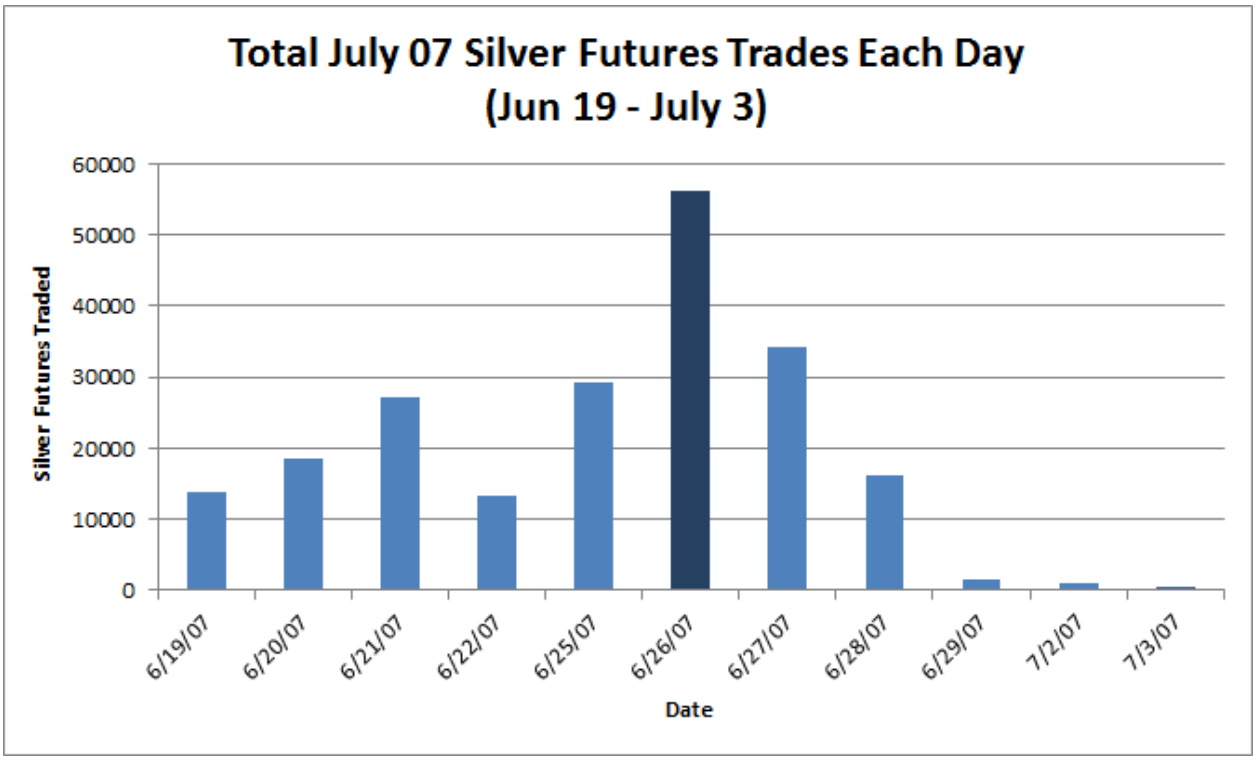
62. The fact that, after options expiration and the close of floor trading, the price of July silver futures stabilized is strong evidence that a manipulation occurred during the period between six in the morning and four in the afternoon –

the period during which the market experienced a volatile downward push. Indeed, on the 27th July futures partially retraced the previous day's precipitous descent, reaching a high of $12.35.

63. The volume of trading during the day also demonstrates how the downward pressure of the market corresponded to a significant increase in volume. On the electronic trading platform, the greatest volumes of trade occurred between seven in the morning and noon, the period during which prices made their largest move downward. This increased volume was caused by the manipulative actions of JP Morgan.



64. Additionally, the anomalous market behavior is demonstrated by the heightened volume of trading that occurred on June 26, 2007 compared with the surrounding days. The trade volume for July silver futures on June 26, 2007 was essentially more than twice as large as the volume of trading during the five trading days leading up to options expiration and significantly greater than that for the five trading days afterward, as demonstrated by the chart below.



a. Silver futures experienced higher relative increases in trading volumes on both June 26, 2007 compared to its recent history as well as compared to trading volumes in gold futures during the same days. The total trading volume

on June 26, 2007 in silver futures peaked at 89,415 contracts. Each silver futures contract is for 5,000 Troy ounces. Hence, the size of one contract at June 26, 2007 settlement price equals about $61,400. The trade volume of 89,415 contracts on June 26, 2007 implies a massive trading volume of about $5.5 billion in a single day. This is the third largest trading volume in silver futures during the 1,004 trading days between January 3, 2005 and December 31, 2008.

b. Over the previous ten trading days, silver volume had averaged only 27,565 contracts. Thus, silver futures trading volume increased by 224.4% on June 26, 2007. On June 26, 2007, gold futures trading volume increased by 82.8% compared to the average trading volume during the last ten trading days.

c. Changes in trading volumes in silver and gold around June 26, 2007 are shown in Table 4, attached as an exhibit to these allegations. To ensure independence of observations, the analysis standardizes the trading volume in June 2007 by the average daily trading volume during the previous calendar month (May 2007) for both silver and gold.

d. Table 4 shows that the trading volume in silver on June 26, 2007 reached a factor of more than 4.5 times its average trading volume during the previous calendar month. For gold, trading volume on June 26, 2007 reaches a little over 1.1 times its average trading volume during the previous calendar month.

Thus, silver experienced much higher increases in trading volumes relative to gold on June 26, 2007.

e. Although plaintiffs disagree that platinum and palladium are appropriate benchmarks, for a composite of the other precious metals, trading volume on June 26, 2007 reaches a little over 2.5 times its average trading volume during the previous calendar month. Thus, silver experienced much higher increases in trading volumes relative to other precious metals on June 26, 2007.

f. A regression analysis was conducted to determine if the changes in trading volume are statistically significant. These results are shown in Table 5, attached as an exhibit to these allegations. The trading volume in gold is significantly related to silver trading volume. However, even after taking into account the contemporaneous increases in gold trading volumes, the increase in silver trading volume is statistically significant for both June 26, 2007 and August 15, 2008. These results indicate that the increases in silver trading volume cannot be explained by the normal relations between the trading activity of silver and gold. Instead, silver experienced unusually large increases in trading volumes during both June 26, 2007 and August 15, 2008. These findings again support the manipulations explanations of silver market on both of these dates.

g. Although plaintiffs disagree that platinum and palladium are appropriate benchmarks, even after taking into account the contemporaneous increases in other precious metals (gold, platinum and palladium) trading volumes, the increase in silver trading volume is statistically significant for both June 26, 2007 and August 15, 2008. These results indicate that the increases in silver trading volume cannot be explained by the normal relations between the trading activity between silver and other precious metals. Instead, silver experienced unusually large increases in trading volumes during both June 26, 2007 and August 15, 2008.

h. The analysis also includes the trading volume in individual contracts around June 26, 2007. Table 6, attached as an exhibit to these allegations, shows the trading volume in July 2007 maturity silver futures relative to overall silver futures trading volume. The table clearly shows that the trading activity in the July maturity contract was the main driving force in all silver futures trading volume during the month of June 2007. The July contract trading volume peaked at 59,922 contracts on June 26, 2007.[5] Each silver futures contract is for

[5] According to CME rules, the position limits in silver futures equals 6,000 contracts at any one-month accountability level. For the expiration month, the position limit falls to 1,500 contracts. The reporting requirement starts at 150 contracts.
See, http://www.cmegroup.com/rulebook/NYMEX/1/5.pdf#page=49

5,000 Troy ounces.[6] Hence, the size of one contract at June 26, 2007 settlement price equals about $61,400. The trade volume of 59,922 contracts in the July 2007 contract implies a massive trading volume of $3.7 billion in the July contract in a single day on June 26, 2007. This amount fully accounted for 67% of all silver trading volume on that day, which was 89,415 contracts. This evidence fully supports the manipulation explanation of the July 2007 maturity contract.

i. The analysis also includes an examination of the trading volume in gold, around June 2007 and determines whether the July 2007 gold contract had similar relations to the overall futures trading volumes. Table 6.1, attached as an exhibit to these allegations, shows the July 2007 maturity gold futures relative to overall gold futures trading volume. While overall gold trading volume on June 26, 2007 does stand out a bit with over 117,403 contracts, it does not represent the largest trading volume. In fact, eight other trading days had higher trading volumes during this two-month period (June-July). This Table 6.1 also shows that the trading volume in the July contract was mostly negligible (72 contracts) and did not contribute to the overall trading volume in gold futures.

[6] Each Troy ounce equals 31.1034 grams.

j. Plaintiffs disagree that platinum and palladium are appropriate benchmarks. Nevertheless, for these two metals the patterns are not as pronounced as the silver patterns, especially for palladium. There is nothing unusual about the June 26, 2007 trading activity in palladium futures.

k. The analysis also focuses on the nearby silver contracts to see if they can account for the significant silver futures trading around June 2007. The October and November 2007 maturities in silver started trading after June 2007 and thus they do not have any trading activity during June 2007. Table 7, attached as an exhibit to these allegations, shows the trading volumes in June, August, September and December 2007 maturity silver futures relative to overall silver futures trading volume. September 2007 contract also contributes somewhat to the overall futures trading in June 2007. However, the trading volume in the September contract is still much less than that of the July 2007 contract. In fact the volume in September 2007 maturity contract contributes only about 29% of the overall silver futures trading volume on June 26, 2007. The trading volumes in the nearby maturity months of June and August are not significant. They also did not contribute significantly to the movements in overall trading volume during June 2007. Thus, Table 7 demonstrates that the majority of the increase in trading volume during June of 2007 came directly from the July 2007 maturity contract.

This evidence supports the explanation that the July 2007 maturity silver futures contract was used to manipulate the silver prices around June 2007.

65. Through its trading conduct on this day, JP Morgan intended to force traders who were short out of the money puts to cover their positions. As options on July futures approached expiration, JP Morgan had no fundamental reason to believe there would be a price move downward. Yet JP Morgan maintained its put positions until the last available day to trade these options – an economically unjustifiable action because at expiration the options would expire out of the money and worthless. However, by virtue of this large put options position, JP Morgan knew that a large and less capitalized segment of the market was conversely short these options. So, rather than simply liquidate its out of the money positions at a loss, JP Morgan sold futures into the market and placed "spoof" orders to generate widespread panic. This selling forced panicked traders to systematically sell silver futures. As discussed below, this conduct was repeated again in August 2008.

66. JP Morgan's conduct caused prices in the market to be divorced from real fundamentals of supply and demand. Price behavior in silver on June 26, 2007, which lost almost 5%, bore little or no connection to trading in other related markets, such as gold, or to the performance of other commodities, fixed income or

equity markets on that day. Ten-year treasuries increased by about 0.2% and the Dow Jones Industrial Average hardly changed. Gold dropped by a little over a percent, and the CRB commodities index lost less than a percent. The abnormally high decline in prices on June 26, 2007 was inconsistent with fundamentals, news flow, usual market activity, and a competitive market based on legitimate supply and demand factors. The data indicate that abnormally high trading volume caused abnormally high declines in prices in ways that profited someone who was short futures (or synthetically short futures through options) as alleged herein.

67. Through its manipulative trading strategy, whose sole intent was to capitalize on the vulnerability of market players who were delta hedging as July options expired, JP Morgan caused July silver futures prices to move to artificially low levels. JP Morgan's conduct interfered demonstrably with the beneficial price discovery mechanism of the futures market.

2. JP Morgan's Dominant Short Position

a. JP Morgan's Gradual Takeover of Bear Stearns' Large Net Short Position in COMEX Silver

68. Between March and August 2008, events occurred that provided JP Morgan with a much larger financial incentive to suppress COMEX silver futures

prices than any incentive that JP Morgan had possessed on June 26, 2007 when it had engaged in the unlawful trading on that day, as alleged above.

69. On March 17, 2008, (i) the COMEX silver futures contract price was $20.22 per ounce, and (ii) it became public knowledge that JP Morgan had agreed to acquire Bear Stearns.

(a) Bear Stearns had a short position in COMEX silver futures and options of approximately 130,000,000 ounces.

(b) JP Morgan's acquisition of Bear Stearns closed in May 2008. By August 5, 2008, JP Morgan's silver traders assumed full control of what had been Bear Stearns COMEX silver positions.

b. Specifics of JP Morgan's Dominance

70. The CFTC issues monthly Bank Participation Reports that list the positions held by U.S. commercial banks in COMEX silver futures contracts. Through November 2009, the CFTC Bank Participation Reports provided the number of reporting U.S. commercial banks that held COMEX silver futures contracts. This number was always listed as two U.S. commercial banks for the period May 2008 through November 2009. Those two U.S. commercial banks were JP Morgan and HSBC.

71. Starting in December 2009, the CFTC no longer provided the number of U.S. commercial banks that held COMEX silver positions **IF** that number was less than four. Between December 2009 and the end of the Class Period, the CFTC did not provide the number of U.S. commercial banks holding COMEX silver positions. Therefore, the number of U.S. commercial banks holding COMEX silver positions at the time of each CFTC Bank Participation Report during this period was less than four. The two reporting U.S. commercial banks during this period continued to be HSBC and Defendant JP Morgan.

72. Between May and July 2008, the CFTC Bank Participation Reports for U.S. commercial banks with positions in COMEX silver reflect an increase in short COMEX silver futures contracts from 3,077 to 6,199 contracts. Again, each COMEX silver futures contracts represents 5,000 ounces of silver.

73. As of August 5, 2008, the CFTC Bank Participation Report reflected a 27,606 contract increase (to 33,805 contracts) in the short position of the two U.S. commercial banks that held COMEX silver futures.

74. Plaintiffs have good grounds to believe and do allege that the large increase effective August 5, 2008 in the CFTC Bank Participation Reports reflect the increase in JP Morgan's short position of approximately 27,000 contracts, which were finally taken control of from Bear Stearns by JP Morgan.

75. These 27,000 short COMEX silver contracts as well as most of the 6,199 contracts pre-dating such increase, were held by JP Morgan.

76. The CFTC Bank Participation reports reflect that the U.S. commercial banks held very small **long** positions in COMEX silver. For example, for the period March 4, 2008 through the end of the Class Period, those reports reflect that U.S. commercial banks held COMEX silver long positions of between zero and approximately 1,900 contracts.

77. These COMEX silver long positions, to the extent held by JP Morgan, were miniscule compared to JP Morgan's short positions in COMEX silver. Therefore, Plaintiffs have good grounds to believe and do allege that between 92% and 100% of JP Morgan's COMEX silver exposure as of the reporting dates of the CFTC Bank Participation Reports was short.

78. Further, according to the August 5, 2008 CFTC Bank Participation Report, the two reporting U.S. commercial banks held **33,805** short COMEX silver futures contracts and **zero long** COMEX silver futures contracts. In other words, the reporting banks were net short 33,805 COMEX silver futures contracts.

79. Plaintiffs have good grounds to believe and do allege that HSBC's short position was very small and that Defendant JP Morgan's net short position constituted more than 92% of this 33,805 net short COMEX silver position on

August 5, 2008. In other words, on August 5, 2008, Defendant JP Morgan was net short approximately 31,000 COMEX silver futures contracts.

a. According to the CFTC Commitment of Traders Report dated August 5, 2008, the four largest net short traders in the COMEX silver futures market held approximately 42% of the 133,255 contract open interest. Thus, on August 5, 2008, the four largest net short traders were net short approximately 56,000 COMEX silver futures contracts (or approximately 42% of the open interest).

b. Based on the foregoing allegations concerning the CFTC Bank Participation Reports and CFTC Commitment of Traders Reports together, Plaintiffs have good grounds to allege that Defendant JP Morgan held a net short COMEX silver position of that accounted **for approximately 56% of the net short** concentration of the four largest short traders in the COMEX silver market on August 5, 2008.

c. This means that not only was Defendant JP Morgan the largest net short in the COMEX silver futures market. JP Morgan's net short position was also significantly larger than the net short positions of the next three largest net short traders in the entire COMEX silver market COMBINED.

d. Between August 5, 2008 and March 25, 2010 (when the CFTC held the public hearing regarding manipulation of the silver markets), the CFTC Bank

Participation Reports reflect that the short COMEX silver futures positions of U.S. banks stayed at levels comparable to the extraordinary levels that existed on August 5, 2008. Specifically, during this time, the NET short COMEX silver position of U.S. banks ranged between approximately 23,000 contracts and 41,000 contracts.

80. The simple explanation for the continued extraordinary large levels of the U.S. commercial bank short positions in COMEX silver from August 5, 2008 forward, is that JP Morgan continued to hold an extraordinary large COMEX silver short position.

81. The Comptroller of the Currency ("OCC")—an independent bureau of the United States Department of the Treasury—releases quarterly reports on U.S. bank trading and derivatives activities.

82. The OCC Reports are not directly related to Defendant JP Morgan's holdings of silver futures contracts. But silver futures market participants look to the OCC reports as indicative of the participation by U.S. banks in silver futures. Defendant JP Morgan was regarded by market participants as being very active in silver futures contracts.

83. Table 9 of the OCC's quarterly report lists the notional amounts of derivative contracts for precious metals (excluding gold) for the five largest (in terms of total derivatives exposure) U.S. commercial banks and trust companies.

84. For each quarter for the period from the second quarter of 2008 through the fourth quarter of 2010, Defendant JP Morgan was, by far, the largest holder of precious metals derivative contracts. During this two and one-half year period, Defendant JP Morgan held between 45%-99% of the precious metals derivative contracts owned by the top five U.S. banks.

85. Based on the data in Table 9 of the OCC quarterly reports in 2008-2010, the only other U.S. bank listed in such reports that consistently held any short COMEX silver position was likely HSBC. But HSBC's short COMEX silver position was very small compared to that of Defendant JP Morgan. Accordingly, based on the public information currently available to Plaintiffs, Plaintiffs have good grounds to believe and do allege that Defendant JP Morgan (a) continued to be net short COMEX silver futures contracts for the remainder of the Class Period and (b) did in fact hold the vast majority of the extraordinary short COMEX silver position reflected in the CFTC Bank Participation Reports from August 2008 through the end of the Class Period.

86. Based on the foregoing analysis, Defendant JP Morgan frequently held large COMEX silver short positions that were as large as the other three largest COMEX traders combined. From March 2008 until August 2008, JP Morgan's short position increased FIVE fold. From August 5, 2008 forward, JP Morgan held approximately 20 - 30% of the total short open interest in **all** COMEX contracts. During this time, in important COMEX individual futures contracts, JP Morgan at times held 32% – 40% or more of the entire short open interest.

87. In fact, JP Morgan's holding of such large short positions tended to "underprice" other shorts out of the market. By itself, such a concentrated short position moved COMEX silver futures prices down. During the regime of JP Morgan's extraordinary large short positions, COMEX silver prices initially did substantially decrease and were thereafter lower than they otherwise would have been. For example, COMEX silver futures prices did decrease, and did substantially underperform gold from the March 17, 2008 announcement until the CFTC public hearing on March 25, 2010 relating to manipulation of the silver market. *See* Summary of Allegations *supra*.

a. After March 17, 2008, Comex silver underperformed Comex gold.

Date	Silver Close	Percentage Change	Gold Close	Percentage Change
3/17/2008	2022.2		1002.6	
8/5/2008	1657.2	-18.05	878.6	-12.37
8/14/2008	1423	-29.63	808.2	-0.19
3/25/2010	1672.7	-17.28	1092.9	9.01

l.

b. In the initial period after the CFTC hearing on manipulation of the silver market, when the impact of that hearing spread through the market, COMEX silver futures prices significantly outperformed gold prices through April 5, 2010:

Date	Silver Close	Percentage Price Change From March 25	Gold Close	Percentage Price Change From March 25
3/25/2010	1672.7		1092.9	
3/26/2010	1689.4	0.998%	1104.3	1.043%
3/29/2010	1737.3	3.862%	1110.3	1.592%
3/30/2010	1733	3.605%	1104.5	1.061%
3/31/2010	1752.6	4.777%	1113.3	1.867%
4/1/2010	1789	6.953%	1125.1	2.946%
4/5/2010	1811.8	8.316%	1132.9	3.660%

4/6/2010	1793.1	7.198%	1135.1	3.861%
4/7/2010	1819.9	8.800%	1152.3	5.435%
4/8/2010	1812.7	8.370%	1152.2	5.426%
4/9/2010	1835.1	9.709%	1161.1	6.240%
4/12/2010	1841.4	10.085%	1161.6	6.286%
4/13/2010	1824.9	9.099%	1152.8	5.481%
4/14/2010	1841.5	10.091%	1159	6.048%
4/15/2010	1843.3	10.199%	1159.7	6.112%

m.

c. Between April 5 and August 26, 2010, gold prices essentially caught up with silver prices. Silver closed at $18.982 and gold closed at $1235.40 on August 26, 2010. Thus, silver had increased 13.41% and gold had increased by 13.039% from the March 25, 2010 close to the August 26, 2010 close.

d. However, on August 27, 2010 JP Morgan announced that it would close its office where its London silver trading was conducted. COMEX silver futures prices then again outgained COMEX gold prices:

Date	Silver Close	Percentage Change From March 25	Gold Close	Percentage Change From March 25

9/2/2010	1963.8	17.40%	1252.1	14.57%
9/9/2010	1981.4	18.46%	1249.4	14.32%
9/16/2010	2074.5	24.02%	1272.2	16.41%
9/23/2010	2119.4	26.71%	1294.6	18.46%
9/30/2010	2182.1	30.45%	1307.8	19.66%
10/7/2010	2258.4	35.02%	1333.9	22.05%
10/14/2010	2443.5	46.08%	1376.7	25.97%
10/21/2010	2313.9	38.33%	1324.7	21.21%
10/28/2010	2387.5	42.73%	1342.5	22.84%

e. As alleged above, gold prices increased by an additional almost 10% after JP Morgan's August 27 announcement, compared to the March 25 closing price. But Comex silver prices increased by an additional almost 33% compared to the March 25, 2010 close. Using prices as of August 26, silver increased by 25.78% and gold increased by 8.68%.

f. The prices of platinum futures and palladium futures were allegedly manipulated upwards and artificially inflated between October 17, 2007 and June 6, 2008. *Compare*, Third Consolidated Amended Class Action Complaint in *In re Platinum and Palladium Commodities Litigation*, No. 10 Civ. 3617 (S.D.N.Y.)

(WHP) (ECF No. 80) *with* Order Instituting Proceedings Pursuant to Sections 6(c), 6(d) and 8a of the Commodity Exchange Act and Making Findings and Imposing Remedial Sanctions in *In the Matter of Moore Capital Management, LP, et al.*, CFTC Docket No. 10-09 (CFTC April 29, 2010) (available at www.cftc.gov). During this alleged manipulation, platinum prices allegedly peaked in March 2008 and palladium prices on February 28, 2008. Thereafter, as an alleged badge of manipulation, when the alleged manipulative conduct that artificially inflated platinum and palladium futures contracts ended in May 2008, the prices of platinum and palladium futures contracts allegedly fell much faster than did those of gold.

g. A manipulated benchmark is an inappropriate benchmark. In particular, an apex artificially inflated price is NOT a price that should be used as a benchmark. Further, silver futures contract prices were not artificially inflated during March 2008 nor on March 17, 2008. Suppose silver futures prices fell by amounts comparable to the declines in platinum futures prices from platinum's apex manipulated levels. At the very least, a very reasonable inference is that silver actually would have decreased more than platinum prices IF platinum prices not been inflated at the initial of the measuring point.

h. In fact, silver prices initially fell more than platinum prices after March 17, 2008, and increased faster than palladium prices after March 25, 2010:

Date	Silver Close	Percentage Change	Platinum Close	Percentage Change
3/17/2008	2022.2		1973.4	
8/5/2008	1657.2	-18.05	1584.5	-19.71
8/14/2008	1423	-29.63	1489.1	-24.54
3/25/2010	1672.7	-17.28	1606.4	-18.60
8/27/2010	1903.9	13.82	1537	-4.32
10/27/2010	2340.4	39.92	1676.1	4.34

n.

i. Although platinum and palladium are classed as precious metals, they are quite different from gold and silver. In common with gold and silver, platinum is used in jewelry but its major use is in the manufacture of automobile catalytic converters. Palladium is classified as a precious metal because it is one of the chemical platinum group metals (the others are rhodium and iridium, ruthenium, and osmium, but they are rare and are of no commercial importance).

j. Palladium has an attractive white color but it is too soft to be used for many types of jewelry. Palladium's main use is again in the manufacture of catalytic converters. Palladium is seldom found alone and is usually extracted as a

byproduct with platinum. The consequence is that the palladium price is not a major determinant of palladium's supply. There is a further complicating factor. Russia is one of the major producers of palladium and, in the days of the USSR, it accumulated a large stockpile of palladium which was sold off in the early years of the new century. Silver is different from palladium in all the foregoing respects. It is ill-advised to search for a clear relationship to rely on a relationship between the palladium price and silver prices generally. It is especially ill-advised to do so when the beginning point of palladium is a manipulated high price that was part of an alleged long term upward manipulation.

c. JP Morgan's Communications with HSBC

88. Between 1996 and 2000, Robert Gottlieb, Christopher Jordan and Michael Connolly worked together at the Precious Metals Trading Desk of HSBC and at Republic National Bank of New York, prior to its acquisition by HSBC.

89. In 2006, Jordan began his employment at JPMorgan where, until 2010, he was one of JPMorgan's principal COMEX silver futures and options traders.

90. After a brief stint at Bank of America as a commodities trader, Mike Connolly returned to HSBC in 2007, where he served as Senior Vice President of HSBC's Precious Metals Desk.

91. In March 2008, Robert Gottlieb began his employment at JPMorgan Chase where he presently serves as a Managing Director/Trader.

92. Prior to JPMorgan's acquisition of Bear Stearns in 2008, Mr. Gottlieb had worked for Bear Stearns from January 2006 forward.

93. Bear Stearns, through Robert Gottlieb and others, had developed the previously alleged large Bear Stearns short position in COMEX silver futures prior to March 17, 2008.

94. Contrary to standard antitrust compliance manuals, Mr. Gottlieb regularly spoke to, and communicated and met with HSBC silver trader Mike Connolly from the time that Mr. Gottlieb joined JP Morgan until at least October 2010.

d. JP Morgan's Motive And Financial Incentive To Cause Lower COMEX Silver Futures Prices From The Second Quarter Of 2008 Forward

95. By the second quarter of 2008 and continuing thereafter through the end of the Class Period, JP Morgan possessed a large financial incentive to cause lower COMEX silver futures prices. Lower COMEX silver prices caused the mark to market value of JP Morgan's short COMEX silver position to increase. The amount of the increase in the value of JP Morgan's short COMEX silver position was at least $100,000,000 and was as much as in excess of $150,000,000 for each

$1 decline in COMEX silver prices. See also Section "2(d)" above regarding JP Morgan's financial motives.

3. During The Regime of JP Morgan's Dominant Short Position, The Silver Futures Market Was Plagued By A Pattern of Uneconomic Conduct That Is Inconsistent With Trying To Get The Best Execution

96. Consistent with JP Morgan's financial motive to have lower COMEX silver prices, the COMEX silver futures market began to experience relatively frequent episodes of large uneconomic trades that depressed silver prices from the second quarter of 2008 forward. *See* Section "5" *infra*.

97. COMEX silver was at $17.79 per ounce on July 31. COMEX silver then fell to $12.815 in 11 trading days. This constitutes a decline of 27.96%. Gold fell 14.1% or approximately one-half of this amount over the same period. For the first five of this 11 day period, silver declined a little over $1.00 per ounce.

98. During this decrease, COMEX silver experienced a series of large sales during compressed time periods that are inconsistent with selling for the best price.

99. On August 7, 2008, two days after the August 5th reporting date by which JP Morgan had assumed total control of the 27,000 contracts COMEX silver short position from Bear Stearns, silver prices moved down from $16.64 at 5:00 a.m. to $16.58 at 9:40 a.m.

100. At 10:02 a.m., a total of 605 contracts traded within a single second. Within this second, silver moved down from $16.45 to $16.27 before recovering to close the second at 16.385.

101. During this second, each trade was made, almost without exception, at a lower price. This indicates that a selling pressure of 600 contracts or $50,000,000 of Silver existed prior to that second.

102. During the prior 15 minutes (900 times as long as the one second period), 943 contracts had been traded.

103. The volume for each minute prior to the minute in which the trade occurred, varied between 9 contracts and 126 contracts.

104. But the volume for this one minute was 1,030 contracts.

105. At 1:40:53 on August 7, 2008, COMEX silver experienced selling that lasted two seconds; it was comprised of 460 contracts and took Silver from $16.22 to $16.06. Prior to 1:41, the volume per minute varied from 3 contracts to 51 contracts from 1:29 – 1:40.

106. But at 1:41 p.m. on August 7, the volume was 317 contracts.

107. On August 11 at 2:25:25 a.m., a total of 185 contracts traded within a single second. Silver fell from $15.32 to $15.12.

108. Almost without exception, each trade during this one second period occurred at lower prices.

109. Additional instances of large sales which depressed COMEX silver futures prices are alleged in Section "4"-"6" below.

4. Manipulation of Futures On August 14, 2008, Near September Futures Options Expiration

110. On August 14, 2008 (including electronic trading after 6:00 p.m. on August 14, 2008), as with the expiration of options on July 2007 silver futures contracts (see Section "1" *supra*), JP Morgan manipulated the price of September 2008 silver futures contracts near the expiration of these options contracts.

111. On August 15, 2008, from the previous trading day's settlement price for September 2008 silver futures of $14.23, the price of this futures contract traded down to a low of $12.72 and settled at $12.815. In percentage terms, that was a decline of approximately 12% in one day, which is extremely large. Also in percentage terms, from the high of the week to the low, the price of this silver futures contract was down an exceptional 17%. From the previous day's high and the low on August 15, the drop was 13.9%, a substantial amount compared to Gold's 2.7% drop that same day.

a. The spot silver price declined by 8.26% on August 15, 2008. On the same day, silver futures prices fell by 9.94%, 9.94%, 9.96%, and 9.96% for

August, September, October and December 2008 maturity contracts, respectively. Similarly, on the same day, silver futures prices fell by 9.95%, 9.95%, and 9.95% for January, March and July 2009 maturity contracts, respectively. The decline of 8.26% in the spot silver price on August 15, 2008 represents the 6th lowest return (out of 1,004 days) between January 3, 2005 and December 31, 2008.

b. Thus, the fall in spot and all futures silver prices on August 15, 2008 is highly unusual. It is also highly statistically significant.

c. In comparison, on August 15, 2008, spot gold prices fell by 3.85%. Thus, spot and futures silver prices declined significantly more than the declines in physical gold prices on August 15, 2008. Although plaintiffs disagree that platinum and palladium are appropriate benchmarks, platinum and palladium prices fell by 7.41%, and 6.29% respectively. Thus, spot and futures silver prices declined significantly more than the declines in physical platinum and palladium prices on August 15, 2008.

d. The relations between silver and gold prices on August 15, 2008 are shown in the Table 8, attached as an exhibit to these allegations. This Table 8 shows that on August 15, 2008, silver prices fell by 8.26%. In comparison, gold prices fell 3.85% on the same day. Thus, the fall in silver prices exceeds the fall in other precious metals prices on that day. In addition, the

composite other precious metals prices fell 3.85% on the same day. Thus, the fall in silver prices exceeds the fall in other precious metals prices on that day.

e. As discussed in the previous section on the manipulation on June 26, 2007, a regression analysis was undertaken to determine whether silver price movements on June 26, 2007 and August 15, 2008 were unusual after taking into account the usual movements in gold prices. To determine whether movements in gold prices in general can explain the movements in silver prices, this regression analysis is conducted. The dependent variable is the daily returns to silver cash prices. The independent variables are daily returns to gold prices. In addition, two indicator variables are constructed that take on a value of one on June 26, 2007 and August 15, 2008, and zero otherwise, respectively. The results of the regression analysis are shown in Table 2, attached as an exhibit to these allegations.[7]

f. First, Table 2 also demonstrates that the declines in silver prices on June 26, 2007 and on August 15, 2008 relative to a typical normal day between January 3, 2005 and December 31, 2008 are highly unusual and statistically significant. Second, the results also indicate that gold prices are important

[7] To ensure that the residuals are well behaved, a first-order autoregressive model was fit to the residuals in model 4. Nevertheless, the results are qualitatively similar with and without the AR(1) residual model.

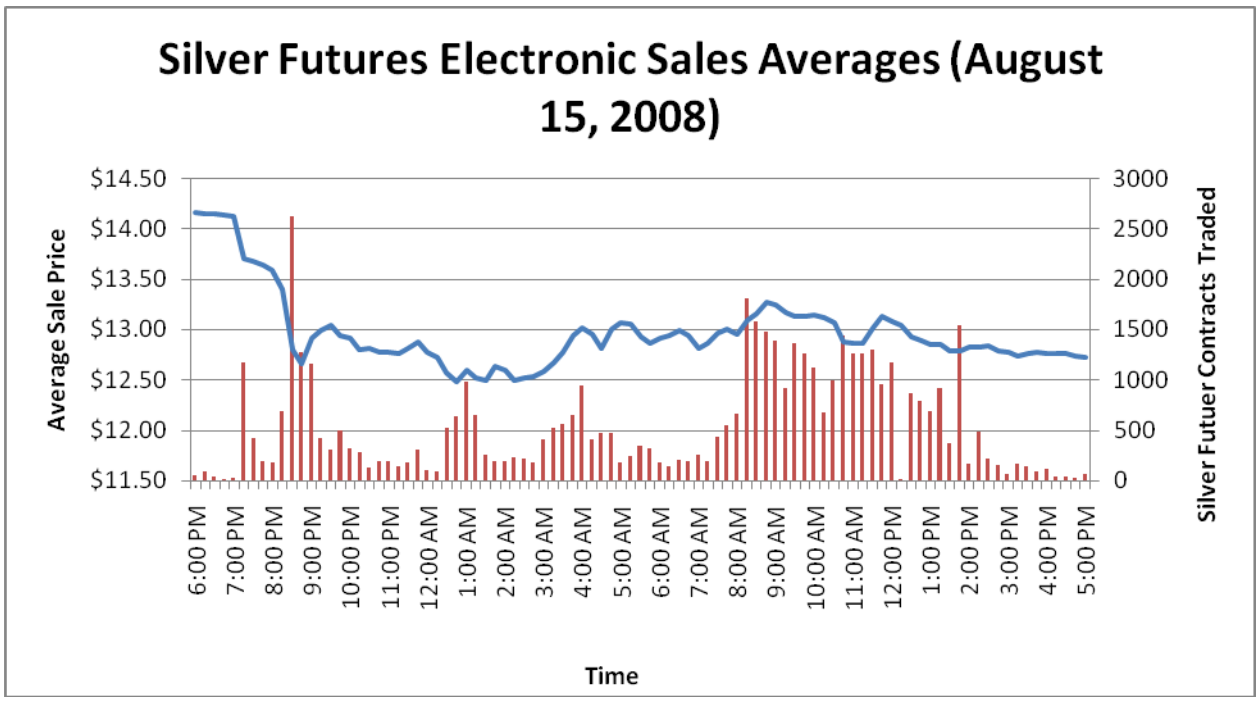
benchmarks for silver prices. Movements in gold prices explain about 37% of the variation in daily movements in silver prices. On average, a 1% move in gold price, holding all else constant, indicates a 0.93% move in silver price in the same direction. Finally, after taking into account contemporaneous moves in gold prices, the declines in silver prices on both June 26, 2007 and August 15, 2008 remain statistically significant. Silver prices moved abnormally by about 4% even after taking into account movements in gold prices on those two dates. Both of these abnormal price movements are statistically significant at the 5% level. Thus, the decline is silver prices cannot be attributed to movements in gold prices. This analysis confirms that silver prices declined in an unusual fashion on these two days even after taking into account gold price movements. This evidence supports the manipulation explanation of the silver market on both June 26, 2007 and August 15, 2008.

g. Although plaintiffs disagree that platinum and palladium should be used as benchmarks, when a regression analysis was undertaken the declines in silver prices on June 26, 2007 and on August 15, 2008 relative to a typical normal day between January 3, 2005 and December 31, 2008 are also found to be highly unusual and statistically significant. After taking into account contemporaneous moves in other precious metals prices, the declines in silver prices on both June 26,

2007 and August 15, 2008 remain statistically significant. Silver prices moved abnormally by about 4% even after taking into account movements in gold, platinum and palladium prices on those two dates. Both of these abnormal price movements are statistically significant at the 5% level. Thus, the decline is silver prices cannot be attributed to movements in gold, platinum or palladium prices. This analysis confirms that silver prices declined in an unusual fashion on these two days even after taking into account gold, platinum and palladium price movements. This evidence is consistent with manipulation explanation of the silver market on both June 26, 2007 and August 15, 2008.

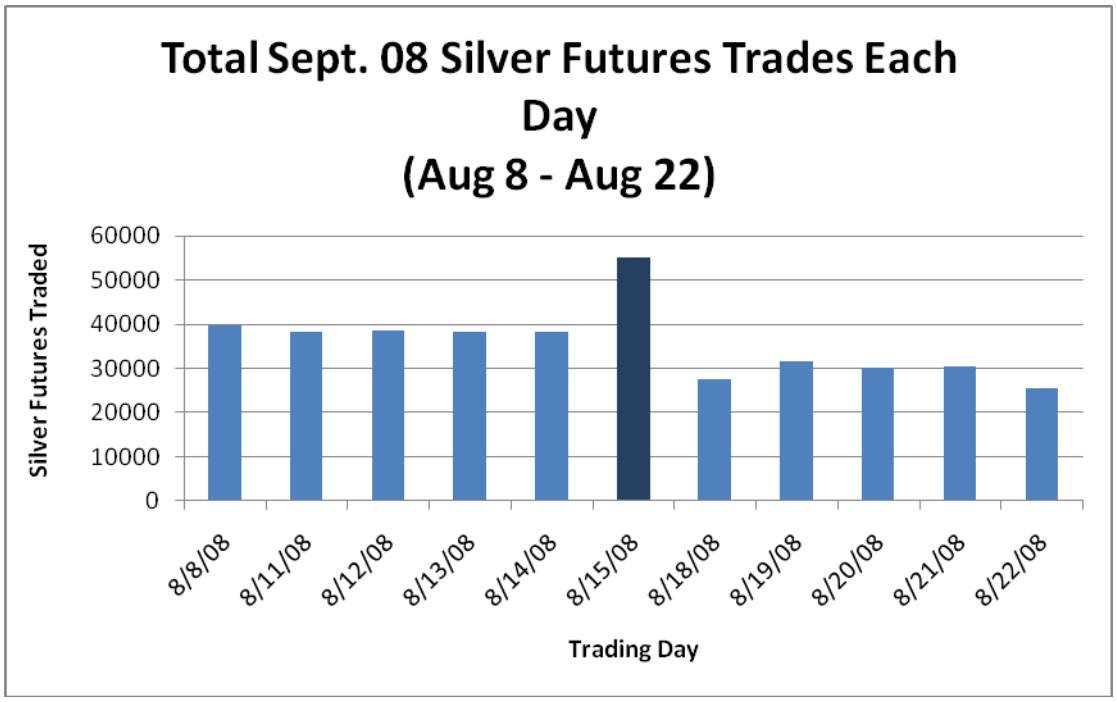
112. As with the manipulation in June 2007, the manipulation of COMEX silver futures prices prior to expiration of the options on September 2008 silver futures contract occurred absent any fundamental market-based explanation. According to one witness, the price movement occurred because JP Morgan used its massive selling power and spoof orders to move the market lower and to force the traders who were short those options to cover their positions. Forcing a price decrease in this way had a magnifying effect when the short traders were forced to sell the futures in order to cover the puts they were short that had just come into the money.

113. Trading volumes early on August 14, 2008 evidence the massive increase in trading, which along with the spoofing caused the extreme market movements. For example, between 7:15pm and 7:30pm, there was an explosion in the number of September silver future contracts traded, from 27 total in the previous 15 minutes to 1,171 contracts. That 4,237% trade increase started a downward price movement over the next hour, in which the price of CME silver futures contracts dropped from $14.11 to $12.80, a 10.23% drop. The massive price drop forced delta-neutral traders to sell futures in large quantities to cover the puts they were short that had just come into the money. The largest trade volume of the day occurred between 8:30pm and 8:45pm on August 14, 2008 and further drove prices down to below $12.50. The graph below shows the relationship between price movement and trade volume.



114. Additionally, as with the June 2007 manipulation, silver futures on the electronic trading platform experienced a significantly higher than normal volume of trading compared to the surrounding days. The trade volume for September futures during August 15, 2008 trading period was 43% higher than the highest of the five days leading up to it, and 74% higher than the highest of the subsequent

five days, as reflected by the chart below.



a. As with trading volume on June 26, 2007, an unusual increase in silver trading volume occurred on August 15, 2008. The total futures volume on August 15, 2008 in silver futures peaked at 82,662 contracts. At the settlement price, this trading constitutes a dollar trading volume of about $5.4 billion. Thus, August 15, 2008 represents the sixth largest trading volume in silver futures during the 1,004 trading days between January 3, 2005 and December 31, 2008. Over the past ten trading days, silver futures volume averaged only 43,509.5 contracts. Thus, silver futures trading volume increased about 90.0% on August 15, 2008 compared to its last ten-day average.

b. Once again, for gold there were less substantial changes in trading volume. On August 15, 2008, gold futures trading volume actually declined by 0.4% compared to the last ten trading days. For platinum, and palladium there were less substantial changes in trading volume. On August 15, 2008, platinum trading volume increased by 57.9%, while palladium increased by 37.5% compared to the last ten trading days.

c. Changes in trading volumes in silver and gold around August 15, 2008 are shown in Table 10, attached as an exhibit to these allegations. The analysis standardizes the trading volume in August 2008 by the average daily trading volume during the previous calendar month (July 2008) for both silver and gold.

d. This Table 9 shows that the trading volume in silver on August 15, 2008 reached a factor of more than 2.5 times its average trading volume during the previous calendar month. For gold, trading volume on August 15, 2008 actually declined to a little over 0.86 times its average trading volume during the previous calendar month. Thus, silver experienced much higher increases in trading volumes relative to gold on August 15, 2008.

e. Although plaintiffs disagree that platinum and palladium are appropriate benchmarks, for a composite of the other precious metals, trading

volume on August 15, 2008 reaches a little over 1.5 times its average trading volume during the previous calendar month. Thus, silver experienced much higher increases in trading volumes relative to other precious metals on August 15, 2008.

f. As discussed in the section on manipulation during the June 26, 2007 period, a regression analysis was conducted to determine if the changes in trading volume are statistically significant. These results are shown in Table 5, an exhibit to these allegations. The trading volume in gold is significantly related to silver trading volume. However, even after taking into account the contemporaneous increases in gold trading volumes, the increase in silver trading volume is statistically significant for both June 26, 2007 and August 15, 2008. These results indicate that the increases in silver trading volume cannot be explained by the normal relations between the trading activity between silver and gold. Instead, silver experienced unusually large increases in trading volumes during both June 26, 2007 and August 15, 2008. These findings again support the manipulation explanation of silver market on both of these dates.

g. Although plaintiffs disagree that platinum and palladium are appropriate benchmarks, even after taking into account the contemporaneous increases in other precious metals trading volumes, the increase in silver trading volume is statistically significant for both June 26, 2007 and August 15, 2008.

These results indicate that the increases in silver trading volume cannot be explained by the normal relations between the trading activity between silver and other precious metals. Instead, silver experienced unusually large increases in trading volumes during both June 26, 2007 and August 15, 2008.

h. The analysis also focuses on the trading volume in individual futures contracts around August 15, 2008. Table 10, attached as an exhibit to these allegations, shows the trading volume in September 2008 maturity silver futures relative to overall silver futures trading volume. Table 10 once again clearly shows that the futures trading activity in the September maturity contract was the main driving force in all silver futures trading volume during the month of August 2008. The September futures contract trading volume peaked at 60,562 contracts on August 15, 2008. This amount fully accounted for 73.3% of all silver futures trading volume on that day, which was 82,662 contracts. This evidence fully supports the manipulation explanation of the September 2008 maturity contract.

i. The analysis also examines the trading volume in gold around August 2008 and determine whether September 2008 contracts in gold had similar relations to their overall futures trading volumes. Table 10.1, attached as an exhibit to these allegations, shows the September 2008 maturity gold futures relative to overall gold futures trading volume. First, the volume in September

2008 contract is negligibly small. Second, there is nothing special about August 15, 2008 for the overall futures volume in gold. The analysis shows that futures trading in gold could not have anything to do with the manipulation of silver futures around August-September 2008.

j. Plaintiffs disagree that platinum and palladium are appropriate benchmarks. Nevertheless, there is no activity evident in either overall platinum trading activity or the October 2008 platinum futures contract on August 15, 2008. Futures trading in platinum could also not have anything to do with the manipulation of silver futures around August-September 2008. There is also no evidence of activity in either overall palladium trading activity or the September 2008 palladium futures contract on August 15, 2008. Any futures trading August-September 2008 in palladium could not have anything to do with the manipulation of silver futures around August 15, 2008.

k. The analysis then turns to the nearby silver contracts to see if they can account for the significant silver futures trading around August 2008. The November 2008 maturities in silver started trading after August 15, 2008 and thus it does not have any trading activity during most of August 2008. Table 11, attached as an exhibit to these allegations, shows the trading volume in October and December 2008 maturity silver futures relative to overall silver futures trading

volume. First, October 2008 futures trading volume is mostly negligible relative to the overall trading volume. Second, while the December 2008 maturity trading volume was larger, it only contributed about 18% to the overall trading volume on August 15, 2008. Thus, Table 11 demonstrates that the majority of the increase in trading volume during August 2008 came directly from the September 2008 maturity contract. This evidence supports the explanation that the September 2008 maturity silver futures were used to manipulate the silver prices around August 2008.

115. All of this occurred without any new information coming to the silver market. JP Morgan's conduct caused prices in the market to be divorced from the real fundamentals of supply and demand. Price behavior in silver on August 15, 2008, which lost over 9.9%, bore little or no connection to trading in other related markets, such as gold, or to the performance of other commodities, fixed income or equity markets on that day. Ten-year treasuries decreased by about 1.3% and the Dow Jones Industrial Average hardly changed. Gold dropped by about 2.8%, and the CRB commodities index lost about 2.7%. The abnormally high decline in prices on August 15, 2008 was inconsistent with the fundamentals, the news flow, the usual market activity, and a competitive market based on legitimate supply and demand factors. The data indicate that abnormally high

trading volume caused abnormally high declines in prices in ways that profited someone who was short futures (or synthetically short futures through options) as alleged herein.

116. According to other witnesses as well, on or before August 15, 2008, brokers who often executed trades for JP Morgan accumulated a significant number of September puts that were well out of the money.

117. As prices decreased, these September puts became much closer to being in the money. Accordingly, those who had been selling these puts had to close out their positions by buying back the September puts on August 15, 2008.

118. Chris Jordan at JP Morgan was selling back large amounts of September puts on August 15 at an enormous profit.

119. COMEX silver futures fell to $12.815 on August 15, recovered to $13.60 by August 28 but then fell to the $7.70 per ounce low on October 25.

120. The COMEX close for silver on August 15 was $12.815 per ounce, which is 62¢ less than the London Fix for that day.[8]

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[8] A price per ounce for each of the precious metals (gold, silver, platinum and palladium) determined daily at 10:30 and 15:00 GMT by a brief conference call among the five members of the London Gold Pool (Scotia-Mocatta, Barclays Capital, Deutsche Bank, HSBC and Société Générale). The London spot fix price is the price fixed at the moment when the conference call terminates.

5. Additional Uneconomic Sales And Commissioner Chilton's Statement

121. Conduct inconsistent with trying to obtain the best sales price execution, but consistent with trying to move prices down by aggressively selling in a compressed period to receive less on the sales transactions, occurred on numerous additional days during the Class Period.

122. For example, each of the following instances, was brought, by a market professional who is registered with the national futures association, and has been a long time participant in the COMEX silver futures markets, to the attention of CFTC Commissioner Bart Chilton at or about the time of the episode. They are as follows.

a. During a 3-4 minute period from 9:37 to 9:40 a.m. (EDT) on April 16, 2009, 6322 and 2208 silver contracts traded from $12.56 to $12.35.

b. On June 3, 2009, from 12:09 to 12:11, 6326 August gold contracts were traded to push the price down from 971 to 963, in the same time period, 1501 July silver contracts were traded from $15.56 down to $15.40.

c. On June 17, 2009, at 7:00 a.m., there was a huge seller of silver.

d. January 10, March 10 and March 19, 2010, all saw heavy selling of silver and gold.

e. On June 28, 2010, both silver and gold fell at the same time in huge volume. This large volume, again, was not the way for a broker to obtain the best execution for the customer. But it was the way to trade to make prices go down.

f. On July 21, 2010, at 14:06 silver was taken down from $17.81 to $17.64 and then to $17.57.

g. On August 4, 2010, at 12:56, with silver trading at $18.53 + .20, someone came in to the market and started to sell. They did not stop until 13:14. Then silver was at $18.24 (down some 30 cents from where they started). 1064 contracts traded in one minute. The market recovered somewhat until a large volume hit the market at 13:25 and 13:26 to make the settlement price, $18.27.

h. On August 11, 2010, at 11:12 a.m., there were large sellers who came into both the gold and silver markets to drive the prices down. Again, the selling was contrary to that of a good broker trying to get the best price for the customer. On the contrary, they rapidly sold 3,255 contracts of silver down 25 cents in seven minutes.

123. Published reports have stated that, beginning in November 2009, a whistleblower contacted the CFTC Enforcement Division and reported JPMorgan and its co-conspirators' illegal conspiracy to manipulate and suppress the price of COMEX silver futures and options contracts.

124. In his communications with the CFTC, the whistleblower described how JPMorgan signaled its co-conspirators in advance of the manipulation, so that JPMorgan along with its co-conspirators, could reap enormous profits by artificially and unlawfully suppressing and manipulating the price of COMEX silver futures and options contracts.

125. The published reports noted that in a February 3, 2010 email to Eliud Ramirez, Senior Investigator for the CFTC's Enforcement Division, the whistleblower informed the CFTC about a signal from JPMorgan indicating its intent to depress COMEX silver futures and options contracts two days later.

126. The published reports further indicated that on February 5, 2010, the whistleblower emailed Ramirez "to confirm that the silver manipulation was a great success and played out EXACTLY as predicted . . ."

127. The whistleblower added, "[h]ow would this be possible if the silver market was not in the control of [JPMorgan and its co-conspirators] . . . I hope you took note of who added the short sales ... and I am certain you will find it is the

same concentrated shorts who have been in full control since [JPMorgan] took over the Bear Stearns position."

128. On October 26, 2010, CFTC Commissioner Bart Chilton issued a Statement at the CFTC Public Meeting on Anti-Manipulation and Disruptive Trading Practices, in part, as follows:

> I believe that there have been repeated attempts to influence prices in the silver markets. There have been fraudulent efforts to persuade and deviously control that price. Based on what I have been told by members of the public, and reviewed in publicly available documents, I believe violations to the Commodity Exchange Act (CEA) have taken place in silver markets and that any such violation of the law in this regard should be prosecuted.

6. The Pertinent Conditions In The COMEX Silver Market During The Class Period Indicate A General Downward Short Manipulation Under The Publicly Verifiable Criteria Relied Upon By The CFTC

129. (a) In the "Report on Large Short Trader Activity In the Silver Futures Market" dated May 13, 2008 ("Report"), the CFTC Division of Market Oversight found that certain facts indicated that COMEX silver prices were not generally manipulated downwards between 2005 to 2007. In support of its finding, the CFTC Division of Market Oversight primarily relied on four important relationships that may be seen from publicly available information.

(b) These four publicly verifiable relationships are as follows. (1) Silver prices went up from 2005 to 2007 and even increased more than gold and other precious metals prices did. (2) The holdings of silver among the top four holders of COMEX net short positions were comparable to those in gold from 2005 to 2007. (3) There were no deliveries of COMEX silver by the holders of the large net short positions from 2005 to 2007. (4) As COMEX silver prices went up during this period, the degree of concentration of the top four holders tended to go up, BUT as COMEX silver prices went down, such degree of concentration tended to go down. *See* Report pp. 4-15. (As reported in the CFTC Weekly Commitment of Traders ("COT")).

130. However, during the March 17, 2008 – October 27, 2010 portion of the Class Period, each of those foregoing four relationships was the exact opposite of that which the CFTC Division of Market Oversight found to exist for the 2005 to 2007 time period. First, between March 17, 2008 and March 25, 2010, COMEX silver prices substantially decreased whereas COMEX gold prices increased. Second, the concentration of the top four net short positions in COMEX silver was generally much greater than that in gold. Third, the largest holder of short positions in COMEX silver futures, Defendant JP Morgan, did make deliveries on silver futures contracts which did depress prices.

131. Fourth and finally, when COMEX silver prices declined the most, the very pertinent CFTC Bank Participation reports showed that the concentration of the largest shorts greatly increased, from 5% of the open interest to 32% of the open interest. But when COMEX silver prices increased between March 25, 2010 and October 27, 2010, the concentration in the CFTC's Bank Participation report significantly decreased from 28% to 19%.

132. Thus, the four publicly verifiable factors that the CFTC primarily relied on in determining that there was no general downward manipulation of COMEX silver futures prices between 2005 and 2007, all point towards the existence of such a manipulation during the Class Period here.

133. In addition to the foregoing information, the CFTC Report also relied upon several facts that are not public. First, the CFTC report relied on the fact that the identity of the largest trader changed and rotated during the 2005-2007 period and that there was a changing distribution of holdings among different market participants who were sometimes net long and sometimes net short. CFTC Report p. 9. The exact breakdown of how much each of the four largest net shorts holds, is not provided by the CFTC COT Report. However, Plaintiffs allege that JP Morgan was the largest holder of a short position throughout the period from at least August 15, 2008 throughat least March 25, 2010.

134. Next, the CFTC also found that the four largest net shorts in COMEX silver futures were net neutral in their overall COMEX and non-COMEX silver exposures. However, the four primary reasons that are in the CFTC Report have all changed to the opposite during the Class Period from what existed in 2005-2007. Therefore, it is very reasonable to infer that JP Morgan was not "net neutral" in its COMEX and non COMEX silver exposures. In the alternative, to any extent that a trader does have offsetting exposures in markets other than the COMEX, that fact introduces what traders call "managing the cross hedge". In firms with trading departments, this phrase means active trading in which the traders try to "add value" by obtaining a better price for their positions in each market so as to maximize profits. Thus, a firm that engaged in such active trading to "manage the cross hedge," still has extraordinarily large financial motives to cover a large short position in COMEX silver at lower prices. JP Morgan was such an active trader and had such a motive, regardless of the extent to which it had positions in other markets.

135. The CFTC also found that COMEX silver futures prices did not diverge significantly from and were not lower than London silver prices. CFTC Report pp. 7-8. However, the CFTC was not called on to determine whether the amounts of the fluctuations during 2005-2007 between London silver and COMEX

silver permitted one dominant short to profit from same because the CFTC did not find that one dominant short existed. An extraordinarily large dominant short position also supplies the ability both to make large episodic trades to move prices, and to trade to move prices in "self fulfilling prophecy" fashion so as to create trading profits. This includes trading at the times of options expirations, trading at inactive times of the day, and trading at other times (*e.g.*, when the market rolls).

136. Moreover, during the Class Period, the COMEX low price of the day was greater than the low of the day on the CAG A0-FX eSignal aggregated "spot" silver feed 70% of the time. This price, unlike London, includings North American spot prices. Given the time structure of the markets, COMEX lows should not normally have been lower than the lows for the CAG A0-FX eSignal spot price. For example, during 2005-2007 (the period the CFTC observed in its May 13, 2008 Report), the low of the day on the COMEX was greater than the eSignal low price only 22% of the time. In one substantial part, Defendants' conduct alleged herein was a cuase of the lower lows on the COMEX during the Class Period.

137. Further, the markets regarded COMEX as the place where "price discovery" occurred. COMEX was the price leader. By having the dominant position on COMEX, a single large short could make the trades that determined the

leading prices for the COMEX market, which London and other silver markets could follow (and, indeed, overshoot). Markets are never perfect and may frequently be less than rational. Finally, the large price decline days on COMEX during the times of JP Morgan's specifically alleged manipulative trades further show that JP Morgan could both cause and profit from COMEX price drops.

a. Contrary to the usual practice among dealers of holding large silver positions and making large sales transactions in the London market, JP Morgan intentionally held its large positions and made its large transactions on the small COMEX silver market. JP Morgan thereby intentionally and uneconomically forced down silver prices in multiple ways.

b. First is price discovery. Silver is traded on the London bullion silver market as well as on the COMEX silver market. The London bullion market is a forum in which market professionals, such as JP Morgan, are able to trade large volumes of silver amongst themselves with minimal price impact. Large market participants interested in transacting for minimal price impact, overwhelmingly transact on the London market which is confined to registered dealers, members of the London Bullion Market Association.

c. Transacting in large volumes on the small COMEX silver market usually has significant price impact. But virtually all silver "price

discovery" takes place on COMEX since there is little speculative presence on the London market. Price discovery is a common analysis of markets. Where two markets exist for the same or a similar item, price discovery shows whether one market leads the other market in setting prices.

d. Using daily data, an estimate of year by year shows the following. During the years of 2007, 2009, 2010 and 2011 there does not appear to be any influence of the London market on the common silver price. This means that the price discovery was 100% on COMEX. The COMEX silver share of price discovery is almost as high in most other years: 92% in 2006 and 91% in 2008. COMEX fell to 82% leadership in price discovery in 2012. Thus, the London bullion market price was following COMEX prices during the Class Period.[9] See "y" below.

e. As a sophisticated and large market participant as well as a market maker on the London market and clearing member of COMEX, JP Morgan well knew each of the foregoing facts as they occurred. By selling in the small COMEX market, JP Morgan knew that it received lesser sale prices because it had

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[9]This was calculated using the methodology proposed by J. Gonzalo and C. Granger,. "Estimation of common long-memory components in cointegrated systems", Journal of Business and Economic Statistics, 13 (1995), 1–9.

a greater depressant effects on prices. Thus, JP Morgan repeatedly and uneconomically incurred additional transaction costs in order to sell at the lower prices it caused on COMEX. JP Morgan thereby intentionally acted contrary to the conduct of a hedger by repeatedly incurring greater transaction costs. It did so in order to depress prices.

f. Had JP Morgan maintained its short positions in the London market, its large transactions and positions would have had far less downward effect on prices than they in fact had on the COMEX. But by focusing its trades and conduct on COMEX, JP Morgan intentionally had a significant downward impact on COMEX silver prices.

g. Because COMEX was responsible for price discovery, JP Morgan also intentionally and knowingly caused a second downward impact. This was on world silver prices. Specifically, as COMEX silver prices provided price discovery, they led London silver prices lower.

h. The third way that JP Morgan intentionally depressed silver prices, was through the impact on the COMEX silver price of JP Morgan's large short position. JP Morgan's large short position not only weighed on prices. It also caused a large concentration on the short side of the COMEX silver market to be publicly reported. Again, the CFTC publishes weekly figures (for Tuesdays) on

the share of open interest (both gross and net) held by the four largest traders on both the long and the short sides of each commodity on which futures are traded. The CFTC reports are published on the following Friday. The net positions net out spread trades.

i. The existence of a large concentrations short position in the market, was known to other market participants by virtue of the CFTC Reports. JP Morgan took over Bear Stearns's large short silver position on March 17, 2008 when the front COMEX silver price was $20.57/oz. The COMEX front contract gold price was $1002/oz on that day implying a gold-silver ratio of 49.

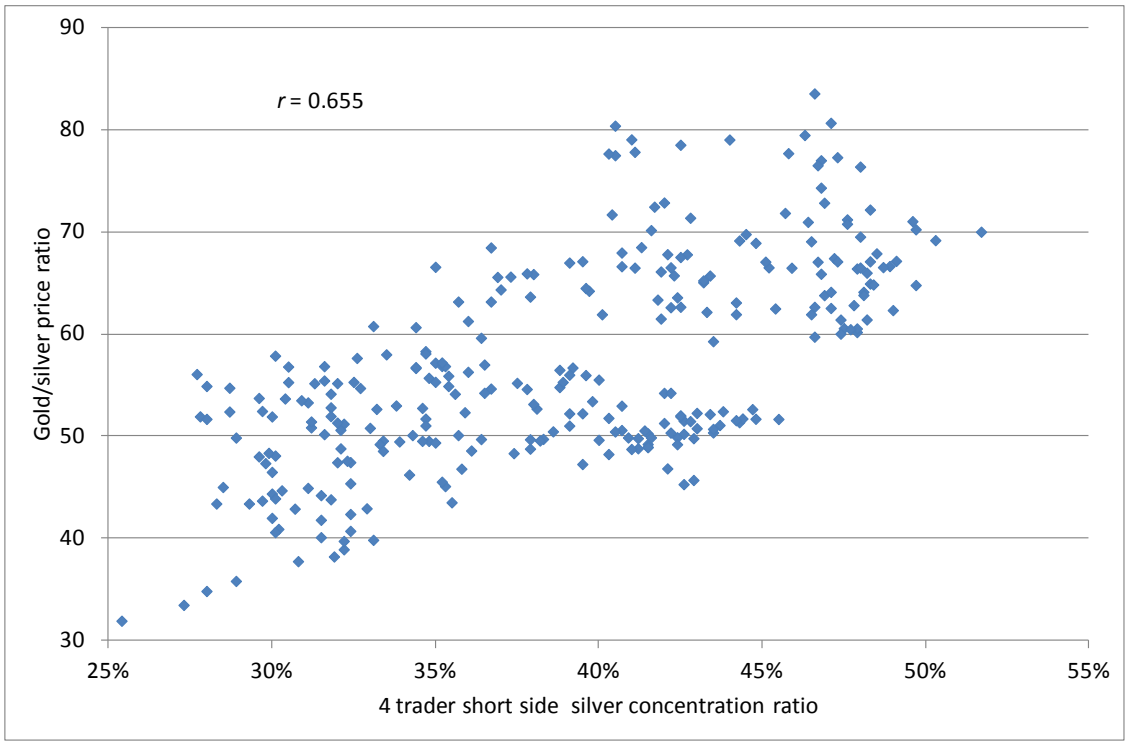
j. The CFTC reports COMEX silver short side concentration as 39% on March 18, 2008. By the end of the year, concentration had risen to 47%. It only fell back to under 40% in April 2010 (after the CFTC meeting on manipulation of the silver market). This 8% rise in concentration will have raised the gold-silver ratio by approximately 20% to around 62. See "y" below. In fact, the gold-silver ratio averaged 52 over the twelve months prior to the Class Period. It rose by 33% relative to this level to average a multiple of 69 over the Class Period. In the twelve months immediately following the Class Period it dropped back to an average of 57, a fall of 17% relative to the Class Period average.

k. Statistical analysis confirms what the foregoing numbers suggest: the greater the concentration on the short side of the COMEX silver market, the lower that silver prices are. See "y" *infra*. This analysis shows that an increase of 1% in COMEX short side concentration was associated with a rise of approximately 2.5% in the gold-silver price ratio.

l. The correlation of the share of the four largest net short positions in open interest with the settlement price of the front COMEX silver contract on Tuesdays over the Class Period is -0.54. The correlation with the gold-silver price ratio is 0.66. This means that 43% of the variation in the gold-silver price ratio over the Class Period is directly related to short side concentration in the Comex silver market.[10] A cross-plot of short-side concentration in the Comex silver market and the gold-silver price ratio is set forth below. Note that by controlling for the gold price, the correlation increases.

Cross-plot, Comex Silver Short Concentration and the Gold-Silver Price Ratio

[10] 43% is 0.66 squared.



m. By maintaining a high degree of concentration in the COMEX silver futures market, JP Morgan caused silver futures prices to be lower than they otherwise would have been.

n. The fourth way that JP Morgan's large concentration decreased prices, is by discouraging other actual and potential traders from taking long positions. This was due, in part, to the risk that the dominant short or shorts would make large trades arbitrarily to move prices lower.

o. The CFTC's Disaggregated Commitments of Traders Reports give the number of reporting traders in each of four categories: producers and merchants, swap providers, money managers and other reporting. In the CFTC

reports, the “other reporting” category may be loosely identified as “large speculators”. In the COMEX silver market, this group averaged 44 traders in the twelve months prior to the Class Period, 36 traders through the Class Period and 40 traders in the twelve months subsequent to the class period.

p. This suggests that between 10% and 20% of large speculators may have been discouraged from participating by virtue of the presence of dominant large positions. The correlation between four trader short net concentration and the number of “other reporting” positions over the Class Period was -0.61. This means 37% of the variation in the number of “other reporting” traders is associated with changes in the short side concentration of the COMEX silver market. [11] See “y” *infra*.

q. The number of money managers (hedge funds, pension funds etc.) taking long positions remained almost unchanged during the Class Period relative to the previous twelve months, but the average size of these positions fell by one third from 464 contracts to 314 contracts. The correlation between four trader short net concentration and the average size of money manager positions over the Class Period was -0.31. See “y” *infra*.

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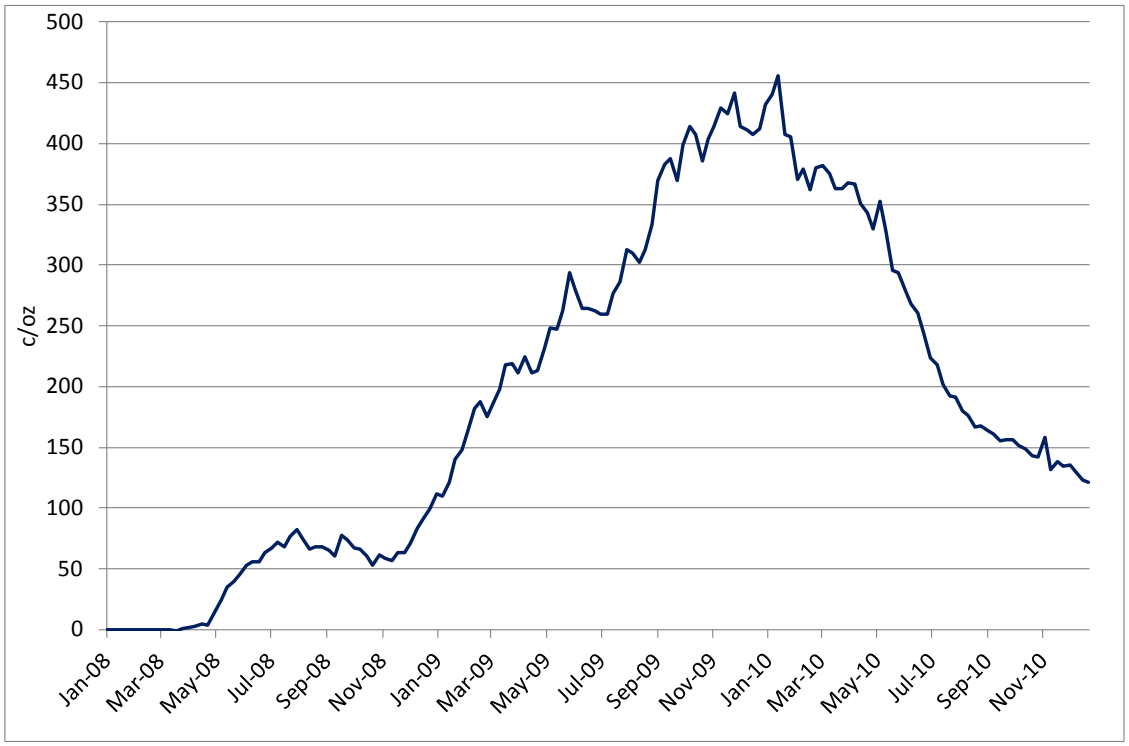
[11] 37% is 0.61 squared.

r. The increase in short side concentration in the COMEX silver market therefore substantially discouraged the presence and activity of other market participants who had the potential to counteract the depressing effect of JP Morgan's large short positions. In combination with the large unusual trades that depressed silver prices at the times alleged herein (¶¶3, 7, 13, 63-65, 79-80, 86-87, 122), including those by JP Morgan, this demoralized market participants.

s. JP Morgan knew that the CFTC Report (¶¶129-130) publicly concluded that the absence of a large concentration in the silver market contraindicated the suppression, and any effort to suppress, silver prices during 2006 – 2007. See ¶¶79, 129-131. From this and other facts, JP Morgan, as a sophisticated market participant and clearing member of COMEX, well knew that its large concentration in silver futures between March 17, 2008 and March 25, 2010 depressed COMEX silver prices and discouraged long side participation in the COMEX silver market.

t. With such knowledge, JP Morgan intentionally acquired, kept and increased its short position in the COMEX silver futures market **rather than in** the market in London. By August 5, 2008, JP Morgan held significantly more net short COMEX silver positions than the next three largest traders on COMEX combined. Thereby, JP Morgan intentionally succeeded in increasing its

concentration and the reported concentration in the COMEX silver futures market. As a result, JP Morgan intentionally succeeded in suppressing and depressing COMEX silver futures prices. From its effects on concentration alone, JP Morgan caused the following estimated depression in COMEX prices:



u. Although JP Morgan claims to have been hedging and to have had an offsetting position, this claim makes no sense for the reasons alleged elsewhere herein and those set forth in these subparagraphs "(a)" – "(z)". The Federal Reserve has recently released a report that criticized JP Morgan (and its chief investment officer) for its degree of risks and whether it was hedged on large

derivatives transactions. Report of JP Morgan Chase & Co. Management Task Force Regarding 2012 CIO Losses, available at http://files.shareholder.com/downloads/ONE/1686795043x0x628656/4cb574a0-0bf5-4728-9582-625e4519b5ab/Task_Force_Report.pdf *passim*; see *e.g.*, 3, 8, 40-41, 62 and 70, n.87. Like here, JP Morgan had stated that it was hedged or had reduced risks to a substantial extent on JP Morgan's derivatives positions. *Id*. But JP Morgan was unhedged and was greatly exposed to the movement of prices. JP Morgan's conduct stood to produce large profits for the traders or large losses for the bank. *Id.* In that instance, where JP Morgan did not control the market through a dominant position, the result was an approximately $7 billion in losses for the bank occurred because, contrary to its statements, JP Morgan was not hedged.

v. As in its settlement with the Federal Reserve, so too here JP Morgan was not hedging. But far worse here, it was in the interest of a true hedger not to move prices when it transacts. Otherwise, the hedger will incur extra costs to transact to reduce risks. The extra transaction costs add up and may eliminate profitability. A hedger seeking to transact where its positions would not have an effect on silver prices, would have transacted on the London market. Had JP Morgan transacted and maintained its short positions in the London market, its

transaction costs would have been far less but its conduct would have had far less downward effect on prices.

w. JP Morgan's conduct, while uneconomic and contrary to that of a hedger, was very useful for a manipulator. This was because it moved prices. Thereby, first, JP Morgan's consistent uneconomic conduct of incurring higher transaction costs by selling at lower prices, produced the "payoff" that the mark to market value of JP Morgan's short position on the COMEX increased due to the depressant effect on prices of its transactions. That is, JP Morgan intentionally and uneconomically acted contrary to the conduct of a hedger in order to depress prices and inflate the value of its extraordinary short position.

x. Second, by uneconomically incurring additional transaction costs to sell at the lower prices it caused on COMEX, JP Morgan also maintained the large reported concentration on the short side of silver on COMEX. The CFTC's reported high short side concentration on COMEX produced the payoff of still further decreasing COMEX silver prices. Third, all those COMEX price decreases were transmitted from the price leading COMEX to London and worldwide. Fourth, JP Morgan could make larger transactions with minimal price impact (including buying positions at the lower prices it had caused in London with less price impact).

y. Plaintiffs' statistical analyses in this "a" – "z" were prepared by Professor Christopher Gilbert, who is very experienced with metals markets. Regarding causation, Dr. Gilbert estimated a simple model on weekly data that relates the COMEX silver price to gold price and the four firm short concentration ratio in the COMEX silver market. The coefficient associated with the concentration ratio is statistically significant at conventional levels. The model controls for the bunching of periods of high and low silver market volatility using the GARCH formulation which is standard in the analysis of financial markets. GARCH means Generalized AutoRegressive Conditional Heteroscedasticity and provides a simple procedure for controlling for the effects of time varying volatility. This improves the precision of the resulting estimates and ensures the validity of tests carried out on the estimated coefficients.

z. All the correlations relate to the largest four short net positions in the COMEX silver market. To maintain anonymity, the CFTC does not identify these traders nor does it provide information on the share of the market held by the largest trader.

7. The Saxo Bank False Trades, Followed By The Large Uneconomic Trades To Depress Prices On The COMEX

138. In addition to the above instances, as well as the many instances contemporaneously reported to CFTC Commissioner Chilton, there was another pattern of uneconomic trades on COMEX. This group of uneconomic trades followed the false trades that appeared on the Saxo Bank platform.

a. The Combination Of Entities That Produced The Saxo Bank Trading Platform

139. Saxo Bank is a Danish bank that operates various trading platforms.

140. Saxo Bank began life in 1992 as Midas A/S, an independent brokerage house trading with clients on the internet. In 2001, Saxo Bank acquired its current name and European bank status, allowing it to expand past its brokerage franchise and establish a position in international capital markets.

141. Saxo Bank's relationship with Deutsche Bank began in 1999, back when Saxo Bank was still Midas A/S. In 1999, Saxo Bank signed a Credit Enhanced Trading agreement with Deutsche Bank. This agreement allowed Saxo Bank to secure liquidity from Deutsche Bank and enabled Saxo Bank to leverage the value of the collateral they placed.

142. As Saxo Bank, with Deutsche Bank's assistance, grew – so did their partnership. Saxo Bank began trading options with Deutsche Bank's trading desk

and Saxo Bank and Deutsche Bank's Global Liquidity Services team created a platform to allow Saxo Bank traders to execute on Deutsche Bank's live streaming prices. This allowed Saxo Bank to execute with Deutsche Bank on live streaming prices, prices that are sent directly into Saxo Bank's system.

143. Deutsche Bank and Saxo Bank continued to deepen their relationship. By April of 2002, at Saxo Bank's discretion, ***Deutsche Bank's prices feed directly into Saxo Bank's client-facing trading system, SaxoTrader.***

144. Also by April of 2002, Deutsche Bank and Saxo Bank reached an agreement to clear all of Saxo Bank's Foreign Exchange trading through Deutsche Bank and host Deutsche Bank's foreign exchange research on Saxo Bank's Internet dealing site.

145. In the words of Mr. Kim Fournais, CEO of Saxo Bank, the "reliability and professionalism of Deutsche Bank has assisted us greatly . . . The partnership has strengthened our operational capability, and furthermore it ensures a stability in our vital functions that is unparalleled in the market." May 27, 2002 Saxo Bank Press Release

146. On June 18, 2003, Saxo Bank announced a new aspect to its partnership with Deutsche Bank – a ten million Euro placement by Deutsche Bank with Saxo as subordinated capital. As "as a result, Saxo Bank's combined share

capital and subordinated capital has doubled. . . and the bank has thereby secured the necessary conditions to sustain the business growth in international investment markets."

147. Recognizing the ever-increasing importance of Saxo Bank's relationship with Deutsche Bank, Mr. Kim Fournais, Saxo Bank's Joint Chief Executive stated in the June 18, 2003 press release: "There is no doubting the significance of having Deutsche Bank, one of the principal players in the financial markets, supporting Saxo Bank . . . with the provision of this subordinated loan, we ***have further cemented our very close and proactive co-operation with Deutsche Bank***. So we are most certainly very pleased with the agreement we have entered into." (Emphasis added)

148. On March 23, 2004 Saxo Bank announced that it would use "Deutsche Bank's futures infrastructure in the SaxoTrader client station," that its futures trading would be "based on Deutsche Bank's worldwide membership of various futures exchanges," and that Saxo Bank's electronic integration with the CME in the near future would be facilitated by Deutsche Bank, who will enable the "clearing process" for trading futures contracts.

149. On November 9, 2007, Saxo Bank hired Albert Maasland as its Chief Operating Officer and head of its activities in Europe, the Middle East, and the

United States. Mr. Maasland spent 11 years at Chase, before it merged with JP Morgan, where he rose to become Head of FX Sales from 1989-1994. Mr. Maasland then worked at HSBC and then moved to Deutsche Bank in 1995.

150. On January 28, 2008, Saxo Bank and JP Morgan announced a prime broker agreement that "will open a new channel of inter-bank liquidity for Saxo, given the bank's clients access to greater liquidity and increased accuracy of trading data for their currency pair operations."

151. The January 28, 2008 agreement extends the existing liquidity agreement between Saxo Bank and JP Morgan. Under the agreement, JP Morgan acts as an intermediary between Saxo Bank and thousands of international banks that trade FX.

152. On February 27, 2008, Saxo Bank announced that it hired Steven Bellamy as part of its team. Mr. Bellamy joined Saxo Bank from JP Morgan where he worked as an analyst on the FX Spot Trading Desk

153. On April 20, 2011, the business publication Business DK confirmed that Saxo Bank had hired JP Morgan (along with SEB Enskilda) to sell up to 30.1 percent of Saxo Bank's shares.

154. On May 25, 2011, according to Euromoney FX News, JP Morgan announced that it appointed Andres Choussy as global head of FX clearing. Mr. Choussy was previously head of Saxo Bank's London Office.

155. Saxo Bank's two closest banking partners over the last dozen years were Deutsche Bank and JP Morgan.

156. Deutsche Bank and JP Morgan cooperate as two of the six banks who teamed up to form a company called London Precious Metals Clearing Limited to provide clearing services for precious metals. They are also both members of the London Bullion Market Association.

b. The Highly Unusual Pattern Of Fake Trades, Occurring At The Same Time Of Day And In The Same Direction, Followed By More Than Twenty Five Episodes Of Sharp Declines In COMEX Silver Prices

157. Saxo Bank owns and operates a trading platform which, among things, provides aggregated information on the trading price of silver to Saxo Bank's clients and others with access.

158. Many other companies, including E-Signal, provide similar pricing information about silver to their clients.

159. The price of silver quoted on Saxo Bank's trading platform reflects "feeds" of price information from different banks who act as liquidity providers.

160. According to the London Bullion Market Association, the following ten banks have elected be a Market Maker for spot silver and quote two-way prices to each other during the London business day: The Bank of Nova Scotia, Barclays Bank Plc, Credit Suisse, Deutsche Bank AG, Goldman Sachs International, HSBC Bank USA NA, JP Morgan Chase Bank, Mitsui & Co. Precious Metals Inc., Societe Generale, and UBS AG.

161. Deutsche Bank and JP Morgan are two of the banks who provide pricing data to Saxo Bank. As of April of 2002, Deutsche Bank's prices fed directly into Saxo Bank's client-facing trading system, SaxoTrader and, as of, January 28, 2008, Saxo Bank and JP Morgan announced a prime broker agreement that "will open a new channel of inter-bank liquidity for Saxo, given the bank's clients access to greater liquidity and increased accuracy of trading data for their currency pair operations."

162. During the Class Period, between 5:45 and 6:00 p.m. (traditionally a period of very low trading volume during the twenty-four silver trading day), a false trade appeared more than 25 times on Saxo Bank's pricing platform. The false trade created an anomalous, sharp near-vertical drop to a lower price far below the previous trade, and then a sharp upward vertical line.

Saxo trading platform on June 18, 2008.

163. In fact, no silver contracts traded at the low price registered by this "signal." However, on more than 25 occasions, this "signal" was then followed, within the next 24-48 hours, by a sharp decline of a comparable dimension in the prices of COMEX silver futures contracts. See Exhibit A hereto.

164. It is highly unusual for a false trade to repeatedly appear on any platform. It is even more unusual for that false trade always to be a sharp downward trade. And it is highly unusual for that repeating false trade, to be followed, more than 25 times, by a sharp decline in COMEX silver futures prices during the next 24-48 hours.

165. However, in fact, the foregoing pattern did occur during the Class Period.

166. The following serve as illustrative examples of this pattern. Each example details the time, date, and price point of the false trade; the time, date, and volume of the dramatic decline in price on COMEX silver; and other details.

167. April 1-2, 2008

a. On April 1, 2008, at 5:15 p.m. EST, the Saxo platform published a dramatic momentary downward price move in silver of 48 cents from $16.88 to $16.40.

b. On April 1, 2008, at 8:05 p.m. EST, the most activesilver futures contracttraded on the COMEX began todecline in price from $17.10through two waves of selling that eventually brought the price to $16.81. For the first wave of selling, from 8:05:24 p.m. to 11:43:34 p.m., the price drops from $17.10 to $16.78 on volume of 917 contracts. For the second wave of selling, on April 2, 2008, from 1:13.28 a.m. EST to 1:47:11 a.m., the price dropped from $16.99 to$16.81 on volume of 194 contracts.

c. On April 2, 2008, the price bounced back after the drop, which ended at 1:47:11 a.m. EST. The bounce-back began at 1:47:12 a.m. when

the futures were trading at$16.81. There was only one wave of purchases, which brought the price back up to$17.09 by 4:46:06 a.m. This price level surpassed the signal start price, which was $16.88.

168. April 3-4, 2008

a. On April 3, 2008, at 5:15 p.m. EST, the Saxo platform published a momentary downward price move in silver of 10 cents from $17.31 to $17.24.

b. On April 3, 2008, at 7:46:29 p.m. EST, the most activesilver futures contract traded on the COMEX began todecline in price from $17.44to $17.29 on volume of 175 contracts through a single wave of selling, which ended at 8:34:49 p.m. This price level was slightly above the bottom of the signal, which was $17.24.

c. On April 4, 2008, the price drastically bounced back after the drop, which ended at 8:34:49 p.m. EST on April 3, 2008. The bounce-back began at 2:25:47 a.m. when the futures were trading at$17.35. There were three waves of purchases that brought the price back up to $17.58 by 6:15:25 a.m. During the first buying wave, from 2:25:47 a.m. through 3:59:47 a.m., the price moved up from $17.35 to $17.50 on volume of 399 contracts. During the second buying wave, from 4:07:06 a.m. to 4:34:14 a.m., the price moved

up from $17.34 to $17.51 on volume of 142 contracts. During the third buying wave from 5:34:11 a.m. to 6:15:25 a.m., the price moved up from $17.43 to $17.58 on volume of 360 contracts.

169. June 18-19, 2008

a. On June 18, 2008, at 5:20 p.m. EST, the Saxo platform published a dramatic momentary downward price move in silver of 21 cents, from $17.31 to $17.14. Then, at 5:45 p.m., there was another price movement of 16 cents, from $17.34 to $17.18.

b. On June 19, 2008, at2:15 a.m. EST, the most activesilver futures contracttraded on the COMEX began todecline in price from $17.42through three waves of selling that eventually brought the price to $17.15. During the decline, there was a significant increase in trading volume from the period before or after the decline. For the first wave of selling, from 2:15 a.m. to 4:43 a.m., the price drops from $17.42 to $17.265 on volume of 721contracts while only 340 contracts traded during the preceding 147 minutes.

c. For the second wave of selling, from 5:27 a.m. EST through 7:04 a.m., the price dropped from $17.355 to $17.20 on volume of 601 contracts. For the third wave of selling, from 7:25 a.m. through 8:07 a.m., the price dropped

from $17.28 to $17.145 on volume of 601 contracts. On June 19, 2008,at8:06:05 a.m. EST, 81 contracts traded at $17.16, near the conclusion of the third wave of selling.

d. On June 19, 2008, the COMEX Silver Futures drastically bounced back after the drop, which ended at 8:06:27 a.m. EST. The bounce-back began at 8:06:47 a.m. when the futures were trading at $17.145. There was only one wave of purchases, which brought the price back up to $17.74 by 9:15:10 a.m. This price level surpassed the signal start price, which was $17.30.

e. Just prior to the initial selling wave between 2:06 a.m. and 2:09 a.m. there were 130 instances of dramatically large offers in excess of 100 contracts appearing on the NYMEX Globex system. During this period,only 44 contracts traded, and the largest trade was 12 contracts at 2:06:46 a.m. The only other bids or offers of 100 or more contracts on June 19, 2008 occurred at 7:00 a.m. when fourteen such offers appeared and within four minutes of

their appearance, the price dropped from $17.27 to $17.19.

l. (The red arrow marks the time, 2:06a.m. – 2:09a.m., when the 130 large offers appear. The white arrow marks time, 7:00 a.m., when the 14 large offers appear.)

170. <u>June 24-25, 2008</u>

a. On June 24, 2008, at 5:15 p.m. EST**,** the Saxo platform published a dramatic momentary downward price move in silver of 12 cents from $16.64 to $16.52.Then, at 5:25 p.m., there was another momentary downward price movement of 12 cents, from $16.64 to $16.52.

b. On June 25, 2008, at9:01 a.m. EST, the mostactive silver futures contracttraded on the COMEX began todecline in price from

$16.82through three waves of selling that eventually brought the price to $16.48. For the first wave of selling from 9:00 a.m. through 10:55 a.m., the price dropped from $16.82 to $16.54 on volume of 6,659 contracts, as compared to 2,083 contracts that traded in the two hours before. For the second wave of selling from 11:17 a.m. through 1:25 p.m., the price dropped from $16.67 to $16.475 on volume of 6,075 contracts.

c. On June 25, 2008, at 1:24:25p.m. EST, 110 contracts traded.In addition, during the one minute ending 1:25p.m., 816 contracts traded. The next largest one minute volume for that trading day was just 326 contracts.

d. On June 25, 2008, the most active silver price bounced back immediately after the drop, which ended at 1:24:30 p.m. EST. The bounce-back began at 1:24:30 p.m., when the futures were trading at $16.475. There weretwo waves of purchases, which brought the price back up to $16.75 by 2:19:10 p.m. This price level surpassed the signal start price, which was $16.645. During the first wave, from 1:24:30 p.m. to 1:53:52 p.m., the price moved up from $16.475 to $16.58, on volume of 967 contracts. During the second wave, from

2:10:18 p.m. to 2:19:10 p.m., the price moved up from $16.50 to $16.75, on volume of 1,062 contracts.

e. During the one minute (1:24 p.m.) just prior to the beginning of the bounce back in prices, there were 30 offers in excess of 85 contracts appearing on the NYMEX Globex system. For the entire day, including the 30 at 1:24 p.m., there were only 71 such offers in excess of 85 contracts.

(The white arrow marks the time when the 30 large offers in excess of 85 contracts appeared on the NYMEX Globex system.)

171. May 17-18, 2009

a. On May 17, 2009, at 5:55 p.m. EST, the Saxo platform published a dramatic momentary downward price move in silver of 21 cents from $13.94 to $13.73.

b. On May 18, 2009, at3:30 a.m. EST, the mostactivesilver futures contracttraded on the COMEX began todecline in price from $14.05through three waves of selling that eventually brought the price to $13.68. During the waves of the decline, there is a significant increase in trading volume from the period before or after the decline. For the second wave of selling from 6:52 a.m. through 7:16 a.m. the price dropped from $13.945 to $13.73 on volume of 1,071 contracts as compared to 71 contracts that traded in the 21 minutes before 6:52 a.m. and only 506 contracts traded in the 21 minutes after 7:16 a.m. despite getting closer to the opening of pit trading period on COMEX. For the third wave of selling from 9:33 a.m. through 9:54 a.m. the price dropped from $13.915 to $13.695 on volume of 2,517 contracts while only 791 contracts traded during the preceding 21 minutes and 915 contracts during the following 21 minutes.

c. On May 18, 2009 at7:05:00a.m. EST, 88 contracts tradedat prices between $13.81 and $13.79.During the one minute ending 9:46 a.m., and during the third wave of selling, 687 contracts traded. The next largest one minute volume for that trading day was just 232 contracts.

d. During the second wave of selling, between 7:12 a.m. and 7:13 a.m. there appeared on the COMEX Globex system 68 offers in excess of 50 contracts. Throughout the entire day of May 18, 2009 there were only 201 bids or offers in excess of fifty contracts. During one minute ending 9:51 a.m., there appeared on the COMEX Globex system 35 bids in excess of one hundred contracts as part of the third wave of selling. Throughout the entire day of May 18, 2009 there were only thirty eight bids or offers in excess of one hundred contracts.

(The red arrow marks the time when 68 offers in excess of fifty contracts appeared on the NYMEX Globex system.)

172. June 9-10, 2009

a. On June 9, 2009 at 6:00 p.m. EST, the Saxo platform published a dramatic momentary downward price move in silver of 33 cents from $15.22 to $14.89.

b. On June 10, 2009, at 7:44 a.m. EST, the mostactivesilver futures contracttraded on the COMEX began todecline in price from $15.50through a prolonged wave of selling over approximately three hours and twenty minutes that eventually brought the price to $15.025 at 11:05 a.m.

c. During that period of decline there were at least two sharp declines in price, the first from $15.475 to $15.075 at 10:16 a.m. The busiest minute of trading on June 10, 2009 occurred at 10:16 a.m. when the price dropped from $15.11 to $15.075 on volume of 342 contracts. The next sharp decline occurred between 10:38 a.m. and 11:05 a.m. when the price dropped from $15.21 to $15.025. The third busiest minute of trading on June 10, 2009 occurred at 11:05 a.m. when the price dropped from $15.065 to $15.025 on volume of 207 contracts.

d. On June 11, 2009, the price dramatically bounced back following the drop. The bounce-back began at 8:36 a.m. EST when the futures were trading at $14.975. There were roughly three waves of high-volume purchases, which brought the price back up to $15.245 by 1:00 p.m.

e. Of the 110 bids and offers in excess of 100 contracts occurring on June 10, 2009, 69, including all offers in excess of 200 contracts, occurred during the two periods of the sharpest price decline, 8:59 a.m.–10:16 a.m. and 10:37 a.m.–11:05 a.m.

(The two red rectangles mark the time when 69 bids and offers in excess of 100 contracts appeared on the NYMEX Globex system.)

173. <u>January 11-12, 2010</u>

a. On January 11, 2010, at 5:50 p.m. EST, the Saxo platform published a dramatic momentary downward price move in silver of 42 cents from $18.54 to $18.12.

b. On January 12, 2010, at 2:49 a.m. EST, the most activesilver futures contracttraded on the COMEX began to decline in price from $18.81 through three waves of selling that eventually brought the price down to $18.18. During the first wave of selling from 2:49 a.m. through 4:35 a.m., the price dropped from $18.81 to $18.635 on volume of 1,259 contracts. For

the second wave of selling from 6:03 a.m. through 7:13 a.m. the price dropped from $18.685 to $18.425 on volume of 3,260 contracts. For the third wave of selling from 10:52 a.m. through 1:21 p.m. the price dropped from $18.63 to $18.16 on volume of 8,804 contracts.

c. On January 13, 2010, the most active silver futures price bounced back after the drop, which had ended at 1:21 p.m. EST on January 12, 2010. The bounce-back began at 3:07 a.m. on January 13, 2010, when the futures were trading at $18.23. There were roughly two waves of purchases, which brought the price back up to $18.73 by 7:40 p.m. During the first wave, from 3:07 a.m. to 8:48 a.m., the price moved up from $18.23 to $18.49, on volume of 4,488 contracts. During the second wave, from 10:31 a.m. to 7:40 p.m., the price moved up from $18.23 to 18.73, on volume of 14,946 contracts.

174. March 8-9, 2010

a. On March 8, 2010, at 5:15 p.m. EST, the Saxo platform published a dramatic momentary downward price move in silver of 26 cents from $17.21 to $16.95.

b. On March 9, 2010, at 3:12 a.m. EST, the most activesilver futures contracttraded on the COMEX began todecline in price from $17.25 at 3:12

a.m.through waves of selling that eventually brought the price to $16.875 at 8:43 a.m. During the waves of the decline, there is a significant increase in trading volume from the period before or after the decline. For the first wave of selling, from 4:22 a.m. through 4:27 a.m., the price dropped from $17.185 to $17.085 on volume of 386 contracts, as compared to 45 contracts that traded in the 5 minutes before 4:23 a.m. and only 118 contracts traded in the 5 minutes after 4:27 a.m., despite getting closer to the opening of pit trading period on COMEX. The sixth busiest trading minute of March 9, 2010 occurred at 4:27 a.m. Another wave of selling, from 8:25 a.m. through 8:44 a.m., caused the price to drop from $17.025 to $16.885 on volume of 2,795 contracts, while only 678 contracts traded during the preceding 19 minutes and 1,353 contracts during the following 19 minutes. The highest volume of trading on March 9, 2010, as measured in one-minute intervals, occurred at the beginning minute and ending minute of this drop.

c. Of the 10 busiest trading seconds of March 9, 2010, four occurred during the 8:25–8:44 a.m. drop. The fifth busiest trading second of March 9, 2010 occurred at 4:26:16 a.m. during the first wave of selling.

8. The CFTC's March 25, 2010 Meeting

175. On March 25, 2010, the CFTC held a public Meeting to Examine Futures and Options Trading in the Metals Markets. After that meeting, compliance began to intercede at JP Morgan. Unlike COMEX silver's underperformance of COMEX gold prior to March 25, 2010, COMEX silver prices then began to rise faster than COMEX gold prices.

176. According to publicly available information, JP Morgan traders bragged during the Class Period about their large trades which successfully moved silver prices.

177. According to an October 27, 2010 article published in The Wall Street Journal, the CFTC's enforcement staff had circulated a packet of information to CFTC lawyers and commissioners, outlining some of its findings in the silver probe, including documents that could suggest there have been attempts to manipulate prices.

178. According to the same article, CFTC lawyers have interviewed employees of JP Morgan in its metals-trading business as well as industry traders, commodity executives, experts and employees of other metals-trading firms.

III. Other Factors Indicating a Conspiracy

A. Standardized Product with High Degree of Interchangeability

179. When products offered are viewed as interchangeable by market participants, it is easier to unlawfully agree on the price for the product in question, and it is easier to effectively monitor agreed-upon prices. This makes it easier to form and sustain an unlawful anticompetitive agreement or conspiracy.

180. Here, COMEX silver futures and options contracts are interchangeable. Indeed, the COMEX specifies the terms of each contract, including the trading units, price quotation, trading hours, trading months, minimum and maximum price fluctuations and margin requirements.

181. Both JP Morgan Chase and HSBC NA are also members of the LBMA, the London-based trade association that represents the wholesale gold and silver bullion market in London.

FRAUDULENT CONCEALMENT

182. By its very nature, the unlawful activity, as alleged herein, that Defendants engaged in was self-concealing. Defendants, *inter alia*, conspired and engaged in secret and surreptitious activities in order to manipulate and make artificial prices for COMEX silver futures and options contracts.

183. The JP Morgan Group Defendants are or were very reputable firms. None of the facts or information available to Plaintiffs and members of the Class prior to October 26, 2010, if investigated with reasonable diligence, could or would have led to the discovery of the conspiracies and unlawful conduct alleged in the Complaint.

184. Because Defendants employed acts and techniques that were calculated to wrongfully conceal the existence of such illegal conduct, Plaintiffs and the Class could not have discovered the existence of this unlawful conduct any earlier than its public disclosure in or about October 26, 2010.

185. As a result, Plaintiffs and members of the Class were prevented from learning of the facts needed to commence suit against Defendants for the manipulative and anticompetitive conduct alleged in this Complaint until October 26, 2010.

186. In addition, Plaintiffs and members of the Class were lulled into believing that the prices at which they purchased and sold COMEX silver futures and options contracts were the result of market conditions, rather than the product of Defendants manipulation and unlawful collusive activities.

187. At all relevant times and in all relevant respects, Plaintiffs and other members of the Class exercised reasonable diligence.

188. Defendants are equitably estopped from asserting that any otherwise applicable limitations period has run.

DEFENDANTS' ANTITRUST VIOLATIONS

189. Beginning in approximately March 2008, and continuing until at least through the end of the Class Period, the exact dates being unknown to Plaintiffs, JP Morgan and its unknown co-conspirators engaged in a continuing agreement, understanding, or conspiracy in restraint of trade to artificially fix, maintain, suppress, and/or stabilize the prices of COMEX silver futures and options contracts.

190. In formulating and effectuating the contract, combination, or conspiracy, JP Morgan and its co-conspirators engaged in anticompetitive activities, the purpose and effect of which were to restrain trade in, fix or manipulate prices of COMEX silver futures and options contracts. These activities included the following:

a. Defendants participated in "signals", meetings and/or conversations to unlawfully discuss the price of COMEX silver futures and options contracts;

b. Defendants agreed through these "signals", meetings or conversations to unlawfully work to drive down the price of COMEX

silver futures contracts, prevent such prices from increasing, or to otherwise collusively make artificial the prices of COMEX silver futures and options;

c. JP Morgan held large positions in the silver markets with or through its co-conspirators;

d. JP Morgan made large trades with or through its co-conspirators;

e. JP Morgan entered large orders with or through its co-conspirators;

f. JP Morgan otherwise knowingly and collusively acted in order to restrain trade with or through its co-conspirators.

ALLEGATIONS OF ANTITRUST INJURY TO PLAINTIFFS AND THE CLASS

191. JP Morgan's restraint of trade and anticompetitive conduct had severe adverse consequences on competition and price discovery. Plaintiffs and other members of the Class who traded COMEX silver futures and options contracts during the Class Period were deprived of normal, competitive trading patterns and, instead, were subjected to artificially determined prices as a result of Defendants' unlawful and manipulative conduct. As a consequence thereof, Plaintiffs and the

Class suffered financial losses and were, therefore, injured in their business or property.

CLASS ACTION ALLEGATIONS

192. Plaintiffs bring this action as a class action under Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, on behalf of themselves and others similarly situated. The "Class" is defined as:

> All persons or entities other than Defendants and their employees, affiliates, parents, subsidiaries or co-conspirators (whether or not named in this Complaint) who held or transacted COMEX silver futures or options contracts on June 26, 2007 and between March 17, 2008 and October 27, 2010.

193. The Class is so numerous that joinder of all members is impracticable. While the exact number of the Class members is unknown to Plaintiffs at this time, Plaintiffs are informed and believe that at least thousands of geographically dispersed Class members traded COMEX silver futures and options contracts during the Class Period.

194. Plaintiffs' claims are typical of the claims of the other members of the Class. Plaintiffs and members of the Class sustained damages arising out of Defendants' common course of conduct in violation of law as complained herein. The injuries and damages of each member of the Class were directly caused by Defendants' wrongful conduct in violation of law as alleged herein.

195. Plaintiffs will fairly and adequately protect the interests of the members of the Class and have retained counsel competent and experienced in class action litigation, including commodity manipulation and antitrust class action litigation.

196. Common questions of law and fact exist as to all members of the Class which predominate over any questions affecting solely individual members of the Class. Among the questions of law and fact common to the Class are:

a. whether JP Morgan conspired with others to artificially depress and manipulate the price of COMEX silver futures and options contracts in violation of the Sherman Act;

b. Whether JP Morgan's conduct, which manipulated and suppressed the prices of COMEX silver futures and options contracts, violates the CEA;

c. Whether JP Morgan's conduct had an anticompetitive and manipulative effect on the prices of COMEX silver futures and options contracts purchased or sold by Plaintiffs and the Class during the Class Period; and

d. The appropriate measure of damages, under the CEA and federal antitrust laws, sustained by Plaintiffs and other members of the Class as a result of Defendants' unlawful activities.

197. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all Class members is impracticable. The prosecution of separate actions by individual members of the Class would impose heavy burdens upon the courts and Defendants, and would create a risk of inconsistent or varying adjudications of the questions of law and fact common to the Class. A class action, on the other hand, would achieve substantial economies of time, effort and expense, and would assure uniformity of decision as to persons similarly situated without sacrificing procedural fairness or bringing about other undesirable results.

198. The interest of members of the Class in individually controlling the prosecution of separate actions is theoretical rather than practical. The Class has a high degree of cohesion, and prosecution of the action through representatives would be unobjectionable. The amounts at stake for Class members, while substantial in the aggregate, are not great enough individually to enable them to maintain separate suits against Defendants. Plaintiffs do not anticipate any difficulty in the management of this action as a class action.

COUNT ONE

VIOLATION OF COMMODITY EXCHANGE ACT, 7 U.S.C. § 1

199. Plaintiffs incorporate by reference the preceding allegations.

200. Defendants' activities constitute manipulation of the prices of COMEX silver futures and options contracts during the Class Period in violation of Sections 9(a) and 22(a) of the CEA, 7 U.S.C. §§ 13(a), 25(a).

201. Plaintiffs and members of the Class transacted in COMEX silver futures contracts and/or purchased or sold options contracts during the Class Period at prices which were made artificial by Defendants' unlawful activities, and were injured as a result of Defendants' manipulation and suppression of the prices of those contracts.

202. Defendants are liable to Plaintiffs and members of the Class for the damages they sustained as a result of their CEA violations.

COUNT TWO

AIDING AND ABETTING VIOLATIONS OF COMMODITY EXCHANGE ACT, 7 U.S.C. § 25

203. Plaintiffs incorporate by reference the preceding allegations.

204. JP Morgan knowingly aided, abetted, counseled, induced, and/or procured the violations of the CEA alleged herein. JP Morgan did so knowing of each other's manipulation and suppression of COMEX silver futures and options

contract prices, and willfully intended to assist these manipulations to unlawfully cause the price of COMEX silver futures and options contracts to be suppressed or to otherwise reach artificial levels during the Class Period, in violation of Section 22(a)(1) of the CEA, 7 U.S.C. § 25(a)(1).

205. JP Morgan is liable to Plaintiffs and the Class for the damages they sustained as a result of the CEA violations.

COUNT THREE

VIOLATIONS OF SECTION 1 OF THE SHERMAN ACT

206. Plaintiffs incorporate by reference the preceding allegations.

207. JP Morgan entered an agreement, understanding or concerted action between and among JP Morgan and the John Doe Defendants. In furtherance of this agreement, JP Morgan fixed, maintained, suppressed and/or made artificial prices for COMEX silver futures and options contracts. Defendants' conduct constitutes a *per se* violation of the federal antitrust laws and is, in any event, an unreasonable and unlawful restraint of trade.

208. This conduct and its resulting impact on the market for COMEX silver futures and options contracts, occurred in or affected interstate and international commerce.

209. As a proximate result of JP Morgan's unlawful conduct, Plaintiffs and members of the Class have suffered injury to their business or property.

210. Plaintiffs and members of the Class are each entitled to treble damages for the violations of the Sherman Act alleged herein.

COUNT FOUR

VIOLATIONS OF SECTION 2 OF THE SHERMAN ACT

211. Plaintiffs incorporate by reference the preceding allegations.

212. The relevant market ("Relevant Market") is Comex Silver Futures Contracts.

213. JP Morgan acquired, willfully maintained, and unlawfully exercised monopoly power in the Relevant Market during the Class Period by: (1) acquiring a dominant and concentrated short position in the Relevant Market (*supra* at ¶¶ 3, 51-53, 68-87, 96-128); (2) using that dominant position to set the price of Comex Silver Futures (*supra* at ¶¶ 4-6, 55-67); and (3) profiting from their unlawful monopolization of the Relevant Market during the Class Period (*supra* at ¶¶ 55-57, 95).

214. As previously alleged, (*supra* at ¶¶ 3, 51-53, 68-87, 96-128), JP Morgan acquired and exercised the power to and did in fact set the price of Comex Silver Futures Contracts through its repeated uneconomic conduct which depressed

prices. JP Morgan unlawfully utilized its dominant and concentrated short position in the Relevant Market to control, manipulate and cause the prices of Comex Silver Futures Contracts to become artificially depressed, resulting in substantial injury to Plaintiffs and the Class.

215. There is no legitimate business justification for JP Morgan's actions. During the Class Period, JP Morgan unlawfully abused its dominant and concentrated short position in the Relevant market by, among other things: (1) selling large amounts of Comex Silver Futures Contracts in a compressed time period, especially during illiquid (*i.e.* low trading) periods (*supra* at ¶¶ 4-5, 7, 52, 56-57); and (2) executing large spoof orders, *i.e.*, high volume orders in the Market that were not intended to be executed, but would provide a strong and unmistakable signal that the market is headed in a certain direction (*supra* ¶¶ 56-57, 65).

216. The anticompetitive effects of JP Morgan's conduct far outweigh any ostensible competitive benefits or justifications.

217. Plaintiffs and members of the Class have been injured in their business or property by JP Morgan's monopolization of the Relevant Market. Plaintiffs and members of the Class have transacted in Comex silver futures and options contracts during the Class Period and have been injured as a result of JP

Morgan's unlawful anticompetitive conduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

(A) For an order certifying this lawsuit as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and designating Plaintiffs as Class representatives and their counsel as Class counsel;

(B) For a judgment awarding Plaintiffs and the Class damages against Defendants for their violations of the CEA, together with prejudgment interest at the maximum rate allowable by law;

(C) For a judgment awarding Plaintiffs and the Class treble damages against Defendants as a result of their unlawful anticompetitive conduct alleged herein under applicable federal antitrust law;

(D) For a judgment awarding Plaintiffs and the Class the amount of Defendants' unjust enrichment;

(E) For an order impressing a constructive trust temporarily, preliminarily, permanently or otherwise on Defendants' unjust enrichment, including the portions thereof that were obtained at the expense of Plaintiffs and the Class;

(F) For an award to Plaintiffs and the Class of their costs of suit, including reasonable attorneys' and experts' fees and expenses; and

(G) For such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs respectfully demand a trial by jury.

Dated: New York, New York
January 22, 2013

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Additional Plaintiffs' Counsel

Table 1: Daily silver and gold prices (relative to January 3, 2005 prices) during June 2007

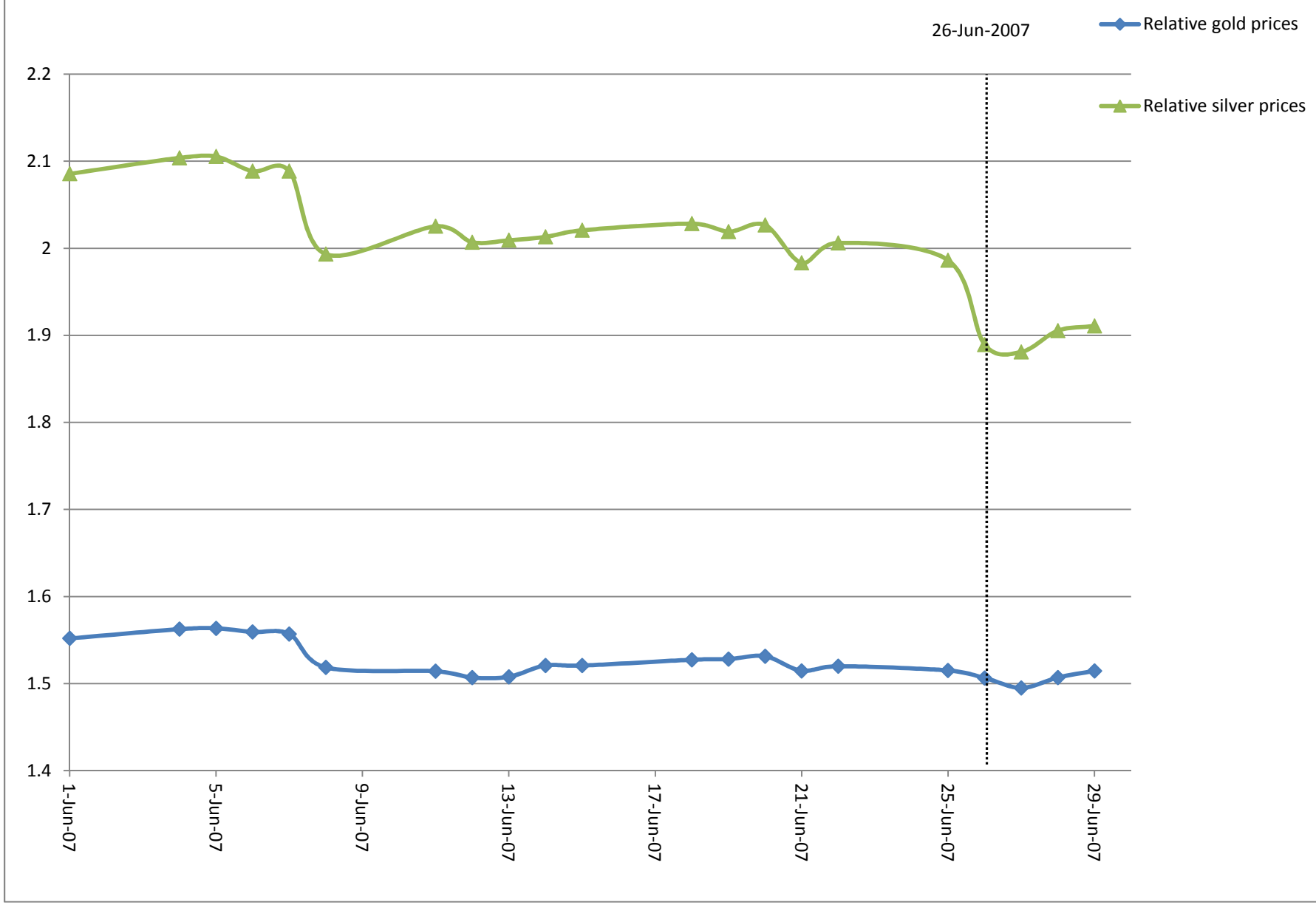

Table 2

Regression of daily silver returns against daily other precious metals returns and indicator variables for June 26, 2007 and August 15, 2008. Time period of analysis is from January 3, 2005 to December 31, 2008.*

Dependent Variable is daily silver returns	Intercept	Gold	26-Jun-07	15-Aug-08	R-square
(1)	0.00007 (0.12)	**0.93444** **(24.5)**	**-0.0437** **(-2.38)**		**37.80%**
(2)	0.00008 (0.13)	**0.92766** **(24.25)**		**-0.0469** **(-2.55)**	**37.85%**
(3)	0.00012 (0.21)	**0.92641** **(24.28)**	**-0.0437** **(-2.39)**	**-0.047** **(-2.56)**	**38.20%**

* Time period contains 1,004 trading days. T-statistics are shown in parentheses. Bold indicates statistical significance at 5% level or better.

Table 3.1: Daily gold prices during May 2007

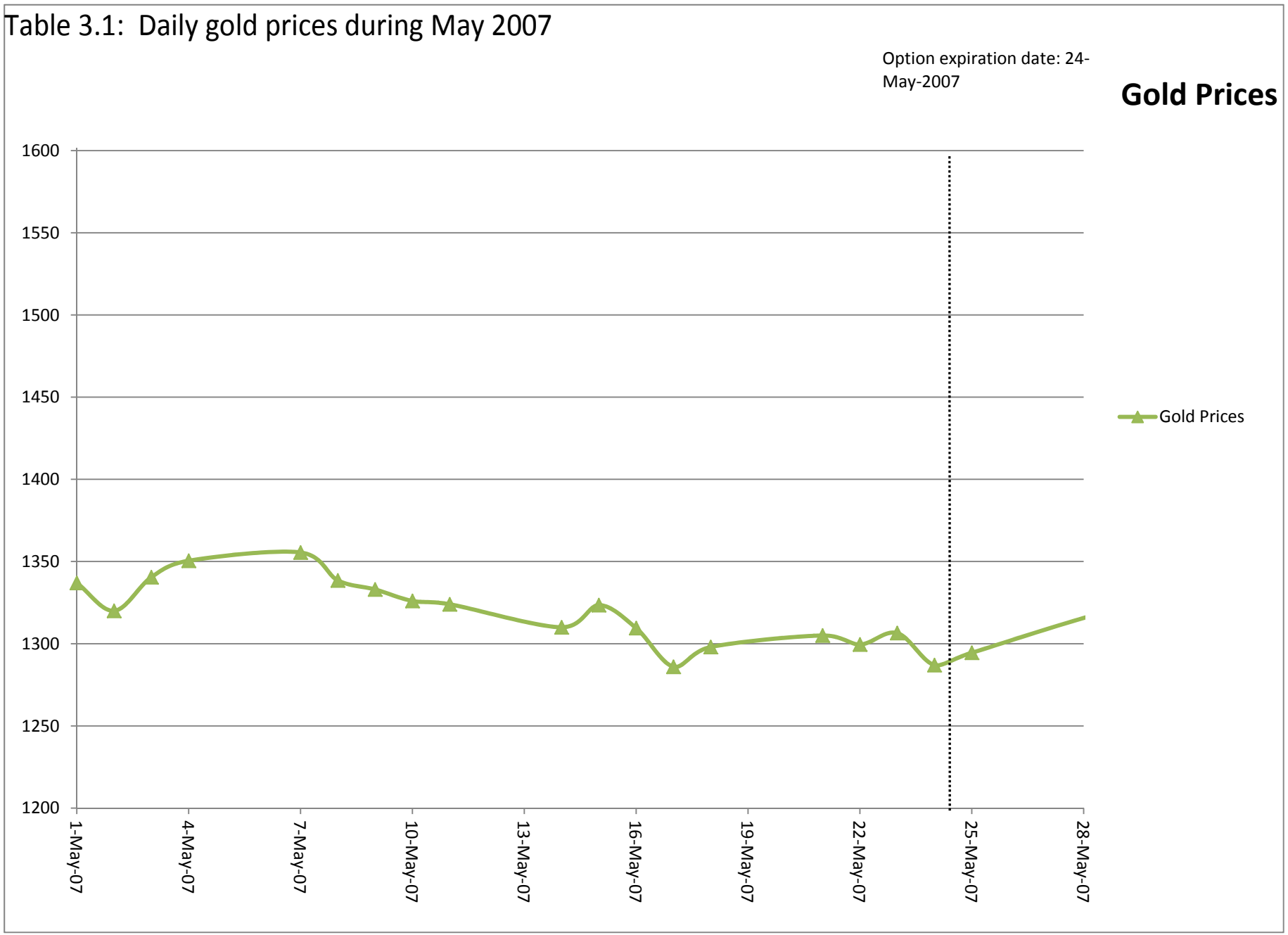

Table 3.2: Daily gold prices during July 2007

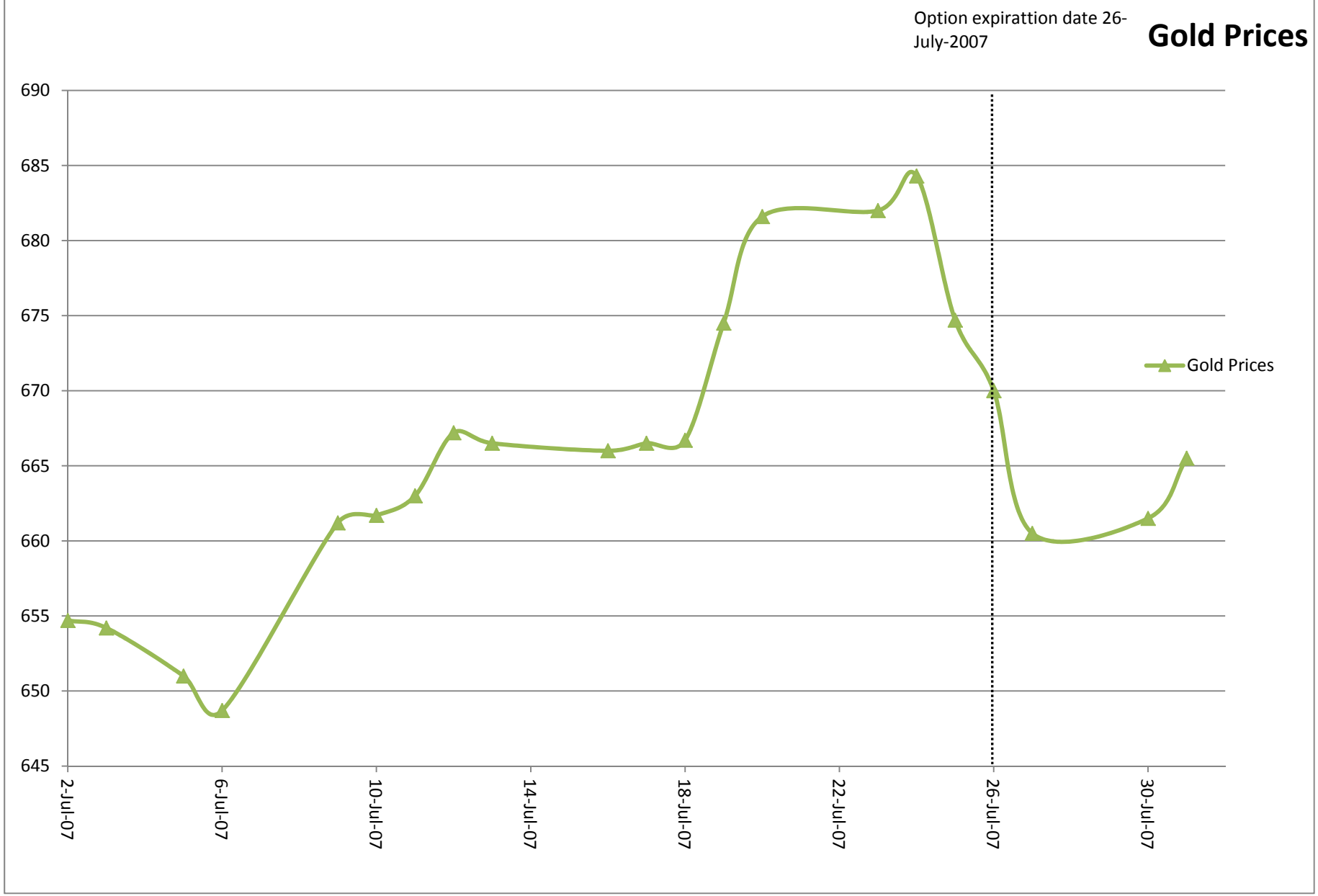

Table 3.3: Daily gold prices during August 2007

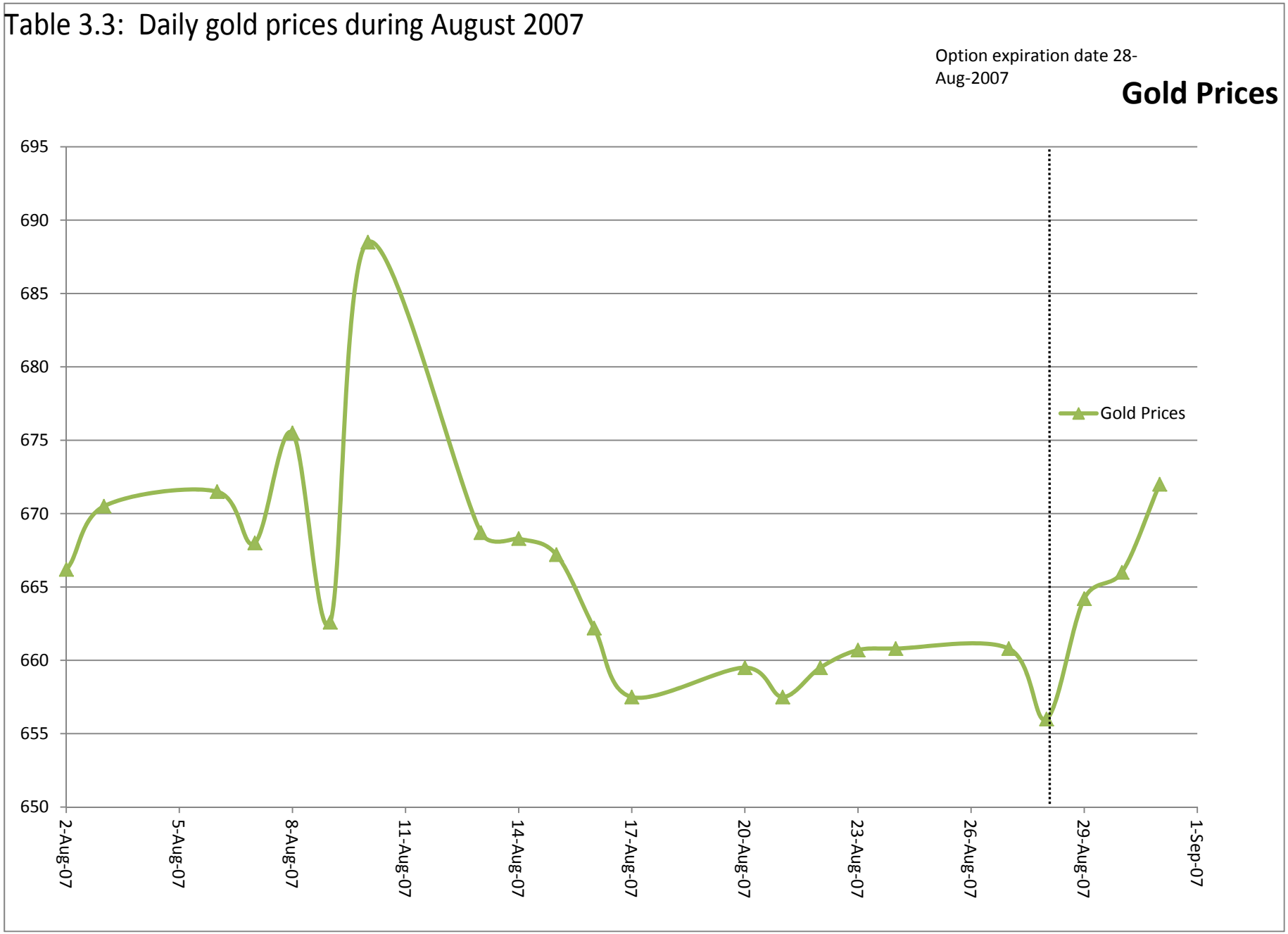

Table 4: Daily silver and gold trading volumes (relative to the average trading volume in May 2007) for June 2007

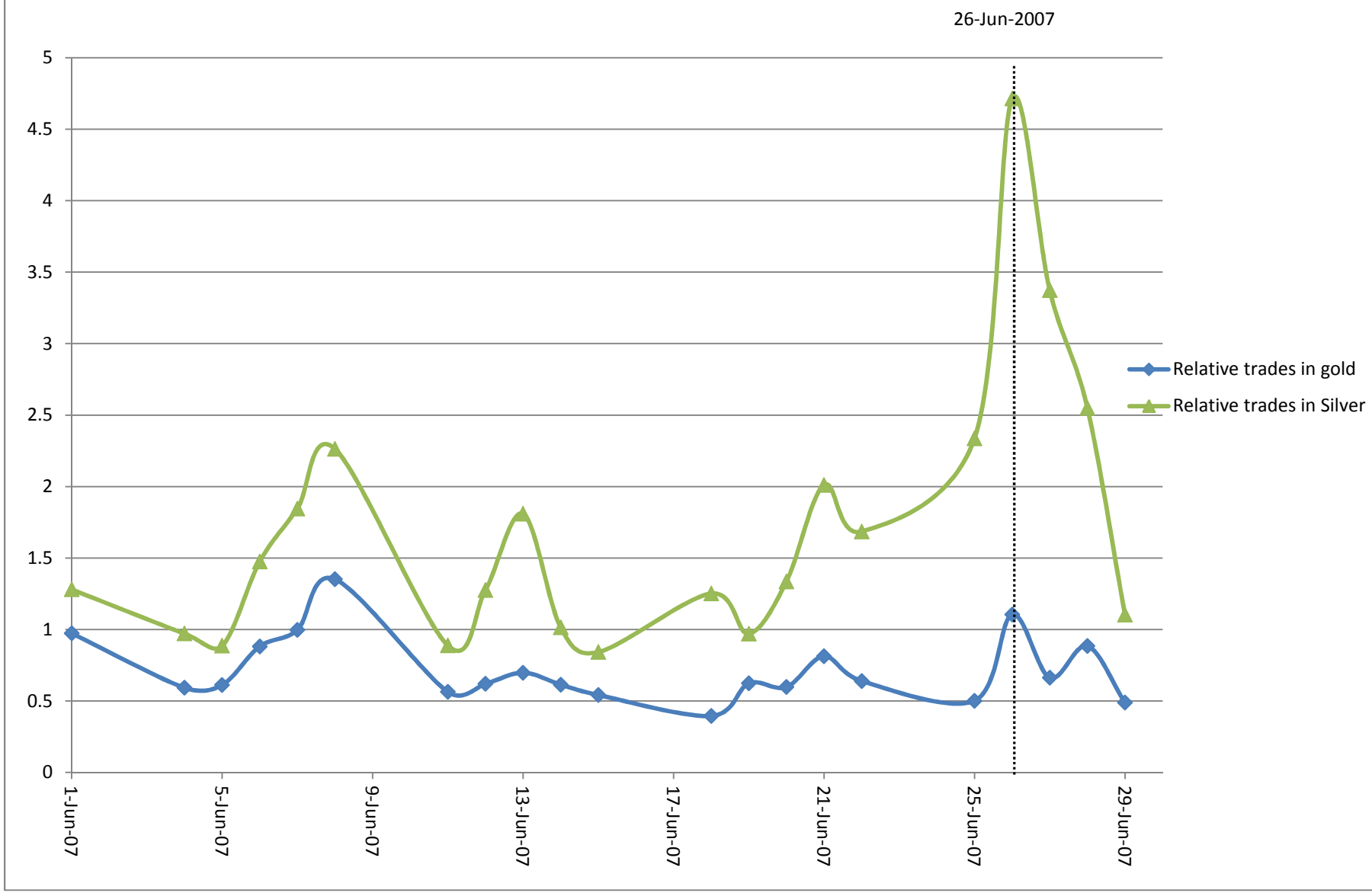

Table 5

Regression of daily silver trading volume against daily gold trading volume and indicator variables for June 26, 2007 and August 15, 2008.*

Dependent Variable is silver trading volume	Intercept	Gold trading volume	26-Jun-07	15-Aug-08	R-square
(1)	7.40593 (-0.56)	0.24266 (1.82)	**1.1624** **(2.66)**		**16.18%**
(2)	2.53501 (1.66)	**0.66099** **(5.16)**		**0.83742** **(2.85)**	**37.19%**

* Logs of trading volume are taken to reduce the influence of outliers. T-statistics are shown in parentheses. Bold indicates statistical significance at 5% level or better.

Table 6: Daily trading volume in July 2007 silver futures contract relative to total daily silver futures trading volume during June-July 2007

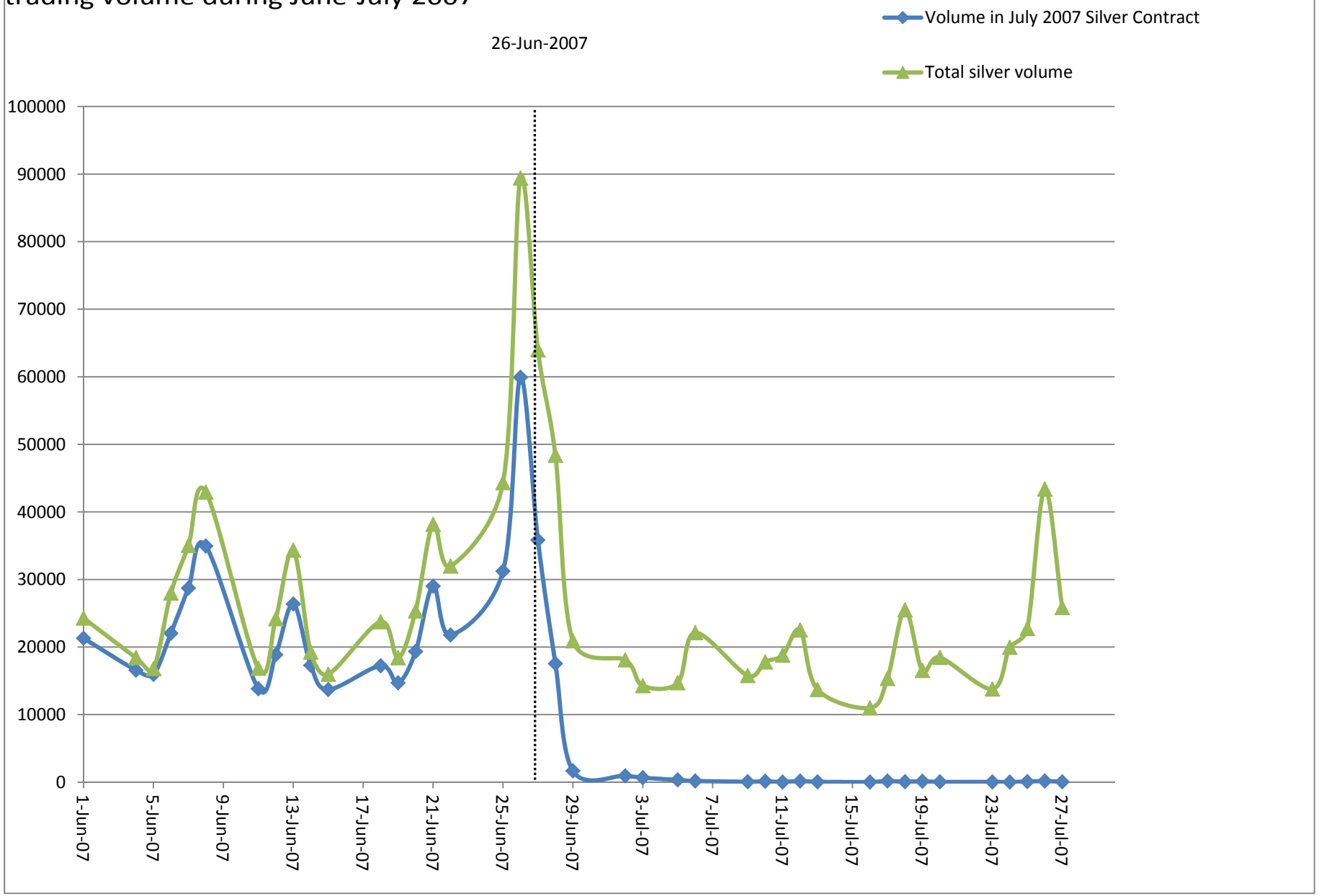

Table 6.1: Daily trading volume in July 2007 gold futures contract relative to total daily gold futures trading volume during June-July 2007

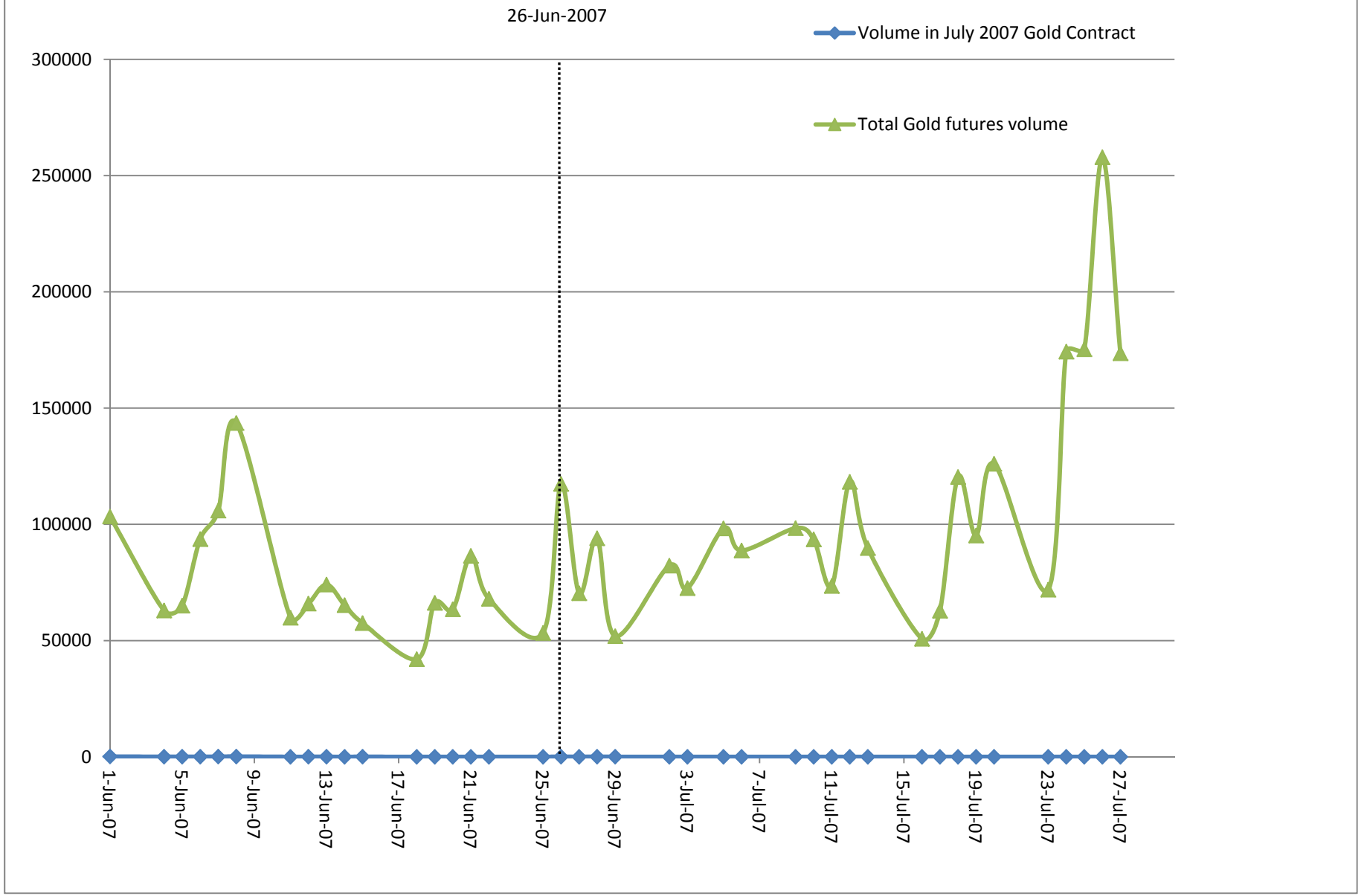

Table 7: Daily trading volume in June, August, September and December 2007 silver futures contracts relative to total daily silver futures trading volume during June-July 2007

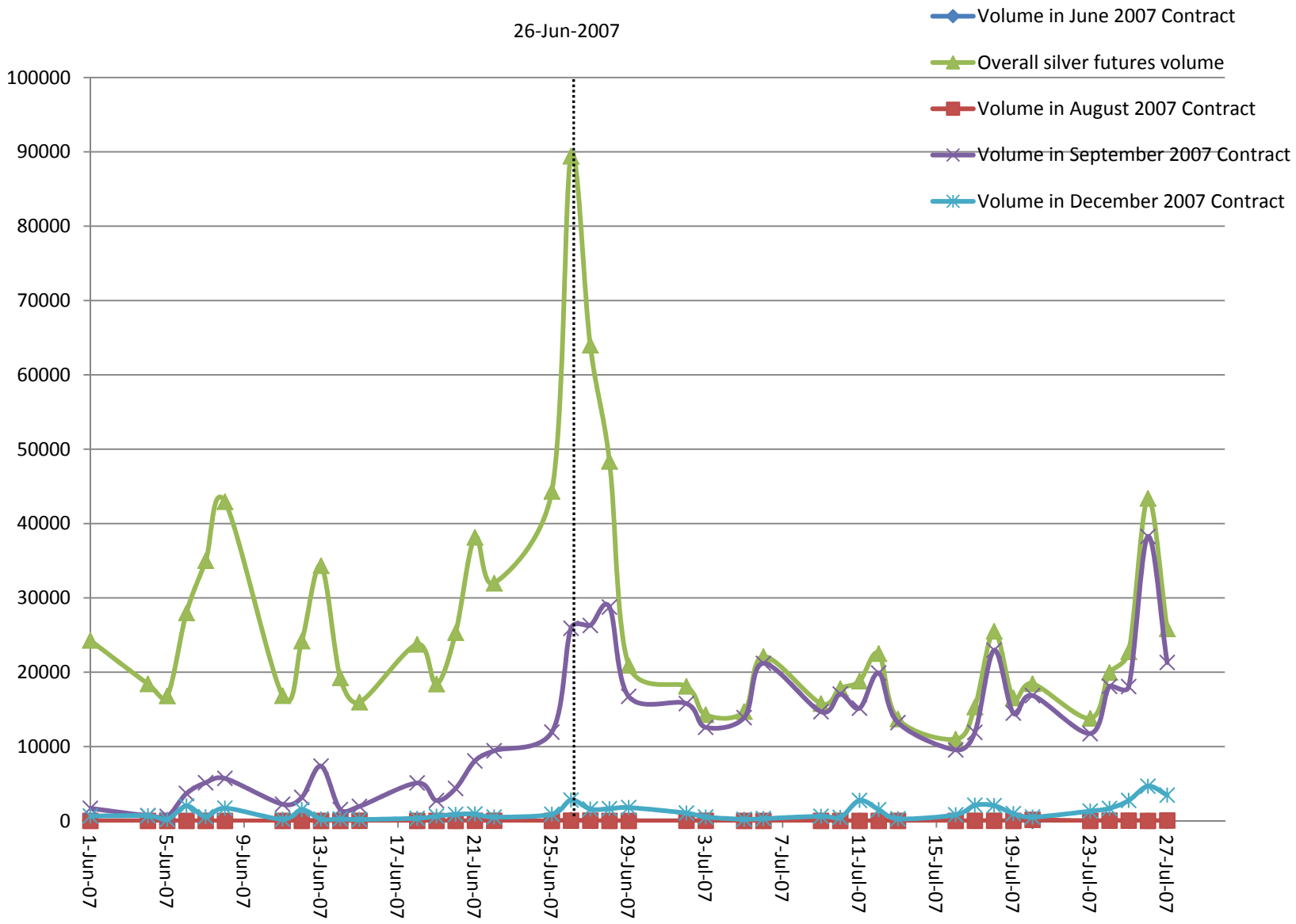

Table 8: Daily silver and gold prices (relative to January 3, 2005 prices) during August 2008

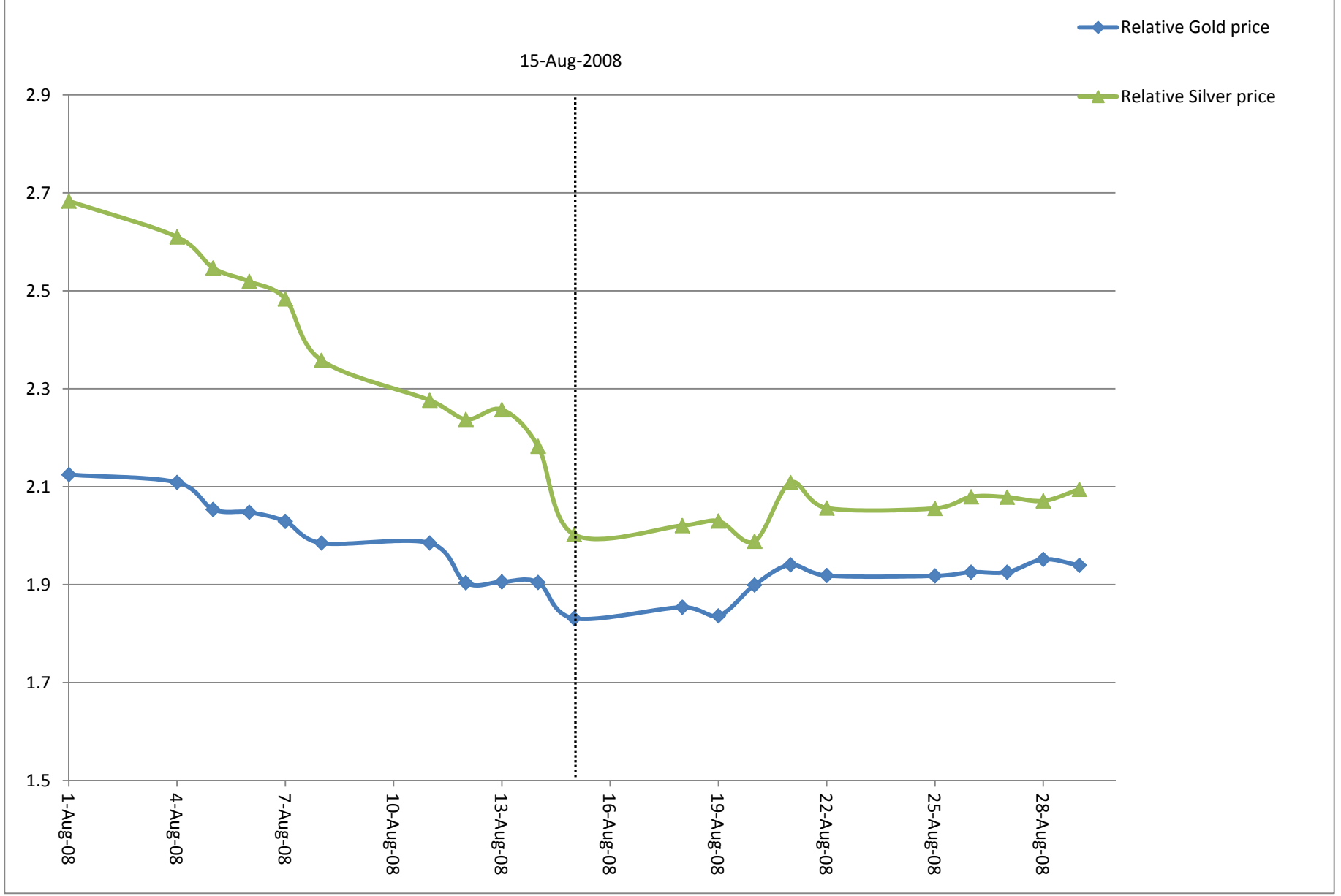

Table 9: Daily silver and gold trading volumes (relative to the average trading volume in July 2008) for August 2008

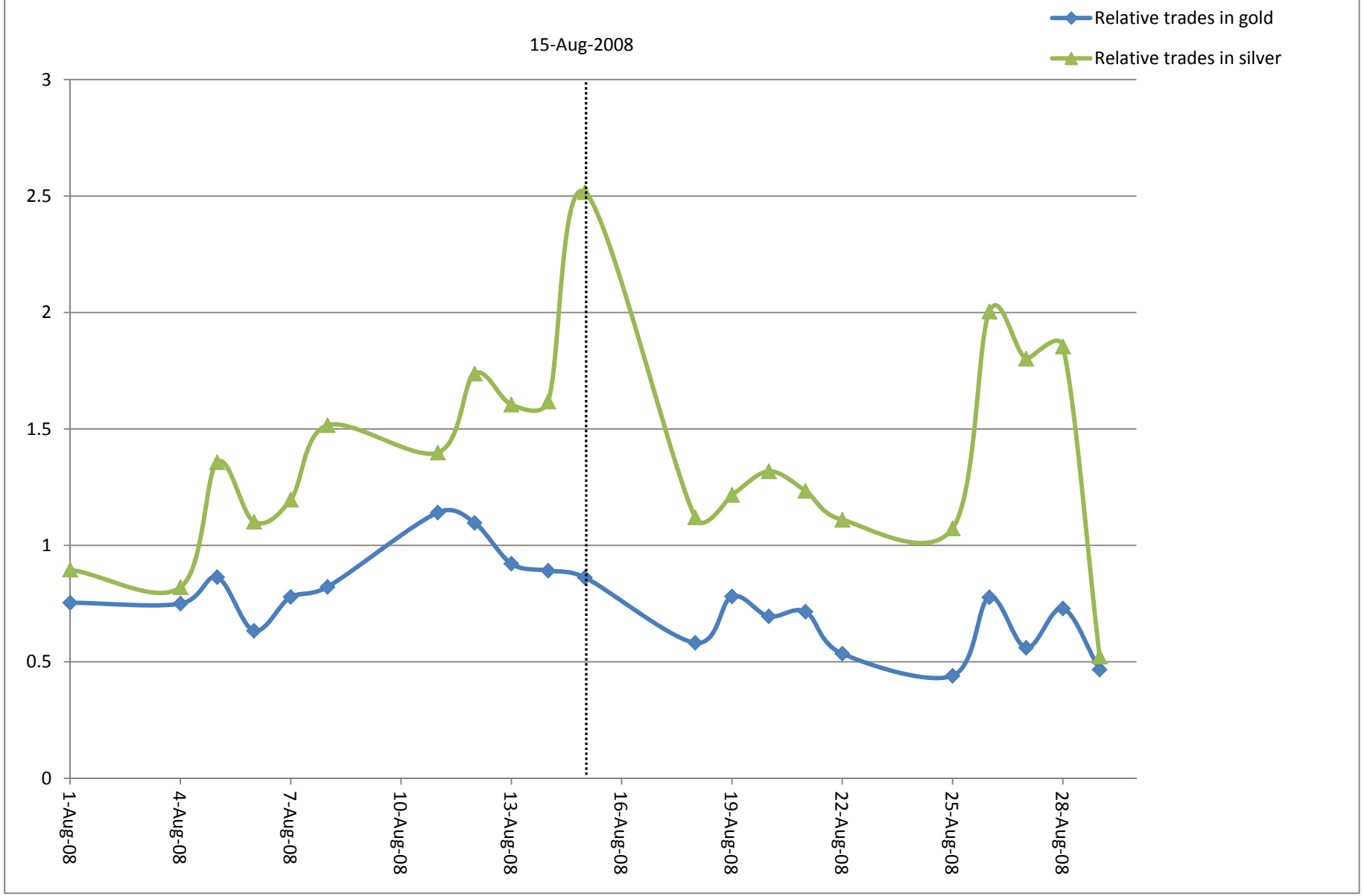

Table 10: Daily trading volume in September 2008 silver futures contract relative to total daily silver futures trading volume during August-September 2008

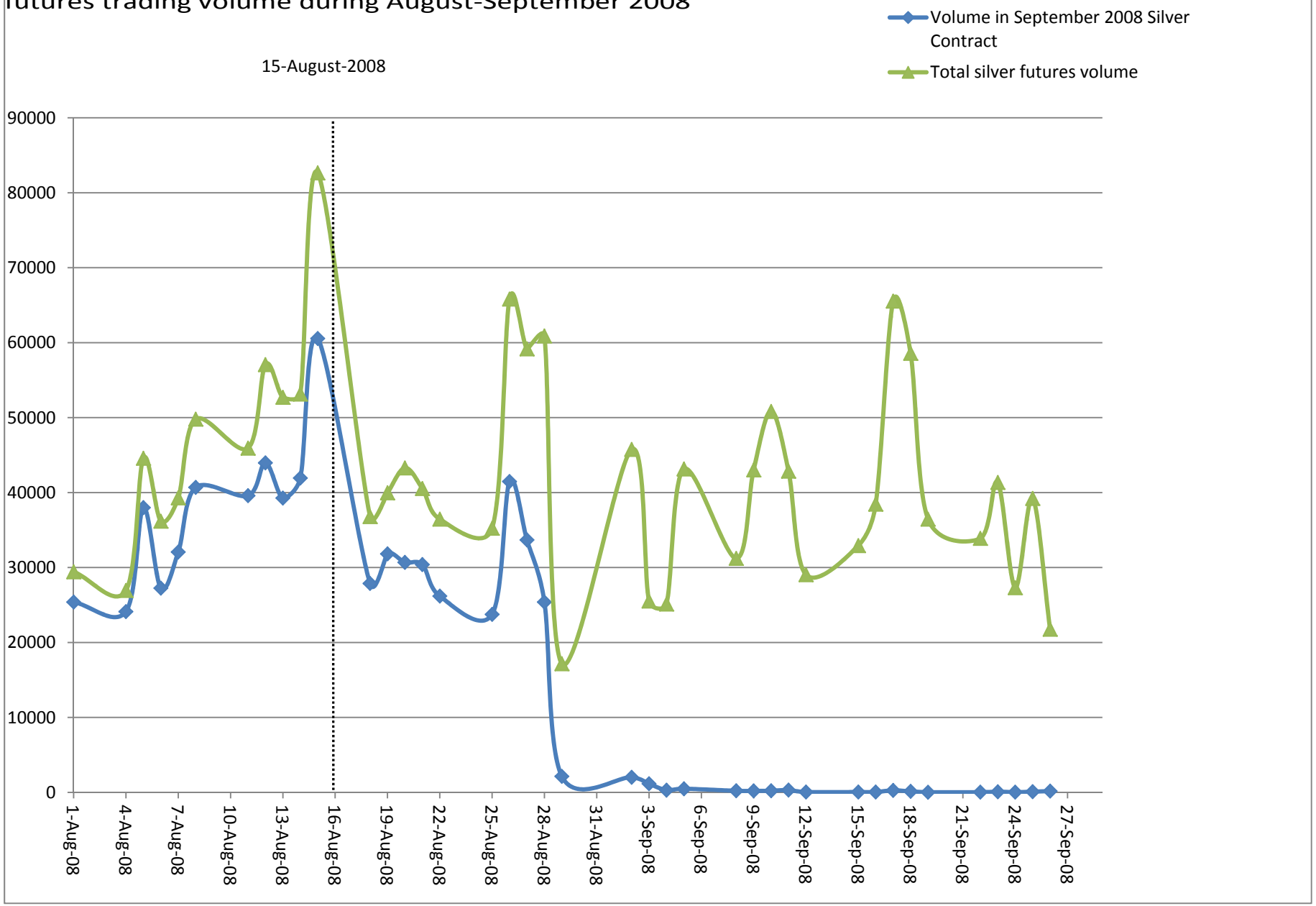

Table 10.1: Daily trading volume in September 2008 gold futures contract relative to total daily gold futures trading volume during August-September 2008

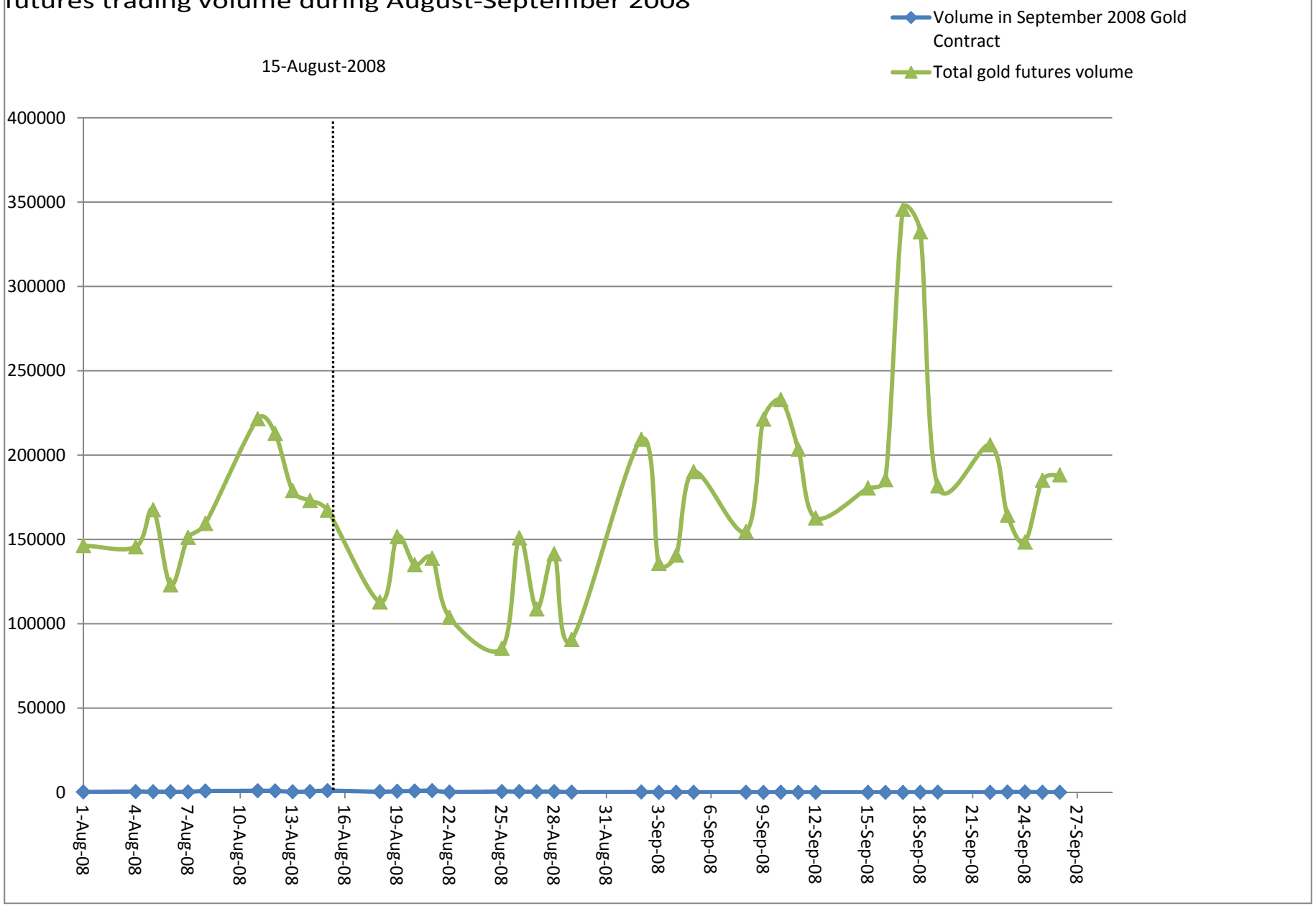

Table 11: Daily trading volume in October and December 2008 silver futures contract relative to total daily silver futures trading volume during August-September 2008