# THE NEW GOLD STANDARD

(VAULTED GOLD BULLION TRUST)

ORIGINALLY USED AS A FORM OF CURRENCY, gold became central to the world's monetary system with the creation of the gold standard. Global currencies were backed by physical gold until the gold standard's demise in the $20^{th}$ century. But, gold has remained a popular asset class for investors looking to preserve wealth or seeking a safe haven.

ETFs allow investors to invest in physical commodities and metals, like gold, but they trade in baskets. Inclusion of other assets creates "tracking error," such that the value of a unit differs from the value of the underlying asset. Representing a financial institution, we sought to structure an instrument that would allow investors to make a direct investment in unencumbered, allocated, physical gold bullion on a spot basis and hold the investment in a brokerage account. The financial institution sponsored a trust that issues custodial receipts that accomplish this goal.

As a wholly new financial product with a novel structure, we needed to determine whether the product would be characterized as a futures contract, retail commodities product, or other instrument subject to regulation under the commodities laws. The trust was structured as a grantor trust that is neither an investment company nor a commodity pool, and that issues instruments that are securities offered on a continuous basis pursuant to a registration statement. In order to allow continual issuances, repurchases and exchanges of the receipts, we secured exemptive relief relating to certain Regulation M trading prohibitions. In addition, there were settlement and trade reporting questions to address that turned on the characterization of the product as a "debt" or an "equity" instrument. Not only does this product invent a new standard for gold investing, the approach employed for the Gold Deposit Receipts may be applied to investments in other metals.