

**From:** Bix Weir <Bix.Weir@gatx.com>  
**Sent:** Wednesday, April 7, 2010 1:05 PM  
**To:** Metals Hearing <metalshearing@CFTC.gov>; Chilton, Bart <BChilton@CFTC.gov>; Gensler, Gary <GGensler@CFTC.gov>  
**Subject:** Silver Hearing Comments for the CFTC Record

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April 2, 2010

Secretary of the Commission

Commodities Futures Trading Commission  
3 Lafayette Center  
1155 21<sup>st</sup> St. NW  
Washington, DC 50581

Re: Physical Metal Hedging and ETF's

Dear Commissioners:

I am very concerned about the CFTC's very apparent lack of understanding about what constitutes the "physical market" of both gold and silver and how your organization justifies the large metal short positions as "hedging". The recent hearings on the metal markets revealed some very disturbing information from both the supposed "hedgers" and the organizations the CFTC has relied upon for vital information.

First of all, it has been shown that JP Morgan and HSBC are the two banks that hold these monster short positions in gold and silver on the COMEX. Although the CFTC is prevented from disclosing this fact it is easy to determine from comparing the CFTC Bank Participation Report and the BIS Derivative Data. There are many articles on the internet proving this fact and the CFTC itself has had to change the BPR report in order to disguise the participants so not to be in violation of the law. Here is just one of the articles from Adrian Douglas of GATA:

<http://www.gata.org/node/8355>

Although JP Morgan did not testify in the hearing, a representative from HSBC was present to defend their position. When asked about the reasoning behind their outsized metal positions, Jeremy Charles of HSBC claimed that it is to offset huge physical gold positions, at least for HSBC, as well as servicing their clients. Upon questioning from Chairman Gensler, Mr. Charles was adamant that HSBC's short COMEX position is hedged by their "cash position in the London local market" and emphasized that "London is a physical market". I would assume that the same explanation would be used by JP Morgan in justifying their gigantic short position in silver.

To call the London a "cash market" or a "physical market" is a stretch by any sense of the imagination. It is proven by the LMA's own reporting statistics that the amount of paper trades vs. physical delivery of metal is over 100x. David Morgan explained this fact to you years ago. I even had correspondence with David Kass, Senior Economist Market Surveillance Section Division of the CFTC in May 2008 on this matter when the CFTC released the results of their 2<sup>nd</sup> Silver Investigation:

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### **CFTC: 6 Strikes and Yer Out!**

<http://www.roadtoroota.com/public/138.cfm>

“ The CFTC uses the London Metal Exchange as a price gauge for the physical price of silver. David Morgan pointed out in a recent article entitled ‘Silver Price Manipulation’ that the LME traded 30 BILLION oz of silver last year alone!”

[http://www.silver-investor.com/davidmorgancommentary/articles/5-22-08\\_ibtimes13\\_silverpricemanipulation.html](http://www.silver-investor.com/davidmorgancommentary/articles/5-22-08_ibtimes13_silverpricemanipulation.html)

"That would equate to 120M oz of physical silver being transferred every trading day. To picture how far off of physical reality this is, imagine 1,250 three ton capacity armored cars being loaded and unloaded out of LME warehouses EVERY DAY! Impossible! The LME has NOTHING to do with the realities of the physical silver market. There are currently reports of silver shortages around the world including from your counterparts at the US Mint. The #1 proof of COMEX manipulation according to your 2004 letter is if the COMEX prices diverge with the physical market. The recent 20% COMEX silver price dive with no physical availability of silver is the smoking gun of silver price manipulation."

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But this is not the reason for this letter. What disturbs me the most is that during my email correspondence with David Kass we spoke specifically about using ETF silver to back short COMEX positions he informed me that:

“Silver in London vaults is not deliverable against the NYMEX futures contract. If, in the future, any of the silver held by the Trust were to meet the location, brand, size, and quality standards of the NYMEX silver futures contract, it could be deliverable on that contract. We cannot opine on whether the Trust could or would hold silver in NYMEX-approved vaults, whether any such silver would also meet all of the futures delivery requirements, or whether the obligations of the Trust would allow (or preclude) making any such silver available for futures delivery.”

The email correspondence can be found in this article:

### **Who’s the Little Man Behind the Curtain**

<http://www.roadtoroota.com/public/133.cfm>

As you know, JP Morgan and HSBC are “Custodians” for the iShares Silver ETF (SLV) and the SPDR Gold Trust ETF (GLD) respectively. Their current custodial responsibilities are for 296M oz (\$5.3B) of physical silver and 36.3M oz (\$41B) of physical gold which is by far the largest publicly traded physical metal concentration anywhere in the world. This responsibility is so great that any malfeasance, misreporting or fraud in either of these entities would completely upend the entire global metal trading complex and likely the world’s fiat monetary system and yet the Prospectus of both these funds is about as water tight as Swiss cheese. Again, there are many internet articles on this subject:

### **Risk of Investing in GLD ETF**

<http://www.marketoracle.co.uk/Article9030.html>

Let's get real here. HSBC holds all the gold for the largest physical gold fund in the world and would rightly claim that GLD is one of their customers. When Mr. Charles of HSBC was asked by Commissioner Chilton if they would be opposed to separating their trading positions from that of their customers, Mr. Charles' answer was "that would be extremely difficult". Perhaps he should have answered "Not without exposing the fact that we use our customer's physical gold holdings to justify our gigantic naked short position... AND WE HAVE NO IDEA HOW MANY OTHER PARTIES THAT GOLD IS PLEDGED TO!".

Yes, this is a naked short position. HSBC does not own the gold they are custodians of so they have no right to pledge this gold against promises to deliver on the COMEX. And since the GLD prospectus is so flimsy, HSBC, the COMEX or the CFTC have no idea if these "gold bars" are leased, swapped, tungsten filled, 18 karat, gold painted or even imaginary bars of gold. Justifying monster shorts on the COMEX with ETF gold is FLAT OUT FRAUD AND ALL OF THE ABOVE APPLIES TO JP MORGAN AND THE SILVER ETF AS WELL!

It's time that the CFTC wakes up and understands that they have been hoodwinked by the banking cabal for years. You have been played the fool for too long.

Position limits will help stop the manipulation but I urge you to implement all of the 17 regulatory changes I discussed in my previous letter:

### **New CFTC Gold/Silver Regulatory Framework**

<http://www.roadtoroota.com/public/207.cfm>

I know you are struggling to enforce the law without knocking over the apple cart but sometimes you gotta spill a couple apples before you can move forward.

Sincerely,

Bix Weir

**www.RoadtoRoota.com**