From: Mark <mark.v1.0@schweiz-postal.eu>
Sent: Thursday, March 25, 2010 1:27 PM
To: Metals Hearing <metalshearing@CFTC.gov>
Subject: Public Commentary

To whom it may concern,

I would first like to thank the CFTC for allowing the public an opportunity to comment on the subject matter covered in the public CFTC hearing held on Thurs. March 25, 2010 regarding the integrity of futures and options trading in the metals markets.

Regarding the commissions concern that enacting or enforcing position limits in the precious metals markets would result in diverting a substantial amount of trading into the opaque and or less regulated OTC market, I think those concerns are misplaced. The OTC market is a derivative market and therefore it's pricing is a result of the pricing set on the regulated exchanges. The risk in the OTC market is to the participants who hold oversized positions relative to their ability to settle those private contracts. If participants in the OTC market wish to take on the associated increased risk then they should be liable for their losses without recourse to recovery of those losses from the public in any way shape or form.
Any disputes in the OTC market which may arise from a participants inability to settle a contract should, due to the unregulated nature of the OTC market, be the responsibility of the participants through the legal system for contract law and not as a burden to the public.

Regarding position limits, it should be clear that it is foolishness and a manipulative practice to allow a total amount of contracts in any commodity to exceed the verifiable annual production of that commodity. It is also a manipulative practice for an entity to write sales contracts for a commodity they do not possess in an unencumbered manner, have already produced, or are verifiably able to deliver. It is therefore my view that in addition to a 5-10% enforced position limit on all metals contracts determined by the verifiable production levels of those commodities, a higher level of collateral requirement must also be imposed in order to avoid excessive speculation and manipulation by non producers.
As regards position limits for investment and bullion banks, they must have unencumbered possession of the underlying commodity and post 100% collateral for any hedging position contract they may wish to offer into the physical market. In this way a producer could not sell more than his verified annual production forward into the market and a hedger could not sell that which he does not own free and clear of all encumbrances.
A purchaser on the other side of a sales contract must also post a high level of collateral and provide verifiable ability to purchase the underlying commodity of a contract in order to also reduce speculation and manipulation of commodities on the long side.

As regards the hedging of price risk for non commercial entities, the commodities exchanges and futures markets <u>are not</u> the appropriate markets for such price risk

management practices as such activity does not have an inherent interest in the exchange of physical goods. They are only concerned with the price of the underlying commodity for non commercial purposes and should be excluded from participation in the physical commodities and futures markets.
Financial and speculative positions must be segregated from the physical market and be dependent on the physical market fundamentals of supply and demand for real world and economic price discovery. This financial oriented trading, hedging, and speculation must not be an influencing factor in the physical markets but rather must be dependent on the physical market conditions without being allowed to influince them in any way, shape, or form.

One of the most disturbing situations that has been allowed to foster itself via lax regulation, enforcement, and market oversight is the practice of allowing multiple contracts to be written for the same quantity of a physical product which results in a daisy chain of unbacked contracts which is tantamount to fraud and manipulation according to numerous on the books laws and regulations.

It is my opinion and comment that an egregous situation has been allowed to develop over the years that if not corrected will necessarily result, due to it's own structural defects, in severe dislocations not only in the financial markets, but also puts at unreasonable risk the free market and real world economy as a whole.
To the general public this is an untenable position and must be rectified post haste.

Thank you for your time and attention in this most serious matter.

Respectfully,
Mark Richardson