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**To:** Metals Hearing <metalshearing@CFTC.gov>  
**Subject:** metal position limits

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To Whom It May Concern:

Regarding the Dire Necessity of Imposing Metals Position Limits on the Shorts

Others have written to the CFTC as if they assume the CFTC is made up of good people who would enforce position limits if only they knew that the markets were manipulated; and thus, two others have written the CFTC to show the current manipulation in progress.

I'm not so gracious, as I have written to the CFTC before, and I know that the CFTC has always evaded the issues. Therefore, I must assume the CFTC is made up of people who only think they are doing good, who assume that letting big banks get what they want is somehow compatible with free market theory, and thus, not regulating the bankers' position limits is somehow good, and that hiding the truth is somehow good for the nation.

Thank you, Bart Chilton, for writing that "he does not think his fellow commissioners are currently willing to support a move to curb speculation for metals contracts" so that we can help to persuade them.

<http://www.reuters.com/article/ousiv/idUSTRE62L3YP20100322>

I believe that the CFTC commissioners are either deceived by a faulty philosophical foundation, or willingly in on the manipulation.

Alan Greenspan admitted his concepts of free market theory were flawed. I believe that his flaw was that he did not seem to realize that debtors are like slaves, and that slavery is not compatible with freedom, nor with free market theory. Futures contracts are like a debt, and require enforced performance, which enslaves the participants to the margin clerk.

Greenspan Misapplied Free Market Theory October 23rd, 2009  
<http://silverstockreport.com/2009/greenspan-misapplied.html>

When the CFTC enforces position limits on longs, but lets "commercial" banks short unlimited and excessive amounts, that's not compatible with free market theory! When big banks can use government force against their trading counter parties, that's not compatible with free market theory!

The fundamental philosophical problem is that a slave trading market is not a "free" market, and there should not be a market for slaves at all. Similarly, the market in futures contracts is not a "free" market at all, it's a slave market of enslavement contracts, not a market of products. There can be no such thing as a "free" market of slaves; it's a contradiction in terms!

The CFTC must regulate; it cannot sit back and do nothing.

If nothing is done, it threatens the freedom, prosperity, and way of life of all Americans.

The CFTC has a duty to act to prevent the current fraud in progress, that must be stopped, but it must be done wisely, so as to not suddenly disrupt all commercial life for all Americans.

In 1980, precious metals prices were running away to the upside, out of control, threatening the life of the dollar, and the entire financial system.

There were primarily two mechanisms that helped to limit precious metals prices. The first, was letting interest rates rise in the bond market. The second, was futures contracts that diverted investment demand away from physical, and into paper.

Please consider what will happen as the current bull market in precious metals matures, and when futures contracts default, and become discredited, and thus, lose their power to pull people back to paper? A precious metals default will likely drive people into real tangible physical metals more fervently than ever before in the history of paper money in the United States, suddenly destroying the value of the currency, and ruining the entire economy of the nation, which could lead to a collapse of most commerce, which could lead to death and starvation on a massive scale. That must be prevented through a smooth transition back to honesty in commerce.

The coming default in the precious metals futures markets is extremely dangerous for all people living in the United States, as it will inevitably lead to the crashing of the US dollar, or more accurately, Federal Reserve Notes.

The current state of the futures market in precious metals shows that it must end in default, which is to say, a failure or inability of the shorts to deliver the silver, as they have shorted too many contracts.

A futures exchange for precious metals is inherently manipulative and fraudulent by nature.

The public, in the real world, usually would laugh at a precious metals coin shop offering bullion for delivery "in a month or two", when a coin shop down the street can deliver immediately over the counter.

At our coin shops, we only re-order bullion from bullion wholesalers who can deliver bullion with overnight delivery, or for delivery within a week, at the most. Thus, we sell most bullion over the counter.

There is no legitimate reason for a futures exchange for precious metals. Agricultural commodities have a harvest season, and for them, it might make sense. But miners produce all year long, and so do refineries, thus, there is no need for them to lock in a price before any sort of harvest season.

It is claimed that miners need to lock in future prices in order to obtain debt financing. But that's not true, for two reasons. First, if a miner cannot produce metal without debt financing, perhaps they probably should not be producing metal at all. There are other ways to finance; such as equity financing, bootstrap financing, or private capital deployment.

Second, if debt is bad because it is like slavery and can lead to default, and if the CFTC is supposed to regulate markets to prevent default, then the CFTC should prevent the debt and leverage inherent in the futures markets. In other words, debt cannot be used as an excuse to legitimize debt, as that is just circular reasoning.

But furthermore, excessively funding extra gold mining production is what excessive short sellers would

need most, isn't it, so that's a poor justification for their activities.

A precious metals futures exchange is not a legitimate market for any major producers or users, not as long as it is used as a last resort, and not as long as approximately 1% of contracts result in delivery. Why would I, as a dealer, ever buy in the futures market, when delivery dates are so uncertain and over such a long time frame? And our organization buys up to 10,000 oz. of silver in one order! Thus, a futures market simply encourages speculation, which is to say, it enables leveraged debt-based bets on which way prices will move between the present and some future delivery date.

When investors feel they are able to get such leverage on price movements, it distracts them away from investing in the real thing, and thus, the existence of a futures market diverts investment demand away from real metal, thus depressing precious metals prices.

Bart Chilton wrote that "Three of the five commissioners -- Democrat Michael Dunn and Republicans Jill Sommers and Scott O'Malia -- have expressed concerns the energy proposal could drive trade to markets outside the CFTC's jurisdiction."

TOO LATE! According to the Bank of International Settlements, the LBMA and other "over the counter" precious metals markets are already over 10 times larger than the COMEX futures exchange.

The BIS notes that "over the counter" "other precious metals" derivatives have exceeded \$203 billion of notional value, which, at \$17/oz., is 11.9 billion ounces of silver.

See:

<http://www.bis.org/statistics/otcder/dt21c22a.pdf>

The total open interest in silver futures contracts is about 140,000, x 5000 oz. = 700 million.

The problem is that the "over the counter" markets are not transparent, and thus, cannot be used by any other market participants to set prices. It is likely that the bulk of the other precious metals derivatives use COMEX pricing as the basis for the value of their derivatives.

If the futures markets in precious metals are fraudulent by nature, how in the world can mere position limits fix things?

First of all, let's note that currently, there are only position limits imposed on the longs, those who may stand for delivery of precious metals. There are no limits imposed on the commercial shorts.

But that's backwards. It should never be illegal for any investor in any market to buy what they want with their money. There should never be any limits on longs. Thus, all longs should be exempt from all limits.

But it's the shorts who can manipulate markets by depressing prices by selling what they do not have, which creates the possibility for default, which must be regulated, and limited.

Given the huge size of the OTC positions, up to 12 billion ounces, which dwarfs the size of world annual production at 0.6 billion ounces, systemic default seems inevitable, and long past due.

The OCC report goes to show that JP Morgan dominates the gold derivatives trade, and thus, likely dominates the silver derivatives trade as well.

<http://www.occ.treas.gov/ftp/release/2009-161a.pdf>

The CFTC has continually lied to protect the excessive short selling in the market, by releasing reports that deny "manipulation" given the surface language, but admit manipulation if you know how read between the lines.

For example, the CFTC has stated that as shorts cover, and buy back positions, the buying back of a position pushes prices up, thus negating any negative price action. But that admits that the market prices are lower than they would be, if the shorts are not covered and remain open, which they continually are, as they are always rolled over into future months.

As another example, the CFTC has stated that the market cannot be manipulated as long as there are no restrictions preventing participants from taking long positions, but there are position limits on the longs, which prove that the market is, in fact, manipulated.

As long as the CFTC continually lies and issues hypocritical statements, they lose credibility, and make themselves an accomplice to the ongoing fraud. Perhaps the CFTC members today will be found to be guilty of obstruction of justice if a more honest administration is elected?

In school, they teach that the futures markets create more stable prices. But it seems to me that futures markets create more wild price swings than there would be otherwise without futures markets.

It was panic short covering, and panic over the dollar failing (and the dollar used to be a derivative of silver prices) that drove silver to \$50/oz. in 1980.

Futures markets make prices more volatile, more extreme, in my opinion. They both allow the creation of prices that are manipulated too high, and too low, because they allow debt-enabled leverage trades on both sides of the market.

Default is ever more likely, and obviously looms.

Default, we can see, is already being prepared for, in advance, in three ways.

First, I see that there are cash settlement options for precious metals contracts.

Second, futures contracts can be settled via ETF shares.

Third, the COMEX went public, and was sold to the CME, another public company, and public companies have the protection of limited liability, as stock holders are simply not on the hook for any sort of debt liability at all, while the private owners of the exchange used to be ultimately liable, that is no longer the case.

I see that it has been proposed to impose position limits on the commercial shorts.

It has been proposed that no entity maintain any position larger than 5 or 10 percent of the open interest.

That's simply silly, as the largest traders could simply set up dummy corporations to continue to short all that they want, and how could anyone know?

Another alternative would be to maintain a certain fractional reserve percentage of metal on deposit,

such as 40% backing, to help guarantee delivery.

That's also silly, as there could be 100% backing on the COMEX, but the OTC market clearly shows derivatives that are over 10 times as large, and clearly cannot all be backed by real metal, so the overall fraud in the world silver market would continue!

But if the other derivatives in the OTC market are priced based on COMEX prices, because the COMEX market's prices are public, and thus looks to the COMEX for its price discovery function, then it's all the more important that there be 100% backing for all precious metals contracts at the COMEX. Furthermore, it must be insured that the metal that backs all futures contracts is not encumbered by other contracts, derivatives, ETFs or other obligations.

There are no solutions that are viable other than requiring a 100% backing of all short futures contract positions. Nothing less would insure delivery, limit liability, and prevent default.

What we are examining here is an exchange. Longs put down money, a part of what they ultimately need to delivery, cash. Similarly, shorts should be obligated to deposit silver, prior to delivery. Each should make a deposit of 100% of the notional value of the contract.

This should be the job of the CFTC regulators: to physically inspect bars on deposit, and to do the calculations necessary to insure that no futures contract is offered for sale unless there is a full 100% backing of metal on deposit to back the position, and that such metal cannot be used to back any other kind of short sale.

That would still not end the fraud taking place in the London market and in the OTC markets, or other markets overseas, but it would at least be a step in the right direction, as the COMEX pricing would at least more accurately reflect real prices for real metal.

All the gamblers would still have a place to go, but at least it would be an honest form of gambling, and not a rigged casino.

But a sudden ending, or destruction of futures market price rigging or manipulation could also lead to the destruction of the dollar. The transition back to honesty and honest markets needs to be gradual so as to hopefully not upset everything.

As concentration in futures has reached levels of up to 40-90%, it needs to start out being slowly capped, and ratcheted down, step by step, following along a plan, going down gradually to the more ideal level of no more than 5% of the open interest.

Further, a precious metals backing needs to be implemented gradually. Currently, with about 120 million oz. on deposit in the warehouses, and only 50 million ounces registered for delivery, which is used to back from 700, to 800 million ounces of futures contracts (which is about a 6% backing). If such silver is also used to price, and back, up to 12 billion ounces of silver in the other precious metals over the counter derivatives (that would show about a 0.4% backing). Thus, the deposit requirements must be increased gradually, over time, so as to not drive silver prices to \$1000/oz. overnight, as such things can cause an economic crisis worse than that felt in Argentina, which is certainly counterproductive.

It is especially important for the CFTC to at least be seen as doing something to prevent default. After all, why else should the CFTC exist? And after all, this selling of silver that the commercials don't have

is clearly manipulative, fraudulent, and is a hidden attack on the value of everyone's money as it is allowed to continue. If the fraud is exposed suddenly and things go badly, the public may cry for blood, literally, as history has shown. It will be important for the CFTC that the CFTC is not seen as being complicit, and not be seen as if they are aiding in the fraud, or hiding the fraud, which is the perception today.

<http://en.wikipedia.org/wiki/Complicit>

An individual is **complicit** in a crime if he/she is aware of its occurrence and has the ability to report the crime, but fails to do so. As such the individual effectively allows criminals to carry out a crime despite easily being able to stop them, either directly or by contacting the authorities, thus making the individual a de-facto accessory to the crime rather than an innocent bystander.

A good first step for the CFTC, or at least, for some of the honest people working at the CFTC, is to admit that the excessive selling of futures contracts is manipulative, and that steps should be taken to limit this market manipulation.

For more, see

<http://silverstockreport.com/2010/cftc-meeting.html>

Thank you.

Respectfully,  
Jason McGinnis