

ALEX X. MOONEY
2ND DISTRICT, WEST VIRGINIA

FINANCIAL SERVICES COMMITTEE

SUBCOMMITTEE ON
INVESTOR PROTECTION,
ENTREPRENEURSHIP, AND CAPITAL
MARKETS

SUBCOMMITTEE ON
DIVERSITY AND INCLUSION

Congress of the United States
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April 13, 2020

The Honorable Heath P. Tarbert
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20515

Re: Growing concerns about delivery defaults in gold and silver

Dear Chairman Tarbert:

As you know, there have been significant stresses and delivery difficulties unfolding in the CFTC-regulated gold market.

In fact, the entities running the Comex and London markets hastily changed their rules last month to allow 400-ounce gold bars located in London to be substituted in satisfaction of CFTC-regulated contracts standing for delivery of 100-ounce gold bars in the U.S.

This remarkable new trans-oceanic mechanism appears, essentially, to have institutionalized the Exchange for Physical (EFP) emergency mechanism about which I raised concerns to you previously. Because there is apparently a dearth of gold and silver available for delivery in our country, use of this EFP mechanism to offload the physical demand to London had already become massive and routine.

Why is the Commission permitting large gold delivery liabilities in the U.S. to be so routinely transferred to London markets?

I am increasingly concerned about the rising risk of defaults in the U.S. gold and silver markets and a resulting loss of confidence in our markets. A major default in gold and/or silver could have profound monetary policy implications as well.

Furthermore, I ask for direct answers to two questions I posed previously. My questions (in italics) and your responses provided on January 28 are as follows:

1) Does the commission have jurisdiction over manipulative futures trading by the U.S. government or its brokers or agents or other governments?

“The CFTC has exclusive jurisdiction over futures trading on trading facilities registered with the Commission as Designated Contract Markets.”

2) Is the commission aware of futures trading by the U.S. government, its brokers, or agents?

“Pursuant to Section 8 of the Commodity Exchange Act and except as otherwise specifically authorized, the Commission may not publish ‘data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.’”

Both of my questions call for simple “Yes” or “No” answers. Direct answers to these questions should not violate Section 8 of the Commodity Exchange Act. Simply acknowledging trading by governments, or on behalf of governments, would not disclose business transactions or market positions.

Thank you, and I await your response.

Sincerely,

A handwritten signature in blue ink that reads "Alex X. Mooney". The signature is written in a cursive, flowing style.

Alex X. Mooney
Member of Congress