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Saturday, July 19, 2008

Commodities Trading Futures Commission
Division of Market Oversight, Director
Mr. Richard Shilts
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

VIA: **FACSIMILE: (202) 418-5527**

RE: **COMEX GC / CBOT ZG CAPPING / MARKET MANIPULATION SYSTEMIC RISK POSED BY UNDUE CONCENTRATION & INADEQUATE MAINTENANCE MARGIN**

Dear Mr. Schilts:

The CFTC glossary defines Manipulation as "any planned operation, transaction, or practice that causes or maintains an artificial price. Specific types include corners and squeezes as well as **unusually large purchases or sales of a commodity or security in a short period of time in order to distort prices**, and putting out false information in order to distort prices." I suggest that this has been the case as it relates to the most recent visible coordinated intervention in the week of July 14th through the 18th with regard to gold (GC/ZG). Please see the following chart noting points A,B,C and D:

As it is clearly illustrated in the above chart, the nearly identical large sales of gold contracts in a short period of time over consecutive days at precisely the same time are indicative that the seller's intent was clearly not to maximize their sale price. These events were intentionally telegraphed to the market, with the intent to distort prices by capping the price of gold. Furthermore, the timing of these sales historically appears to be coordinated with the closing of the London Metals Exchange (LME), or in the thinly traded Access Markets as to further enhance the market impact. Given the unique nature of gold as a monetary asset, inflation barometer, and the struggling U.S. "strong dollar policy", central bank intervention would be the most logical explanation for the blatant pattern of coordinated sales that are evidenced by the above chart.

However, if any non governmental parties, which clearly could not claim sovereign immunity, were to directly engage in such actions on a proprietary basis in the pursuit of profit such as commercial banks, broker-dealers/futures commission merchants it would be in clear violation of U.S. Antitrust Laws as well as the Commodity Exchange Act. As the Commission has the responsibility to ensure the integrity of the commodities and futures markets, I believe that the price action above is compelling enough to warrant investigation and would have significant ramifications if the positions were initiated by any commercial banks on behalf of their proprietary accounts.

The OCC's Quarterly Report on Bank Trading and Derivatives Activities First Quarter 2008, indicated that a notional amount of approximately 132 billion in gold derivatives is concentrated with a few commercial banks primarily, JP Morgan Chase, Bank of America and Citibank. The entire U.S. official gold reserves are approximately 8,140 metric tones or at $955 per ounce $274 billion, resulting in the notional value of commercial bank derivatives positions equaling about 48% of the entire U.S. official gold reserves. Clearly given the size of the OTC position, which dwarfs the exchange listed contracts, there are a handful of parties which could benefit as it relates to manipulating the current market value of gold on the smaller listed futures contracts, in order to enhance their OTC positions specifically as it relates to periods when these contracts are marked to market or prior to option expiration.

The precedent for alleged manipulation of the gold derivatives and physical markets was set in Civil Action No. 02-3721 filed in the Eastern District of Louisiana by Blanchard & Co., against JP Morgan and Barrick Gold Corporation. . The suit essentially alleged that JPMorgan Chase provided Barrick with so much borrowed gold -- presumably obtained from central banks -- on such favorable terms that Barrick could overwhelm the market and move prices up or down at will and not have to repay the borrowed gold for many years if at all. Eventually JP Morgan was dropped from the case and Blanchard & Co., which claimed extensive damages from the manipulation as one of the largest bullion dealers in the United States, settled the case with Barrick. The terms of the settlement were sealed, however, the fact that the matter was settled is presumably indicative of some impropriety as it relates to the allegations made and should warrant heightened regulatory scrutiny with regard to companies with extensive activities in exchange traded gold futures contracts in light of OTC derivative exposure as illustrated below:

NOTIONAL AMOUNT OF DERIVATIVE CONTRACTS
TOP 3 COMMERCIAL BANKS AND TRUST COMPANIES IN DERIVATIVES
MARCH 31, 2008, $ MILLIONS

Rank	MARCH 31, 2008, $ MILLIONS	State	Total Assets	Total Derivatives	Total Futures (Exchange Traded)	Total Options (Exchange Traded)
1	JP Morgan Chase Bank Na	OH	$ 1,407,568	$ 89,997,271	$ 1,810,507	$ 2,766,242
2	Bank Of America Na	NC	$ 1,355,154	$ 37,939,665	$ 998,518	$ 662,044
3	Citibank National Assn	NV	$ 1,292,503	$ 37,691,434	$ 281,809	$ 380,133
		Total:	**$ 4,055,225**	**$ 165,628,370**	**$ 3,090,834**	**$ 3,808,419**

It is clear from the above chart the total notional amount of derivatives greatly exceed each bank's total assets, painting a picture of unstable highly leveraged institutions. The highly concentrated OTC, and exchange listed derivative positions, in addition to the impact of the present illiquidity of mortgage backed securities greatly enhances the counterparty risk with commercial banks as it relates to OTC and exchange traded futures and commodities contracts. The financial deterioration of these entities is clearly illustrated in the erosion of their share prices (see Stock Prices JPM< BAC, C) and current debt ratings.

Due to the inherent counterparty risk, as it relates to initial and maintenance margin requirements for gold exchange trade contracts, it should be a matter of public policy that commercial banks, broker-dealers/FCMs are not permitted to be treated as "hedgers" as it relates to their proprietary accounts based on an offsetting OTC derivative position. They should only qualify for the more favorable margin treatment if they are in custody of unencumbered gold bars that are identifiable by serial number and meet the definition of COMEX good deliverable form against any short position. Or in the alternative, Speculator margin requirements should apply to ensure the public's interest that contractual obligations will be performed. Ironically, as gold is the anti-thesis to the systemic risks inherent in these highly leveraged institutions, investors who are seeking a hedge from the problems created by them may end up with an insolvent guarantor who is unable to fulfill their contractual obligations.

I appreciate your consideration of the above issues.

Sincerely,

Marcus Rodriguez

Marcus C. Rodiriguez, CFP®

STOCK PRICES JPM, BAC, C


C Daily
7/18/08
55
50
45
40
35
30
25
20
15
10
Volume
©BigCharts.com
300
200
100
0
Millions
Aug
Sep
Oct
Nov
Dec
08
Feb
Mar
Apr
May
Jun
Jul