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Comments for the Commission for the Public Hearing on the Metals Markets, March 25, 2010

SUMMARY

- Comex data show that the price of gold and silver are suppressed
- There is a direct correlation of price suppression and the positions of two US banks
- The Bank Derivatives Reports from Treasury Dept. Office of the Comptroller of the Currency (OCC) indicates these two banks are JPMorgan Chase and HSBC
- Appropriate enforcement action is required

DISCUSSION

The Gold Anti-Trust Action Committee (GATA) has long been accumulating evidence that indicates that the gold price is suppressed. GATA has implicated the US Government, the Federal Reserve and the major bullion banks as the perpetrators of the scheme. GATA has also explained the motive behind the crime. It is to maintain the purchasing power of the US dollar artificially high by concealing inflation, and as a result keep interest rates artificially low. This is at the core of the "strong dollar" policy instigated by Robert Rubin, but the tools and mechanisms by which this policy is implemented were never explained to the public. They are, however, explained clearly by GATA with mountains of documented evidence (www.gata.org).

Gold has been the best performing financial asset in the last ten years. No other asset has delivered average returns of 17% per year every year for the last 9 years. Crude oil and copper have performed very well and are showing similar overall gains to date from their decade lows but they have not consistently delivered the same year after year positive gains. But given that these

commodities are comparable in performance they serve as a useful guide as to whether there is anything anomalous about the gold market.

In table 1 the 10 year gains to date (line 4) of gold, oil and copper are seen to be comparable with gold having outperformed oil and underperformed copper. However, the number of days on which the close exceeded 2% gain for the day in the last decade (line 7) was just 102 for gold compared to 487 for crude oil and 409 for copper. That translates into just 4% of the trading days for gold (line 8) while it was 19% for oil and 12% for copper.

A very telling fact is revealed when looking at the number of days when the loss on the day exceeded 2% (line 10); only in gold did the days when the daily loss exceeded 2% outnumber the days when the gain was greater than 2%. In fact in line 11 this is given as a ratio and it is clear that it is only for gold where the ratio is less than 1. It is very anomalous that the market of the best performing asset of the decade has the number of large up days exceeded by the number of large down days! One would not expect a free market to behave so anomalously over a decade.

COMPARISON OF GOLD, OIL & COPPER 2000-2010				
	Parameter	**GOLD**	**OIL**	**COPPER**
1	10 year Low ($)	258.1	19.7	0.64
2	10 year High ($)	1222	147	4.08
3	10 year maximum % Rise	373%	646%	538%
4	10 year rise to date (2/16/2010)	333%	291%	392%
5	Days when Intraday rise>2%	165	713	363
6	% of trading days intraday >2%	6%	27%	14%
7	Days when Close >2%	102	487	309
8	% of trading days close>2%	4%	19%	12%
9	Days when Intraday Loss>-2%	167	653	364
10	Days when Close>-2%	110	435	268
11	Closes gain>2%/Closes loss>-2%	0.93	1.12	1.15
12	Highest Daily % Gain	9.0%	15.7%	12.5%
13	Highest Daily % Loss	-7.3%	-11.8%	-11.0%
14	10 year Cumulative up ($)	6686	1256	37.04
15	10 year Cumulative down ($)	-5903	-1208	-34.74
16	Cumulative Up %	2590%	6376%	5788%
17	Cumulative Down %	2287%	6132%	5428%

Table 1

Figure 2 shows a typical 24 hour gold price chart published by Kitco, which incorporates 3 days of data. The chart is from March 12, 2010.

What stand out are the waterfall declines that occurred on March 10 and 12. Rapid and brutal sell-offs nearly always happen on the Comex.

Figure 2

One can argue that the chart of figure 2 is not representative of typical trading patterns. In order to test for a suppressive trading bias in the New York trading time GATA consultant, Dimitri Speck (www.seasonalcharts.com) averaged the percentage change at each minute of the trading day over 16 years. The result is shown in figure 3. The green horizontal line is neutral bias. It can be seen that gold has a positive bias (above the green line) in the averaged trading day, except during the time the Comex is open for trading where it has a negative bias (below the green line). It also shows that there is a very pronounced "waterfall" decline in the averaged 16 years of data immediately after the PM fix. Clearly for the waterfall characteristic to be so well defined when averaging 16 years of data it is evident that it is a frequent feature in the daily trading pattern.

It is statistically improbable that over 16 years gold sells off in New York but gains in all other global markets. This is a smoking gun of manipulation.

Silver market trading is highly correlated to that of gold and exhibits similar price suppression. If the price of the precious metals is being suppressed on the Comex how is this being achieved?

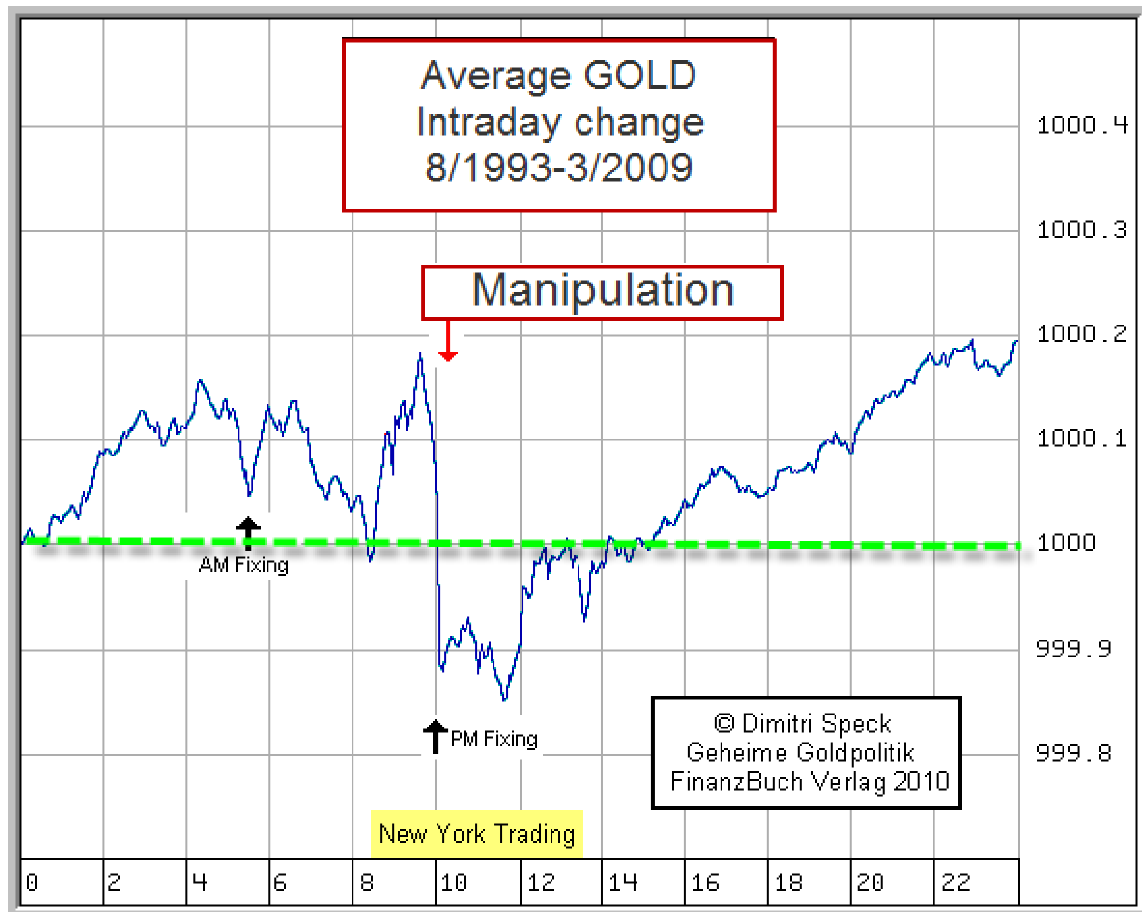

Figure 3

The "commercials" collectively are nearly always net short. Their effect on the price is a function of the commercial net short position which is the total commercial short position minus the total commercial long position. However, there are a few market participants who hold an extremely dominant net short position compared to the total of all commercial participants. The CFTC Bank Participation Report provides data on the holdings of US banks. From these reports it is clear that two US banks dominate and, therefore, control the price of precious metals.

Figure 4 shows the price of silver in black which is tied to the left hand scale while the net short of two US Banks as a percentage of the total commercial net short is on the right-hand scale. I have inverted this scale so that it moves in the same direction as price. An increasing short position means the price will be driven lower. What can be seen very clearly is that from July to November 2008 the two US Banks went from having just 9% of the total commercial net short position to having 99%!

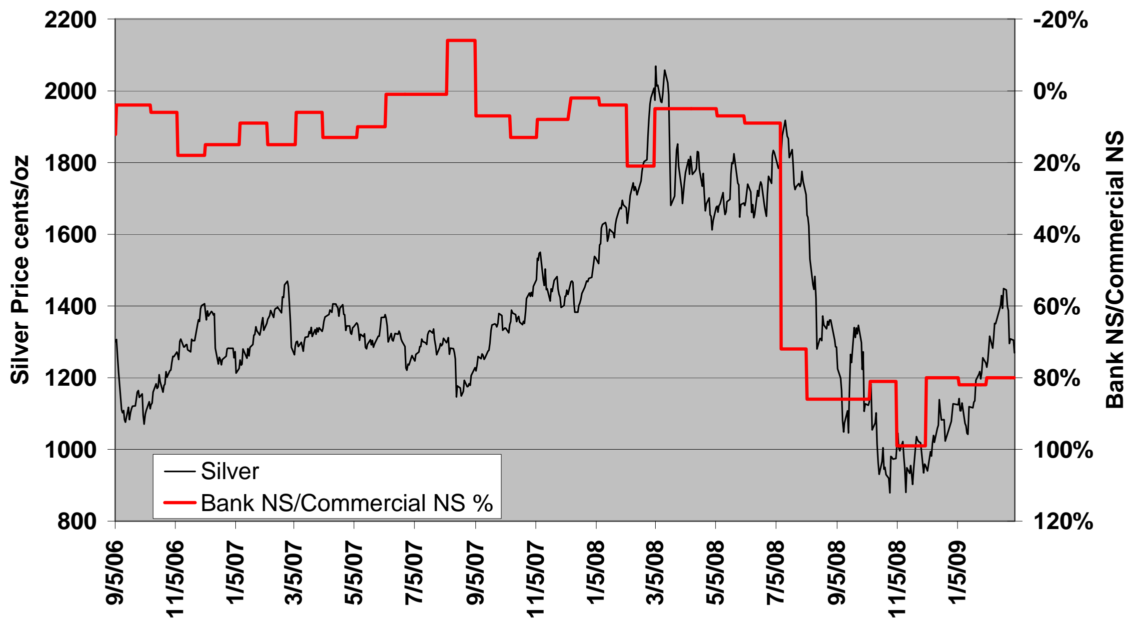

Figure 4

The correlation with price is evident. The indisputable conclusion is that these two banks dominated the market to the extent they represented the entire net short position of the commercials and as such they controlled the price of silver, which is illegal. Furthermore, the amount of contracts that were sold short to achieve this represented 25% of the annual global mine production! Could there be any clearer sign of manipulation?

In figure 5 the price of gold is charted in black against the left-hand scale while the net short of three US Banks as a percentage of the total commercial net short is on the right-hand scale. The scale is again inverted so that it moves in the same direction as price.

This shows very clearly that from July to November 2008 the three US Banks (and it is believed it is principally two US banks holding large positions) went from having approximately no net short at all to having 67% of the total commercial net short position! The correlation with price is evident. It further appears that they drove the price up from the end of 2007 only to hammer it down in July of 2008. The indisputable conclusion is that these three banks dominated the market to the extent they represented two thirds of the entire net short position of the commercials and as such they controlled the price of gold which is illegal.

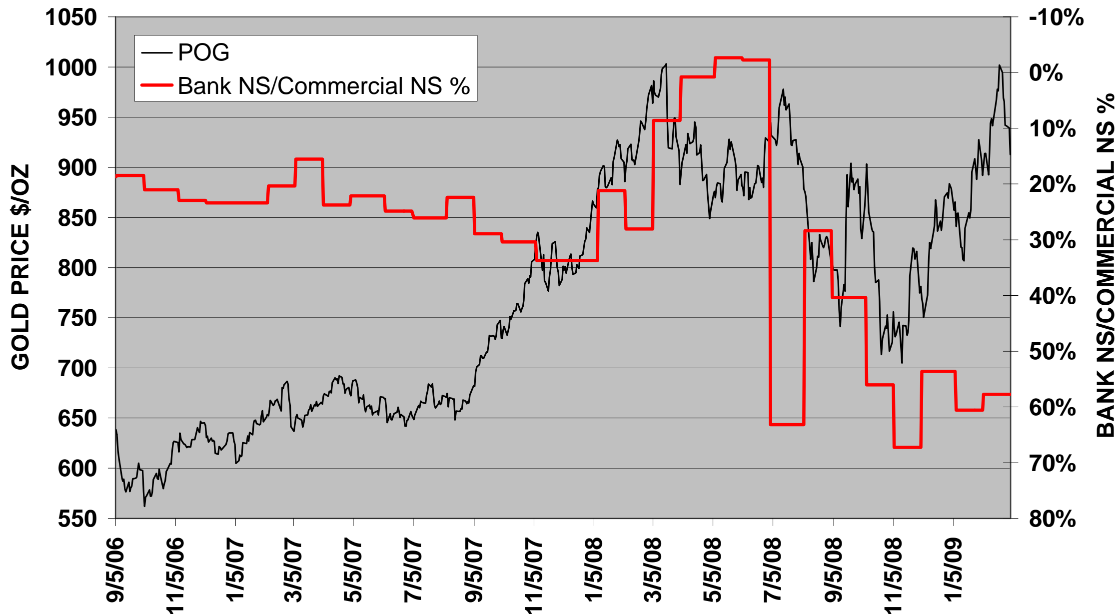

Figure 5

Furthermore, the amount of contracts that were sold short to achieve this represented 10% of the annual global gold mine production! Could there be any clearer sign of manipulation?

The names of the banks whose positions appear in the CFTC Bank Participation Report are not made public. But we can find out who they are. There is another report which is issued by the treasury namely the “Bank Derivatives Activities Report” compiled by the Office of the Comptroller of the Currency. In this report they list the top five banks by name who own the most OTC derivatives in the categories of gold derivatives and precious metals derivatives.

When the derivative positions of the banks are examined it becomes clear that JPMorgan Chase and HSBC together dominate the market as can be seen in figure 7. In 2008 they held close to 100% of the entire bank derivatives market in gold and precious metals.

When two banks hold a monopolistic position in precious metals derivatives on the unregulated OTC market it is possible to extrapolate that it is the same two banks who suppress the gold and silver price through their monopolistic and manipulative short positions on the Comex.

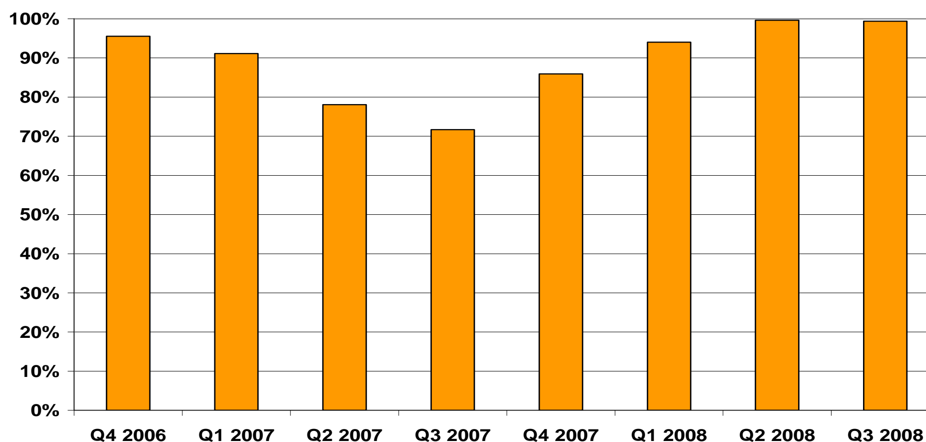

Figure 7

After I published an analysis titled "Pirates of the COMEX" [1] revealing that the manipulators of gold and silver prices on the Comex were JPMorgan Chase and HSBC the CFTC made a change to their reporting procedures. In a letter to GATA dated February 19, 2009, Laura Gardy, a CFTC legal assistant, wrote,
"Beginning with the December 2009 BPR, the CFTC began suppressing the trader count in some markets. The change became effective with the Dec 2009 BPR because it was the next available report to be published following the Commission's November 2009 decision to implement the change. The decision to suppress the trader counts was made as part of an ongoing review of the methodology of the BPR. As part of that review, the Commission determined that where the number of banks in each reporting category is particularly small, fewer than four banks, there exists the potential to extrapolate both the identity of individual banks and the bank's positions"

So not only are these two banks manipulating the precious metals markets but the CFTC has afforded them greater anonymity!

Regulators are aware of the monopolistic and manipulative positions of the banks in the massive derivative markets. In the Q4 2008 Bank Derivatives Activities report from the OCC the Treasury stated:

"Derivatives activity in the U.S. banking system is <u>dominated by a small group of large financial institutions</u>. Five large commercial banks represent 96% of the total industry notional amount and 81% of industry net current credit exposure. While market or product concentrations are a concern for bank supervisors, there are three important mitigating factors with respect to derivatives activities……."

This statement first appeared in the OCC Bank Derivatives report in 2006 and despite a near meltdown of the financial system due to derivatives and a bailout

of the “five large commercial banks” this same statement is still used today! It appears the regulators have not only learned nothing about the dangers of “dominance” but they mindlessly cut and paste the same old justification for turning a blind eye.

HSBC is the custodian of the gold in the GLD ETF and JPMorgan Chase is the custodian of the silver in the SLV ETF. The prospectuses of these ETF’s have omitted a “material fact” that their custodians have sold gold and silver on a massive scale and that they do not have the metal to meet those liabilities. There is an obvious conflict of interest. Such an omission is a criminal offence under article 10(b) of the Securities Act. The CFTC has the power under the CEA to suspend the membership of anyone from an exchange if they have violated the Securities Act. Will you do so?

Position limits alone will not address the issues I have brought to your attention. The CFTC must curtail the blatant manipulation which occurs through large traders selling short in quantities that can not be delivered upon but serve the purpose of bullying smaller long holders out of their positions and suppressing the price.

I propose that all participants defined as “hedgers” who wish to “hedge” must deposit 40% of the short position in bullion in the Comex warehouse and must sign an affidavit that the hedger has 100% of the title to the metal and undertakes to not encumber the title in any way while it serves as collateral to the short position. Furthermore, no derivative position should be eligible to serve as collateral for a hedge position. I am in agreement with the “Volcker Rule” that banks should be prohibited from speculation. Position limits should be applied equally to long and short positions for participants who are “speculators”, who are those participants who do not intend to make or take delivery.

CONCLUSIONS

- Price suppression occurs on the Comex
- A small number of banks dominate the commercial net short positions
- Position limits should apply to both long and short “speculators” but proper policing and enforcement is required to prevent the clear manipulative trading of the large shorts.
- “Hedgers” should be required to deposit 40% of their short position in unencumbered bullion in a Comex warehouse as collateral.
- Speculative trading by banks should be prohibited

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References:
1. http://www.gata.org/node/7307