

# **An Open Letter to GATA's Chris Powell**

**December 7, 2004**

Dear Mr. Powell,

I was considering a donation to GATA recently and just as I was about to write the check, Murphy and Turk took a walk on the wild side and started bashing the new ETF gold trust GLD.

This is unfortunate as Bill Murphy had forever complained how the WGC did not know what they were doing, as they spent their money promoting gold jewelry and if they had any sense, the WGC's money would be better off spent promoting gold as an investment.

Well, the WGC did come around and started promoting gold as an investment, not only in the US but in several other world markets as well. To date, the WGC has been extremely successful in their marketing efforts. For this they should be commended.

The recent attacks on GLD have been unwarranted and are irresponsible. Unfortunately Turk in his quest for sensationalism and perhaps in protecting his gold gram product has stepped over the line. The GLD method of owning gold brings in a whole new segment of investors who are wary of the risks of gold mining stocks and don't want the hassle of direct ownership.

GATA should be embracing this new gold product, not fighting it and raising red flags. It is my belief that the gold trust is the best thing that happened since January 1, 1975, when Americans were allowed to own gold. As such, you should get your facts straight before drawing swords.

At this point Chris, you may be the last remaining General in the GATA camp retaining position to sway the current level of conspiracy theory surrounding GLD, which means that it is time to address GATA's concerns in the order they are listed in yesterday's press release.

**Question:** Why does the bullion fund list ownership of duplicate gold bars?

**Answer:** There are no duplicate gold bars, only duplicate numbers. The bars in question are JM bars and JM has reset the stamp spools several times. While the serial numbers of the bars themselves are the same, the dates of manufacture are different, as is the weight of the bars. The serial number stamps only go out to 5 digits and thus on a 400 ounce bar, only 124 tonnes could be cast before the spools have to be reset. It is a common practice for the

refiner to reset the spools but there will not be identical numbers having the same date of manufacture.

**Question:** Why have all the custodians and potential custodians of the fund's gold not been identified?

**Answer:** They have and it is included in the prospectus as follows:

“The subcustodians selected and used by the Custodian as of the date of this prospectus are: the Bank of England, The Bank of Nova Scotia (ScotiaMocatta), Deutsche Bank AG, JPMorgan Chase Bank, and UBS AG. The Allocated Bullion Account Agreement provides that the Custodian will notify the Trustee if it selects any additional subcustodians or stops using any subcustodian it has previously selected.”

Note that the subs are not street corner merchants but 5 of the eight clearing members of the LMBA. It is intended that all of the gold in the allocated account be held in HSBC's vault, however we must remember that GLD is a continuously offered trust and must prepare for unforeseen eventualities that may necessitate storage in other locations other than HSBC's vault. The listing of potential subcustodians is to cover situations that may arise.

Currently all the bars are in custody in HSBC's vaults.

**Question:** Why is the fund refusing to let its gold holdings be fully and publicly audited?

**Answer:** They are not. If 100% of the gold bars are held directly by the Custodian which is the current situation, then there is provision provided for a 100% audit by the trust as found in the SEC filings:

“The Trustee may, upon reasonable notice, visit the Custodian's premises up to twice a year and examine the Trust's gold held there and the Custodian's records concerning the Trust Allocated Account and the Trust Unallocated Account.”

However in the event a subcustodian is used it would be up to the Custodian to audit subcustodians per any audit provisions between the Custodian and the subcustodian. Any gold held would be in allocated form, thus property rights to the gold have been established. Since it is intended that HSBC has 100% control, all gold would be subject to 100% audit directly by the Trust's auditors.

**Question:** Is any of the fund's gold being leased, made available for leasing, or encumbered in any way?

**Answer:** All gold except a miniscule amount not to exceed 430 ounces is held in allocated accounts by the Custodian. Ownership of the gold has been

documented and it is against the law to lend, lease or encumber in any way someone else's property.

The prospectus has gone through great pains to disclose every conceivable risk regardless of how remote that risk. If the trust was going to lend or lease the gold, the risk associated with such activities would have to be included in the prospectus as well. Since no risks are listed in this regard, the Trust is unable to lend or lease the gold where this risk would be assumed. Further to that, if the gold were to be lent or leased, there would be income derived which would be mentioned in the prospectus. The lack of mention of either risk or income coupled with the fact that it is illegal to encumber someone else's property without their permission is reason enough to say that it would not be done.

GATA seems to think that because they did not specifically say that the gold would not be leased, lent etc. that it might or could happen. In the spirit of full disclosure, the absence of evidence that they will or can is missing.

Unfortunately since GLD is a continuously offered trust, GLD cannot publicly respond to the current allegations.

**Question:** Exactly what is the fund's relationship with the Bank of England, a major lessor of gold?

**Answer:** The Fund has no relationship with the Bank of England. The Bank of England was listed as a POTENTIAL subcustodian that the Custodian MIGHT use in the normal course of business. Certainly HSBC being the largest LBMA member would more than likely have dealings with the BoE from time to time.

During my conversation with the Fund representative Mr. David Smith, he mentioned that there has been talk of discontinuing the BoE as a POTENTIAL subcustodian.

All of these questions could have been answered by digging through the prospectus and calling the Fund for clarification. Apparently this was not done before riling certain members of the gold bug community on the vehicle that has the potential to change the gold market and create demand by reaching a new clientele.

I hope that GATA has the ability to reevaluate it's position on GLD before further damage is caused to investors that would benefit via GLD's ability to accumulate gold in the vaults.

Regards,

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