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November 16, 2012

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: Proposed Rule Changes by NYSE Arca, Inc. to List and Trade Shares of the JPM XF Physical Copper Trust (SR-NYSEArca-2012-28) and the iShares Copper Trust (SR-NYSEArca-2012-66)

Dear Ms. Murphy:

We are writing on behalf of RK Capital LLC, an international copper merchant, and four U.S. end-users of copper: Southwire Company, Encore Wire Corporation, Luvata and AmRod, in response to the November 6, 2012 memorandum setting forth the "empirical analysis" prepared by the Staff of the Staff of the Division of Risk, Strategy, and Financial Innovation ("Staff") related to the potential effects of NYSE Arca, Inc. proposed rule changes to list and trade shares of the JPM XF Physical Copper Trust ("JP Copper Trust") and the iShares Copper Trust.

We also reiterate our two prior requests, pursuant to Section 19(b)2) of the Securities Exchange Act of 1934, as amended by the Securities Act Amendments of 1975, (15 U.S.C. 78s(b)(2)(B), for an opportunity to make an oral presentation. We once again propose to make ourselves and clients available at a mutually convenient time, preferably during the week of December 3, 2012.

Comments on The SEC Paper

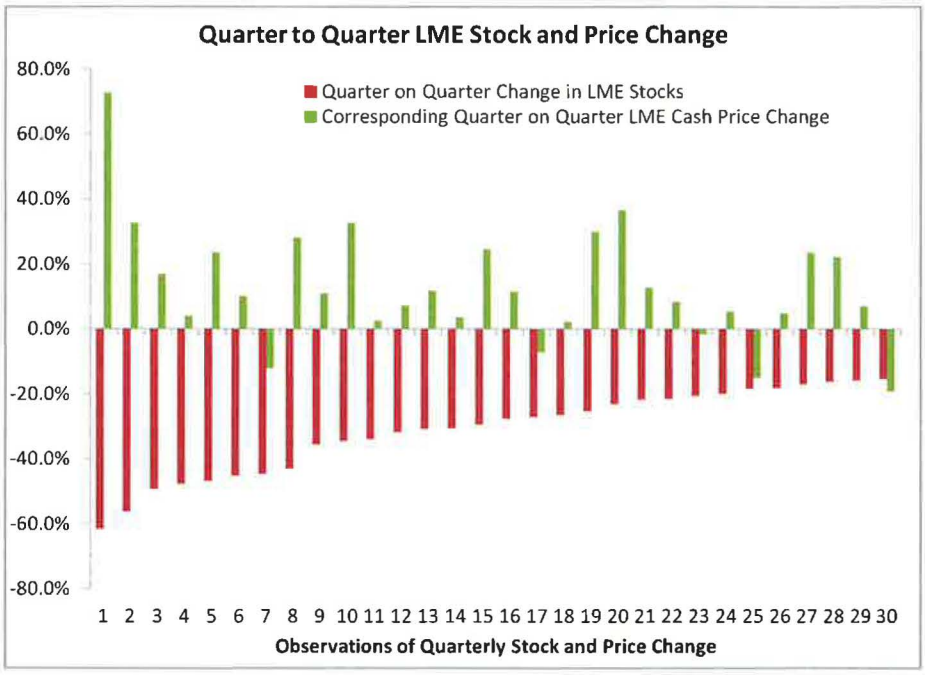
The staff memorandum states that staff "found that there is not a strong statistical relationship between copper inventories and copper prices." The staff's analysis is a simple, inaccurate, and incomplete effort to establish the manner of relationship between LME/copper market inventories and LME "settlement prices."

The Staff undertook two separate regression exercises to determine the relationship between copper inventories and LME copper prices. The first used daily observations of LME copper inventories (lagged 1 day) against the contemporaneous LME copper price. The Staff also included likely heteroskedastic variables of other LME and LBMA metals prices in the regression, which may in the least, have undermined the cogency of the

coefficient pertaining to LME copper inventory levels. In running this analysis the Staff determined that the T stat for LME copper inventories was insignificant and thus lagged LME copper inventories don't robustly influence the current day's copper price. We believe that the Staff has erred in their statistical approach (which we address further herein) in using lagged daily LME stock data. There are, for instance, many consecutive and non-consecutive days that LME stock levels for LME traded metals do not change while LME prices do. As such running a daily LME stock series through a regression analysis will yield statistically weak results in most cases.

Inventory Levels Do Influence Metals Prices

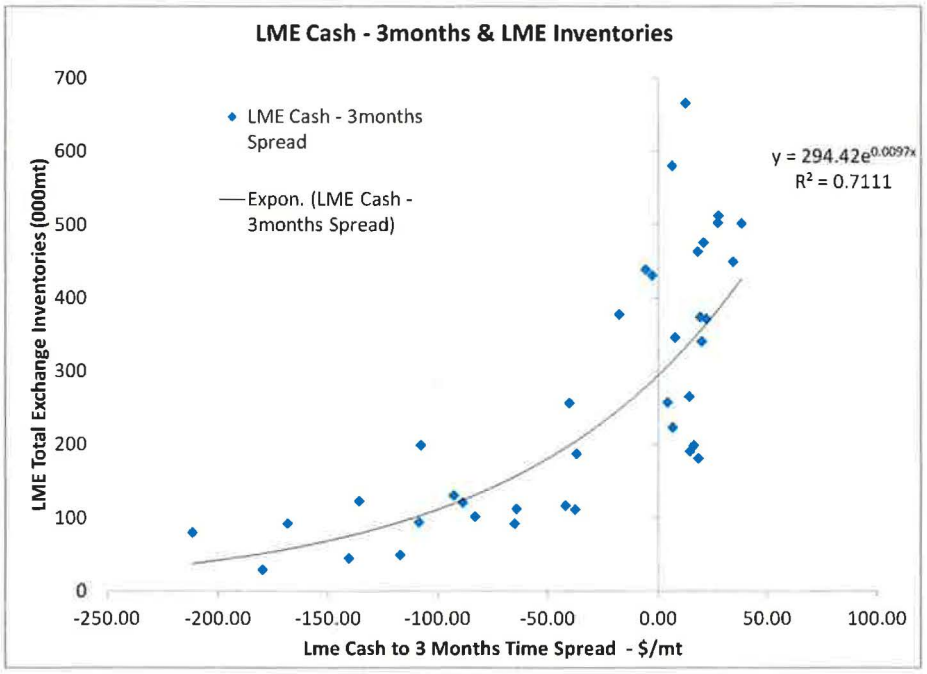
Intuitively it doesn't make sense to argue that in a physically settled exchange system that fungible stock levels don't exert some statistically robust influence on metals prices. Below is one approach the Staff could have used to gauge the effect. We have looked at the largest 30 quarter to quarter inventory declines (on the basis of LME total warrants) against the accordant change in prices over that same time period. What the data show is that for these 30 largest observations the median stock decline is 28.6% (which is considerably less than could transpire should the SEC approve ETF products seeking to eventually hold 180kmt of LME grade A copper). During this quarter the LME copper price rose in 25 out of 30 observations for a median increase of 10.5%. It is worth noting that the current level of LME and Comex stock (on-warrant and cancelled warrants) is around 300kmt. If the ETF products were to build rapidly to stated desired Trust capacity then the total stocks on these two exchanges would decline by greater than 50%. The data series encapsulated in the chart below suggest that this could lead to a price appreciation of 20% to 60% in the quarter that the stock decline/s took place.



Source: Bloomberg, RKCapital Management LLP

We also contend that the Staff should form a view on the impact of other important LME and copper market prices resulting from the approval of the ETF products. Two prices – other than LME "settlement prices" worthy of consideration – are the cash to 3 months time-spread (and nearby time spreads broadly) and physical premia.

With respect to time spreads, there is an extremely strong relationship between LME inventory changes and the cash – 3 months time spread itself (a 75% inverse correlation and an exponential fit of 71% R2). Based on historical patterns, it is thus clear that, should LME inventories decline by 180,000 metric tons (as is possible given the implied size of the two ETFs currently seeking permission for listing by the SEC) the time-spread between LME cash and 3 months prices would blow out to a massive backwardation, potentially approaching record levels, making it impossible for copper consumers to finance their inventory.



Source: CRU, RKCapital Management LLP

Resulting Backwardation Will Influence Metals Prices

Furthermore, the resultant large backwardation in the market would signal to discretionary financial players that the copper market is extremely tight, likely leading to buying of the LME or Comex outright contracts. For ETF investors, they would be conflicted participants. Not being able to benefit from the backwardation they have caused per se (as they are unable to lend out their pro-rata physical copper holdings) they would merely be content with the likely resulting flat-price appreciation.

Perhaps the most unfortunate oversight by the staff is its assumption that the global copper market would behave in a similar manner ex-post to an SEC-approved ETF being listed and traded as it has ex-ante. The ETF is, pure and simple, potentially a game-changing event for the LME and Comex copper markets. Never before has it been possible for financial

players to lock up significant LME and Comex inventory in a short space of time, and in doing so removing those units from the grasp of industrial consumers. Given the sensitivity of the market to changing warehouse stock levels, evident in historically-evident time spread evolution, a series of large, chunky, physical accumulations of copper would most definitely cause significant dislocation to the copper market, through time spreads initially, and flat price subsequently. The ex-post implications for copper outright prices of an ETF listing and trading environment cannot accurately be inferred from an overly-simplistic ex-ante statistical analysis of LME/global inventories and LME settlement prices. It would therefore behove the staff to ponder the structural change in the copper market from an ETF listing.

Industrial Metals Market Materially Differs from Precious Metals Market

We also must also highlight once more the fundamental difference between unit creation in physical ETFs in precious metals and physical ETFs in industrial metals. Put simply, due to precious metals' long-standing role as a store of value and medium of exchange the precious metals clearing system is awash with physical metal that is easily used as feedstock for the creation of physical metals ETFs. The initial launch and unit creation process in physical metals is made relatively simple by the large availability, historically, of metal in 'unallocated' accounts in the London/Zurich precious metal clearing system. Furthermore there is, in precious metals, a large pool of physical metals investors outside of the clearing system (central banks, endowments, metals and mining trusts/funds, private bank account holders, private citizens etc) who can lend/sell physical 'good delivery' metal into the clearing system should ETF unit creation strain the unallocated balance in the system. This infers a situation where physical market tightness, evident in time-spreads, is unlikely to persist from an ETF launch and subsequent book-build.

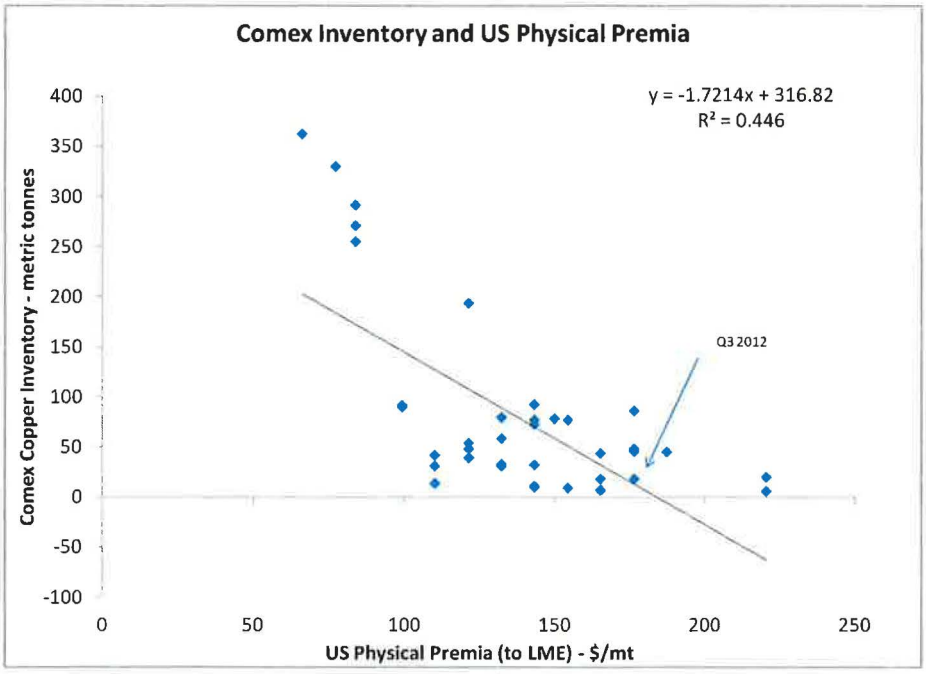
In industrial metals, and copper in particular, the process of creating units is far more complex. First and foremost; the LME and Comex exchanges do not have a similar concept to "unallocated" metal. That is, the banks that are clearers in the physical precious metal markets (and long such metal in unallocated accounts) are not carrying equivalent tonnes of copper. The copper in the LME and in Comex is already 'owned.' As such, for a financial investor to incentivize the transfer of such material to him/her, he/she needs to create an environment where the owner is no longer able or willing to own it. Flat price volatility and/or a move to inverse time spreads (delivering penal rates of carry) are the necessary triggers for the movement of metal from the physical producer/consumer (or their agent) to the ETF investor. This further supports the argument that if nothing else, heightened backwardation is a key risk ahead of, and during the launch/book-build of the physical copper ETF.

In a more 'normal' environment, backwardation is a potential boon for industrial metals consumers as it allows them to lend their working, primary metal, stock to the market for a positive return. However as we have shown, producers globally (certainly outside of China) are not carrying any meaningful volumes of metal to lend to the market. The past few years of disappointing economic outturns (in part fueled by the unwind of heady speculation in non-productive assets) coupled with a heightened focus on working capital management mean that there are few copper consumers carrying any stock above and beyond 'bin-bottom' levels. Accordingly, if and when the ETFs are given permission to launch by the SEC the market will know, with absolute certainty, that the feedstock will be LME and/or Comex inventories and that

backwardation is the trigger to release these tonnages to the financial speculator. Consumers will be forced to compete for these tons, having near nil buffer to rely on, or to lend to the unit creator.

Copper ETFs Will Also Drive Up Physical Premia

Another market price that the SEC could have done well to look into is the physical premia, especially in light of the JPM ETF's implied objective to value metal in the trust on an in-situ basis, taking into account regional physical price variations. As the chart below illustrates, the relationship between Comex inventory and the US physical market premia is strong. More importantly history shows that when Comex stocks are at anemic levels – towards 50,000 metric tons – premia can be very high, above $200/mt. As we believe that the unit creators of the ETFs will have no choice but to tap Comex and LME warranted stock for physical copper, it stands to reason that the associated market impact will be much higher physical premia.



Source: CRU, RKCapital Management LLP

Specific Comments on the SEC Staff Methodology

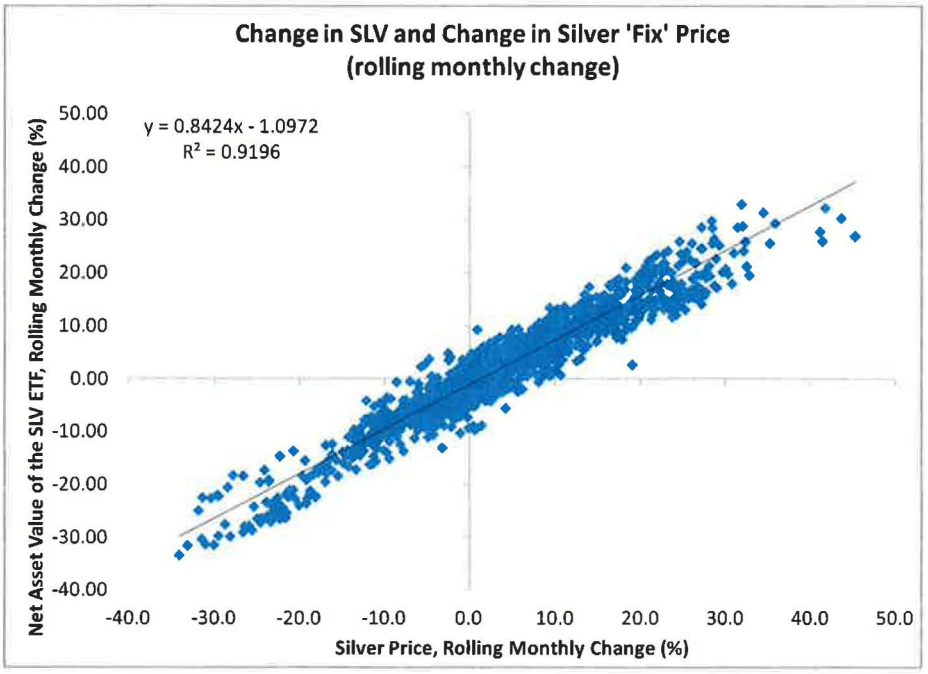
- Aside from the fundamental flaw in assuming no regime change ex-post ETF approval, there are some other technical issues in the analysis. The first relates to the SEC's desire to use the lagged variable of LME inventories in their linear regression analysis. This is wrong. In terms of market trading, LME stock data for the day previous is released at 9am in the London trading day. As such the market has a full trading day to digest the

data. Assuming that the previous day's stock change should thus be more meaningful than the contemporaneous data point is illogical.

- The larger, elemental, problem with the SEC statistical conclusion that there is not a strong statistical relationship between (lagged) copper inventories and (contemporaneous) copper prices is that the LME inventory system represents the copper market's, in sum, 'warehouse of last resort'. As such, LME inventory should be the last inventory tapped by consumers or added to by producers. When LME stocks are drawn down, or added to, the LME and/or Comex trading community should have already fully discounted the fundamental information contained within that particular stock move. By way of example, when LME stocks (for instance) are being drawn down by consumers this is because a) producers have no spot material to sell to consumers in their respective locations, b) traders similarly also do not have the material on hand and c) consumers are willing to go through the logistical hassle of being long LME warrants, swapping those warrants for their preferred/specified brands and undertake the requisite logistics to transport the copper to their individual plant. It is nonsensical to assume that the trading community has not already discounted this information into the LME price, especially as it is also – similarly – likely to have been imbued into physical price premia. The SEC analysis is accordingly inter-temporally loose.

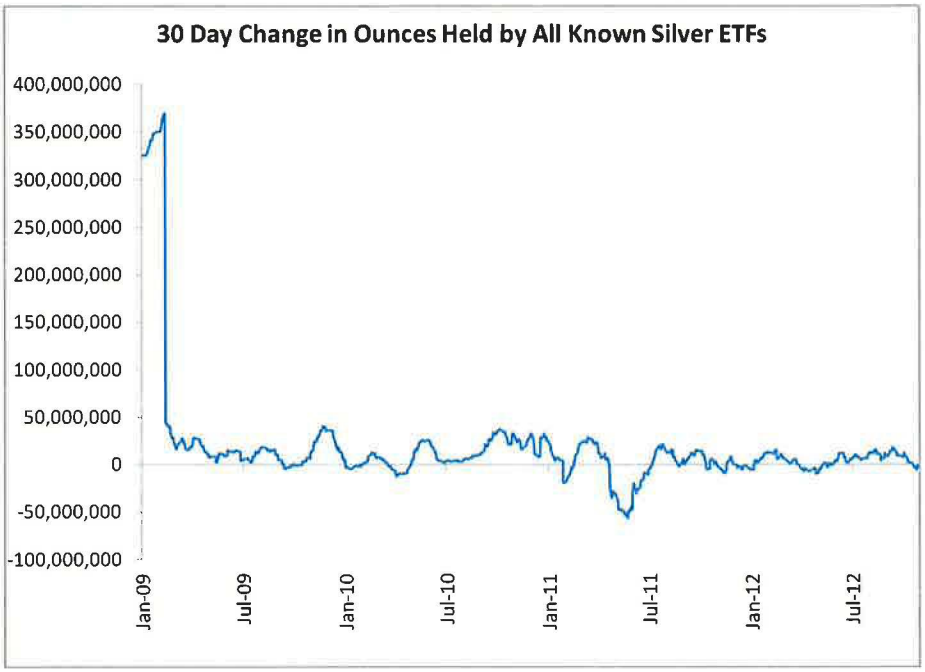
- Overall historically the level of LME inventories has been generally indicative of the trading environment, not a driver of the metal price per se. Going forward though it is clear that the advent of physical ETFs could materially change this dynamic. What ETFs would do is change the role of LME inventories as being a function of the fundamentals to becoming a fundamental. And arguably THE fundamental, as has become the case in precious metals.

The memorandum further states "Staff found no clear evidence of statistical causality between the historical flow of assets to physical metals ETPs and underlying commodity prices of those metals." Here, the staff's analysis on Fund Flows and ETFs looks on its face to be incongruous. Judging by figures 1-5 the staff appears to be comparing Assets under Management in dollar value to the respective price of the commodity held as physical metal in the ETF. That is to say that the SEC is modelling the price of silver with the number of ounces in the ETF multiplied by the per ounce silver price. This is almost tantamount to modelling the price of silver on, the price of silver, especially now that for many ETFs the ounces under management have become stable. It is thus remarkable to conclude "the graphs illustrate that there is no observable relation (sic) between the flow of assets and subsequent price changes of the underlying commodities." Indeed, a simple correlation between the NAV of the SLV ETF and Silver price (London AM fix) is 98%. And in the chart below, we simply observe that in so far as the SLV ETF is concerned there is a 92% correlation between the rolling monthly change in the NAV of the SLV ETF and the Silver Price.



Source: Bloomberg, RKCapital Management LLP

It is important to note that physical precious metals ETFs have moved from being an 'idea' to the largest single holder of silver, platinum and palladium bullion in a remarkably short period of time (less than 8 years), and in gold the entire ETF holding is only eclipsed at a national level by the US and Germany. While the cumulative impact of ETFs on prices has dissipated as the ETF product has matured – see chart below on total ounces of silver held as collateral in known Silver ETFs – the reality is that they have become a key fundamental in terms of analysing the precious metals markets. Rather than just being another vehicle by which to hold gold and precious metals broadly, they are the main asset class, albeit a quite sedate one. It is not certain, nor should it be assumed, that potential investors in copper ETFs will also be as sticky as they have been in gold and silver, and to a lesser degree in platinum and palladium.



Source: Bloomberg, RKCapital Management LLP

The Staff did not test whether the discrete flow of ounces in and out of ETFs drives underlying metals price. If such an analysis had been undertaken it would likely show that volatility in precious metals is not solely a function of net metal flow in and out of ETFs. Of course it is not. As stated above, ETFs are a large and buoyant bullion asset class but there are many ways of investing in the underlying commodity, from coins/bars/jewelry to bullion accounts to physical and paper ETFs to leveraged futures investments to gold and silver managed funds.

Once again, this highlights the difference between industrial and precious metals. Currently there is no mechanism for investors to obtain exposure to pure physical copper other than directly buying cathode, scrap or some other form of copper product and storing it. This is both expensive and over time unlikely to have outperformed a leveraged futures investment. In which case the advent of a physical ETF in copper has potential to be a game changer and respective Fund Flows could have meaningfully more weight in industrial metals than in precious metals.

In sum, as we said at the outset of this submission, and especially in light of the November 6, 2012 staff memorandum discussed herein, we again reiterate our request to make an oral presentation. Given the wide divergence between our views and those of staff responsible for the statistical analysis and conclusions set forth in that memo, we believe such a presentation would be in the public interest and beneficial to all concerned.

Very truly yours,

Robert B. Bernstein