Is your gold secure?

We look at the likely reason that the Netherlands transferred gold out of New York and questions the security of gold held in ETFs, banks, and US...

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Earlier this year, the Netherland's central bank (DNB) moved 78 tonnes of its gold held by the New York Fed and a further 8 tonnes from Ottawa to London. Interestingly, DNB sold 59 tonnes of gold stored in New York and bought the equivalent amount which it stored at the Bank of England. The remainder amounting to 27 tonnes were shipped from New York and Ottawa to DNB's vault, and an equivalent but different 27 tonnes were then shipped to London. Ottawa was probably a tidying-up exercise.

Presumably, the 27 tonnes were to be examined and a metal audit made. If so, then at the least the DNB suspects or knows that the bar identities shipped from North America did not tally with their own records.

The reasons given for the transfers to London were increasing geopolitical unrest and better tradability. But this is not DNB's first transfer from New York. Following Germany's difficulties in retrieving a minor amount of its gold from New York, in 2014 the DNB recovered 122.5 tonnes, succeeding where the Bundesbank had failed, presumably benefiting from the bad publicity over the latter's experience suffered by the New York Fed.

It is increasingly clear that there is a problem with custody at the Federal Bank of New York. Earlier this year the Banque de France announced that it had sold 129 tonnes held at the New York Fed and simultaneously bought 129 tonnes in London. The reason given was, the Banque de France wanted new bars for the older non-standard bars held in New York. This is poppycock. If the older bars had been shipped, they would simply be recast. Why go to the trouble, expense, and price risk of selling them in one centre only to buy them in another?

We can take all this as evidence that at least three major European central banks have good reason to believe that their gold held under earmark in New York has been sequestered by the American authorities or otherwise gone missing. It puts the lie to the DNB's explanation about market liquidity. Any gold sold can easily be flown from its vault in Zeist to London anyway.

We have no idea how much gold the US actually has. That they have almost certainly taken foreign banks' gold reserves in their custody for their own use suggests that the 8,130 tonnes they claim to have in their own reserves is not the truth. It is likely that the US sold more gold than it publicly admitted before abandoning the Bretton Woods Agreement and leased gold in the post-1980s carry trade which has not been returned. In 2002, it was estimated that at least 10,000 tonnes of central bank gold had gone missing through carry trade leases, and that must have gone missing from somewhere.

It is evidence that away from the public eye there is a global battle between governments and central banks to secure safely as much gold as possible. That being the case, we should consider the safety of the gold owned by ordinary folk from their governments — particularly the American government.

The risk to personal gold holdings

For some time, the US has demonstrated a disregard for foreigners' property rights. Nowhere does this matter more than in the ownership of gold bullion. Recently, the US administration has extended this disregard for property rights from gold to other assets, notably Venezuela's oil taken under duress. There has been a similar disregard for human life with America's forever wars — Iran being the latest example. It has now become so blatant that even America's friends are backing off. Only a week ago, Norway's national wealth fund declared that it was now selling its US Treasuries. Denmark has been similarly upset over Greenland. The Europeans are now openly criticising Israel, America's closest buddy, showing a growing schism in relations despite the likely wrath of President Trump.

America's cavalier behaviour is beginning to backfire. Could it be that the US Treasury will refuse to permit foreign selling of US debt? That may seem unlikely but given US government attitudes, it is not impossible. Perhaps this was in the back of the Norwegians' minds.

However, with China effectively cornering the gold market and visibly planning to protect her renminbi by putting it on a gold standard, we can be sure that the US government will want to grab any gold it can access. Its disregard for foreigners' property rights suggests that it is a mistake to store gold in a vault owned and operated by US corporations internationally, because they could be forced by executive order to seize it on behalf of the US Treasury.

If your gold is stored in any vault operated in America, or in an international vault operated or owned by US corporations such as Brinks or Malca-Amit they have little or no option but to comply with an executive order. The same goes for banks; not just US banks, but any bank trading dollars or with dollar interests is at risk. That extends to the entire banking membership of the London Bullion Market Association. Whether an executive order would be issued or succeed is not the point. As the US's finances deteriorate, the risk to gold held in US owned vaults and the entire banking system becomes increasingly significant.

Then there's the danger to ETFs. It is important to understand that if you own shares in an ETF, you have no right to its underlying assets. The directors of an ETF merely have an obligation to deliver value to shareholders in accordance with the prospectus. But even that obligation is taken away from the supposed shareholders, because the true shareholders are central securities depositories (CSDs) embodied in the Depository Trust and Clearing Corporation and Euroclear. Directors of corporations owe their legal obligations to their CSD registers, unless the means exists for a shareholder to hold a share certificate directly.

People who think they are shareholders are not: they have "security entitlements" against the CSD. In other words, they are unsecured creditors of a pooled asset. It is legally possible for a CSD to continue its obligations to those with security entitlements while pledging an ETF's pooled shares to other parties. This happens all the time covering short interests, and using pooled interests as collateral,
There is a precedent for what may happen to ETF gold in the Gold Reserve Act of 1934, when the dollar was devalued to $35 by President Roosevelt and the Fed's gold backing for its dollars was transferred to the Treasury in return for a gold note, the equivalent of a security entitlement valuing the gold transferred at $35 per ounce. That note still exists today but revised to $42.22 and doesn't have the benefit to the Fed of current dollar gold prices.

We are not saying it will happen, but the DTCC could face a similar situation, with gold held in ETFs forced to be transferred to the Treasury at the price on the day. ETF holders would end up looking to the DTCC for a right to dollars, while the Treasury gets the gold.

It might seem fanciful today, but when a US government falls into a financial crisis, it will do anything to save itself, "in the national interest" and it might work with other

G7 central banks to extend gold confiscation into their jurisdictions. Worryingly, that crisis appears to be taking shape. To avoid getting caught out, gold should be stored in a secure vault not owned by a US corporation, outside the banking system, and in a jurisdiction with the strongest property rights possible.

Of course, the worst of gold confiscations might not happen. It may even be unlikely. An alternative strategy would be to own some silver, which almost certainly won't be targeted if the US goes totally rogue over property rights to gold.