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Davis Polk

John G. Crowley

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017

212 450 4550 tel
212 701 5550 fax
john.crowley@davispolk.com

September 10, 2012

Re: File Number SR-NYSEArca-2012-28

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

Dear Ms. Murphy:

We[1] are filing this rebuttal to the submissions filed by Vandenberg & Feliu LLP (**"V&F"**) on August 24, 2012 (the **"Third V&F Letter"**) and by certain V&F clients (the **"Fabricators"**) on August 23, 2012 (the **"Fabricator Letter"**) in opposition to the proposed rule change by NYSE Arca Inc. (the **"Exchange"**) that would permit listing of the shares of the JPM XF Physical Copper Trust (the **"Trust"**). This letter is filed on behalf of the Trust's sponsor, J.P. Morgan Commodity ETF Services LLC (the **"Sponsor"**), pursuant to Securities and Exchange Commission Release No. 34-67470.[2]

The submissions by V&F and the Fabricators largely repeat V&F's original arguments, which we have generally addressed on behalf of the Sponsor in our August 24, 2012 letter (the **"Prior Letter"**), and the Sponsor does not propose to rebut each point in the recent submissions, many of which the Sponsor does not agree with. The Sponsor would like to take this opportunity, however, to correct certain key misconceptions, in particular those underlying the concerns of the Fabricators. The Sponsor recognizes that it is important for the Fabricators and other users to have access to immediately available copper to meet their manufacturing needs. The Sponsor believes, however, that the Fabricators' concerns that the Trust will cut off their access to needed copper are based on assumptions that have been promoted by V&F throughout the comment process and that are not, in the Sponsor's view, supported by the facts.

Contrary to the commenters' assertions, there is extensive copper outside the LME that is available for creation of the Trust.

First, the Fabricators, who fulfill their spot copper requirements by buying through merchants,[3] believe that the only copper that is available to their merchants for immediate or short-term delivery to the Fabricators is LME- or COMEX-warranted copper.[4] It follows, according to the Fabricator Letter, that LME and other warranted copper is also the only copper available for acquisition by the Trust, and that the Trust will therefore compete with the Fabricators for the

LME supplies they rely on: "the only copper available to satisfy the ETFs is copper available for immediate delivery and the only such copper we are aware of is copper on warrant in LME or Comex warehouses."[5]

As detailed in the Prior Letter, this is not the case; the Sponsor believes there are very substantial copper inventories available outside of the LME and COMEX that are deliverable on a short-term basis.[6] Liquid global copper inventories that are considered LME-branded[7] are estimated at approximately 1.4 million metric tons as of July 31, 2012.[8] Approximately 70% of these are not under warrant with the LME, COMEX or any other exchange.[9] This leaves considerable off-warrant copper available to be held through the Trust; at its estimated initial size the copper in the Trust would represent approximately 1% of current liquid off-warrant inventories.[10] (And that 1% held by the Trust would in the Sponsor's view be part of, and not removed from, global liquid inventories, as discussed below.[11])

Perhaps more tellingly, V&F's own earlier submission contains market data indicating that most liquid copper inventories are not LME- or other exchange-warranted.[12] Off-warrant copper would potentially include warehouse inventory held by V&F's client RK Capital which, according to Bloomberg reports, acquires physical copper in various parts of the world, "storing it in warehouses and selling it when the price is right to companies that turn it into the wire and pipes."[13] V&F nonetheless asserts that it is not aware that there exists significant off-warrant copper that could be used for creation of the Trust.[14] V&F also asserts that it does not know of any copper held for investment purposes.[15] The Sponsor believes this assertion also conflicts with the facts, and with the activities of V&F's client;[16] it is consistent, however, with V&F's continuing premise that liquid copper is virtually non-existent outside of the LME and other exchanges, which has formed the foundation of its argument that the Commission should disapprove the proposed rule change.[17]

It is perhaps not surprising that the Fabricators and other members of the public are not aware that there is significant liquid copper outside of the LME. The Sponsor believes that exchange inventories are the only significant visible copper inventories at present, and that the LME is by far the most visible of the exchanges. Holdings of off-exchange inventories, in contrast, are dispersed among producers, users, middlemen and other participants,[18] and are not widely surveyed or well understood outside of the merchants and traders who specialize in this market.

These are precisely the inventories the Sponsor expects will be included in the Trust,[19] and the reason the Sponsor believes the Trust has an important role to play in bringing previously dispersed stocks into a liquid and accessible facility.[20] As an added bridge between buyers and sellers, the Trust would be expected to increase transparency and efficiency in the purchase and sale of physical copper. The Sponsor believes this would be to the general benefit of market participants, with the possible exception of those whose business depends on their knowledge of and access to stores of copper that are relatively opaque to the rest of the market.

Contrary to the commenters' assertions, the Trust will not remove copper from the market.

The second key misconception in the Fabricators' Letter that the Sponsor wishes to address, and one asserted many times in V&F's three letters, is that the Trust will be "based on physical copper that will be acquired *and taken off market*."[21] As discussed in detail in the Prior Letter, the Sponsor does not believe that Trust will remove copper from the market.[22] Copper in the

Trust will be available for withdrawal within three trading days in accordance with redemption procedures set forth in the Trust's Registration Statement.[23]

The Fabricators are dismissive of the Trust's withdrawal features because the redeeming party cannot choose the brand or location of copper withdrawn.[24] It is true that when a Trust authorized participant[25] redeems shares of the Trust (on its own behalf or as agent for another broker, merchant or market participant), it cannot choose the brand or warehouse location of the copper received. The same is true of a buyer of copper on the LME.[26] The intended result of Trust protocols is to ensure that the method of identifying lots for redemption is consistent, objective and transparent, and not subject to either party's discretion.

The Fabricators are nonetheless concerned that the Trust will pose a threat to their ability to continue to acquire spot copper as they currently do, through merchants who acquire it from the LME.[27] The Sponsor believes the explanation below illustrates that the Fabricators' concern is unfounded, and that the Trust will not restrict their ability to meet their short-term copper requirements, but will in fact expand the purchasing options available to consumers of copper and their merchants:

Purchasing options – pre-Trust. Today, a Fabricator that needs copper for short-term delivery goes to a merchant, who, acting in a market-making capacity, has the following options –

- To buy copper lots in a privately negotiated OTC transaction. This may be LME-warranted copper, other exchange-warranted copper, or unwarranted copper.
- To swap purchased lots or lots in the merchant's own inventory for lots considered better suited, in brand[28] or location, to the Fabricator's needs.
- To deliver copper lots already held in the merchant's inventory. The Sponsor believes that market-makers in any market, including the copper market, routinely hold inventory in anticipation of future demand.[29] A merchant may hold outright positions, if it believes the price of its copper will appreciate, or may hedge some or all of its exposure to metal held in inventory if it believes the market will decline.
- To buy cash copper contracts on the LME or another exchange and take physical delivery, whereupon the merchant will receive warrants of the seller's choosing.[30] Depending on the location to which the warrants relate and the length of the queue at that location, the merchant may choose to take the lots off warrant and have them transported to the Fabricator, or to swap them as described above, or to sell the warrants.

Purchasing options – post-Trust. After the Trust is created, all of the above options remain available. The merchant's ability to buy LME-warranted copper in an OTC transaction, as the Fabricators' merchants currently do, or to buy copper contracts on the LME, is unaffected by the creation of the Trust because, as discussed above, the Trust is not structured to rely on, and would not, based on current conditions, be expected to draw on, LME- or other exchange-warranted stocks. In addition -

- The weight of copper that would be delivered out of the Trust per share redeemed on each business day will be posted on the Trust's website, and the hypothetical dollar value of such per-share redemption amount of copper will be disseminated by the Exchange every 15 seconds.

- The lot identification number, brand, warehouse location, and locational premium of each lot of copper held in the Trust, updated each business day, and the process for determining the order in which lots will be identified for redemption, will also be published on the Trust's website at all times.

- Therefore, the merchant (and the market generally) will be able to determine where and at what effective price lots can generally be obtained through redemption from the Trust; if such lots are better suited to the Fabricator's requirements than copper obtainable elsewhere, or can more readily be swapped by the merchant for suitable lots in the OTC market, then rather than pursue one of the previously available alternatives the merchant may choose instead to arrange through an authorized participant to withdraw copper from the Trust.[31]

In other words, the Sponsor expects that the Trust would be purely additive to the existing alternatives available to the Fabricators' merchants. Moreover, because the terms on which copper can be acquired through the Trust or delivered in exchange for Trust shares will be visible at all times to all market participants, together with additional information regarding the price and weight of copper held at each warehouse location, the Sponsor believes that Trust would add to transparency and efficiency in the physical market generally.

Summary

In summary, the Sponsor submits that the facts do not support the claim that the Trust will "use up" the LME supply of copper, let alone "virtually all of the copper available for delivery worldwide."[32] This claim is the foundation for all of the major arguments that have been put forth in opposition the proposed rule change – that a sharply reduced supply will be easier to corner, will drive price spikes and instability,[33] and will ultimately harm the economy of the United States and the world. For the reasons discussed above and in the Prior Letter, the Sponsor believes that the grounds on which the Commission has been urged to deny the proposed rule change do not have merit.

* * * * * *

The Sponsor appreciates the opportunity to file this rebuttal. Please do not hesitate to contact the undersigned if you have any questions.

Very truly yours,

/s/ John G. Crowley

John G. Crowley

Notes

[1] In preparing this letter, Davis Polk & Wardwell LLP has relied, without independent verification, upon the information furnished to it by the Sponsor.

[2] Securities Exchange Act Release No. 67470 at 24 ("Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by [September 10, 2012].")

[3] Fabricator Letter at 3.

[4] Fabricator Letter at 3 ("The market for copper available for immediate delivery consists of copper on warrant in LME and Comex warehouses. If there is any other copper available for us to purchase and be delivered in a week or two, we are generally not aware of it. For the most part, we rely on copper merchants to obtain this copper for us"). The Sponsor notes that the Fabricators' belief that LME and COMEX copper can be delivered "in a week or two" appears to be inconsistent with the queues cited by V&F; see Third V&F Letter at 14 ("Queues are currently ranging from 275 working days (more than one year) in Vlissingen, Netherlands, 91 working days (4.5 months) in New Orleans, . . . to under one month in [Korea and Rotterdam].")

[5] Fabricator Letter at 6-7.

[6] See Prior Letter at 20-21, 30-31.

[7] As disclosed in the Registration Statement, the Trust will accept only copper that is LME-branded – i.e., of an acceptable delivery brand registered with the LME – at the time it enters the Trust. See Registration Statement at 44.

[8] See Prior Letter at 20-21 and Annex C-5 (Metal Bulletin Research Independent Assessment of Global Stocks) at 3, 10. In addition to Metal Bulletin, the Sponsor relies on data from a second independent copper industry expert, Wood McKenzie, whose data on copper inventories are similar to Metal Bulletin's. See Annex A-22 to Prior Letter. Based on the Fabricators' own assertions (among other information regarding the copper spot market; see Prior Letter at 29), the Sponsor believes that the quantity of immediately available copper may be higher than estimated by the industry experts; the Fabricators indicate that they source 15% to 20% of their needs from the spot market (Fabricator Letter at 2-3). If this percentage is typical of copper users generally, then based on a global copper market of approximately 20 million metric tons per year for 2011 and 2012 (see Annex A-12 to Prior Letter), the volume of physical copper sold on an immediately available basis per year would be approximately 3 to 4 million metric tons.

[9] See Annex C-5 to the Prior Letter at 7 and Exhibit A; Prior Letter at 20-21.

[10] As discussed in the Prior Letter (at 21, 41-42), the Sponsor currently expects that the value of the initial shares issued by the Trust will not exceed $75 million, which corresponds based on the LME cash settlement price as of July 31, 2012, to approximately 9,893 metric tons. This quantity represents approximately 1% of estimated liquid off-warrant inventories (approximately 973,214 metric tons) at that date; see Prior Letter at 20-21.

[11] The Sponsor notes that the market expert cited in V&F's own earlier submission classifies copper inventories held in exchange-traded funds as "liquid stocks"; see Table 3 to Exhibit A (the **"BME Report"**) to V&F's July 13, 2012 letter; Prior Letter at 13.

[12] BME Report, Table 3; see Prior Letter at 13-14.

[13] Bloomberg Markets Magazine, "Red Kite Evangelicals Reap 47% Sowing Bet on China Market" (Jan. 11, 2012) (referred to hereinafter as **"Bloomberg Jan. 11, 2012 article"**) ("[RK Capital co-founders] Farmer and Lilley, 45, aren't just owners of futures and options contracts tied to copper; they also trade the physical metal, buying the commodity in North and South America, storing it in warehouses around the world and selling it when the price is right to companies that turn it into the wire and pipes used in the construction of homes, office buildings and vehicles.").

[14] See, e.g., Third V&F Letter at 13 ("The Sponsor must provide some evidence of the large supply of off warrant copper. We are aware of no such large supply. Therefore material will have to be sourced from the LME for lack of alternative.").

The Sponsor believes that other information in the Third V&F Letter tends to contradict its assertion that LME metal is the only plausible source of copper for the Trust. Most notably, the letter recognizes (at 9-10) that there are inventories of between 500,000 and 600,000 metric tons in bonded warehouses in China; the Sponsor agrees and cites a nearly identical estimate in the Prior Letter (at 30, per Metal Bulletin data included in Annex C-5). V&F rules out these substantial inventories as being usable for the Trust, however, for reasons which the Sponsor believes are not convincing. For example:

(i) V&F claims an estimated 10% of the bonded inventory has been stored out of doors and "is not deliverable at all without being restrapped, cleaned and reclipped." The Sponsor is aware of reports that copper in China is overflowing from warehouses and being stored in, for example, parking lots (see, for example, Reuters, "Analysis: China's towering metal stockpiles cast economic shadow" (May 18, 2012), available at http://www.reuters.com/article/2012/05/18/us-china-commodities-idUSBRE84H09E20120518), but believes these reports tend to corroborate the Sponsor's view that substantial liquid copper is available in China. The Sponsor does not, moreover, believe that the cost of restrapping, if required, would be at all significant (estimated cost would not exceed $5 per metric ton, less than a tenth of one percent of the current market price). In any case, even if V&F's estimate is accurate, it leaves at least an estimated 450,000 metric tons available for delivery without required cleaning or rebundling. Metal Bulletin estimates that at least 80% of bonded warehouse inventories in China are of LME brand and therefore meet the Trust's specifications; see Prior Letter at 30 and at Annex C-5 at 6-7. Based on these estimates, bonded warehouse copper in China available for delivery to the Trust represents more than 3,600% of the amount of copper estimated to be required for creation of the Trust under current conditions. See note 10 above.

(ii) V&F claims that a substantial percentage of the bonded inventory in China is "being held in financing structures and hence held away from the market for an extended period." Again, the Sponsor is aware of reports that a portion of the copper imported into China in recent years has been acquired not for consumption but for use as collateral for bank borrowings. The Sponsor sees this as a further indication that market participants in China have excess copper holdings in respect of which they seek liquidity. Based on the Sponsor's experience, these trade financing structures are generally short-term in nature and can be unwound at little or no cost to the parties.

(iii) The final reason why V&F indicates this inventory cannot reasonably be considered available for the Trust's requirements is that it is in China; therefore "there would be considerable logistical expense involved in shipping this material." Third V&F Letter at 9. The Sponsor believes this to be incorrect as applied to the Trust. The Trust's initial approved warehouse locations include a warehouse in Shanghai, which is the same city in which the Sponsor understands an estimated 550,000 metric tons of bonded warehouse inventory is located. See Prior Letter at 31. Deliveries to the Trust would therefore not entail any significant logistical expense, in the Sponsor's opinion.

[15] Third V&F Letter at 2 ("We know of no copper that has ever been 'held for investment purposes of the past ten years.'").

[16] The Sponsor understands that RK Capital Management, an affiliate of V&F's client RK Capital LLC, is "a metals-trading hedge fund firm with [a reported] $1.3 billion of assets under management" that "specializes in the buying and selling of copper," including, in the case of at least one fund, Red Kite Metals, physical copper. Bloomberg Jan. 11, 2012 Article. The Sponsor believes such activity is by definition for an "investment purpose." The Sponsor also notes the conflict between V&F's warnings on the alleged dangers of the Commission's enabling investment in "a non-investment, non-currency commodity" such as copper (see, e.g., First V&F Letter at 7-8), and its client's reported statements; see, e.g., Bloomberg, "Red Kite's Lilley Says Buy Copper Now After Tumble from Record" (Jan. 23, 2007) ("David Lilley, a partner at Red Kite Management Ltd., which has base-metals hedge funds worth more than $1 billion, says copper prices will rebound . . . . and investors should buy now, Lilley, 40, said in an interview . . . 'Copper prices have gone down further than I expected,' he said. 'It is a good time to buy.'").

[17] See, for example, V&F's May 9, 2012 letter regarding the proposed rule change (the **"First V&F Letter"**) at 1, 6 ("For the most part, the only such copper available to satisfy the ETF's requirements is copper in LME warehouses. . . . Thus, approval of this rulemaking could lead to the removal of all or nearly all of the LME and Comex supply of copper available for immediate delivery.")

[18] The Sponsor believes that producers, users and other participants often have somewhat more inventory than they need (given the imperfect process of contract negotiation and forecasting demand) and welcome a ready buyer such as an authorized participant for the Trust to provide liquidity in exchange therefor. See Prior Letter at 9 and Annex C-5.

[19] As discussed in the notice relating to the proposed rule change (Securities Exchange Act Release No. 66816 (Apr. 16, 2012) at 24) (the **"Notice"**) and the Prior Letter, the Trust will not hold any LME- or other exchange-warranted copper. The Trust is fundamentally distinct in this respect from the proposed iShares Copper Trust, as discussed below. The Sponsor further believes that based on current market conditions authorized participants would not be expected to deliver to the Trust copper that has been taken off warrant; removal of copper from warrant entails significant expenses over and above locational premia that the Sponsor believes would generally cause warranted copper to be more expensive to use for the Trust under current conditions than copper available elsewhere. See Prior Letter at 34-38.

[20] See the discussion in the Prior Letter at 7-9 and 43-45.

[21] Fabricator Letter at 3. In their assertions regarding the alleged removal of copper from the market, the commenters have equated and aggregated the Trust with the proposed iShares Copper Trust. For example, the Fabricator Letter (at 3-6) cites a figure 183,000 metric tons; as discussed, the Sponsor estimates based on current market conditions that the Trust would hold under 10,000 metric tons at creation. See note 10 above. More importantly, the Sponsor would emphasize that the Trust and the proposed iShares Trust are different in their construction and terms; for example, based on its registration statement, it appears that unlike the Trust the iShares Copper Trust would generally store its copper only at LME-approved warehouses and would generally provide for LME warrants to be delivered in respect of redemptions. The Sponsor believes it is inappropriate to group the two and that the proposed rule change that would permit listing of the Trust's shares should be evaluated on its own terms, independently of the proposed rule change relating to the iShares trust.

[22] See Prior Letter at 7-9.

[23] References in this letter to the "Registration Statement" are to Amendment No. 5, filed with the Commission on July 12, 2011, to the Trust's Registration Statement on Form S-1 (Registration No. 333-170085).

[24] Fabricator Letter at 7.

[25] Shares of the Trust may be created and redeemed by authorized participants, acting on their own behalf or on behalf of other market participants, as described in and pursuant to the procedures set forth in the Registration Statement. See Registration Statement at 76-77.

[26] A buyer of copper on the LME, either in the cash or futures market, is entitled to receive an LME warrant from the seller. Under the LME system, the seller decides the brand of copper and the place of delivery, and a seller will generally be expected to select the warrant relating to the "cheapest-to-deliver" lot of copper to deliver to the buyer. The Trust operates on a substantially similar principle, where the "cheapest-to-deliver" mechanism is specified by a third-party valuation agent and is fully transparent to market participants. See Registration Statement at 48-53 and 59-62.

[27] Fabricator Letter at 3.

[28] It is the understanding of the Sponsor that most LME brands are interchangeable from a fabricator's perspective, given all are in cathode form. The only exception the Sponsor is aware of is one specific U.S. brand that wire rod producers can use only in limited quantities, with other brands making up a majority of their feedstock. The Sponsor does not consider this to be material, however, because this single brand represents less than 1 percent of total annual global production.

[29] Liquid merchant inventories (classified together with transit inventories) are reported by Metal Bulletin to be substantial – an estimated 554,000 metric tons at July 31, 2012 (a quantity that exceeds reported LME-warranted inventory (249,000 metric tons) at that date); see Prior Letter, Annex C-5 at 10.

[30] See note 26 above.

[31] See the Prior Letter at 7-8. As discussed therein, the Sponsor believes that "exchange-for-physical" transactions of this type are now commonplace among other physical metal ETVs.

[32] Fabricator Letter at 5. The Fabricators also claim that the shortage the Trust creates will favor Chinese businesses over U.S. businesses: "the squeeze will have less of an impact [in China] because there will simply be more copper available there than in the U.S." Id. To the extent the Fabricators appear to assume that the creation of Trust shares would occur exclusively or disproportionately in the U.S., the Sponsor notes that the facts do not, in its view, support this conclusion. Five of the eight initial permitted warehouse locations intended for the Trust,[32] and therefore most of the potential initial delivery points, are outside the U.S.; four are in Asia. See Notice at 26. Moreover, as discussed in the Prior Letter (at 36), based on current conditions the Sponsor expects that the Shanghai, South Korea and Singapore locations are the most likely locations at which copper would be delivered to the Trust. See also note 14 above.

[33] V&F cites the London-listed ETFS physical copper ETF as an alleged cause of "extreme backwardations usually associated with manipulations" and asserts that the Trust "may be expected to increase such manipulations." Third V&F Letter at 25-26. In the Sponsor's opinion, it is not plausible that the launch of the ETFS copper ETF, which acquired less than 1,500 metric tons during the initial backwardation period in question (December 2010), and increased by approximately 4,000 metric tons during the second (February – March 2012) (see Annex B-15 to the Prior Letter), could have had the market impact that V&F attributes to it. Based on LME trading data available through Bloomberg, it is not unusual for the total amount of LME inventory to increase or decrease by 4,000 metric tons within a single trading day. Over an observation period of over 12 years (January 4, 2000 to July 31, 2012) in only two out of every five situations did a decrease in inventory result in an observed increase in backwardation or an increase in inventory result in a decrease in backwardation.