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Gold Fund Manager Merk On ASA's Fight With Activist Investors

Axel Merk, ousted from ASA Gold and Precious Metals after Saba Capital's activist campaign, argues shareholders are worse off — and shares his outlook for gold.

Axel Merk
President & CIO
Merk Investments

Chuck Jaffe, in this episode of The NAVigator podcast, interviewed Axel Merk, President and Chief Investment Officer at Merk Investments. Axel discusses Saba Capital's activist campaign that got him ousted as portfolio manager and president of ASA Gold and Precious Metals Ltd., a closed-end fund that was up nearly 200% last year but that still was branded with the label of being a "poor performer." Merk, who took over the closed-end fund in 2016 and helped to nearly quadruple its assets in the last decade, says new management has no experience running a gold fund, and is only interested in narrowing the discount and generating fees for itself. He filed with the Securities and Exchange Commission and made other efforts to save the fund, but says any form of salvation is unlikely at this point. He also discusses prospects for the gold market, which has cooled significantly this year.

TOPICS DISCUSSED

- Merk was removed as ASA's president after Saba installed new leadership, despite ASA posting the best risk-adjusted returns among its peers under his tenure
- He alleges Saba is hedging via undisclosed GDX short positions, and that the new investment committee lacks gold-mining expertise
- ASA's discount has widened to a multi-year high since Saba disclosed plans to liquidate the portfolio and convert it to a BDC
- Merk grew ASA from ~$230M to over $1B, and warns shifting the fund's mandate away from precious metals betrays its core investors
- He cites a pattern of shareholder disenfranchisement, including a blocked board vote and a blocked special meeting
- On gold: he sees the pullback as a healthy shakeout tied to rising real rates, not a breakdown of gold's safe-haven role
- Merk is inviting gold-focused investors to reach out as he weighs next steps, while regulatory scrutiny of Saba continues

The discussion is educational in nature and intended to help investors and advisors better understand the tools, trade-offs, and data points involved in evaluating income-focused strategies.

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– Free CEF & BDC profile pages: cefdata.com
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THE CONVERSATION

CHUCK JAFFE

Axel Merk, who was recently ousted from running ASA Gold and Precious Metals Ltd. is here, we're talking about shareholder activism, gold, and more now on The NAVigator. This is The NAVigator, where we talk about all-weather active investing and plotting a course to financial success with the help of closed-end funds. The NAVigator is brought to you by the Active Investment Company Alliance, an industry organization representing the entire closed-end fund business from investors and users up to fund managers, sponsors, and creators. If you're looking for excellence beyond indexing, The NAVigator will point you in the right direction.

And today, we're digging into a story that we as investors seldom get behind the curtain on, because my guest is Axel Merk, he is president of Merk Investments and the Merk Funds, but in the closed-end fund world he was, until recently, president of ASA Gold and Precious Metals, a closed-end fund trading under ticker symbol ASA, and you can learn about the fund at ASAltd.com.

The fund has been the focus of a shareholder activism case by Saba Capital, and at the end of June Saba was able to install new leadership, and Axel is out. If you want to learn more about his case, well, we have a link to some EDGAR filings with the SEC in today's show notes, and Axel has a website detailing the entire ordeal, it's SaveASA.com.

Axel Merk, welcome back to The NAVigator.

AXEL MERK

Hey Chuck, great to be with you in a different capacity than in the past, and because I'm no longer affiliated with ASA, I can talk a little bit more freely. Still not everything I can talk about, but let's dive into it.

CHUCK JAFFE

Middle of June, ASA announced your resignation as chief operating officer of the fund, end of June, ASA Gold and Precious Metals announced the appointment of Paul Kazarian as president and principal executive officer. Throughout this entire time, and we have discussed it in the limited capabilities you've had to talk about it as it's been going on, you've said, "Saba basically interested only in capturing the discount, not in running the fund." Subsequent to that you filed stuff with SEC, that's why we have SEC links in our show notes, so tell us where things are.

Again, as you are out, but you don't believe that investors won. This is shareholder activism, but it's not necessarily in your mind good for the shareholders of ASA Gold and Precious Metals.

AXEL MERK

First let's provide some important context. What's grotesque about this is that under Merk's tenure from April 2019 through June 2026, ASA was the best performing fund across its peers and beat the benchmark. Not just in absolute terms and a total return, but also on a risk-adjusted basis. So historically an activist comes in, "Oh, the performance is miserable, we need to get rid of them," in this case the performance is literally the best.

Now clearly there is a discount. One of the things that Saba has not disclosed is that they're hedging their investment in ASA. And as you point out, we are out as of June 30th, the board created an investment committee comprised of three board members, one of them is a partner at Saba Capital. So we have an internal investment committee, none of them have an expertise in the gold mining sector, they're required to follow the mandate of the fund, and of course then there's the conflict of interest that's not disclosed that the chair is hedging their own exposure in the fund.

And so we're in the situation where they haven't gone to shareholders, they're managing it without understanding the space, in my assessment, and so clearly at some point they will need to go to shareholders, but what Saba has done is what they often do, first they need to destroy everything. They've had, last year the administrator resigned, the principal financial officer resigned, the secretary resigned, the chief compliance officer left, two board members were pushed out, in my assessment, under duress, they quit, and we were the one survivors.

And not only did we survive, but we delivered the best performance in the industry, and so that is the context in which this is happening. And yes, I don't think it's in the shareholders interest that people are managing it that don't have expertise in the mining sector.

CHUCK JAFFE

I've read what Saba Capital said about the fund, and they cite poor performance, but poor performance in this case is basically just a deep discount. And then they say that the fund no longer meets investor expectations, but it's clear that meeting expectations has a different meaning to you guys than it does to them because your vision of investor expectations is, how are our current returns?

AXEL MERK

So fun fact, every year since Saba showed up as an activist investor, the discount had gradually been narrowing, one year it was somewhat even from the previous year. It started to widen again in January of this year when Saba, for the first time, disclosed that they would like to liquidate the portfolio, transfer the assets to a US subsidiary – ASA is a Bermuda-based company, it's one of the quirks – and then a few weeks ago disclosed that they would like to convert this to a business-development company where Saba gets a management and profit sharing fee. And since then, as we're talking, the discount is the highest it's been in years. And so that is where we are, right?

And by the way, since a lot of the folks that are watching this are discount investors that also care about the discount, well, there hasn't been an announcement of the tender offer, and we don't know yet in which sequence they'll do things. What investors that follow Saba are interested in, they're interested in a tender offer. And I've been lobbying for that, by the way, behind the scenes for an extended period, but we don't know what's going to happen. They will have to go to shareholders at some point when they're ready, the question is why aren't they going to shareholders?

If they're simply not ready, there was no need. The context in which we were kicked out is instead of renewing our advisory agreement for a year, it was renewed for 90 days only, and so there's no excuse not to be ready, there is no sense of urgency there. The only reason I can imagine is that they might want to prep the portfolio in one way or the other, but this is not an easy portfolio to manage with a lot of small mining companies, some privates and the like, when you don't have the expertise in the sector. So, that's an interesting side thing here.

And regarding interest, by the way, I did have a call on investors to become activists themselves and reach out to the SEC. I had dozens of people calling me and those range from the gold bug to the institutional investor, but also numerous folks investing for the discount purpose that are not happy that no tender offer has been announced, that the communication hasn't been there. And so I happen to speak up because I've been involved in this, I've seen what's happening. Still limited in what I can talk about, but it's been an incredible journey and it's time that this fund is getting back to its roots and is getting properly managed.

CHUCK JAFFE

Or it's time that this fund winds up being liquidated or turned into something else, but the difficulty there is that investors bought this to be a gold fund. I mean, there's a billion dollars' worth of assets in this fund, it was very clear what this fund was doing, it's not so clear what this fund's doing now.

AXEL MERK

And not only it's a billion dollar fund, we grew it to a billion. It was about $230 million when we took it on, we've grown it to over a billion dollars, and yes, that's the mandate, right? One of the things that I'm alleging, and I have on SaveASA.com, I provide the full context, is that Saba has done this in a way that has disenfranchised investors.

A year ago there was a shareholder initiative to put up directors for board members, that was never voted on by the board. There was a consent sent out, over 20% of investors called for a special meeting, that was blocked by an injunction that had nothing to do with that but it was a judicial maneuver to disenfranchise shareholders. There were many things that were happening that in my view crossed red lines that are just not acceptable.

That's for the regulator to scrutinize, but in the meantime of course Saba wants to get the management fee, in my assessment. And if they can get a performance fee as they have disclosed that they would like to have, then all the better for them, right?

CHUCK JAFFE

One of the things in Saba's case is that it talks about this fund and it talks about a 20-year track record of discounts, et cetera. As you point out, this fund, when you took it over it was not a great fund, but you have your history of working in precious metals, et cetera, this fund grew dramatically. How much is any of the ancient history relevant at all?

AXEL MERK

Gold has had bear markets, has had bull markets, there was an extended bear market. The point is, it's a tool for investors to be in that space, there is demand in the space. Gold reached an all-time high several months ago, obviously it's down from the high. There is interest, it's a unique vehicle. If you think about it, especially the way we have, Merk had managed the fund, we invest in smaller mining companies, so you have a liquid wrapper in somewhat illiquid assets, of course that trades at a discount, and so that's perfectly consistent with the investment process.

Otherwise, you have an index hugging fund, but then why do you have the cost overhead of a closed-end structure? Now that doesn't mean you can't have tender offers periodically. I was against the tender offer when the fund was at $200 million because it would have destroyed it, but at over a billion dollars, of course you can have a tender offer. And so there are reasonable things one can do, but what should happen is that there's a tender offer and then people move on and let this fund live happily ever after as a mining fund.

CHUCK JAFFE

We'll also point out, fund was up almost 200% last year, down this year because gold is down, unavoidable to be down this year. From the perspective of investors, what percentage of them said, "I'm using this as my primary gold resource," and what percentage of them said, "I'm using this to play closed-end fund games"?

AXEL MERK

You don't invest in this fund to "play closed-end fund games", Saba is the one exception. And the reason is, even though Saba is, based on the 13F filings, hedging its exposure, the gold mining space is notoriously difficult to hedge, the dispersion of risk is tremendous, meaning the returns are all over the place. So it's different from a fixed-income product or other products where it is fairly easy to hedge out the underlying portfolio and just focus on the discount.

When Saba first showed up, another activist called us, "Hey, Saba doesn't know what they're doing here," and what they referred to is the inability to hedge. And so we've had large discount fund investors in the fund, but they invest in it based on wanting to have precious metals exposure, now in addition they play the discount. But if you just care about the discount, you don't want to be in a precious metals fund, the returns are so much all over the place you can't fully hedge that out.

CHUCK JAFFE

As you point out, they've got filings that talk about how they are hedging the position, what are they doing to hedge the position? And if you were still running the fund, what would you be doing differently, or would you not be hedging at all?

AXEL MERK

First of all, the hedging, we see in 13F filings that they short GDX, the main ETF in there, some of the largest holdings in the fund they have short positions, but they've never come to shareholders and told them that's what they're doing, right? And so you see that if you look behind the scenes, and so that's one of my criticisms.

If we were to come back to manage the fund, we have a proven investment process, investors investing in this fund want to have the precious metals exposure. Now clearly if shareholders give us a different mandate or otherwise, or if one has a conversation with the board to do something different, if that is properly communicated, one of my things has always been to have transparency.

When we came to the fund we increased transparency dramatically, moving from weekly to daily valuations, publishing fact sheets much more frequently and the like, because the more you communicate what you do, the lower the discount is. And you see that in the discount blowing up now that the board is not communicating what they're doing and the discount is getting larger, it's not a surprise at all. The bad practices, bad habits seeping back in, and in my view it's not acceptable.

CHUCK JAFFE

I mentioned your website SaveASA.com, the period for people to file complaints has passed, that occurred around the time that they were fully taking over. Is there anything that you expect you can do at this point? Is there a resolution other than Saba's now in the driver's seat and what they want to drive it to is what's going to wind up happening?

AXEL MERK

Well, the board is in the court of regulators to scrutinize this, in the meantime, investors who have invested in the strategy, who want to have that exposure, should reach out to me for potential future strategy. We have to plan that because we also have to be realistic that the path back may not happen, but in the meantime those investors who are looking for gold mining exposure should reach out to me so that I can keep them in the loop to the extent that we will be pursuing a new strategy.

CHUCK JAFFE

Axel, separate from all this, I would be remiss if I did not ask you for your take on gold, which of course has come down this year so quickly. Where do you think the gold market heads from here?

AXEL MERK

Gold has been doing what it's supposed to be doing. Some people said, "Oh my god, it's no longer a safe haven," well, the reason why historically it's acted as a "safe haven" is because there's expectations of rate cut when something dramatic happens in the world. In this case, the Iran war was a supply shock, cutting rates is not the answer to that. Instead it's been a shock rather than a structural change, which means that bond yields went higher but inflation expectations didn't change. And so to get this mouthful to completion here, is the real interest rates rose, that provides a headwind to the price of gold.

The good news is that this correlation, which is one that's morphing in and out, has phased out, and so gold is playing a more traditional role. I believe that the lower end of the price of gold in the short term has been reached and has shaken out a lot of speculators, that's also healthy, and so gold will do what it's been doing. It's a diversifier and gold miners continue to have fabulous margins, and there are amazing opportunities in this space.

CHUCK JAFFE

Axel, we're excited about the opportunities, we are also going to be watching how this all plays out with ASA, but thanks so much for the time. I suspect we'll be discussing this with you as it all plays out.

AXEL MERK

My pleasure.

CHUCK JAFFE

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Thanks to my guest, Axel Merk, he runs Merk Investments and the Merk Funds, online at MerkInvestments.com or MerkFunds.com, but the story here today was about ASA Gold and Precious Metals, you can learn about the fund at ASAltd.com, you can get his whole story about the fund at SaveASA.com. The NAVigator podcast has something new for you every Friday, so make plans to join us again next week for some more closed-end fund fun. And until then, happy investing, everybody.

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