August 17, 2011 – Commissioner Chilton's Response

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Much to his credit and in keeping with his past practice, Bart Chilton of the Commodity Futures Trading Commission has responded to all of you who wrote to him as I suggested last week. Normally, I would never make public a private email, but Commissioner Chilton made clear this could be treated publicly. It should be obvious that I have nothing but personal praise for Chilton's willingness to address the important issues at hand. He is clearly a public servant of the finest tradition.

Commissioner Chilton's response wasn't exactly a form letter, as there were some differences in the many copies that subscribers and readers sent to me, but his response was fairly uniform. He did acknowledge that he got many public queries and it was necessary to send basically the same response to everyone. This is completely understood, as a commissioner's prime duty is not in answering emails. Let me post his response and then try to analyze it and gauge its significance.

Like you, I remain concerned about financial markets and how they have morphed. Massive passive traders (see my speeches if you'd like more on these) and the high frequency traders (those I call cheetahs, due to their speed) have at times moved markets in ways that I think nobody anticipated. Still, some disagree that they may have an impact. That is why, since 2008, I have supported the improvisation of mandatory position limits. They are the law of the land now and I am hopeful that my colleagues will agree that we need to implement them soon. In this regard, I am hopeful that we will approve such a position limit rule within the next 6-8 weeks. That doesn't mean it will actually be implemented as you and I would like (it may not be effective for another few months). However, the passage of a position limit rule is a key step to actually having such limits implemented soon.

With regard to the cheetahs, I think they need to be tested, registered and potentially limited. On May 1st, as you know, the price of silver dropped 12% in 13 minutes on a Sunday evening in electronic trading. That certainly seems suspect. By the way, on June 7th in the evening, the price of natural gas dropped 7% in Â? get this Â? 14 seconds. Seconds! I mentioned to a reporter the other day that I think the cheetah trading is parasitical. I'm not sure of the value to the markets of such trading. I think when there is sparse liquidity (like on those two dates) that a cheetah or just a few other traders may be able to move markets significantly. I will continue to work on how to best handle this circumstance. The new financial reform law (Dodd Frank) does not require the agency to regulate the cheetahs, but here is an example where I believe the regulator needs to be proactive and do something positive.

Finally, I wanted to let you know that while I am disappointed in the pace of our silver investigation (as I said last October in a public statement), that it is still ongoing. I meet on silver regularly. A day does not pass when I don't have a conversation about silver. If the agency does not say something publically by the third week of September, I will do so (yet again).That may not be a comfort to you, which is understandable, but I am doing what I can as one of five commissioners at the CFTC.

I did want to include the graph below showing the price of gold and silver. I thought you might be interested. Furthermore, this week's Commitment of Traders data was just released Â? as of Tuesday, August 9, the four largest longs in COMEX silver (all futures and options combined) accounted for 16.1% of open interest, with the four largest shorts accounting for 30.4% of open interest. This data covers both commercial and non-commercial traders together. No longer do we see one trader with a huge concentrated short, although it does go over 10% of the open interest at timesÂ .why we need limits.

(Commissioner Chilton did include a graph of gold and silver prices over the past 40 years that I am unable to reproduce here).

Those who write to Commissioner Chilton for the first time are usually shocked when he invariably responds to them. That's because it is rare for such a high official to directly communicate with a member of the public. And make no mistake Â? when dealing with a commissioner of the CFTC, you are dealing at the highest level possible. After all, a commissioner is appointed by the President, confirmed by the US Senate and swears an oath to uphold the law. It is no secret that there has been a steady parade of special interests petitioning the agency to adjust the rules to favor them, especially concerning the matter of position limits. Not only is this true for the CFTC, but this is also true for all other government agencies. The public is rarely heard from, considered or acknowledged in most of these situations. Therefore, a tip of the hat to Commissioner Chilton is in order for his public service and open communication.

There are a number of observations I wish to make about Chilton's response, away from the personal praise he deserves for responding to all. First is that his response underscores the legitimacy of the issues at hand. You have not wasted his time or your own by raising the issues of manipulation, market concentration and position limits in silver. Instead, you have clear and compelling confirmation that these issues are vital to the Commission's basic mission and are being taken seriously, at least by Chilton. That's important because so many go off the deep end in the precious metals, inventing conspiracies and allegations beyond reason. I have promised you in the past that the issues of manipulation in silver due to a concentration on the short side of COMEX futures and the resultant need for legitimate position limits are at the heart of the matter. Chilton's response should make that clear.

I do take issue with one thing Commissioner Chilton wrote in his email. But I want to emphasize that this is not personal criticism of the man, but from where his information is being drawn. In fact, I believe that this may be why this issue has taken so long to be resolved. It involves basic data. The current weekly COT data and the most recent Bank Participation Report indicate that the largest concentrated short in COMEX silver (who I believe to be JPMorgan) holds a short position of close to 20% of the true net position in COMEX silver, not less than 10%, as Commissioner Chilton states. Please allow me to explain.

In order to determine the true size of a market, you must subtract all spread positions. As I have explained previously, spreads are transactions which involve simultaneously holding a long and short position in different months of the same commodity. As such, spreads must be subtracted from total open interest to derive the true net position of any traded commodity. For some reason, whoever is providing the data to Commissioner Chilton is not doing this. By subtracting all the spreads from total COMEX silver futures open interest, there remain roughly 101,000 contracts of true net open interest. The largest short in silver (I say JPM) holds roughly 20,000 contracts net short. That's a concentration of 20%, not the less than 10% that Chilton indicates. (Revision. An alert subscriber pointed out that I understated the case. When the spreads are subtracted, only 93,000 contracts remain, not 101,000. Therefore, the biggest concentrated short position is over 20%. Thanks, Abdul).

Coincidently, in a very recent (and well done) video interview, Chilton specifically targets the 20% and 30% levels of concentration to be unacceptable and suggestive of manipulation. On this we agree. What we apparently disagree on is that JPMorgan holds a net short concentration in COMEX silver of close to 20% currently and has held a concentrated short position of more than 30% in the fairly recent past. For the sake of clarity and resolution, it is good that we can bring it down to specific numbers and if mine are wrong, I will fully acknowledge that to be the case. I would expect the same of Commissioner Chilton and I ask him to recheck his data source.
http://therealnews.com/t2/index.php?option=com_content&task=view&id=31&Itemid=74&jumival

The primary observation I would like to make today is one in which Commissioner Chilton apparently concurs. As he has stated here and previously, Chilton is disappointed with the pace of the ongoing silver investigation, as are we all. Now almost three years old, this is the longest investigation in agency history, to my knowledge. Disappointment, however, is not the right word; outrage is more appropriate. That there is an investigation confirms that something may be wrong in silver; otherwise the agency is just wasting taxpayer funds. There is no good reason for any investigation to take this long. That Commissioner Chilton writes to share his concerns about important matters related to silver also confirms that something may be wrong in silver.

We don't need any more confirmations that something may be wrong in silver. We need for it to be decided if something is wrong or not for a very simple and glaring reason. If there is anything wrong in silver (as I allege), then that something wrong is a crime in progress. That's the critical distinction. That's what matters most. I'm not merely alleging that something wrong took place in the past that is non-recurring in nature. On the contrary, the silver manipulation is ongoing. It will be ongoing and a crime in progress for as long as the concentrated short position exists and the commercial crooks continue to behave collusively.

Regulators, law-enforcement officials and public servants are expected to deal with all matters under their jurisdiction in an appropriate manner. When a little old lady is getting mugged in front of the police station, it is not appropriate for the response to be a long drawn out investigation and a deliberation on new procedures to handle future muggings. The mugging must be stopped immediately and all other matters can wait. The CFTC must deal with this silver manipulation similarly – first things, first. Stop the silver manipulation immediately and then sort it out. A crime in progress is a call for all regulatory hands on deck and battle stations, not a call for further deliberations. How many crooked takedowns, ala May 1, do we have to endure before the Commission figures this out?

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