

Dec. 13, 2009 – Landmark Legislation

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As I indicated in this week's King World News Interview, there was a late-breaking news event that was announced moments before the interview was recorded. By now, you have undoubtedly heard or read of the historic and landmark legislation passed by the House of Representatives on Friday, H.R. 4173, or the Wall Street Reform and Consumer Protection Act of 2009.

http://www.house.gov/apps/list/press/financialsvcs_dem/presscfpa_121109.shtml

While the Bill must still get through the Senate before it can be enacted into law, there is much potential significance to silver and gold investors. As is my custom, I will narrowly focus on that specific aspect of the legislation. But I would be negligent if I didn't acknowledge one glaring feature of the legislation, namely, it pitted the House directly against the interests of the big banks. It's not often we witness such a clash, and it is rarer still when the banks don't prevail, even temporarily. Importantly, the Chairman of the CFTC, Gary Gensler, issued a short statement commending the House for passing the Bill.

<http://www.cftc.gov/ucm/groups/public/@newsroom/documents/speechandtestimony/genslerstatement>

In turn, I would like to publicly commend Chairman Gensler for his dedication and tenacity in orchestrating the sections of the Bill dealing with OTC derivatives. I have watched the process as closely as possible, and it is my opinion that Gensler has almost single-handedly shaped the proposed treatment of these transactions, much to the detriment of the big banks and very much to the benefit of the American people. Those who continue to suggest that he is a tool of Wall Street or Goldman Sachs just don't know what the heck they are talking about. For his efforts in shaping this legislation, for the in-fighting and for fending off the counter-attacks from the big banks and their army of lobbyists, Gary Gensler came through as a genuine American Hero.

If you told me a year ago, or even six months ago, that I would be calling any CFTC Chairman a hero, I would have suggested that you adjust your medications. (Perhaps that is your advice to me now.) As recently as eight months ago, I wrote what I thought was a strong attack on the CFTC in a rebuttal of a response from a Commissioner.

<http://news.silverseek.com/TedButler/1238529622.php> But conditions change and we must change with them. Today, we have clear evidence of a CFTC Chairman saying and doing the right things. Not to recognize that would be wrong.

While the landmark legislation didn't address silver specifically, it dealt with all the issues that pertain to the silver manipulation, such as transparency, consumer protection, the limiting of position size and systemic risk. The legislation, if enacted, will make it harder to justify how one US bank, JPMorgan, can hold such an outsized concentrated short position as it does in silver and gold.

Of course, Gary Gensler has yet to do the right thing in silver. In fact, in allowing the silver manipulation to continue as a crime in progress, it's hard to argue that he isn't doing the wrong thing. But I think that is a function of just how difficult the silver situation is to resolve, and not a matter of Gensler's own integrity. There's no way to resolve the silver manipulation without disruptive price action to the upside. That is poison to any regulator. It is further impossible to get a consensus among the full Commission to any solution involving disorderly pricing. It's a lot easier spearheading legislation on a specific issue, no matter how complicated, than getting four other Commissioners to do something bold and provocative when it is against strong industry interests. Like upholding and enforcing the law.

Still, Chairman Gensler is smart enough to know that the silver manipulation will be resolved by the market, if he doesn't act. In the looming physical shortage on our doorstep, it will not matter what anyone does or says, once that shortage passes the doorway. It will be too late. The trick for Gensler is to get ahead of this problem. The time for him to act is now. I am hopeful that with his work on the House legislation done for now, this clears the way for him to finally deal with silver.

He was nominated for office 12 months ago. He was approved and sworn in six months ago. He started talking about position limits and concentration five months ago. He held public hearings on position limits. He solicited public comments, with 90% of the responses pertaining to silver. Many hundreds of investors, perhaps more than a thousand, have written to him asking about position limits in silver. He has yet to respond. I have written countless articles pointing out the documented silver manipulation. I have explained, from every possible angle, why silver position limits need to be reduced and phony exemptions to those limits need to be thrown out. I have personally sent Chairman Gensler all those articles. We still await action or a response.

It will be how Chairman Gensler deals with the silver situation that will determine his legacy. The stakes are high. He has already established himself as the greatest chairman in CFTC history. He has already established himself as an honorable public servant. For his efforts on this just-passed landmark legislation, I don't hesitate to call him a genuine American Hero. He has much left to accomplish. I just pray he doesn't throw it all away by not addressing the silver manipulation next.

Ted Butler

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