

Dec. 28, 2009 – One Consequence of Lying

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Last week, I wrote how the CFTC appeared to have been caught in a lie with their May 2008 report denying that a short side concentration caused silver prices to be manipulated. The CFTC's failure to acknowledge that JPMorgan needed to assume a massive short position from Bear Stearns, in order to keep silver and gold prices from exploding, contradicted the essence of the report. Once again, I thank those who took the time to write to CFTC officials about this severe breach of the public trust.

I left out what this deception of the public trust means to investors. This was intentional on my part, as I did not deem it appropriate to both condemn the CFTC for their misleading report and also celebrate the consequence of their action to silver investors. Additionally, I chose to make public the condemnation article in order to bring as much pressure on the regulators as possible, whereas I feel I owe it to subscribers to present the investment implications privately. Accordingly, I will not be placing this article in the public domain.

Sometimes, I read comments about the futility of writing to the regulators on these issues; about how it's a waste of time or a tilting at windmills. I have a different view. Rather than just write an article moaning and groaning about some perceived infraction, I feel it's important to go on the record with a specific complaint to lend credibility to the effort. By making it a formal complaint, it puts the regulators on notice. Also, it forces the complainant (me) to be darn sure of the validity of the complaint, to avoid public embarrassment if there is a simple and legitimate explanation. Even if it's a long shot, it may force the regulators to do the right thing. Yes, the manipulation goes on in silver, but the CFTC has been forced to run three investigations in the past few years, so the complaints have had some effect. And now that the allegations have become so specific regarding the concentrated short position, the CFTC has had a more difficult time in explaining things away. Plus, the general level of awareness and public education on these matters has grown tremendously as a direct result of the allegations and the delay in the CFTC in answering. To me, that's the power of formal specific complaints, especially when many make those same complaints.

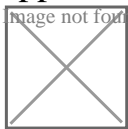
As bad as the CFTC's actions were in lying to the public about the true state of the short concentration in silver and gold, the flip side to their misrepresentation is a wonderful gift to investors. This isn't that complicated. The CFTC lied about the true condition of the silver market because it knew that any revelation about the actual state of the circumstances would have set off a headlong rush by investors into silver. Here, you must rely on your common sense and the known facts.

We know there is a massive concentrated short position in COMEX silver futures by virtue of the CFTC itself and the various statistical reports it and Treasury Dept publish. We know that this concentrated short position is out of line with any other major market in terms of futures market share. We know that one US bank, JPMorgan, sits at the center of the concentrated short position, holding 200 million ounces net short in COMEX silver futures, or 40% of that market. We know that the CFTC is holding its third silver investigation in five years because of public complaints following the publication of the August 2008 Bank Participation Report. That report revealed that one or two US banks held 25% (currently over 30%) of the world mine production of silver, a percentage never approached before in any other commodity. We know that the short concentration towers over the long concentration in COMEX silver to an extent never seen in any major market. Finally, we know that manipulation cannot exist without concentration.

We know that massive short selling will (when first sold) have a depressing influence on price. Later, when a massive short position is bought back, the opposite will occur, i.e., prices will rise. Even assuming the short position is closed out by delivery (if the shorts have the physical material), unless brand new massive short selling occurs, prices shouldn't be depressed by delivery alone. Our common sense tells us there is no logical economic explanation for the existence of the concentrated short position in silver, not when world inventories are the lowest in hundreds of years and investment demand is starting to boom. Lastly, we know what a mess the big financial institutions have created with their irresponsible derivatives trading in everything from oil to mortgages to credit default swaps. Our common sense tells us these are the last entities that should be massively short silver (and gold).

Here's a graph (courtesy of my friend Carl Loeb) which depicts how unusual is the short position of US banks in silver and gold, compared to the other tangible commodities listed in the December Bank Participation Report. I've normalized the graph to express the equivalent quantity of the amount held gross short compared to the world annual production of each commodity. Days of world production is the common denominator that permits an apples vs. apples comparison.

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The gift to silver investors from the lying by the CFTC is apparent in the facts and when we apply our common sense. The massive short position has, by definition, created a bargain basement price level in silver. The reason the short position is so concentrated, or held in very few hands, is because no one else is reckless enough to hold such a large short position, given the circumstances in silver. If silver were too high in price, many entities would be rushing to sell. This is the essence of the free market. Too high of a price, buyers become scared and sellers become plentiful. Too low of a price, many come in to buy and the sellers become few.

Right now, we have many investment buyers in silver, more than at any time in history. The investment buyers are growing in number and will continue to grow as long as prices stay too low. More investment silver, by more unique and separate buyers, was purchased in 2009 than in any year in history. Concurrently, more paper silver contracts were held short by the fewest number of entities in history. This should scream out at you. Currently, the greatest historical investment rush to buy silver by diverse entities, coexists with the largest paper short position held by the fewest number of entities. This is not a set up that can last indefinitely. Something has to give. Your common sense should tell you that the many buying real silver will overcome the very few selling paper silver.

This is what silver investors should celebrate in the CFTC's lies. Yes, it's wrong for a government agency to intentionally mislead the public. It probably constitutes criminal behavior. That's why I complained to the Inspector General and asked you to do the same. But it also is a gift to silver investors. This is like being able to walk and chew gum at the same time, namely, it's not that difficult. Complain to the authorities, as that's the right thing to do in general. But make sure you are fully loaded with silver first, as that's the right thing to do for you and your family's financial welfare.

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