December 12, 2012 – My Worst Fear

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Recently, I have received several emails containing conversations between readers and CFTC Commissioner Bart Chilton. They discuss my allegations of a silver price manipulation because of the large concentrated COMEX short position held by JPMorgan. Chilton has always been quick to respond to those writing to him, a rarity for high officials. Now Commissioner Chilton is trying to explain away the allegations of a silver manipulation differently than he has in the past. I found this disturbing and it suggests the CFTC may never do anything about the silver manipulation. Here is my response in an email to Chilton:

Â?Commissioner Chilton,

Â?A reader sent me the following reply from you to him about the short concentration in COMEX silver Â?

Â?Â?Hi Tom
Â?The Commitment of Traders report does not show net positions. So, simply adding all the largest longs up, or looking at one of them, only give you one piece of myriad portfolio. Those reports also don't give over the counter positions. We look at all of that by trader. While there are a few (at times) traders that have been in excess of what our belated position limits would require, the sizes aren't like they were a few years back. I saw one trader with 22 percent net short a while back. We obviously look to see what that trader did at volatile times. And, for those that claim they know who the traders are, I'm not sure how they make such determinations. Certainly it isn't based upon our reports.
Â?Â?Best,
Â?Â?B'Â?

Â?In all due respect, much of your reply is factually incorrect. Every long form Commitment of Traders report does show net (and gross) positions for every commodity by the 4 and 8 largest traders on both the long and short side of every market. The whole point of your agency keeping concentration data is to insure that no one trader or small group of traders hold such a large net position on a regulated exchange as to manipulate the price. For you to say otherwise is wrong.

Â?While over the counter positions aren't included in COT data that is beside the point. I am not alleging that the OTC market is manipulating the price of silver; the manipulation is emanating from the concentrated position on the COMEX, a market under your jurisdiction. A concentrated position on the COMEX (the world's leading silver market) which manipulates the price of silver can't possibly be excused just because an OTC position may have been created to take advantage of the manipulated price (by the manipulator itself). Nor would it be legitimate for an entity to acquire physical silver after manipulating the price lower via a concentrated short COMEX position. In other words, it doesn't matter what positions may exist off the exchange, if the position on the exchange is so concentrated as to constitute manipulation.

Â?I don't know where you have come to learn this incorrect information, but it has clearly prevented you from fulfilling your obligations as a regulator. In the current COT, for positions as of the close of business December 4, the net concentrated short position of the 4 largest traders is listed at 38.1% (versus 11.3% on the long side). http://www.cftc.gov/dea/futures/deacmxlf.htm This translates into 54,002 net short contracts held by the 4 largest traders in COMEX silver futures. By the way, since there are over 36,000 contracts listed as spreads in the companion disaggregated COT report that means the true net position of the 4 largest COMEX shorts is more than 51.1% of the market, not 38.1%. This is the largest concentrated net short position in COMEX silver in more than two and a half years.

Â?As I have previously explained in numerous articles that I have sent to you and the other commissioners, your agency disclosed (quite inadvertently) the identity of the biggest COMEX short seller as JPMorgan, in explaining to various lawmakers that the large and sudden increase in the US bank category in COMEX silver futures in the August 2008 Bank Participation was the result of a merger earlier that year that could only have been the JPMorgan takeover of Bear Stearns. I'll send you a sample copy on request.

Â?Currently, JPMorgan appears to hold 36,500 contracts (of the 54,002 contracts held by the 4 largest traders) on a net basis. After deducting spread positions from total open interest, JPMorgan's net short position is more than 34.5% of the short side of the market, much greater than the 22% figure referenced in your response.

Â?It is clear that you are operating on faulty information which may explain why your agency hasn't intervened in the ongoing silver manipulation. While this is surprising and disappointing, it also creates the opportunity for you to set the record straight. Many citizens and market observers feel your agency has dropped the ball on terminating the silver manipulation. I'm sure you would agree that it is not healthy for so many to doubt important public regulators and this may present an opportunity to assuage such growing doubts.Â?

Ted Butler

Commissioner Chilton's response to the reader confirms my worst fear Â? the reason the CFTC hasn't moved against the silver manipulation is that they don't understand it. Even though the agency publishes remarkably detailed and accurate data on concentration in their weekly COT reports, they apparently don't comprehend what it is they are publishing. If a problem is not recognized, it is unlikely to be remedied. I've always considered Chilton to be one of the Â?good guysÂ? at the Commission, so it is quite disheartening to see him misinterpret his own agency's data.

This is no small matter. The CFTC's main mission is to guard against price manipulation, the most serious market crime possible. It distorts the free market, thereby affecting everyone, consumers and producers alike, not just active market participants. The one sure cause of manipulation is a large concentrated position held by one or a few collusive traders.
The whole purpose of position limits is to diffuse and prevent concentration. Whether it was the Hunt Bros on the long side of silver in 1980, or the Sumitomo copper trader known as Â?Mr. 5%Â? on the long side of copper, or JR Simplot on the short side of Maine Potatoes in 1976, the common denominator of all market manipulations has been the concentrated holdings of one or a few traders. So it is with JPMorgan on the short side of COMEX silver today. What is shocking is that our most important commodity regulator, the CFTC, has failed to recognize this.

As citizens, we all have the right to petition the regulators to move against perceived market crimes. I intend to continue to exercise that right and suggest you do the same. I'd also like to help educate the regulators as well, as far as understanding their own published reports. Lord knows, they could use the help.

In closing, I need to mention the big increase just reported in short interest in shares of SLV, the big silver ETF. After mostly minor changes over the past few months, the short position jumped sharply in the two weeks ended November 30 by more than 6 million shares, to over 19.1 million shares. We are just under the shorted shares being equal to 6% of total shares outstanding, from 4% previously. This is still way down from the peak of 12%, but zero percent short is the best.
http://www.shortsqueeze.com/?symbol=slv&submit=Short+Quote%99

I have decidedly mixed feelings about the sharp jump in shorted shares. While still lower than the level at this time last year (and my run-in with BlackRock), any further increases would require some response. Truth be told, I've been somewhat surprised about the lack of big increases in the shorted shares of SLV on the price move up that began in the summer. I won't lecture on the fraud and manipulation of short sales in any hard metal ETF, but neither have I changed my mind that this shorting is both. The reason I have been expecting increases in SLV shorting is that it is so easy to short sell the shares instead of rounding up physical material in any market considered to be tight.

My main point on the big increase in shorted shares of SLV, at this time, is that it seems to confirm my overall assessment of wholesale physical silver tightness. That tightness has been seen primarily in the unusually rapid turnover in COMEX (and SLV) inventories. It is easy to imagine SLV shares being shorted if the actual metal wasn't available. I think SLV shorting is wrong, but I am excited by the prospect that it is another signal of physical silver tightness. The one sure cure to silver paper shenanigans of all types is a physical shortage.

Ted Butler

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Silver – $33.65

Gold – $1715

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