December 17, 2010 – A Show Stopper

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For all those who did watch the historic open CFTC meeting yesterday on position limits, no, your eyes didn't deceive you Â? the meeting ended strangely and abruptly. No vote was taken on the staff's proposal and you should be scratching your head at what actually transpired. As strange as the sudden adjournment to the most important meeting in CFTC history might be, there was a wealth of knowledge and confirmation to be drawn from it.

Let me give you the bottom line first. This was perhaps the most significant and positive development towards ending the long-term silver manipulation that I have witnessed in my 25+ years of effort to that end. As such, silver investors should come away from this meeting with a stronger conviction of how things will turn out in the long run.

Yes, I know the meeting ended abruptly and in disarray. I know there are deep differences between the five commissioners on the matter of position limits, even though such limits are now mandated by law. I know that the CME Group is pulling out all stops to prevent, delay and water down any position limits that may be enacted. But I also know that there is one ugly and glaring truth bubbling not far beneath the surface that underscores all the dissention and turmoil revealed at the meeting, namely, that this is all about silver and its manipulation. If it weren't for silver, this meeting and the issue of position limits would be a non-event. There is no current concentration problem in any other commodity that demands attention.

But because of the fact that silver has been manipulated in price and any reasonable enactment of legitimate position limits would immediately terminate that manipulation, it has become necessary for the CME and JPMorgan to derail any move towards limits by any means possible. It is important for you to keep this fact in mind at all times, as it is the central issue. I'll be blunt – the CME Group, when it comes to market regulation in general, and silver specifically, has not and does not do the right thing. They are only interested in what's good for their bottom line and the hell with everyone else. The same goes for JPMorgan when it comes to their silver dealings. I suppose that would be OK if profits were all that mattered, but the CME is designated as a self-regulatory organization by law, which means they have special responsibilities as a front line defense against market wrongdoing. Those are strong words and I do not make them lightly. I further think the facts support such strong statements.

What actually happened at yesterday's meeting? As far as the level of position limits, the staff proposed the formula that was previously presented for energy markets a year ago, namely, the 10% of the first 25,000 contracts of open interest and 2.5% of open interest above that amount formula. Such a formula, when applied to silver would result in a position limit of around 5,000 contracts, only slightly below the current obscenely high 6,000 contract COMEX accountability limit and far above the 1500 contract limit suggested by thousands of members of the public. This formula would result in an approximate 16,000 contract position limit in gold, almost 3 times the current COMEX 6000 contract accountability.

The only good thing I can say about this proposed formula is that it would finally address the idiocy of the CME maintaining an identical 6000 contract accountability for both COMEX gold and silver for so many years. That any formula, based upon any number of objective factors must radically alter the current identical limits in COMEX gold and silver has been a major point of mine for many years. That the proposed CFTC formula does so proves that the CME has been negligent in addressing this issue, as well as many other issues related to the silver manipulation. The CME could care less about doing the right thing without a gun to their heads.

But please don't assume that just because the proposed CFTC formula results in a long overdue realignment between COMEX gold and silver position limits and proves that the CME is arrogant and recalcitrant on any legitimate regulatory action, that the proposal is acceptable. A 5,000 contract limit in silver still represents 25 million ounces that any one speculator could hold, long or short. Considering that the total US annual mine production runs about 35 million ounces a year and no US miner produces more than 12 million ounces domestically, granting any speculator the ability to hold twice as much as the largest US miner produces is simply nuts and against the spirit and intent of basic commodity law.

In addition, the same CFTC proposed formula, if applied to other commodities, would turn existing limits on their heads. For instance, if the proposed formula was applied to wheat it would result in an increase in the current federally-mandated hard position limit of 6,500 contracts to 14,000 contracts. The recent Senate Wheat Report, by the Permanent Investigation Subcommittee, suggested lowering the wheat limit to 5,000 contracts. I'd like to see how Senator Carl Levin would react to a proposal to increase the wheat limit to 14,000 contracts.
http://news.silverseek.com/TedButler/1246302473.php

My point is simple Â? the proposed CFTC open interest formula, is not suitable to many commodities, especially silver. Besides, this is an issue in which the public has spoken loud and clear and it is downright un-American to solicit public opinion and then to callously ignore that opinion without an explanation.

In the most ironic twist of all, the CFTC proposal is modeled after the original proposal from the CME itself, first introduced in their white paper a year ago.
http://www.investmentrarities.com/ted_butler_comentary09-21-09.shtml

My sense is that the CFTC was trying to be as accommodative to the exchange as possible, in order to ease the way into a new position limit regime as required by law. Instead, for reasons that should become obvious in a moment, the CME turned increasingly hostile to any change in position limits. My advice to the CFTC is to stop trying to reason with the CME and take the proper measures to end the silver crime in progress.

OK, so let me answer the question that should be running through your head, namely, if the CFTC's proposed formula is inadequate to silver and they couldn't even get an agreement on that at yesterday's meeting, then what the heck am I smoking to suggest that this meeting was the most significant and positive development I have witnessed over the past 25 years? Well, first let me explain that it was not just the meeting, but other factors that occurred over the past week or so that led me to this conclusion.

To start with, Commissioner Bart Chilton, much to his credit, made a number of recent statements leading up to and at the meeting that gave me great encouragement. On more than one occasion in the past week, he has confirmed that a single entity had controlled 35% to 40% of the short side of COMEX silver earlier this year. (He didn't identify JPMorgan as the entity, because he is precluded by law from doing so.) Chilton also indicated that he thought the 1500 contract limit for silver is reasonable enough to be discussed openly. He also stated at the meeting that the Commission is not conflicted by the profit motive in setting regulations (as opposed to the CME). Certainly, these are all ideas that originated with me and Chilton deserves much commendation for openly stating them. Of course, he must be more careful than me in his choice of language and would never refer to anyone as a crook, as I do regularly. But don't underestimate the significance of him confirming many principals I have espoused, as it never happened before from anyone from the agency.

But it was something that Chilton said in a speech two days before the meeting that set me straight up when I read his words. In his speech, Â?In-Laws and Outlaws,Â? http://www.cftc.gov/PressRoom/SpeechesTestimony/CommissionerBartChilton/opachilton-36.html and in his opening statement at the meeting, Â?Position Points,Â? http://www.cftc.gov/PressRoom/SpeechesTestimony/CommissionerBartChilton/chiltonstatement12 he said something that rocked me. In essence, Chilton proposed that any time a trader hits the proposed position limit and is holding a hedge exemption from position limits that the agency would closely review the details of the underlying swaps that allowed for the exemption in the first place. Importantly, Chairman Gensler ratified Chilton's approach at the hearing and directed the staff to initiate this approach immediately. The chairman's exact words were, Â?Make it so.Â?

So why was I rocked by this turn of events? Because I thought the agency was already doing this on a regular basis. Then it dawned on me that this function of verifying whether the OTC swaps position that allowed JPMorgan to hold the obscenely concentrated COMEX short position were legitimate or not was handled by the CME as part of their role as a SRO (self-regulatory organization). The CFTC never got to examine the details of what swaps justified JPMorgan's concentrated silver short position on the COMEX, just the CME. Marvelous. In an instant, I knew how the silver scam was allowed to continue for as long as it did. The exchange decided what OTC swaps were legitimate, not the CFTC. But with Chilton's Position Points approach, it would now be the agency doing the verification. Talk about a game changer.

I feel this is such a significant development, that I am going to say something I never would have thought I would have said before. Suddenly, position limits don't matter. Let me clarify that. It doesn't matter if the CFTC is forced by the CME to delay implementing legitimate position limits in silver. We'll get to the 1500 contract level of limits that I had long proposed for silver eventually, just not the way I had envisioned. Now I believe we'll get to those limits only after silver makes its big price move, not before. This Â?position pointsÂ? approach by Chilton takes precedent. Since this is a radical change for me, I reserve the right to change my mind again; especially considering that the meeting ended barely 24 hours ago. But I think you subscribe because you want me to speak my mind when I have strong feelings.

What am I basing this radical change on? Here, I have to speculate on what I think the CFTC will find when they examine JPMorgan's swap book. But mine is not a new speculation, but one I had written about before in many article, starting more than 7 years ago. When the CFTC opens JPMorgan's swap book, I believe they will find it littered with Chinese names. Here's an article from a year ago that also contains links to earlier articles on this theme http://news.silverseek.com/TedButler/1252075929.php

Here's why this is so significant, in my opinion. JPMorgan must have some reason to justify the big concentrated COMEX silver short position. If they claim that they are long silver OTC swap positions as an offset to their COMEX short position, it becomes critical that the CFTC inquire who is holding the short side of the OTC silver swaps. My belief is that such an inquiry will reveal it will be Chinese interests on the short side of the swap. Such a finding will lead the CFTC to conclude that it is really China holding the concentrated silver short position and they are using JPMorgan and the CME Group as their dupes to carry out the silver manipulation. This wouldn't absolve JPMorgan or the CME for their enabling of helping China manipulate silver, but actually make it worse. A foreign super power and clear rival to US national interests being aided and abetted in the serious market crime of manipulating the price of a vital world commodity by leading US financial firms is almost too outrageous to contemplate. Yet that is exactly what I think has occurred.

Further, if my premise is correct, not only has the CME looked the other way when examining the offsetting OTC swaps of JPMorgan, it means that they also looked the other way when Bear Stearns held the big concentrated COMEX silver short position and AIG Trading before them. In other words, the CME got into a long term habit of looking the other way. It also explains why they are so opposed to any legitimate reform of the concentrated silver short position, by way of legitimate position limits or by any other manner. In a way, I hope I am wrong about all this because of the serious ramifications, but all the pieces fit.

I'll leave it for another time to discuss all those ramifications, but I'll leave you with this. What makes manipulation the most serious market crime possible is because it distorts the law of supply and demand and misallocates capital resources. Were it not for the long-term silver manipulation and the distortion of the price, we would not be on the verge of a physical shortage.

Ted Butler

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