December 3, 2011 – Weekly Review

Weekly Review

Despite some late softness on Friday, the price of gold and silver snapped back this week, recovering the losses of the previous week. Gold finished $67 higher (4%), while silver jumped $1.70 (5.5%).   As a result of silver's slight outperformance, the gold/silver ration tightened in a bit to around 53.5 to 1. The relative performance of each metal has been in a fairly tight trading range since the dramatic 30% silver price smash of September, the second such deliberate 30% takedown in silver this year. This still appears to me to be an opportune time to switch gold positions to silver and accumulate silver on an outright basis.

Conditions in the wholesale physical market for silver still appear tight for most of the indicators that I normally monitor. The turnover in COMEX warehouse stocks remains extremely active, despite yesterday's report of no movement. The continued heavy turnover in inventory (actual movement in and out) once again stands in contrast to the low number of deliveries and remaining open interest in the current December delivery of the COMEX silver futures contract. This has been the case recently for what had been big delivery months in silver. Something is a bit out of kilter in my mind with very active silver inventory turnover and comatose futures delivery patterns, and I can't quite put my finger on it. But I still know that you don't move truckloads of silver in and out of the COMEX-approved warehouses on an almost daily basis for no good reason. The only plausible reason I can come up with is that turnover is high because demand is great and the stuff already there isn't fully available, necessitating new silver being brought in constantly. That suggests physical tightness to me.

Also on the wholesale physical front, there was a chunky 2.5 million ounce deposit into the big silver ETF, SLV one day this week. What seemed unusual to me was the exact timing of the deposit, which came in too soon for normal SLV volume/price patterns to be considered a plain vanilla deposit caused by investor demand for shares. The timing was not quite right. For that reason, I think (hope) the metal came in to close out some of the big short position in SLV shares. I'm going to publish my SLV report that I promised previously on Wednesday, but I would like to talk about the SLV short position a bit now. I was encouraged that the new short position report, which was released earlier in the week, indicated a decline in the short position in SLV of more than a million shares, down to just under 23 million shares for positions held as of Nov 15, http://www.shortsqueeze.com/?symbol=slv&submit=Short+Quote%99

I had commented previously that I was hopeful that the SLV short position would decline in the upcoming short share report as of Nov 30, but was unsure how the Nov 15 report would read. By the way, I know it's somewhat confusing to many that the time periods for the statistical reports I reference are all different. The COTs are weekly, the Bank Participation Report is monthly and the share short report is every two weeks (and delayed for almost two additional weeks for reporting purposes). Hey, I don't publish the reports or determine when they are published; I just try to interpret them.

The reason I am hopeful that the short position in SLV may decline in the upcoming report (due a week and a half from now) is that the price of silver had declined pretty sharply in the Nov 15 to 30 time period, by as much as four dollars. I am hopeful that the crooked SLV shorts used the opportunity to cover short positions during that takedown. Likewise, I am hopeful that the big physical deposit in the SLV was also used to cover more short positions. I will be very disappointed if the short position in SLV doesn't decline in the next report. Let's face it Â? the 23 million share short position, while down substantially from the 37 million share short position earlier in the year, is still more than 7% of all SLV shares outstanding. This is still an obscenely large short position by any standard, but especially so in a hard metal ETF. The short position in such an ETF should never be more than 1% tops, in my opinion. (Let me interject here that I have not sold, nor do I plan to sell any SLV shares owned).

I am hopeful that the short position problem in SLV (and GLD) is in the process of being resolved. I will know more after the next short share report is released. There were some other signs in the just-released report that kindled my hope. It's no secret that I hold the Trust's sponsor, BlackRock, as being responsible for ensuring that the short position in SLV comes down. They have a fiduciary responsibility to protect SLV shareholders' interests. Allowing an enormous short position to exist in SLV is most definitely not in SLV shareholders' best interest. Anyone shorting shares in SLV does not deposit silver to back those shares and more than 7% of current shareholders do not have metal backing on their shares owned. This is fraudulent to SLV shareholders. The reason it is also manipulation is that by not securing and depositing the 24 million ounces in real metal, the SLV shorts are contributing to the artificially depression of the silver price.

The most recent short report indicated an increase in the short position of GLD, the big gold ETF run by a different sponsor, State Street. In contrast, the smaller gold ETF, IAU, which is run by BlackRock, experienced a notable decline in its short position (you can get the details by typing in those symbols in the link above). The two hard-metal ETFs run by BlackRock experienced reductions in share short positions, while the big gold ETF run by State Street saw an increase. This may suggest that the decline in the reported and expected short position in SLV, plus the decline in IAU, indicates that BlackRock is getting the message. They better.

This is not an issue on which BlackRock should wish to make a stand. There is no easy defense against the allegations of fraud and manipulation in the shorting of hard-metal ETFs. That's why BlackRock has remained silent on the matter. All they have ever offered was that it wasn't their direct responsibility to control the size of the short position. That's nonsense; they collect many millions of dollars a year for running the SLV and for protecting the interests of shareholders. They are doing the collecting part alright, but not the protecting of shareholders part. Funny how that seems to be a commonality among large financial institutions. Reputation is very important to financial institutions and BlackRock may be risking theirs by not addressing this issue of the shorting of SLV. I think BlackRock may be moving behind the scenes to get this short position down substantially, if not completely eliminated. That was always my sole intent and purpose. If so, then great, mission accomplished. If not, then we must turn up the heat. There is no question in my mind that BlackRock is vulnerable on this issue.

Let me repeat here that the two key things to watch on the next silver rally of five or ten dollars or more are the concentrated short position of JPMorgan in COMEX silver futures and the short position in shares of SLV. If either grows significantly, that will be a clear-cut sign that the silver manipulation lives and that our efforts must be increased.

This week's Commitment of Traders Report (COT) was instructive, but not dramatic. The commercial total net short position in silver declined by 1000 contracts to 20,700 contracts. The big 4 (read JPMorgan) reduced its short position by 500 contracts, while the next 5 thru 8 largest traders added the same amount. My guess is that JPMorgan is sitting with 15,000 contracts net short on the COMEX. The raptors (the smaller commercials apart from the big 8) added 1000 contracts to their net long position, pushing it up to 17,700. The silver COT structure remains spectacularly bullish, as it has over the past couple of months. It's hard to imagine more speculative long liquidation, but silver is a crooked market dominated by big speculators masquerading as commercials.

The gold COTs indicated a slight increase in the total commercial net short position of 1100 contracts to 193,500 contracts. I stated that I thought there were errors in last week's report and those errors appear to have been adjusted. (For example, last week's increase of 13,000 contracts in the gross non-reportable short category was reversed this week. Such moves are virtually impossible to occur legitimately). The big 4 gold shorts did increase their short position by almost 7,000 contracts, but that follows a remarkable 24,000 contract decrease the week before. Even with the increase this week in the big 4 category, at less than 133,000 contracts held short, this is the smallest big 4 gold short position in four years. The gold raptors are still net short almost 21,000 contracts and that's a concern, but I am still struck by the small size of the concentrated short position in gold. My sense is that there is still much potential room to the upside in gold in COT terms, but the gold raptors will be looking to drive the price back below the moving averages. The gold COT structure is neutral to bullish, suggestive of continued price volatility. At such COT junctures, outside market influences may dictate price direction.

The reason I delayed the promised SLV discussion until Wednesday was because of new developments this week concerning the CFTC. First, there was a US Senate agricultural committee hearing that lasted nearly three hours http://www.ag.senate.gov/hearings/continuing-oversight-of-the-wall-street-reform-and-consumer-protection-act The hearing was originally scheduled to review progress on the Dodd-Frank Act, but the meeting was dominated by issues related to the MF Global bankruptcy and oversight. Several senators took the occasion to heap blame on CFTC Chairman Gensler for the MF Global mess. The attack on Gensler was also evident in a big Wall Street Journal editorial and coverage by CNBC, the financial television network. I did watch the hearings live and also followed the commentary surrounding it and will provide my take in a moment.

The second development was the filing of separate lawsuits late yesterday by two Wall Street industry trade groups seeking to overturn and eliminate the position limit regulations approved by the Commission in October. http://dealbook.nytimes.com/2011/12/02/wall-street-groups-sue-regulator-over-dodd-frank/ Please allow me to comment first on these lawsuits and then I'll return to Gensler and the criticism of him for MF Global. I find it interesting, although not surprising that of all the 18 regulations approved so far by the agency that the position limit regulation would attract two separate law suits. I think you know how important this issue is and that explains why more than 13,000 public comments were submitted on position limits, including as many as 5,000 on specific position limits for silver.

Quite frankly, I find the lawsuits insulting and intentionally misleading. I hope proponents of position limits, like Commissioner Bart Chilton, will rise to the occasion and effectively communicate why these lawsuits are bogus. Position limits are not intended to limit price volatility and set prices higher or lower. Position limits are designed for one thing and one thing only Â? eliminate concentration and manipulation. In fact, position limits are the only antidote against concentration and manipulation.

Claims of loss of liquidity and restrictions on bona fide hedgers by position limits are claptrap. Position limits are designed to limit speculators, not real hedgers who are always exempt from such speculative limits. Since the position limits approved by the Commission were set so high, less than 1% and even one-tenth of one percent of traders would be impacted by them. How much liquidity would be lost if one-tenth of all traders were restricted? Not much. The arguments against position limits are patently false and intentionally misleading.

Since the only purpose for position limits is to prevent and eliminate concentration and manipulation, what the trade group lawsuits are really all about is something unstated, namely, that they wish to dominate prices through continued concentration. The big Wall Street firms and banks want to be able to manipulate markets; that's why they are opposed to position limits. It's just amazing to me that these trade groups (nothing more than shills for JPMorgan and the CME Group) can attempt to pervert the system and lie about it so openly. They are desperate to prevent the camel's nose (position limits) from coming into the free market tent by any means necessary. A pox on their house.

The matter of the criticism being placed on Gensler and the CFTC for the failure of MF Global is similar. There is no secret that there is a great division in the land over financial regulation along political lines. I am not politically oriented, as I generally hold most politicians in contemp. So please don't read political meaning into my words. For the purposes of this article and this service, I am only interested in how developments may affect silver. Since I hold that silver is a manipulated market, I am most interested in anything that will end that manipulation.

When Gary Gensler was first approved and installed as CFTC chairman, I paid very close attention to what he said and did. I quickly concluded that this was a man that could aid in terminating the silver manipulation, if he did what he said he would do. I knew that silver wasn't his main concern, or even necessarily, of any concern to him. But if he brought about the changes in general that he proposed for the derivatives markets, unless he specifically excluded silver, those changes promised good things for silver as well. They still do. But the changes needed in the derivatives markets were so revolutionary and upsetting to the established way in which the business was conducted that great resistance to change would surely surface. That resistance is now at full force.

Don't kid yourself; the criticism for Gensler and the agency about MF Global is the resistance of the big Wall Street organizations, like JPMorgan and the CME Group, to the reforms being undertaken. That resistance has taken on a bizarre nature. Senators are criticizing Gensler and the CFTC for failing to protect MF Global customers when they know or should know that was the responsibility of the CME. The irony is incredible Â? the CFTC is being blamed (yes they deserve some blame) for what is a massive CME screw up and then the CME takes the backdoor approach of using their own failure to pressure the CFTC to give up important reforms, like position limits. If I wasn't witnessing it with my own eyes, I don't think I'd believe it.

Anything remotely connected to heap blame on Gensler and the agency is being deployed. Yes, Gensler worked with Corzine 15 years ago. So what, he worked with a lot of people. How about something substantive and not speculative? I have been critical of Gensler (and Chilton) in the past, as have many of you, for not moving quicker on the silver manipulation. I stand by that past criticism. But that's a far cry from the criticism he is receiving today, which is concerned with preventing any regulatory reform. There is a big difference between open constructive criticism to speed up reform and the sneaky criticism by weasels intended to derail meaningful reform for selfish purposes.

I am concerned enough about the current underhanded campaign to discredit Gensler and the move to genuine financial reform that I think the whole reform process is in danger. There's just too much political power against reform both visible and behind the scenes that to underestimate it would be a mistake. I think Gensler means well, but the tide of power is moving against him. I was not joking when I said the real crooks, like JPMorgan and the CME, were too big to be sued even though they needed to be sued. I admit it Â? the regulatory reform process that Gensler initiated is in serious jeopardy. This has little to do with my expectations for silver, so don't read anything into that. I'm speaking strictly about Gensler being outgunned by the collective power of the financial industry. It breaks my heart, but the financial crooks may overpower his consistent efforts to bring about meaningful reform. That's my takeaway for this week's events.

Let me respectfully offer Chairman Gensler a suggestion for how to remedy the current dire circumstance; a way to salvage financial reform and his promise to the American people. In fact, I think it may be the only remedy at hand. Now is the time for the agency to sue JPMorgan and the CME Group for manipulating the silver market. There is enough factual evidence in the two coordinated 30% takedowns in silver this year to prosecute both crooked organizations and others. Such a suit by the CFTC will turn the current situation immediately upside down. The agency would instantly go from defense to offense. The public would be enthralled by such an action, as opinion polls show that upwards of 80% of the public wants the big banks to be prosecuted. Once the case is made, it will clearly show the degree of concentration and manipulation present in the silver market, as well as the unusual nature of artificial pricing. It will force JPMorgan and the CME to answer the questions they have avoided to date. Only the CFTC can bring this about. Gensler must get the topic of conversation changed from what the Commission did wrong to what the real criminals at JPMorgan and the CME did wrong in silver.

I remember writing in the past (I can't place where or when) that how he deals with the matter of the silver manipulation will determine how his tenure as CFTC chairman would be judged. I still feel that way. For the sake of the country and our markets and his own personal legacy, I hope Chairman Gensler takes off the gloves starting right now.

Ted Butler

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Silver – $32.70

Gold – $1748

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