

February 20, 2013 – The Last Time?

The Last Time?

Well this could be the last time

This could be the last time

Maybe the last time

I don't know

The Rolling Stones – 1965

I've had this song bouncing around in my head recently, for the first time in quite a while. So long that in checking that I remembered the lyrics correctly (they're not that complicated, but it was a long time ago), I discovered Taylor Swift did a more recent song by the same name that I'm not familiar with. Please be assured that I am not trying to make light of the latest brutal takedown in silver (and gold) prices by changing the topic to music, but instead to advance the proposition that it may be the last time we experience yet another deliberate smash quite like this for some time.

First, let me establish that the price takedown over the last nine trading days (\$120 in gold and \$4 in silver) qualifies as being termed deliberate and then I'll tackle the last time premise. Especially in silver, I'm not sure what else could describe the decline other than deliberate. After all, there has been no indication of selling from existing silver investors either in physical holdings or in the silver ETFs (exchange traded funds); all the selling in silver has been on the COMEX in the form of paper contracts. Government-published data, in the form of the Commitment of Trader Reports (COT), have and will indicate heavy selling by speculators and technical funds and heavy buying by other speculators called commercials in COMEX silver futures. On this, few will argue. Some still insist that this is free market behavior, but many more grasp that what causes it to be deliberate is the consistency by which the commercials can get the technical funds to follow price signals controlled by the commercials (think HFT). That and the overwhelming concentration held on the short side of COMEX silver by JPMorgan. Silver didn't drop 4 bucks in two weeks for any reason other than deliberate commercial maneuvering on the COMEX.

Only you can decide for yourself whether you think the price smash was deliberate, but why would I suggest that this could be the last orchestrated price smash in silver for a long time? For one thing, it is usually how I feel after every big price takedown accompanied by significant commercial buying and technical fund selling. As it has turned out, my expectations that every time would be the last time hasn't been harmful because we've always had rallies after big COT clean-outs. Because silver is a manipulated market, I've always felt the manipulation would end and silver prices would soar when the commercials were as best positioned for it as was possible (aside from a physical shortage). By definition, the commercials are better positioned for a big silver price rally after big takedowns in which the technical funds sell heavily, enabling the commercials to buy heavily (like now). The commercials not selling heavily short into the next price rally would define the end of the silver manipulation to me. If and when that occurs, it will be a long time or a very high price on silver before the manipulative games begin anew.

Describing the ongoing silver manipulation is relatively easy, as is identifying the general market structure by the total net short position of the commercials. Since a bullish market structure gets more bullish as prices decline, once a position is taken on this basis, all that one can do is hold or buy more on additional price weakness. Admittedly, it's no fun most of the time when prices decline sharply, but until the pattern of prices bottoming out at the same time of extreme technical fund selling/commercial buying on the COMEX is invalidated, it remains the essence of the market in my eyes. But, aside from always feeling that this time is always the time for the final lift-off for silver, what is it that suggests to me that this is really the last time down for silver? There are a few special factors I have in mind.

It's getting beyond ridiculous that more observers than ever have heard or believe that JPMorgan is the big silver short crook. I certainly don't think that everyone who has heard or believes that JPMorgan is the big silver short on the COMEX could make a personal provable case of that because it's not that simple. But that's beside the point that many have heard it or believe it. I think I can make the case and I have tried to do so on these pages for more than four years, after I discovered that JPMorgan was the big COMEX silver short crook. I didn't start off so strongly in calling the bank crooked because I thought there were some extenuating circumstances in the JPM takeover of Bear Stearns at the request of the US Government. But as we have moved further away from the financial crisis times of 2008, any such extenuating circumstances cannot be used in defense of continued market manipulation.

I don't speak with many people, because I'm getting more private as I get older (I think), but no matter who I speak with I try to ask if they have ever known a situation in their life where they have witnessed someone openly accusing a leading financial institution of criminal behavior for years on end. I don't care if the person is 30 or 90 years of age, they have never witnessed such a circumstance. I happen to be the one accusing JPMorgan (and the CME Group) of criminal behavior in the silver market and even I can't recall a similar situation in my lifetime (and I was 18 when the Stones came out with "Last Time"). It's not like I'm trying to sneak one by JPM or the CME, as I send them everything I have to say about them. I know I am raising substantive issues in matters like concentration, position limits and a broken price discovery process in COMEX silver. So far, JPMorgan and the CME have ignored any statements that they are involved in an ongoing manipulation.

I don't see how it can continue that JPMorgan and the CME can ignore allegations of criminal behavior without some denial. I can understand how someone may feel they can continue to ignore the allegations, but since it is such a highly unusual occurrence to name such high-profile organizations as crooked, none of us has any experience in handicapping how it will turn out. In my case, I know I am going to continue making the allegations as long as the verifiable evidence allows me to do so. I may not know what JPM and the CME may do, but I have a pretty good idea on what I intend to do. At some point, I believe JPMorgan and the CME will be forced to address the allegations. I may live to regret that but that will probably entail a wider discussion of the matter, which is my prime goal. The role of JPMorgan and the CME in the silver manipulation cannot stand transparency and if that transparency comes about, I believe it will be the last time for the manipulation.

Another factor in the last time premise is the curious role of the federal regulator, the CFTC. We are now at the four and a half year mark in a formal silver investigation that the agency has yet to say just what it is that they are investigating. I do know many hundreds of you wrote to the Commission in August 2008 following my disclosure of an unnaturally large concentration by one or two US banks on the short side of COMEX silver and gold. Since the agency announced an investigation (their third in 4 years) in September 2008, it would seem the silver investigation they announced publicly was related to the concentration. But the truth is that the CFTC has never disclosed the basis for their investigation, even in the updates they have issued along the way. They are investigating silver, but haven't said why.

There's good reason why the agency has not been transparent in the current silver investigation. This is not a matter that can stand up to the light of day. Any truthful revelation of the facts involving JPMorgan's concentrated short silver position will show that the bank has manipulated the price of silver. It's obvious, especially in light of the blatant price action of the past two weeks that the agency (like JPM and the CME) does not want to explain why JPMorgan has been given a pass to hold such an absolute stranglehold on the COMEX silver market. That's also for good reason, as there is no excuse good enough to condone price manipulation. I know some observers try to suggest that JPMorgan is just hedging for clients, or off-setting silver positions elsewhere or just making markets to the technical funds. I can demonstrate why that is wrong. It has to do with the rule of law.

There is no provision in US commodity law or in US antitrust law that permits an intentional price manipulation or unfair market share by any single entity. This is basic and explains why the CFTC, as well as JPMorgan and the CME, have remained silent in matters related to the silver manipulation. I think the CFTC has been told to keep their hands off JPMorgan by someone higher up, probably as a result of the Bear Stearns takeover. It's got to be something close to that. But the problem is that no one is supposed to be above the law and no one in the government has the right to permit illegal behavior. No matter what was promised to JPMorgan in 2008, that promise can't include permission to manipulate the price of silver five years later. Obeying the law is not applicable to everyone except our largest bank.

I don't make a big deal out of it, but I bent over backwards singing the praises of Chairman Gensler when he came into office, based upon what he said he was interested in accomplishing. I had to stop when there was no appropriate action behind those words. In my mind, the only reason Gensler's words (and those of Commissioner Chilton) didn't match the resultant action expected had to be due to some type of overrule. Something is preventing the CFTC from performing its most basic mission of fighting the manipulation of silver. That renders the agency useless. It's the equivalent of the FAA having no comment if many commercial flights fell from the sky daily. Or the equivalent of the Department of Defense tolerating an armed invasion by a foreign power and instead of fighting back investigated the invasion for 4 years.

Just like the case with JPMorgan remaining silent much longer, I don't think the CFTC can ignore what's going on in silver much longer. Sooner or later, the agency has to say something. Just from the narrow perspective of those in the precious metals world, my sense is that the CFTC has about the worst reputation possible for a federal agency. That's no minor matter. We all may have gotten used to bad-mouthing the CFTC, but that is not the case with any other federal agency. As with JPMorgan, the CFTC has not done itself any favors by ignoring the silver manipulation, based upon the observations I can make. Certainly, this last takedown seems to have intensified the low regard in which precious metals community holds the agency. This suggests to me that the agency will soon speak out on the silver manipulation, perhaps due to some outside force. Any genuine and transparent review of what is occurring in silver (and gold) by the CFTC and that old song starts playing again in my head.

Obviously, I can't pinpoint the exact low in silver or gold, even though I think I know what's going on. I do know that we are already very advanced into this sell-off as measured by past and expected changes in the COT. Then again, we usually seem to go further than expected most of the time. Now that the commercials have succeeded in luring the tech funds onto the short side of gold (and I believe now silver as well) the final piece of the COT may be in place. At some point, the tech funds stop adding to short positions on lower prices due to risk parameters, i.e., the price drops too far below the moving averages. This is also fitting with my last time premise. In fact, it is more than fitting; it may be the most important factor of all. Everything I look at suggests we are severely oversold and due to bounce big to the upside. That is a perfect backdrop to this being the last time we go down like this.

Ted Butler

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Silver – \$28.30

Gold – \$1560

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