

## January 11, 2023 – Unfinished Business

While I have covered the over-the-counter silver derivatives position of Bank of America in two recent articles, following the Office of the Comptroller of the Currency's (OCC) quarterly derivatives report released a few weeks ago, it occurs to me I should provide an overview of the position seeing as it is so large. I have reported on how intentionally devious the OCC was in revising the format of its report to remove any transparency surrounding BofA's position and how the revision came too late in camouflaging the bank's exposure; but haven't yet fleshed out BofA's continuing predicament. Let me attempt to do so today.

Over the past year or two, I discovered that Bank of America had built up an absolutely massive short derivatives position in silver of some one billion oz or more. The genesis of the position was in a silver lease transaction with interests related to JPMorgan first lending the silver to BofA, which JPM knew in advance that BofA would then sell in order to convert the metal into cash. JPM then bought back the silver that it knew Bank of America would sell and the net result of the entire transaction was that JPM still had the original billion ounces of physical silver it lent to BofA and BofA was then obligated to pay the metal back to JPM someday. In effect, JPMorgan successfully doubled its long silver exposure, courtesy of BofA.

Precious metals loans, as I have concluded for decades, are scam transactions, devoid of any real legitimacy and the only question is who's getting scammed. In this case it was Bank of America and it's still hard for me to fully-comprehend just how stupid BofA behaved in this transaction. As dumb as dirt was also the OCC, for not only failing to see just how reckless was BofA in this transaction before I complained to it, but for then trying to cover its tracks by revising the format of its quarterly derivatives report (after the horses had bolted the barn).

By process of analysis, the average price at which Bank of America became short one billion oz of silver is \$23, which means that over the past couple of years, the bank has been both in the black and in the red by as much as \$5 billion, not terribly significant for a bank its size. That's because the price of silver has been bounded by roughly, \$5 from BofA's average price of its silver short position. As recently as 2 to 3 months ago, with silver prices around \$18, BofA was in the black for \$5 billion, while its counterparty, JPM, was in the red for that same amount (that's how derivatives work). Now with silver priced around \$24, there has been a \$6 billion flip in the mark to market of this particular transaction, to where BofA is in the red for \$1 billion and JPM is in the black for the same \$1 billion.

These levels of open and unrealized gains and losses are of no particular concern for the likes of banks the size of Bank of America or JPMorgan. The problem is what happens if silver does get finally uncorked to the upside; moving as many observers predict, to \$50 or much higher. At \$50, BofA would be in the red for \$27 billion and at \$100 silver, it would be out \$77 billion. Such losses would be potentially catastrophic to Bank of America and the financial system itself. For allowing such a situation to come into being, the OCC should be drawn and quartered for its regulatory malfeasance.

Since it now appears that the OCC is aware of BofA's predicament (by virtue of its heavy-handed revision to its quarterly derivatives report), it does not look likely to me that the OCC could be as negligent as letting silver explode to \$50 or \$100 or more, without taking action long before Bank of

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America suffered the many tens of billions of dollars of losses it would suffer in that circumstance.

I'm not implying for a moment that the OCC would or could do anything to prevent silver from climbing much higher, just that it will have acted long before that in arranging some type of settlement that bailed out BofA. (If I'm wrong and the OCC doesn't step in to bail out BofA quickly as silver explodes in price, then God help us all).

The logical question at this point, if my premise is close to being correct, is why hasn't the OCC stepped in already to arrange some type of settlement between BofA and whoever the interests related to JPMorgan that are on the long side and nip trouble in the bud? I would submit that's not as easy as it sounds, for the simple reason that over the past half-year or longer, BofA has been mostly in the black, with the JPM-affiliated long in the red, given that silver traded fairly consistently below BofA's average price of \$23. I don't believe that anyone in the US Government (or any other world government for that matter) has the power to force JPMorgan to take a loss on a transaction it knows will eventually be immensely profitable (OK, maybe if armored vehicles and joint special forces surrounded JPM headquarters).

My point is that the OCC is not likely to arrange a settlement until the financial fortunes of this transaction turn against BofA and in favor of JPM. Only at some higher price of silver could JPMorgan be persuaded to accept some type of settlement to let BofA off the hook. Is that at \$30, where JPM would make and Bank of America would lose \$7 billion or at \$40, where JPM would gain and BofA would lose \$17 billion? I suppose it may hinge on how many extra concessions JPM could wrangle from the deal. Anyway, that's how I see the current situation and all I can do is hope the OCC is as involved as I suggest, because if it is not so-involved, this could get really ugly (not for silver investors, of course).

Please remember that this accounting of the Bank of America OTC financial predicament is separate and distinct from my recent update on the roughly \$25 billion unrealized profit held by JPMorgan on its 1 billion oz physical silver position and 30+ million oz physical gold position.

Turning to other matters, on the strong suggestion from Jim Cook, president of Investment Rarities, Inc. (of whom I've been a paid consultant for 22 years), I took the unusual step of putting the Weekly Review in the public domain. Cook felt it summed up the unprecedented physical silver turnover in the COMEX warehouse to an extent that needed wider exposure.

<https://silverseek.com/article/special-note>

The article has turned out to be fairly-well read and to this point, I've uncovered no dispute of my portrayal of the actual facts of the physical movement, nor that the turnover in silver is as unprecedented today as when it first began nearly 12 years ago and that it has accelerated over the past year or two. Nor have I uncovered any disagreement with my basic explanation for why the unprecedented physical turnover exists and has persisted, namely, as a reflection of an almost insatiable demand for wholesale quantities of physical silver by industrial consumers and fabricators (as opposed to investment demand).

Then again, and herein lies the rub, neither have I found any agreement with my presentation and interpretation over the highly-unprecedented physical turnover or movement in the COMEX silver warehouses. After nearly 40 years of studying silver as closely as possible, I'm hard-pressed to

think of anything else more perplexing and I am struggling to understand why this easy-to-verify daily turnover and its meaning is continued to be ignored.

Please understand, I'm not looking for a pat on the back for showcasing this data for more than a decade (well, maybe a little), as my confusion runs much deeper than that. Today, there are scores of analysts and commentators who comment on everything associated with silver on a daily basis – many more than ever existed previously. This is a very good thing, because the vast majority seem to have become of the opinion that silver has been suppressed in price and will explode higher at some point.

Specifically, the number of commentators with a laser-like focus on the daily levels of the COMEX silver warehouse inventories, with particular emphasis on the registered and eligible categories is downright remarkable today compared to earlier times. This only increases my confusion about how the easily-verified daily physical turnover can continue to be ignored.

As a big believer in the Golden Rule (treat others as you would have them treat you), I've even tried to imagine what my reaction, as a silver analyst, would have been if I hadn't stumbled across the start of the unprecedented COMEX silver warehouse movement in April 2011 and continued to report on it non-stop since then? Speaking bluntly, I believe I would have been highly disappointed if I hadn't stumbled across it, but I sincerely believe that wouldn't have prevented me from assessing and analyzing the data in an objective manner. How could it be any other way?

The physical COMEX silver warehouse movement is unprecedented. This means it is not occurring and has not occurred in any other commodity. Full stop. The physical COMEX silver warehouse movement is completely documentable on a daily basis. Also, full stop. I would submit that had I not personally stumbled upon this unprecedented and documentable hard data circumstance in a commodity that I chose to focus on closely, that would not have resulted in me ignoring the data. That would be impossible for me to imagine. How could anyone ignore data that is unprecedented and easy to verify?

In addition, the COMEX silver warehouse movement, at least to me, translates into the most bullish evidence that we have approached the bottom-of-the-barrel in terms of the last remaining inventories available to industrial users and fabricators, before prices have to surge higher to uncover additional supplies, according to the law of supply and demand. If there's a better (or even another plausible) explanation for the turnover, I haven't heard it. That only adds to my bafflement as to why the turnover is largely ignored.

On one hand, I have observed the near-universal acceptance of the Commitments of Traders report as central to explaining price movement in silver (and gold), despite every type of denial over the early years as to why such data should not be relied upon. But the current refusal to even acknowledge the unprecedented physical movement in the COMEX silver warehouses is a different animal completely.

One doesn't need to absorb over time all the intricacies and technicalities involved in COT report analysis when it comes to the COMEX silver warehouse movements. It's simply a matter of pondering why so many truckloads of silver are being brought into these warehouses and so many truckloads of silver are departing these same warehouses on a daily, weekly and yearly basis for more than a decade and no such physical movement is occurring in any other commodity. This is as basic as basic gets – what could possibly explain the refusal or inability to see or acknowledge these basic

facts?

Let's face it, this is not an issue that I can see worthy of petitioning the CFTC or the CME Group (owner of the COMEX) about. The incredibly large and unique to silver physical turnover is as the result of decades of price suppression on the COMEX and the CFTC's complete failure to regulate. Calling on either concerning the unprecedented physical turnover would be akin to asking Count Dracula about his favorite blood type. To what purpose?

Instead, I'm convinced the best route to take with the highly-unprecedented and easy-to-document physical silver movement in the COMEX warehouses is to open it up to public scrutiny and examination. Let's face it the silver community is relatively tiny and often thought of as outer-fringe in many regards. A lot of that is well-deserved. Outsiders often look at claims of price manipulation as far-fetched, simply because it's hard to accept that such a price manipulation could exist for decades. A wider discussion of the easily-documented and unprecedented physical turnover in the COMEX silver warehouse might turn the discussion from the hard to believe to the hard to legitimately explain. Anything preventing such a discussion is the downside of the near-universally ignored hard data staring at us.

To be sure, whether the COMEX silver warehouse movement is eventually accepted by those who profess to have an interest in silver is moot in terms of its eventual impact on price. If it has the impact I believe lies ahead, it won't make a whit of difference in the end. In the interim, I'll just continue to shake my head at the collective avoidance of what is staring us in the face.

Turning to what to expect in Friday's new COT report for positioning changes in light of the quite strong price performance in gold and the rather rotten price performance in silver, I would imagine the report will reflect that disparate price performance.

Over the reporting week ended yesterday, gold rose as much as \$45 (to new highs) on what appeared to be heavier than normal trading volumes and with an increase in total open interest of some 32,000 contracts. No doubt there was significant deterioration (managed money buying and commercial selling), but hopefully not equal to the increase in total open interest. I'm hopeful a good chunk of the increase in total open interest is related to (phony) spread creation, since we are in the heat of the rollover period, as gold contracts are rolled from the lead Feb COMEX gold contract, mostly to April.

The price action in silver over the reporting week was indeed rotten, particularly relative to gold, as silver prices fell as much as a full dollar over the course of the reporting week, closing lower by more than 50 cents. Trading volumes were definitely on the low side, particularly when compared to gold and total open interest in silver fell by 2000 contracts, in stark contrast to the sharp increase in gold. (I would point out that silver is not in a notable rollover period, as is the case in gold). The only good news is that it's hard to imagine any real deterioration in silver's market structure and there's a good chance of positioning improvement.

Considering that the market structure was much better in gold relative to silver beginning around Dec6, thanks to silver's greater relative price performance and resultant positioning deterioration than seen in gold to that point, it's not particularly surprising in hindsight that things would have evened out since then (not that I predicted such would occur) with gold performing better pricewise and suffering greater positioning deterioration because of it. Now that relative pricing and positioning in gold and silver have appeared to have evened out, what next?

Are we about to experience one of those typical wash, rinse and repeat price flush outs to the downside for which the COMEX has become infamous, or have the recent strong indications of a sea change in the composition of the commercials on the short side of both COMEX gold and silver portending a profound change in the typical price outcome? Time will tell.

But considering the signals emanating from the physical side of things, particularly concerning the still largely-overlooked physical movement in the COMEX silver warehouses, it certainly doesn't strike this pilgrim as a time to be approaching things except as being fully-strapped in on the long side. Maybe the collusive COMEX commercial crooks can arrange yet-another price smash before the day of reckoning arrives, but the thought of trying to get cute and miscalculating instead is more than I could live with.

Ted Butler

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Silver – \$23.55 (200-day ma – \$21.22, 50-day ma – \$22.37, 100-day ma – \$20.72)

Gold – \$1882 (200-day ma – \$1788, 50-day ma – \$1775, 100-day ma – \$1736)

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