

June 7, 2017 – Then and Now

Yes, I'm still focused on the CFTC's announcement on Friday about gold and silver manipulation on the COMEX. And no, there's not much I would change in my analysis of it. I still think it's a very big deal. In fact, a close associate pointed out something that I hadn't thought of, that might be a big deal in and of itself.

My friend pointed out that my recent speculation about a coming explosive move upward in the price of silver was made well before Friday's surprise announcement by the CFTC. He suggested (and correctly so) that according to my analysis of the announcement, it sounded to him that I would consider it to be almost sufficient, by itself, to set off that explosion. Certainly, the core of my explosion premise involves an end to the silver price manipulation, so I can't say I completely ruled out potential regulatory engagement. But my friend's comment is valid in this regard – if I hadn't suggested the possibility of a price explosion previously, this announcement would have prompted me to do so.

Obviously, I'm still trying to connect all the dots and from every angle imaginable, including the timing of the press release. I wish I could be a fly on the wall and observe firsthand what prompted the Commission to announce, not only its first COMEX gold and silver manipulation finding in decades, but also its intent to pursue it further; but I can only analyze from known dots (facts). Therefore, I'm still convinced that the most plausible explanation for the timing of the announcement was that James McDonald, the new Enforcement Director, became persuaded to do something as a result of the letter I (we) sent to him in early April. I'll have some further comments about timing in a bit, but first I'd like to take you on a stroll down memory lane.

To be sure, one must be somewhat careful in recollecting past events, because there is a powerful human tendency to revise history as we might like it to be and not exactly as it occurred. In my case and on this matter, there is a powerful safety gauge in that I will try to recollect what I have already written on these pages and would ask you not to hesitate to correct me if I say something different than previously. I am going back eight or nine years to compare the new CFTC announcement to the posture of the agency back then. (Just be glad I'm not going back 20 or 30 years ago).

In May of 2008, the CFTC released a 15 page public letter explaining why there was no price manipulation in COMEX silver at the hands of the large concentrated commercial shorts. It was the second such 15 page letter, following a similar letter almost exactly 4 years earlier. Since both letters came about as a result of my urging of many to contact the agency, I wasn't particularly surprised at the personal swipes taken towards me in the letters. All's fair in love and war and all that jazz.

<http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/silverfuturesmarketreport0508.pdf>

<http://www.cftc.gov/files/opa/press04/opasilverletter.pdf>

There was no mention in the CFTC's 2008 open letter of the most significant silver event in decades, namely, the takeover of the largest COMEX silver and gold short seller, Bear Stearns, which was failing and needed to be taken over by JPMorgan, which then became the biggest COMEX silver short seller. In simple terms, the Commission conveniently overlooked the failure of the largest COMEX short seller in a public letter specifically concerning large short sellers in COMEX silver. It was

a lie by omission.

A few months after the May 2008 public letter, in early August 2008, the Bank Participation Report revealed a shockingly high and concentrated short position in both COMEX silver and gold futures held by a US bank. So great was the public outcry to this development (admittedly egged on by me) that the CFTC quickly agreed to institute a formal investigation by its Enforcement Division into silver manipulation. As it turned out, it wasn't much of an investigation and five years later it was quietly deep-sixed.

In the interim, in May 2009, a new chairman was sworn in at the CFTC, Gary Gensler, a former partner at Goldman Sachs. Here's where my memory really kicks in (and where I'd request you brush me back from the plate if my version today is different than what I wrote at the time). Gensler embarked on a mission to institute legitimate position limits in those physical commodities that didn't already have strict speculative position limits, mostly energy contracts on the NYMEX and metal futures on the COMEX.

Make no mistake, Gensler's prime mission was to see that speculative position limits were enacted in crude oil and other energy derivatives, as well they should be. After all, unbridled derivatives speculation seemed to be behind the sharp and disruptive price moves in crude oil at the time. Around that time, crude oil prices surged from \$50 to \$140 and back to \$30 over the course of two or three years. I don't believe Gensler was particularly interested in silver one way or the other, but if position limits were to be established in all physical commodities, then there was no reason to leave silver out.

Gensler held a series of public meetings to discuss the matter of position limits and to seek consensus. I distinctly recall watching an early webcast hearing on position limits on energies, when I blurted out that Gensler was plagiarizing my ideas on position limits, which I had advanced to the agency for many years. My wife rushed in to calm me down (plagiarism does get my goat), but I told her I was glad and that Gensler could plagiarize me until the cows came home.

It is no secret that I praised Gensler to the high heavens for years and that this infuriated many, including subscribers. The truth is that I still hold him in high esteem. Yet there is also no denying that he failed completely at his mission of instituting position limits and the overall reform of derivatives trading. I think Gensler did his best, but it wasn't good enough. In his defense and considering all the circumstances, I doubt anyone would have succeeded at that time. Again, I am not asking you to agree with me, just whether my recollections are in agreement with what I wrote at the time.

So why am I walking down memory lane in the face of the new CFTC press release? Because it seems to me there is a connection. The reason Gensler and the Commission failed to institute legitimate speculative position limits was because of the secret and illegal agreement between JPMorgan and the US Government, in the form of the Treasury Dept. and the Federal Reserve upon the takeover of Bear Stearns in March 2008. On the totem pole of the hierarchy of federal financial regulation, the CFTC is lucky to make it to the bottom rung. In the pecking order of which agency or office tells another what to do or not do, the CFTC isn't telling any other agency squat. That's just the way it is.

I'm convinced that because the ink was still relatively wet on the agreement between JPMorgan and the USG when Gensler came on board and because he was unaware of that until he was way down the road to instituting position limits and overall reform, all his efforts were for naught. Anything that

would have inconvenienced JPMorgan at that time was not going to fly; neither the Treasury Dept. nor the Federal Reserve would allow it. As Gensler slowly came to this realization, he recognized his efforts would not come to fruition and he beat a retreat.

But that was then and this is now. The secret and illegal agreement between JPMorgan and the Fed and Treasury is now nine years old and long of tooth. None of the original US Government arrangers appear to be in office and JPMorgan's manipulative actions over this time are starting to ripen and smell. For cripes sake, JPMorgan hasn't taken a single loss when shorting COMEX silver over the past nine years and has amassed 600 million ounces of physical silver at artificially depressed prices over the past six years. No way, no how was that ever intended by the US Government at the outset (JPM's intentions excluded).

Now JPMorgan's actions appear inexcusable and not to be tolerated for much longer. Enter the appointment of an apparently honest man to a position that matters at the CFTC and the whole dynamic appears to have changed. Who at the Fed or Treasury will demand that JPMorgan continue to be treated with kid gloves in silver because of a secret agreement made under duress nine years ago, particularly with more than ever openly recognizing the scummy and duplicitous actions of the country's most important bank?

I think Gary Gensler is and was just as honest and upstanding as James McDonald appears to be today; with the biggest difference being how long the rotten agreement with JPMorgan has existed. Had the agreement never existed, there would be no silver manipulation in force today, but now that it has outlived any reasonably constructive or defensible shelf life, its days are numbered. And McDonald appears to be just the right candidate to bring this whole sordid episode in US financial regulation to an end.

On to developments since the Saturday Review. Yesterday marked the cutoff for this week's Commitments of Traders (COT) Report. First gold. For the reporting week, gold rose more than \$30 to fresh price highs for the year. Moreover, gold set new price highs for four of the five trading days. Finally, total open interest rose a very large 60,000 contracts over the reporting week, with nearly half of that coming on yesterday's push to yearly highs.

There can be little question that gold prices were driven higher by managed money technical fund buying (and commercial selling) on the COMEX, same as ever. Thus, the reasonable assumption is that the headline numbers (commercial and managed money) rose as much as the increase in total open interest (by 50,000 to 60,000 contracts). Should we get such a large increase in commercial selling and managed money buying, that would put the total commercial net short position in COMEX gold futures around 230,000 to 240,000 contracts, the highest (most bearish) level in seven or eight months.

Therefore, using the past year as a guide, the market structure in gold is now more bearish than it has been since just before Election Day. Going back to the price peaks of last summer, there are still close to 100,000 contracts that could be bought by the technical funds and sold by the commercials before the market structure in gold hits historic negative extremes. If my estimates for what the gold report will show are accurate, it would mean we are also 100,000 contracts away from the most bullish levels of the past year and seen as recently as the early May bottom.

In other words, we are about 100,000 contracts both above the most recent bullish readings in gold

and the same number of contracts below the most bearish historical readings, another definition of the word "neutral". We are, as noted, also at the most recent (7 to 8 months) bearish readings in gold market structure. One can never know for sure whether the next wave of positioning will feature technical fund buying or selling, even though we can be sure that that is what moved gold prices to date. If I had to guess, I would suppose there will be more technical fund buying ahead, given the momentum to the gold move so far. And who knows, there could very well be some impact to gold trading, given the surprise CFTC announcement.

In silver, it's not as clear cut. The price of silver rose to six week highs, ending higher for three of the trading days in the reporting week. And, yes, silver did finally penetrate both its 50 and 200 day moving averages, but the volume and price action were not suggestive of the forceful technical fund buying that occurred in gold. Further, the increase in total open interest over the reporting week was subdued at less than 4000 contracts. While I do imagine an increase in managed money buying and commercial selling in Friday's COT report, I would guess on the order of 5,000 to 10,000 contracts (hopefully less).

As such, there has likely been much more deterioration in the gold market structure than in silver to date. Look at it this way - we are at new yearly price highs in gold with a commercial net short position now much larger than existed at the previous price highs in gold during 2017. In silver, even with the deterioration so far and the expected deterioration in this week's report, we are still 30,000 to 40,000 contracts (or more) shy of the historically bearish market structure that existed in mid-April. Yes, silver is still a good ways below its 2017 price highs, while gold has hit new highs; but silver's market structure is still much closer to its bullish extreme than its bearish extreme over the past year or so.

Of course, the key factor in silver remains what the crooks at JPMorgan are up to. The wild card for the past nine years is whether JPM adds to COMEX silver short positions aggressively. As I've reported recently, JPM's silver short position appears to have grown modestly going into this Friday's report. I hope to get a clearer reading on JPM's position with Friday's release of the Bank Participation report, so let me wait until then to read - and weep or praise the Lord and pass the ammunition. Needless to say, I have not yet abandoned my silver price explosion premise.

Finally, that timing matter I referred to previously in discussing James McDonald's role in all this. It occurs to me that if McDonald did come to see the real story in silver, as I presented it in my letter of April 10, and that is behind Friday's announcement (as I believe to be the case), then that helps create a deadline of sorts for him to act even more forcefully. Please hear me out.

Included in my letter to him was the statement that the total commercial net silver short position, as well as the concentrated short position of the four largest traders were at all time historically large levels. I believe I was upfront that McDonald's appointment and the record short position was why I was writing to him. And always when historical commercial short extremes were witnessed before, it was only a matter of time before the price of silver got rigged lower by the commercials to induce technical fund selling that the commercials then bought into.

Within a week of my letter, silver fell lower for an unprecedented 17 consecutive trading days and the commercials bought and the technical funds sold more silver contracts than any time in history. The orchestrated silver price smash and record positioning change were not coincidental and couldn't have been lost on McDonald. Neither could my insistence that JPMorgan was the dominant

commercial force and how it had never taken a loss in nine years of trading from the short side. I'm sure he noticed that JPMorgan kept its impeccable record intact on the price smash into May 10, as JPMorgan covered more shorts quicker than ever before. There's no doubt McDonald saw this. Heck, even Stevie Wonder would have seen it.

Now that the technical funds have been buying and the commercials have been selling over the past few weeks in silver, it would seem near inexcusable for anyone in the position to do anything about it, to let the complete crooked cycle run its usual course. In other words, I don't think an honest man who understood what was going on, would allow JPMorgan and the other big assorted COMEX commercial crooks to deface our markets again and allow them to build up, yet again, another obscene, dangerous and manipulative short position. After all, once you see this scam clearly, as I believe and pray McDonald does, how long before you crack the whip?

Ted Butler

June 7, 2017

Silver – \$17.55 (200 day ma – \$17.62, 50 day ma – \$17.44)

Gold – \$1287 (200 day ma – \$1245, 50 day ma – \$1259)

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