March 10, 2021 – Turmoil Behind the Scene?

One of the most telling lessons that came from the last interview of former CFTC Commissioner Bart Chilton with Chris Marcus sometime back was the revelation that after JPMorgan took over Bear Stearns in 2008, there was a long running and near-frantic effort to get JPMâ??s resultant combined concentrated short position in COMEX silver futures reduced. This occurred early on in an announced formal Enforcement Division silver investigation, brought about by great public interest in the matter, which involved inquiries from elected officials.

I still believe that last interview of Chilton, which took place shortly before he passed away, was sort of a death bed confession, in which he sought to set the record straight – much to his credit. I was particularly impressed by his revelation that there were a hundred or more meetings, including those involving the Justice Department, over what to do to get JPMorgan to reduce its concentrated short position in silver.

Most remarkably, not a word of this turmoil behind the scenes ever reached the public until Chiltonâ??s last interview, more than a decade after the events in question occurred. Considering the intense public interest in the matter, itâ??s truly a wonder how it was all kept under wraps for so long. But because the existence of the largest concentrated short position of any commodity remains at the core of the continued silver price suppression and manipulation, the issue has persisted to this day despite the official disclosure lockdown.

It wasnâ??t that the Commission wasnâ??t concerned with JPMorganâ??s excessive silver short position or that the bank wasnâ??t doing something wrong, as Chilton explained, it was more a case that it didnâ??t feel it had sufficient grounds, under existing law, to charge the bank with manipulation – a conclusion similarly reached when the end of the formal silver investigation was announced in 2013, five years after it was initiated. Again, the most remarkable feature was that none of this was revealed to the public as it was occurring, but clearly, there was turmoil behind the scenes at the time.

I believe there is similar turmoil occurring behind the scenes today over the exact same issue that caused such consternation more than a decade ago. Some of the details have changed, of course, such as JPMorgan no longer being short in COMEX silver (or gold) futures as it was back then and a mostly whole new cast of officials at the CFTC. Another big change is the matter of the explosion of interest in silver on social media, which was in its infancy in 2008.

What has remained the same, however, is the core issue of the concentrated short position in COMEX silver futures â?? the persistent massive short position in silver held by 4 traders that has artificially suppressed the price for decades. Many are unsure as how to even calculate this concentrated short position and compare it to all other commodities, which shows the short position in silver is larger than that of any other commodity in real world production terms.

But please know that the CFTC itself is not unsure or confused at all, as it is both the source of thedata on concentration and knows full well that this is the agencyâ??s front line defense against price manipulation. Otherwise, if what I am alleging was untrue or misleading, surely the agency would have stepped up by now and publicly explained why the short side concentration in COMEX silver has no suppressing effect on the price.

In fact, it is the Commissionâ??s inability to offer a reasonable rebuttal to the charge that the concentrated short position is suppressing the price of silver that is responsible for the turmoil I believe exits behind the scenes. After all, why go through the ordeal of having to respond to elected officials explaining the concentrated silver short position if there was a simple explanation that would cut off that onerous process and simply make the issue go away?

After the revelations in the last interview of Bart Chilton and the complete lack of any of the turmoil behind the scenes ever coming out at that time in 2008, I admit to being, perhaps, overly sensitive as to what might be transpiring today. My sense is that plenty of consternation exists at the agency as to how to defuse the matter and respond appropriately. Accordingly, Iâ??m looking for telltale signs of turmoil and believe I may have uncovered one such sign.

As a result of the recent presidential election and change of the political party of the administration, all federal agencies have had their leadership and commission composition changed, as of Jan 21. The former chairman of the CFTC, Heath Tarbert, resigned as chairman and a new acting chairman, Rostin Behnam, was appointed until a new chairman is nominated and approved by the senate. To my knowledge, no new chairman has even been nominated yet, so it is unlikely he or she would take office for many months. All this was duly announced in this press release of Jan 21.

https://www.cftc.gov/PressRoom/PressReleases/8355-21

Of special note was that former chairman Tarbert would remain a commissioner, as his legal term of office didnâ??t expire until 2024. Therefore, I found it surprising to discover that as of last Friday, March 5, Commissioner Tarbert, is no longer a commissioner and the CFTC website indicates that his term of service ended that day. In addition, Tarbert no longer appears on the list of current commissioners

https://www.cftc.gov/About/Commissioners/FormerCommissioners/index.htm

Even more odd is that no special press release noted Commissioner Tarbertâ??s departure, even though the agency announces the comings and goings of far less prominent officials on a regular basis. So where am I going with this?

I did preface this with my admission that I am, perhaps, too sensitive to signs of turmoil behind the scenes, seeing as no such signs appeared in 2008, although plenty was confirmed in Bart Chiltonâ??s last interview. Early Friday morning, March 5, as I was sending the letter I wrote to Acting Chairman Behnam and all the commissioners that I made public, I also sent that letter to the acting chairman and other commissioners, as well.

Cutting to the chase, I believe that letter was instrumental and the precipitating agent in causing former chairman Tarbert to suddenly resign. Itâ??s the most plausible explanation when viewing all the other unusual circumstances I just went over. If I do have a basic grasp on what occurred, it would indicate turmoil. More to the point, we are likely to find out more in the near future, as I am almost certain that the Commission will have to address the matter when it starts getting requests from elected officials on behalf of their constituents. (For the record, I did write to my two senators and congressman).

Turning to other matters, the price action until yesterdayâ??s turnaround was as clearly manipulative to the downside, as any Iâ??ve ever seen. The first four trading days of the reporting week (which ended yesterday) in both gold and silver went beyond the typical deliberate salami slicing seen over the past decades in that much bigger hunks were hacked off the price to call them slices.

In the case of gold, of course, every new low represented price lows not seen since last June and the continued super-oversold technical conditions that have resulted in a dramatic flushing out of the managed money long position and a covering of the commercial short position to a point resembling getting blood from a stone.

In silver, the four day price smash until yesterday, did take prices below silverâ??s 50 and 100 day moving averages, but yesterdayâ??s bounce put prices back above the 100 day average. There has been managed money selling and commercial buying in silver, but not to the extent (so far) as there has been in gold, where the gold price has remained well-below all the key moving averages for a month or longer. I am still amazed at how well silver has performed relative to gold on the gold price decline since the highs of summer and since yearend, although I have been and am expecting silver outperformance forever.

My sense is (and has been) that the gold and silver price decline is largely over and a new rally of significant proportions will soon emerge. While I could prove to be wrong temporarily, that is less important than what the next rally will look like. And the key to the next rally is the same key that I have pointed to for decades, namely, what the big shorts will do as that rally emerges. For the benefit of newer subscribers let me highlight something that I have long contended that older subscribers have heard continuously but that hasnâ??t come to fruition yet.

The key to the next rally, particularly in silver (but also in gold), is whether the biggest shorts add to their short positions or not. I will be the first to acknowledge that I have laid this out as the key factor before every price rally for many years. On every prior occasion I stipulated that if the big shorts did add to their short positions, then the likelihood that the rally would be capped and a subsequent selloff was high. If the big shorts didnâ??t add to short positions on the next rally, then prices would explode.

Each and every time, the big shorts did add to shorts and capped the rally and we didnâ??t get the big silver price explosion. I also fully admit that it was impossible to know before the rally what the big shorts would do and I always approached it as if they wouldnâ??t add shorts and was consistently wrong. Still, I believe that was the logical approach, since by the time it became obvious that the big shorts did add to short positions prices would have and did rally sufficiently to take protective measures.

In my opinion, we are now at or are close to that magic moment when a rally is likely to unfold, with it being unknown as to whether the biggest shorts will add to shorts on that rally in order to cap the rally. Itâ??s always possible there is more to go on the downside, but even if that occurs that wonâ??t change the basic premise of will the big shorts add new shorts or wonâ??t they. And while I admitfreely that they have always added in the past, there are now many more reasons to believe theywonâ??t on the next rally. What reasons?

Well, for starters, JPMorgan is no longer the biggest short (as of a year ago) as it had always been since 2008. I suppose JPM could re-emerge as a big silver shorter after such a long absence, but why would it? After all, it is in the cat birdâ??s seat as a result of having accumulated absolutely massive amounts of physical silver and gold over a decade. By not adding to shorts on the next rally, JPMâ??s friends and family stand to make many tens of billions of dollars more than the $20+ billion they already are ahead on.

Even more pressing in the argument that the big shorts wonâ??t add on the coming rally is whatâ??s going on behind the scenes at the CFTC. Letâ??s face it, if the agency could simply explain away the legitimacy of the concentrated short position in COMEX silver, it would have done so long ago and not wait to be asked by elected officials. Who wouldnâ??t cut off trouble at the pass instead of waiting to be pressed on it by senators and congressmen? Therefore, the likelihood of the concentrated short position increasing on the next rally is greatly diminished by the coming demands from elected officials seeking rational explanations for their constituentsâ?? concerns.

Finally, while the big shorts have been able to both reduce total losses over the past couple of months and reduce their total short positions, if we are close to a price bottom as I suspect and we begin a new rally soon, the big shorts will be in their worst-ever position than at the start of any previous rally. Previously, the big shorts always had big accumulated gains when going into price rallies on which they added shorts, but not this time. This is as far from a big advantage for the big shorts as is possible.

Nothing special to note in last nightâ??s new release of short positions on securities as far as the big silver ETF, SLV, is concerned. There was a slight increase in the short position on SLV to 15.26 million shares (ounces), but that represents less than 2.4% of total shares outstanding, historically a very low figure. My sense is that the change in the prospectus warning short sellers in shares of SLV was sufficient to keep the short sellers at bay. There was a bigger increase in shorting on GLD, the big gold ETF, and the percentage of shorted shares in GLD compared to total shares outstanding of 4.6% is nearly double the percentage in SLV, but then again, the amount of equivalent gold ounces held short in GLD of 1.6 million oz is an incredibly small percent of the 3 billion oz of gold in bullion form.

https://www.wsj.com/market-data/quotes/etf/SLV

As far as what to expect in Fridayâ??s Commitments of Traders (COT) report, Iâ??m just not sure. The successive new price lows over the first four days of the reporting week certainly argue for significant non-commercial selling and commercial buying, as was seen in last weekâ??s report. After all, gold dropped as much as $50 and silver by nearly $2 during the reporting week. How much was reversed on the rally yesterday is fuzzier and most unclear of all is how much commercial buying and non-commercial selling was possible considering the already washed out condition of the market structure.

Regardless of what the data show, Iâ??m more convinced that we are done or close to done in the positioning washout. Of course, Iâ??ll be most interested in the category changes, particularly regarding the biggest shorts and the other large reporting traders in gold.

The rally in prices that started yesterday has held through today and as a result the 8 big shorts in gold and silver have given back some of the significant reductions in their total losses achieved over the past weeks. At publication time, the 8 big shorts are worse off by close to $800 million from Fridayâ??s close, putting their total losses at $9.3 billion.

Ted Butler

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Silver – $26.20Â Â Â Â (200 day ma – $24.12, 50 day ma – $26.51, 100 day ma – $25.47)

Gold – $1722Â Â Â Â Â Â (200 day ma – $1859, 50 day ma – $1824, 100 day ma – $1848)

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