May 23, 2012 – Miscalculations

Miscalculations

There are two recent stories that share a common theme. The stories involve the Facebook Initial Public Offering debacle and the recent troubles at JPMorgan for derivatives losses. The common theme is one of miscalculation. It is too soon to know how these stories will play out over the longer term, but was it possible for those involved to undo and change certain things to achieve a different outcome, those changes would be made. But the problem with miscalculation is that there are usually no Â?do-over'sÂ? allowed. Sure, there is much to learn from making a mistake, but that comes later, in dealing with the consequences of the miscalculation.

In the case of the failed IPO for Facebook, there were many factors at play ranging from simply offering too much stock at too high a price, to exchange snafus and even including the scourge of High Frequency Trading. Given the media hype around the largest Internet public offering in history, any miscalculations were guaranteed to be under the spotlight. The best summary I have read to date comes from Barry Ritholtz of the Big Picture (warning Â? the title is graphic) http://www.ritholtz.com/blog/2012/05/how-facebook-fucked-up-its-own-ipo/

In the case of JPMorgan's recent derivatives disaster, there were also a series of blunders that ranged from a mismanagement of risk to internal personnel breakdowns. Heads will roll but the miscalculations remain to stain reputations. Perhaps some good will come from this disaster in the form of prudent financial regulation. Perhaps.

Miscalculations are a part of the human condition and no one is exempt from making them. We all make mistakes and some can be on a scale that impact great numbers of innocent bystanders. Most miscalculations do little harm to great numbers of people, but some do and can even involve illegal activities. What does all this have this have to do with silver? I think a point can be made that, like Facebook's rotten IPO and JPMorgan's derivatives blow up, the silver market has been plagued by a number of serious miscalculations over the years. And while I have no knowledge of anything being illegal in the case of Facebook's IPO or JPMorgan's derivatives mess, the silver miscalculations appear to violate the law. Worse, it appears that the prime arbiter of law when it comes to silver, the CFTC, may have itself miscalculated on a massive scale and broke the law in the process.

It's no secret that I believe JPMorgan has violated the law in manipulating the price of silver since it took over Bear Stearns in March of 2008. I've tried to make that case since I learned that JPMorgan was the big COMEX silver short in the fall of 2008. I allege that JPMorgan has dominated and manipulated the price of silver due to it holding a concentrated short position and by colluding with other commercial traders on the COMEX to influence the price to their advantage. In all that time, I have not varied from that allegation, nor have I failed to send any of my allegations to the CEO of JPMorgan, Jamie Dimon. (Same with the CME Group).

I think that JPMorgan has miscalculated on a massive scale in silver just like it miscalculated in its current derivatives debacle. JPM blundered badly in silver by not recognizing the full ramifications of the concentrated short position it inherited from Bear Stearns, just like it didn't fully recognize the magnitude of its current derivatives situation early enough. That initial miscalculation in silver was compounded when JPMorgan didn't press to exit the short side completely after causing the price to collapse to single digits in late 2008. Instead, JPMorgan reverted to building up its concentrated short position by almost 100% by December 2009. Since then, JPMorgan has used its outsized short position to dominate prices through today.

Finally, JPMorgan miscalculated in failing to grasp the damage to its reputation by continuing to engage in the manipulation of silver. I am amazed to read daily the widespread understanding of my detailed chronology of JPMorgan's role in the silver manipulation, even though I have operated a private subscription service for almost three years with relatively few public articles. The vast majority of what I read conforms with my opinion that JPMorgan is a crook when it comes to silver. This failure to do what is necessary to protect the reputation of the nation's most important bank may be the biggest miscalculation of all for JPMorgan.

As bad as JPMorgan has blundered in manipulating the price of silver, my main theme today is the miscalculation in silver by the prime regulator, the Commodity Futures Trading Commission. Not only am I convinced that the CFTC has been negligent in failing to terminate the obvious manipulation ongoing in silver, I have come to a conclusion that the agency has been complicit in the manipulation. Worse, it has lied to the public and elected officials.

These are serious allegations and they are not new, as I have written about this before. Regular readers should know that I am not given to wild conspiracy theories and I try to stick to the facts about manipulation and not dwell on motivations for the manipulation. But it's hard to maintain that approach in light of the accumulating evidence. It all goes back to the time when Bear Stearns was taken over by JPMorgan in March of 2008. It is well known that Bear Stearns went under as a result of a sudden loss of liquidity amidst a run by creditors and customers from the firm. What is not well known is that in addition to whatever general credit liquidity problems that Bear Stearns faced at the time, those problems were greatly exacerbated by as much as a $2 billion margin call on short silver and gold positions on the COMEX from the end of December 2007 to March 2008. In fact, I am convinced that the silver and gold margin calls were at the heart of Bear Stearns' failure.

We know now (from CFTC correspondence to lawmakers in 2008) that JPMorgan took over Bear Stearns' giant silver and gold short positions on the COMEX. Up until that time, I did not know that Bear Stearns was the concentrated silver and gold short. Using Commitment of Traders Report (COT) data, Bear Stearns had a COMEX silver short position of no less than 35,000 net contracts and a COMEX gold short position of no less than 60,000 net contracts from the end of December 2007 to their takeover by JPMorgan two and a half months later. From December 31, 2007 to mid-March 2008, the price of silver rose by $6 (from $15 to $21) and the price of gold rose from $850 to over $1000. Based upon the number of contracts held short by Bear Stearns and the price movement at that time, that resulted in a marked to market margin call of $2 billion over those two and a half months.

Recent reports have indicated that the $2 billion (and rising) loss for JPMorgan in its derivatives blunder was no big deal considering JPM's financial condition. Maybe so, but no one would suggest that $2 billion was no big deal for Bear Stearns in early 2008. I would contend that was the real reason for Bear Stearns' demise.

So where do I get off claiming that the CFTC is complicit in the silver manipulation and lied about it to the public and to lawmakers? This is easy to prove. In fact, I have made this allegation previously. http://news.silverseek.com/SilverSeek/1261415180.php

On May 13, 2008, the CFTC published a 16 page public response to my allegations of an ongoing manipulation in silver by means of a concentrated short position. The response was based upon silver market activity through the end of 2007, thereby conveniently sidestepping the drama that occurred through March 2008 when the biggest silver short in the market, Bear Stearns, failed and needed to be rescued with taxpayer assistance (Federal guarantees given to JPMorgan). The May 13, 2008 report from the CFTC went into great lengths in explaining there was nothing amiss on the short side of silver, even though the Commission knew that two months before the report was issued, the biggest concentrated short failed and needed to be rescued by taxpayers. A lie by omission is no less of a lie.
http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/silverfuturesmarketreport0508.

Why am I bringing this up now? Because I've had enough of the CFTC's lies and its refusal to do its job. Hopefully, you feel the same. As a result of the transfer of Bear Stearns' concentrated short position becoming visible, starting with the August 2008 Bank Participation Report, the Commission initiated another formal investigation of the silver market, this time by the Enforcement Division. This investigation is now 3 years and 9 months old, the longest-running investigation in US Government history. It has lasted longer than most wars. Worse, just like the two prior investigations by the Division of Market Oversight, the current investigation is a phony investigation in that there has been no attempt by the Enforcement Division to contact me or anyone convinced that silver has been manipulated. It's clear that the agency just does not want to get to the truth. Sometimes, I feel kind of bad in that the agency keeps initiating all these investigations which involve time and taxpayer money, but they never check with the person who has caused them to investigate in the first place. There's something fundamentally wrong with that.

Only two of the five commissioners currently serving at the agency were at the Commission when JPMorgan took over Bear Stearns or when the Enforcement Division began its current investigation. But all have received more public complaints about silver than for any other commodity, so none can claim ignorance of the issue. Chairman Gensler preaches continuously about the need for transparency in our markets. How about some transparency for the Commission? The Commission lied in its May 13, 2008 report (by omission) and is lying now when it claims to be conscientiously investigating silver.

Previously, I had asked you to write to your elected officials to demand that the CFTC conclude its investigation of silver. But that doesn't go far enough. The stalled investigation has only served as cover for the crooks at JPMorgan and the CME to manipulate the price of silver more egregiously than ever before. I think it's time to press for the removal of all current commissioners, including Gensler and Commissioner Chilton. Who wants to hear platitudes when a serious crime is being committed? Clearly, the Division of Market Oversight lied in its 2008 letter and the Enforcement Division is lying now. Who needs public servants like these?

The price action this week has been horrid. It is horrid because the crooked commercials on the COMEX have made it horrid. There is no legitimate economic justification for the price decline since Feb 28 other than the price action was created to permit the commercials every opportunity to scare and induce others into selling COMEX contracts so that the commercials could buy. Almost every day the price of silver and gold seem to be put lower in thin overnight trading. Almost every day we start out Â?in the holeÂ? where it is a struggle to get back to unchanged. This is not accidental, it is a deliberate plan to demoralize and keep silver investors confused. It is shameful that the CFTC has been captured by the crooks and is content to look away.

The good news is that the commercials have succeeded in buying record amounts of silver (and gold) contracts. It's impossible to pick the timing of the next rally, as we are in a sort of Â?no man's landÂ? currently, where technical type buying won't come in until the moving averages are penetrated to the upside. There still doesn't appear to be much speculative selling remaining in silver and gold after the orchestrated take down of the past couple of months, but neither is there any impetus for technical buying below the moving averages. In this environment, it's not hard for the commercials and HFT practitioners to put prices sharply lower at will. About the only sane reaction to all this is to accumulate and hold physical silver for the long haul, as the short term manipulative games won't last forever.

I wasn't kidding about writing to your elected officials to get rid of the current slate of commissioners. Those who have arranged to have me speak with elected officials have not come away disappointed, as the case can be made easily and professionally. Maybe it won't result in removal from office, but I guarantee you that the basis for doing so is sound. The Commission hasn't lifted a finger to address the ongoing manipulation in silver and the evidence shows that the agency flat-out lied in their 2008 letter and in their phony current investigation.

Ted Butler

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Silver – $27.65

Gold – $1556

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