May 5, 2021 – The CFTC's Response

At just shy of the two-month mark, I received a response from the Commodity Futures Trading Commission yesterday to my letter of March 5. Â I had raised highly specific questions regarding the concentrated short position of the four largest traders in COMEX silver futures, both over the week ended Feb 2 in which these traders were the sole short sellers and on the broader basis of these traders holding the largest short position in any commodity in real world terms. As a refresher, hereâ??s a copy of my original letter.

https://silverseek.com/article/time-act

I do want to take a moment to acknowledge the outstanding assistance from the staff of my Congressman Brian Mast, in the person of Derek Hankerson, who I believe was instrumental in securing a response from the Commission quicker than otherwise. I did convey that the way to ensure a response from a federal agency is to go through oneâ??s elected officials and it is a lesson that should be kept in mind for future endeavors.

My letter to the Commission was serious and specific, but respectful and the response was non-specific but respectful. Iâ??ll get into what I think the response signifies, what I was expecting (actually fearing) and how it compares to past responses from the Commission on this very same matter. Let me reproduce the response first before getting into commentary about it. The Commissionâ??s response was dated May 3, and came on letterhead from the Acting Director of the Office of Legislative and Intergovernmental Affairs â??

Dear Mr. Butler:

Thank you for your recent letter dated March 5, 2021 related to concerns about potential fraud and manipulation in the silver markets. Please know that your information has been shared with appropriate staff at the Commission for consideration.

The Commissionâ??s Division of Market Oversight (â??DMOâ?•) monitors derivatives markets to ensure these markets are well functioning. In addition, the Division of Enforcement (â??DOEâ?•) monitors markets to identify potential violations of CFTC regulations or the Commodities Exchange Act (â??CEAâ?•) and may take enforcement actions against individuals or companies as needed, including for fraud and manipulation. The two Divisions work hand in hand to continually evaluate and review the precious metals market as part of the agencyâ??s mission to identify situations which may pose a threat to market integrity. Where appropriate the CFTCâ??s Division of Enforcement may pursue, with the approval of a majority of the Commission, enforcement actions against individuals and companies whose conduct violates the Commodities Exchange Act (â??CEAâ?•) or the regulations pursuant to its statutory authority.

Please understand that any further inquiry or investigation conducted by the Commission as a result of the information you have provided is confidential. We cannot share information regarding non-public enforcement matters.

Thank you again for sharing these concerns.

Sincerely,

Ann Wright

My initial reaction was one of relief â?? a relief that very much unlike the Commissionâ??s two prior public lengthy responses of May in both 2004 and 2008 – the Commission did not argue with every one, or even any of my allegations as it had in the past. I was further relieved that the Commission didnâ??t take any cheap potshots at me, as it did back then when it openly questioned my motives. I even had a fear it would attack me personally as a way of deflecting from the specific issues at hand. Just for comparisonâ??s sake, here are the two prior responses from the agency on this exact same matter many years ago. What a difference 17 and 13 years can make. To say there was a night and day difference between the Commissionâ??s responses back then and today would be an understatement of the highest order.

https://www.cftc.gov/sites/default/files/files/opa/press04/opasilverletter.pdf

https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/silverfuturesmarketre

I wasnâ??t at all worried about the Commission tearing apart any of the specific contract numbers or equivalent quantities of silver ounces cited in my letter, as my data were its data. But I was concerned that the Commission would offer an alternative perspective designed to muddy or confuse the issues that would signify it had no intention of doing anything about the concentrated short position in silver – as it did in both 2004 and 2008.

Admittedly, itâ??s entirely possible that the Commission will not lift a finger to deal with the concentrated short position in COMEX silver and I would agree that the non-committal wording could be interpreted as such. On the other hand, I hope no one expected the Commission to come out and say it was taking specific actions to deal with the concentrated short position. Certainly, I held no such expectation as it would be illegal for the Commission to disclose such non-public information, as was highlighted in its response.

As it turns out, the two Divisions cited in the letter, Market Oversight and Enforcement, are the same Divisions whose directors Iâ??ve always included when I email my articles to the Commissioners. Based upon the Commissionâ??s response, I think itâ??s valid to assume that my articles are getting read â?? or will get read in the future. Certainly, depending on future market circumstances, no one at the Commission will be able to deny awareness of the issues surrounding the concentrated short position in silver. And this is the point on which I am most encouraged about with the Commissionâ??s response.

I was particularly encouraged that the Enforcement Division was even mentioned, as back in 2004 and 2008, it was strictly a Market Oversight affair. (A formal investigation by the Enforcement Division was started later in 2008, on the release of the now infamous August Bank Participation Report which confirmed JPMorgan as taking over Bear Stearnsâ?? short positions). Â Â I have my doubts that a majority vote for a formal investigation would occur at this time as a result of the current two-two political makeup of the current Commission, but then again, back in 2008, a Republican-majority Commission voted for a formal silver investigation, so my doubts may be misplaced.

Both in 2004 and 2008, the Commission made it quite clear that it disagreed with my take that the concentrated short position in COMEX silver was manipulative to the price. Therefore, it would be logical to conclude that it would do nothing to address the concentrated short position and for the next 17 years that is exactly what the Commission did â?? nothing. This time, however, the Commission has said no such thing â?? in fact, offering absolutely no rebuttal or disagreement with anything I alleged. To be sure, neither did it confirm it found what I wrote to be true, but then again, even if it did agree, it was prevented from indicating it would pursue that (by law). So where does this leave things?

It seems to me that an important and unexpected opportunity has been presented. There can be no doubt that the Commission is now aware of the concentrated short position in silver in a way unlike its previous thinking on the matter. Therefore, if the same pattern that has existed in the past, namely, the 4 big shorts adding aggressively to silver short positions on future price rallies, followed by the buying back of those added shorts on price declines persists, then it will be clear that the Commission was only blowing smoke in its response and had no intention of dealing with the manipulative effect of the concentrated short position.

If that is what occurs in the future, then that will prove the Commission hadnâ??t taken the issue seriously. But it will also lay the groundwork for further petitions to Congress â?? only this time with specific action to be taken. In other words, if future Commitment of Traders reports show the concentrated short position of the 4 and 8 largest traders to increase on rallies that will be stark proof that the Commissionâ??s response wasnâ??t worth the ink and paper it was written on and it was only engaged in lip service.

After all, the Commission can suggest its silence shouldnâ??t be taken as indicating it is not pursuing my information, but aggressive new concentrated short selling in the future would prove it had no intention of ever cracking down on the big shorts. This will open the door to petition Congress, particularly those elected officials on committees with direct oversight of Commission workings about the hypocrisy of the Commission strongly suggesting it was taking the matter seriously, only to turn around and allowing it to continue. Â Â I did not expect such an opportunity being presented. Given the timing of the response, Iâ??m disinclined to include this weekâ??s COT data as proof of the Commissionâ??s intent one way or another â?? but all future COT reports will be proof of what the Commission intends.

The important takeaway here is that no one, and that now includes the Commission itself, has been able to legitimately explain away the concentrated short position in silver. Iâ??ve heard some nonsense about it being a hedge of some type but that is simply absurd in an era of physical shortage and not even the Commission saw fit to advance that argument, instead wisely refraining from trying to legitimize the illegitimate. Should the concentrated short position increase aggressively on future rallies, the Commission wonâ??t be able to remain ambivalent.

Adding to the pressure on the Commission to finally do the right thing and move (privately) to disallow the big shorts from suppressing the price of silver is the undeniable rise of the anti-manipulation silver movement on social media and the Internet in general. If the Commission is unaware of the groundswell that is growing concerning silver then it is sadly behind the curve. Increasingly, the

Commission is coming to be mocked and insulted for not doing its job in ensuring the integrity it promotes in silver. It is simply not healthy for a federal agency to be held in such low regard by the public it has sworn to protect.

Remarkably, to this point, the collective ire against the Commissionâ??s handling of the silver market has not focused on the one thing that matters above all other matters â?? the concentrated short position of the 4 largest traders on the COMEX. But it seems to me that it is only a matter of time before that occurs and if the Commission doesnâ??t get ahead of this â?? by dealing with the issue before the crowd arrives â?? it will be threatened by a never-ending descent of negative public opinion. Therefore, it seems the best course for the Commission is to live by the actions implied in its response, namely, dealing with it behind the scenes and quickly.

Finally, it would appear the timing of the Commissionâ??s response could have been better in two regards. One, the time it took to respond suggests it was thrashing about for an alternative explanation in a search for something that sounded somewhat legitimate to explain away the motive behind why someone would be so heavily short silver at this particular time and in current circumstances. And failing to come up with such an explanation, it was forced to respond as it did. Two, the Commissionâ??s delay forced it to pick a bad time in terms of this weekâ??s price action â?? which could hardly be more indicative of the 4 big shortsâ?? manipulative influence over silver prices.

Mondayâ??s sharp rally in silver and gold was most likely met with aggressive new short selling by the 4 biggest shorts in silver, based upon the sharp increase in total open interest that day. Had the commercial selling in silver been done by the smaller commercials (the raptors) which were long that would have had the effect of reducing total open interest (all things being equal). The sharp increase in total open interest for Monday (9000 contracts in silver, nearly 11,000 contracts in gold), followed by a more moderate reduction on yesterdayâ??s sharp selloff (3600 contracts in silver and 5000 in gold) strongly suggests heavy big 4 new short selling in silver on Monday followed by partial short covering on Tuesday â?? same old, same old.

Before I received the Commissionâ??s response yesterday, I was planning on writing an article titled, â??The Bigger They Areâ?¦.â?• which weighed the question of would it be the harder they fall or would the 4 big silver shorts be able to pull off, yet again, the same price rig lower, just as they had consistently for decades. While history is clearly on the side of the 4 big shorts, much has changed â?? including the large overall losses sustained over the past year, the magnificently criminal maneuver by JPMorgan to amass a mountain of physical silver and gold, as well as completely slipping out from its former dominant COMEX short positions, and the developing pronounced physical silver shortage. Â If ever there has been a time when my late friend and mentor, Izzy Friedmanâ??s call for the silver shorts being overrun to the upside was more likely than now, Iâ??m not aware of such a prior time.

Prior to yesterdayâ??s receipt of the Commissionâ??s response, I would have had to count the agency as on the side of the 4 big shorts, but now, Iâ??m not so sure. Perhaps the Commission is still on the 4 big shortsâ?? side, but that was not firmly conveyed in its response – as it had been back in 2004 and 2008. Considering how much different so many things are today from back then, the odds of continued long-term success by the 4 big shorts in suppressing the price of silver seem limited.

It all comes down to a simple question â?? who in their right (legitimate) mind, would choose to be excessively short silver at this time? There is no legitimate explanation for that question and as soon as more focus on it, the quicker this silver manipulation will be history. Certainly, the Commission had every opportunity to answer that question and chose not to.

As far as what Fridayâ??s new COT report will indicate, Iâ??m not sure. I do think there was big 4 short selling in silver on Monday, followed by short-covering on yesterdayâ??s cutoff, but the price weakness on the first three days of the reporting week suggests short-covering back then. Therefore, itâ??s going to be a case of me going into the report with no strong expectations and eager analysis afterward.

Perhaps understandably, my thoughts are still focused on the response from the CFTC and what it intends to do or not do about the obscenely-large and concentrated short position in silver. More than ever before, doing nothing would seem to be the worst choice possible, although to invoke an analogy I used many years ago, dismantling this bomb is no easy task, made more difficult by the passage of time.

As far as the financial fortunes of the 8 big shorts, their sharp losses of Monday were dramatically reduced when prices retreated on Tuesday, but at publication time, the big shorts are still worse off than they were on Friday. At prices prevailing at publication time, the 8 big shorts are worse off by $500 million to $10.6 billion total. I donâ??t always mention it, but the affiliates and friends and family of JPMorgan, at the same time, are now ahead by roughly $27 billion on their collective holdings of 30 million oz of gold and 1.2 billion oz of silver. As far as who is in the catbirdâ??s seat â?? my bet is on JPM.

Ted Butler

May 5, 2021

Silver – $26.52Â Â Â (200 day ma – $25.57, 50 day ma – $25.89, 100 day ma – $26.04)

Gold – $1784Â Â Â Â Â Â (200 day ma – $1857, 50 day ma – $1744, 100 day ma – $1798)

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