October 2, 2019 – Trashing the Rule of Law

Let me dispense with what I consider to be bad news, before getting to what may be very good news. The bad news is that I have no choice but to give up on the Justice Department ever overtly cracking down on JPMorgan for manipulating and suppressing silver and gold prices for more than a decade. Iâ??m still hopeful that the DOJ may do something behind the scenes to force JPM to stop its long term manipulation of precious metals, but not to ever openly admit to doing so.

This is much more a matter of personal disappointment than it is a revised market opinion. Iâ??m forced to admit that the Justice Department and the FBI are not the strictly by-the-book law enforcement agencies Iâ??ve always believed them to be. Iâ??m not naÃ¯ve and have long felt the upper levels of the DOJ were politically motivated, but I always felt in matters of law, the rank and file workings of the agency were above reproach. Thatâ??s no longer the case and Iâ??d like to explain why I feel this way.

Some time back, a long-term subscriber told me that he couldnâ??t share any of my enthusiasm that the CFTC or DOJ would ever do the right thing as long as neither contacted me to hear out my full case on manipulation and JPMorgan. Doug said that while he accepted everything I presented as the gospel truth, the fact that the CFTC or the DOJ never reached out to me made it foolish to expect true regulatory intervention. While I also harbored Dougâ??s doubts, I found it too egotistical for me to think that way, given my personality. But as an analyst, Iâ??m forced to admit that Doug was right.

What brought about my admission was the realization that the Justice Department is following almost the exact same script as the CFTC before it, namely, to recognize and acknowledge that the silver (and gold) market is manipulated by claiming to investigate in the first place, but then, in realizing the significance of the issue, trying to spin it into something much less significant. In other words, the DOJ, just like the CFTC, fully discovered that JPMorgan has been manipulating silver and gold prices along the lines I have outlined, but the discovery proved too potentially devastating (in their eyes) to openly admit to it.

In the case of the CFTC, the second public letter of May 2008 denying the short concentration on the COMEX was a problem, even though the largest concentrated short seller, Bear Stearns, went under due to its short position only two months before is a highlight of government malfeasance, as was the five-year investigation begun in September of that year which found nothing to prosecute. Now, of course, the CFTC can hardly keep up with all the spoofing violations from that very same time.

Today, the Justice Department (and CFTC) is wearing out the public media apparatus with criminal guilty pleas and indictments of traders from JPMorgan and elsewhere, resorting to calling the metals operation at JPM as a criminal enterprise in which RICO charges have been filed. Having contacted both the CFTC and DOJ long before any charges were filed and alleging that JPMorgan was the center of all evil in the precious metals world, a reasonable person would imagine that these federal agencies would seek out all relevant information related to this very high-profile case (this was Dougâ??s reasoning).

Instead, both the Justice Department and the CFTC have gone out of their way not to acknowledge the most serious charges Iâ??ve leveled against JPMorgan â?? the fact that it has never lost when adding short positions in COMEX silver and gold for more than a decade and that JPM has amassed massive quantities of physical silver and gold, all while artificially suppressing prices through excessive short sales. As I wrote when the first DOJ spoofing guilty plea was announced last November, compared to JPMorganâ??s impossibly perfect trading record and its accumulation of physical metal at prices it made artificially depressed, spoofing was like giving traffic tickets to a serial killer and letting him go.

As I have also written, I think I know why the DOJ and CFTC have adopted the approach of not dealing with JPMorganâ??s more serious crimes away from spoofing, namely, the worry that charging JPMorgan for what it is really guilty of would jeopardize the bankâ??s future ability to survive in its current form. I guess whatâ??s changed is that Iâ??ve run out of patience and understanding for the DOJâ??s and CFTCâ??s overarching concerns on a human level, which in the end I am.

By not dealing with JPMorgan in the manner it should be dealt with, the Justice Department and CFTC are saying to everyone damaged by the years of price manipulation to, essentially, drop dead. Iâ??ve had my fill of that. That doesnâ??t mean I will stop my allegations and criticism of the manipulation run by JPMorgan, just that I no longer think anywhere near as highly of the Justice Department as I once did.

On to what could be really good news â?? the potential failure of the widely expected commercial flush out of the managed money traders to the downside. This is squarely in the category of speculation, so please treat it that way. If ever there was a peak time for the greatest acceptance of the COT market structure approach as a precursor for likely price performance that time is surely now. Never has the COT market structure premise been more accepted than it is now.

Itâ??s also true that the COT positioning structure in COMEX gold futures has never been more bearish than what it was as of last Tuesday, a fact not lost on anyone, certainly including me. Silverâ??s structure was much less bearish, but far from bullish, or even neutral. Accordingly, the expectation for the same old flush out to the downside was beyond prevalent. Last Fridayâ??s intraday plunge below the key 50 day moving average, followed by a bigger plunge lower on Monday appear to have cemented the collective feeling that we were headed much lower in price, in the typical salami-slicing fashion weâ??ve all become accustomed to.

But quite unusually, gold and silver prices have rebounded as I write this, although I canâ??t know how prices will end the day when I get set to hit the â??sendâ?• button. At mid-day, gold and silver prices have rallied to last Fridayâ??s closing levels. What this means, at this particular point at mid-day, is that the more than $600 million improvement in the big 7 shortsâ?? combined open loss enjoyed on Mondayâ??s price plunge has disappeared and the big shorts are out the same $3.6 billion they were out as of Friday. Of course, Iâ??ll update the figures when I close this piece later.

About three or four weeks ago, going into the COT report to be released that covered positioning as of Sep 10, I speculated that there might be a profound positioning change of at least 25,000 net contracts of silver and more than 70,000 net contracts of gold, as a result of the sharp price selloff of more than $50 in gold and $1.40 in silver. As it turned out, we had no positioning change in silver and half of what I was expecting in gold, making that weekâ??s predictions more off than any I can recall (and if you remember wider misses, please keep it to yourself). I did explain both before (and after), that what might make me wrong was that, despite the price plunge, no key moving averages were penetrated to the downside, potentially invalidating my speculation. I further speculated, quite incorrectly, that JPMorgan would be the featured commercial buyer.

In the reporting week ended yesterday, gold had plunged by more than $70 through the overnight session early Tuesday, while silver dropped more than $1.60 from the close of the prior reporting week. The big difference, of course, between the price drop this reporting week and the drop during the reporting week ended Sep 10 was that this week, the 50 day moving average was decisively penetrated in both gold and silver. Therefore, it looks like a lead-pipe cinch that there was very significant managed money selling and commercial buying, most likely along the lines of what I previously expected as of Sep 10.

In addition to wondering why there has been no follow through (yet) to the decisive downward penetration of the 50 day moving averages in gold and silver, I am also wondering about the role of JPMorgan in the price blast to the downside this reporting week. If JPMorgan bought back a disproportionately large percentage of the commercial buying that likely occurred this reporting week that would very much be along the same lines as what I was speculating prior to Sep 10, namely, that JPM was in super-position to double cross the other big commercial shorts. As you know, I have been contemplating such a double cross for more than a year and a half.

We should get the answer when Fridayâ??s COT and Bank Participation reports are released, but one thing arguing that the big commercial shorts may not have bought back as many shorts as they typically do when moving averages are decisively penetrated is that this time such short covering would involve closing out and booking realized losses for the very first time. Previously, the big commercials always rode out open losses until those losses were eliminated and then they closed out losing positions, mostly at a break-even basis.

On the rally that began in late May, the commercials rushed to the short side quite early and have ridden those short positions to their largest open losses in history. Because of that, for the big commercials to begin buying back open short positions and to realize large losses for the very first time would be unprecedented. Yes, the open losses were much greater before this reporting week, but that doesnâ??t change the fact that any short positions closed out involved booking big realized losses for the very first time.

If that is what occurred, it would seem to suggest that the big commercials are looking to exit a short position they have come to regret. This is very much in accord with my expectation that they will not be aggressive in shorting on the next rally. Of course, itâ??s possible that the big commercial shorts didnâ??t buy back as many shorts as they typically do on moving average penetrations because that would involve booking big losses for the first time. In that case, JPMorgan may have accounted for a bigger percentage of the total commercial contracts bought. This outcome would send the double cross indicator to the maximum level. Weâ??ll know more when Fridayâ??s reports are published.

Iâ??m not saying we wonâ??t eventually get a more complete flush out to the downside because the simple truth is that I (nor anyone else) can’t know. All I can do is handle it as if we wonâ??t get the complete selloff and hope for the best. I do have some profit generated ammunition in hand to buy more kamikaze call options, but have already expended a chunk over the past few days.

As far as the money scoreboard for the 7 big shorts, prices at the time of publishing are still near last Fridayâ??s closing levels and that means the big shorts are still out at least $3.6 billion in open and unrealized losses or more than $500 million for each entity on average.

Hereâ??s a recent interview I did with Reluctant Preppers that seemed to me to involve some very good questions. Iâ??ll leave it to you to decide if the answers were nearly as good.

https://www.youtube.com/watch?v=HHag2QlIDUU&feature=youtu.be

Ted Butler

October 2, 2019

Silver – $17.60Â Â Â Â Â Â (200 day ma – $15.80, 50 day ma – $17.50)

Gold – $1505Â Â Â Â Â Â Â Â (200 day ma – $1362, 50 day ma – $1502)

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