

Sep 22, 2009 – Silver Investigation Update

Silver Investigation Update

Yesterday, I received a number of emails from readers who had been communicating with Commissioner Bart Chilton of the Commodity Futures Trading Commission. Obviously, Commissioner Chilton intended this to be made public and I do so here. My comments will follow.

Statement of
Commissioner Bart Chilton
Regarding the
CFTC Investigation of Silver Markets
September 21, 2009

It has now been one year since the Commodity Futures Trading Commission initiated its investigation of the silver markets. In that time, it has invested over 2,318 staff hours in this investigation, 32 individual interviews have been conducted, and approximately 40,000 documents have been reviewed. We have worked with our colleague regulators in the United States and in other nations. In addition, the agency has taken the extra step of engaging an eminent outside expert to assist in its analytical review of this matter. In sum, we've put an incredible amount of energy and resources into this effort.

While there are some who I'm sure wish these things could be accomplished faster, let me assure them that we are far from over in our aggressive investigation of this market. Our Division of Enforcement is leaving no stone unturned to ensure that, if there is any illegal activity going in silver, we will find it and we will prosecute it to the fullest extent of our authority under the law.

In the meantime, we have moved in a new direction with regard to assertive and uncompromising oversight of commodity markets in furtherance of the Agency's mission to protect consumers and markets. In that vein, we have recently completed three days of hearings regarding positions limits and hedge exemptions. In those hearings, we heard from academics, exchanges, end users, commercials, and non-commercials. After hearing their testimonies, it is clear that new authorities in this area, combined with legislative changes to enhance the agency's oversight in the OTC arena, could significantly increase market transparency and our ability to protect against fraud, abuse and manipulative activity. Accordingly, I am hopeful that, should new authorities be promulgated in these areas, that they would also extend to the metals markets as appropriate, and I will continue to work toward that objective.

I would like to thank Commissioner Chilton for his statement. There is no doubt that he is the most accessible government official in memory. Virtually all of the readers who sent me the above, also sent along their private exchanges with him on his statement. Those exchanges were almost identical, namely, they all asked Commissioner Chilton one question. How in the world could such an aggressive investigation fail to include conversations with me, the obvious instigator of the investigation? Commissioner Chilton responded that the investigators would be contacting me soon, as he has stated in the past. (For those not aware of the exact sequence of events, the CFTC started its third silver investigation in 5 years, as a result of an article I wrote a year ago, "The Smoking Gun" and subsequent articles <http://news.silverseek.com/TedButler/1219417468.php>)

Rather than dwell on that, and risk making myself the center of discussion, I'd like to analyze the significance of Commissioner Chilton's statement. When I first started reading it, I raced through it, looking for the words I have read in so many communications from the CFTC over the past two decades. Those words, of course, were always "and we can find no credible evidence of a manipulation in the silver market." Well guess what? For the first time ever, those words were missing. Instead, words to the effect, "of investing an incredible amount of energy and resources, of leaving no stone unturned in our year-long aggressive investigation, and if we find anything illegal, we will prosecute, etc." That's a far cry from what has been said in the past.

No one spends an incredible amount of energy and resources investigating any matter that is not credible. That's the key point. At the very least, Chilton's statement indicates that the Commission takes my allegations seriously. That's because the allegations are well-founded. I've always used their own public data, so they can't claim it is bogus. I've always argued in accordance with their own principles and historical findings on concentration, manipulation and position limits. I've always relied on common sense and the intent of commodity law. How could they possibly argue with that?

Besides, I never even asked them to investigate silver for a third time in five years; that was their choice. All I asked was a very simple question, namely, how could one or two US banks be short 25% of the world production of silver (or any commodity) and that not constitute manipulation? In one full year, neither the CFTC nor anyone else has been able to come close to legitimately answer that question. That's because there is no legitimate answer. Faced with having to answer a question to which there is no legitimate answer, do the next best thing — investigate.

I'm going to resist attacking the CFTC on this matter. I want to take the high road. I know this is a major market problem with a solution that involves serious complications and repercussions. That's why I've persisted for 25 years. Certainly the Commission must tread carefully. But it still must confront this silver manipulation. I'm sincere when I say I am more interested in seeing this manipulation terminated than I am in extracting my pound of flesh for two decades of regulatory failure. What's most important now is for the Commission to recognize that this is very much a crime in progress. A little old lady is still being mugged on the street and the police have no higher priority than stopping the crime first and investigating later.

I think the intent of Commissioner Chilton's statement may be different than first assumed. I don't think it was solely intended to provide an update to those who had been inquiring about the investigation. I think it was intended as a warning to the shorts. Intention aside, the message to the big shorts is that the Commission is taking allegations of a silver manipulation seriously. That's because the evidence is compelling. Taken together with the no-nonsense approach and pragmatism of the new chairman, Gary Gensler, the message is clear. Be short silver at your own risk.

(A note to subscribers. My first priority is in delivering research and analysis that will provide value to you. I intend to do that. It is not right to have someone pay for something that others can get for free. Sometimes, however, by disseminating selected articles or excerpts in the public domain, which contain information that could benefit subscribers, exceptions may occur. I ask your indulgence. I think it important to us all that this silver manipulation be terminated. The contents of this article may aid in that purpose, so I will put it in the public domain shortly after it has been made available to you. I won't make that a frequent habit.)

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