

September 18, 2019 – Serious Inroads, But Still Unfinished Business

By now, it would have been hard not to have read about the Justice Department's landmark criminal indictments against three additional precious metals traders from JPMorgan. Two of the traders charged are current employees and include the head of global metals trading. The charges involve spoofing and market manipulation that extend back for nearly a decade. In a very serious turn, the Justice Department invoked the Racketeering and Corrupt Organization Act (RICO) and referred to the pattern of wrongdoing at JPMorgan as that of a criminal enterprise.

While I am grateful that the new charges validate virtually everything I have alleged about JPMorgan for more than ten years to the point where a subscriber quipped that the DOJ was plagiarizing my work, there are much more important issues to discuss, including what comes next, both for JPMorgan and the price of silver (and gold). To consider these issues, it is necessary to understand what the Justice Department did and didn't do.

Simply put, the Justice Department leveled the most serious (and deserved) charges against traders of JPMorgan possible, but stopped short of stepping over the critical line of charging the bank itself. This is not a knock on the Justice Department, whose case has been near flawless to this point. As much as I am convinced that JPMorgan has been the prime precious metals manipulator since 2008, indicting the bank for that would likely be a death sentence for JPMorgan with incomprehensible collateral damage to the financial system and society in general. Think of it as a take on the old cliché that if you owe enough money to the bank, it becomes the bank's problem, but altering it to if a bank becomes so large and systemically important, the government can't risk doing anything that would threaten the bank's survival, no matter how egregious its criminal activity. This is the predicament the Justice Department and all of us face in dealing with JPMorgan.

Another line that the Justice Department went right up to but didn't cross was in not acknowledging the real crimes that JPMorgan has committed since it acquired Bear Stearns in 2008, and particularly since 2011. Sure, the many instances of spoofing cited – the entry of orders that are immediately cancelled and are solely intended to artificially move prices in a direction beneficial to the spoofer – are devoid of legitimacy and should be cracked down on. And there can be no question that the traders at JPMorgan raised the practice of spoofing to an art form unrivalled elsewhere. Even though spoofing came to be largely imbedded in JPMorgan's culture as a result of it taking over Bear Stearns (according to the DOJ), to focus exclusively on spoofing would be to miss the big picture.

Spoofing came to be widely practiced at Bear Stearns out of necessity. As the largest concentrated short seller in COMEX gold and silver prior to its takeover by JPMorgan, Bear Stearns needed every dirty trading trick imaginable to maintain control of prices and steer the managed money technical funds in and out of positions. Spoofing went a long way to helping Bear Stearns manipulate silver and gold prices. In the end, however, spoofing and other dirty trading tricks weren't enough to prevent silver and gold prices from rising sharply for the three months into March 2008, when gold hit \$1000 and silver \$21. Bear Stearns' inability to meet as much as \$2 billion in margin calls on its massive short positions was enough to put it under and for JPMorgan to take up the mantle as the largest COMEX silver and gold short (along with taking on some dirty tricksters from Bear).

JPMorgan stepped seamlessly into the role of price manipulator from Bear Stearns, not missing a beat

and quickly manipulating silver and gold prices lower for the rest of 2008. After a couple of years of dominating and controlling silver and gold prices, never once taking a loss, only profits, JPMorgan ran into its own Bear Stearns moment when silver prices surged to near \$50 in April 2011. But not only did JPMorgan avoid the fate that befell Bear Stearns in 2008, it uncovered a criminally genius solution to ever facing a future run up in silver and gold prices while holding massive COMEX short positions. The solution by JPMorgan was to buy as much physical metal as necessary to offset any damage a spike in silver prices would have on paper short positions.

But how could JPMorgan buy as much physical silver and gold as needed without driving prices sharply higher, thereby creating ruinous losses on its existing massive short positions? By taking its time and deploying a variety of physical acquisition methods and, most importantly, by maintaining continuous control of prices through outsized COMEX short positions, JPMorgan pulled off what would seem to have been impossible. It took more than eight years and more deception and dirty trading tricks than can be imagined, but at this point JPMorgan owns 850 million oz of physical silver and 25 million oz of gold.

The real crimes that JPMorgan has committed revolve around spoofing being used as a tool, but not as the end motive. If you add up all the spoofing gains alleged by the DOJ, you might come up with a few million dollars worth of illegal gains. I'm not suggesting that spoofing wasn't illegal and worthy of prosecution, but that amount of money is chicken feed to JPMorgan. The real money is the many billions of dollars that JPMorgan made over the past decade in being the biggest counterparty to the managed money traders and for never having lost when adding short positions, always making only profits.

Then there are the prospective profits that will accrue to JPMorgan when silver and gold prices rise in earnest. As it stands, JPMorgan is already ahead by more than \$7.5 billion on its physical gold holdings and stands to make tens of billions more when gold and silver prices take off for real. The few millions of dollars made off the spoofing charges brought by the DOJ is kid stuff and a side show.

So why doesn't the Justice Department truly crack down on JPMorgan for the more serious crimes of extracting billions of dollars of cumulative profits in manipulative COMEX trading for a decade and the illegal accumulation of physical metal for the past 8 year? It's not because the Justice Department (or the CFTC) is incompetent or unaware of what I just outlined; it's because the consequences that may occur as a result of confronting JPMorgan for its real metal crimes are as serious in terms of potential financial system fallout as a nuclear war. No government official would or should ever take any action that threatens the financial well-being of tens and perhaps hundreds of millions of innocent bystanders. I couldn't possibly be more convinced that JPMorgan is as guilty as I've alleged it to be and even I wouldn't risk putting JPM out of business over it.

But not pushing JPMorgan over the brink conflicts mightily with the stark reality that silver is still manipulated in price by this bank and will be until JPMorgan is disallowed from shorting on the COMEX. That's the unfinished business for the Justice Department, namely, to thread the needle between ending the silver manipulation and sufficiently punishing but not putting JPMorgan out of business in the process. It's no easy task and it looks to me that the DOJ is progressing as well as can be expected.

However, it still remains that the price of silver is manipulated and is lower in price than it should be due to excessive and concentrated short selling by JPMorgan and a few other large banks. Where the

price should be will be determined only when the concentrated short position in COMEX silver futures is in line with other commodities in terms of world production and consumption. The DOJ and CFTC and JPMorgan know this, but none can come out and acknowledge it. Instead, it looks like the DOJ is pressuring JPMorgan to quit its manipulative short selling ways by pressing it on spoofing.

The one good thing about spoofing, as previously discussed, is that it is cut and dry â?? if orders are entered and immediately cancelled and the price moves enough to set off another order â?? the trading records exist to show this. Which explains why the current charges involve so many trades from years ago. But the real advantage to JPMorgan (and Bear Stearns before it) was how spoofing facilitated the ongoing positioning manipulation on the COMEX, which in turn allowed JPMorgan to keep prices severely depressed for 8 years while it accumulated massive amounts of physical silver and gold.

Itâ??s not necessary to put JPMorgan out of business to end the silver manipulation (no matter how justified that might be) and I would argue that might be the worst possible course for the Justice Department to follow. But not forcing JPMorgan to cease all new short selling in COMEX silver (and gold) might be just as bad. By its actions to date, as shown in Justice Department charging documents, JPMorgan has done nothing but abuse and undermine the integrity of our markets at every turn. To allow JPM to continue manipulating prices is unthinkable. Donâ??t put it out of business, just force JPMorgan to stop manipulating silver and gold prices by disallowing it to sell short.

As it turns out, we are at a particularly interesting juncture in the silver and gold markets presently. The blockbuster Justice Department announcement came as the COMEX futures market is structured with a massive number of commercial shorts, including by JPMorgan. As regular market observers know, such large commercial short positions usually presage a price decline in which the managed money traders sell and the commercials buyback short positions â?? the old wash, rinse and repeat manipulative COMEX cycle.

Therefore, it will be interesting to see if the Justice Department and CFTC sit by and allow JPMorgan and the other big commercial shorts to rig prices lower yet again and continue to allow the most serious market crimes to occur. Or will the regulators put some meaning to their recent charges and interrupt the manipulative process? Time and price will tell, but if the regulators sit by and do nothing to disallow yet another manipulative take down of price, it will undermine the regulators and reward JPMorgan â?? just what we donâ??t need.

As far as substantiating or refuting my allegations that JPMorgan has never taken a loss in COMEX trading and has accumulated massive amounts of physical metal, the Justice Department is uniquely qualified to ascertain whether this is true. CFTC concentration data from the Commitments of Traders report prove JPMorgan has never taken a loss, only profits in COMEX futures trading. As far as JPMorganâ??s massive accumulation of physical metal, the Justice Department would have no problem in quickly establishing, with a few phone calls, the many ways JPMorgan has accumulated actual metal, as I previously outlined.

<http://silverseek.com/commentary/questions-only-doj-can-get-answered-17543>

If the Department of Justice doesnâ??t stand up to JPMorgan and force it to cease and desist from manipulating metal prices through continued short sales it probably means the manipulation will continue. The DOJ doesnâ??t have to put JPMorgan out of business, it just needs to stop JPMorgan

from future COMEX short sales one way or another. Alternatively, the DOJ could explain why JPMorgan never taking a loss and picking up close to \$50 billion in physical gold and silver on the cheap while being the biggest short seller on the COMEX could possibly be legitimate.

Turning to other matters (although that is difficult considering the scope of the DOJ's announcement), I was taken aback by the revelation that one of the lawyers representing the JPMorgan employee who heads global metals trading is the former CFTC Enforcement Division Director, David Meister. Meister was brought in by Gary Gensler and was the Enforcement chief from November 2010 to October 2013. His tenure overlapped a large portion of the time that a formal Enforcement Division investigation into silver manipulation was active and ongoing (that found nothing wrong in the end). In fact, Meister departed the agency shortly after the silver investigation was ended inconclusively. Many of the charges and trading violations just alleged by the Justice Department occurred when Meister was Enforcement Director. In addition, he was on my regular e-mail list and was sent my articles along with other CFTC officials. How is it possible that Meister can be allowed to represent anyone in this case against the DOJ and CFTC? I may not be well-versed in what constitutes conflict of interest violations and the revolving door between government and industry, but this stinks to high heaven.

As far what to expect in this Friday's COT report, after my epic miss last week in silver, I'll take a pass on predictions this week, thank you very much. But should there be a massive improvement along the lines of what I expected last week, my suspicions will be raised about misreporting in last week's report.

Updating the financial tally for the 7 big shorts in COMEX gold and silver, they recovered \$700 million in total open and unrealized losses and brought those combined total open losses down to \$3.4 billion as of the close last Friday. The price weakness on the Fed's announcement a little while ago, erased most of the gains for this week. As a result, at publication time, the total open and unrealized loss to the 7 big shorts has remained about unchanged at \$3.4 billion from Friday's close.

In my opinion, JPMorgan is playing a dangerous game with the Justice Department in refusing to unilaterally end its manipulation of the silver and gold markets. It might be wise for JPMorgan to recognize that the Justice Department can put it out of business, but the reverse isn't true. As and when JPMorgan ceases its epic manipulation, which it must in time, silver prices will soar. Until then, we must all bide our time and wait for the DOJ to complete its unfinished business.

A just-released new report from CNBC indicating that the Justice Department and the CFTC are expanding their investigation of spoofing in precious metals to other markets as well is also highly encouraging. I just hope the regulators are starting to take notice of the real problem infecting all our commodity markets, namely, that speculators (in the form of the managed money traders and their counterparties) have largely displaced too many of the real producers and consumers for which the markets were created and have perverted the price discovery process.

<https://www.cnbc.com/2019/09/18/federal-prosecutors-regulators-broaden-market-manipulation-probe.html>

Ted Butler

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Silver – \$17.75 (200 day ma – \$15.63, 50 day ma – \$17.05)

Gold – \$1496 (200 day ma – \$1349, 50 day ma – \$1483)

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