

April 27, 2011 – Extreme Speculation

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A short while back I wrote about standing in the other guy's shoes and of speculating about what may be going on behind the scenes in silver. Most of the time we have no choice but to speculate, if we are not privy to inside information. I consider myself to be the ultimate outsider in silver matters, so I find myself constantly speculating. But I do try to base my guessing on facts and logic in trying to figure out the real story.

I'd like to share with you an extreme speculation that occurred to me recently. It's kind of way out there, so I won't be offended if you don't accept it. As always, I just ask that you hear me out, before deciding if my guess is either crazy or brilliant; or, more importantly, what it may mean for silver. I do know that it seems very plausible to me, in that it answers a number of questions that have been long unanswered. One thing my guess does is to connect some dots for the first time. Aside from whether my speculation turns out to be right or wrong, I'm somewhat embarrassed that I hadn't thought of it sooner, as it just hit me a couple of weeks ago. The good news is that I see no damage to anyone if I am wrong, yet if I'm correct it should prove supportive of silver in the future.

One last preface – what tripped off the thought process was me thinking about the big case that the Securities & Exchange Commission (SEC) brought against Goldman Sachs last year which was ultimately settled for \$550 million. That case, as you'll recall, involved derivatives on subprime mortgage securities. I do not want to comment on the merits of the case, but one detail about it was what set off my new found thought process, even though the detail was made public shortly after the case was first announced last year. The SEC's Division of Enforcement brought the case against Goldman after the Commission voted 3 to 2 (along political party lines) to allow the action to proceed. Then (a year later) it hit me. What if the Commission didn't approve the Enforcement Division's allegations? Obviously, there would have been no case brought against Goldman and no one outside the SEC or Goldman would have ever been aware that the case was presented and the vote took place.

My speculation is that the CFTC's Division of Enforcement proposed to bring a case against JPMorgan (and perhaps others) for the silver manipulation, but the Commission could not approve it by a majority vote. I think that Chairman Gensler and Commissioner Chilton would have voted to allow the Enforcement Division to proceed but the other three commissioners would have voted against it or abstained from voting. Because no majority vote occurred, the case against JPMorgan was put into suspension, a Twilight Zone of sorts.

Certainly I understand and appreciate that there are protections under the law that prevent publicly disclosing the allegations made in a rejected case. But we must also balance those protections against the cold fact that a crime is in progress and political or other less important motives are allowing that crime to remain in progress.

My speculation certainly answers a number of questions, starting with when is the current silver investigation, now two and a half years old, going to be concluded? My theory suggests it has been concluded; it's just not possible to say so. After all, the silver investigation should have been concluded within days of its initiation. I still don't think we needed an investigation at all; all we needed was to have the Commission answer the simple question I asked that led to the investigation originally. That question was how it was possible for a US bank to hold a short position equal to 25% of the world production of a commodity and that not be manipulative in and of itself? Heck, I'm thinking of running a contest with a reward for anyone who can legitimately answer other than it would be a clear manipulation.

Another answer my speculation provides is why the CFTC is so quiet on the matter in the face of continued public pressure to do something about the ongoing silver manipulation. How can they say anything? This is the same predicament the SEC would have been faced with in the Goldman case had the majority vote not occurred. The failure to get a CFTC majority vote essentially prevents the agency from saying anything. The majority vote failure doesn't do anything to remedy the manipulation, it just forces silence on the part of the agency. Another case of extend and pretend. Along these lines, those who may have been the potential targets of my speculated enforcement action (JPMorgan and maybe others) wouldn't be bragging they had dodged any bullet by "winning" the Commission vote. That may explain why JPMorgan is silent in the face of numerous open allegations of wrongdoing in silver, including videos and cartoons ridiculing the bank.

Quite frankly, I'll be very happy if my speculation turns out to be factual, but not distraught if I'm wide of the mark. That's because if I am even close to the mark it has put a bull's eye target on the silver manipulators and confirmed what I have alleged for 25 years, namely, the silver market has been rigged. All that's missing is the command of "Fire" that a majority Commission vote would bring. Maybe we'll get a new Commission vote soon. There have been published reports indicating that Commissioner Dunn will be retiring soon and a new candidate for commissioner awaits the vetting and Senate confirmation process. My guess is that Commissioner Dunn, a Democratic-appointee, probably abstained in any vote to charge JPMorgan, preventing Gensler and Chilton from achieving a majority vote along party lines.

I would imagine a new commissioner from the Democratic Party might vote to bring the charges and overcome what I feel would be the certain two nay votes from the Republican commissioners. Of course, strong Republican opposition would look to delay the confirmation process of a new commissioner or frustrate in some other manner the advancement of the Enforcement Division's case against JPMorgan. But that, in my opinion, will be a losing battle in the end. Certainly the relentlessly rising price has inflicted much damage to the silver shorts with more to come, with or without regulatory relief. The real irony is that while the concentrated silver shorts may have escaped a regulatory guillotine to date, the bloodless verdict of the market has been inflicting maximum punishment. In other words, by not forcing a breakup of the concentrated silver short position earlier, the regulators seem to have brought more damage to the manipulators by allowing them to stay short longer into the rising silver price. Talk about sweet justice.

I hope I've been clear that this is all my conjecture and speculation. And even if I'm all wet about this, there are other things underway that may bring a regulatory end to the silver manipulation (if a physical silver shortage doesn't end it first). There is certainly the matter of position limits, where maybe 5000 public comments were received asking the Commission to enact a 1500 contract limit for silver. That will be very hard for the CFTC to ignore. My sense is that Gensler and Chilton are not looking to ignore this outpouring of public appeal. If I'm wrong about this, then I will have been very wrong about Gensler. The good news is that we should know fairly soon whether I'm right or wrong about him. Perhaps we might even get a hint as early as today, at the CFTC's public hearing.

The agenda for today's meeting (9:30 AM Eastern time) does not include position limits, so it's probably not worth your time to watch the hearing. However, in the press release announcing the meeting, it was mentioned that the Commission would, in addition to those items on the agenda, take up consideration of the comments received on the proposed Dodd-Frank rulemakings. <http://www.cftc.gov/PressRoom/PressReleases/pr6026-11.html> I'll try to monitor the hearing and if anything special is mentioned about all the public comments received on silver position limits, I'll disseminate that to you in the weekly review or sooner. It certainly goes without saying that something should be mentioned about position limits, as the number of comments and their specificity towards silver were unprecedented in CFTC history. If the Commission is serious about transparency, market integrity and rooting out fraud, abuse and manipulation, it should heed what the public has to say about the proper level of silver position limits.

A few comments about the price volatility and record volume in silver over the past few days. On balance, it strengthens the silver market structure. Contrary to the near-universal commentary that silver prices have been pushed higher solely by hot speculative money flows, the hard data from the COT indicates rather restrained speculative long participation. This is a theme I have reported on regularly. Despite the subdued speculative long participation on the COMEX, it is my sense we did witness significant speculative long liquidation these past few days. There is no doubt in my mind that the commercials greased the skids for this sell-off for the singular purpose of buying as many silver contracts as possible. Same as it ever was.

Therefore, what had previously been a not too bad COT set-up in silver just got a lot better because of the sell-off. Certainly, there is a limit as to how many leveraged speculators can be flushed from the market on these engineered take downs. My sense is that we have witnessed most, if not all, of the potential speculative long liquidation already. There wasn't a tremendous amount of speculative long silver fruit on the tree going into the sell-off, and after the commercials shook it good and hard these past few days, there's a lot less left to still be shaken off. As always, when the commercials can't force any further speculative long liquidation that marks a price bottom. Friday's COT Report should be quite instructive and I will cover it in the weekly review.

Finally, with the explosion in commentary about silver from all quarters, many subscribers have sent me different articles asking for my comments. I respect the right of anyone to hold a different opinion than mine, so it serves little purpose to answer that I disagree with any particular commentary. In fact, I think different opinions are good for everyone, as the reader gets to judge both sides of the silver story as presented and can decide for him or herself which version makes the most sense. Of course, if you have a specific question about anything that I can answer in a few sentences, I'm generally pretty good at getting back to folks. I do miss a few, however, so please don't feel shy about asking twice.

Ted Butler

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Silver – \$45.40

Gold – \$1506

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