

April 28, 2010 – DOJ versus JPM?

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A subscriber sent me the response she received from the Antitrust Division of the US Department of Justice, to her complaint of manipulation in silver and gold two weeks earlier. Here's what the DOJ wrote on April 26:

Thank you for your email regarding allegations that JP Morgan Chase, and perhaps other traders, are manipulating the silver futures market.

Generally, the Commodity Futures Trading Commission (CFTC) investigates these types of market manipulations. However, the suggestion that JP Morgan Chase may be signaling other traders warrants further analysis. The Department of Justice will carefully consider the issues you raise, and you be (sic) can assured that if we conclude that silver traders have engaged in anticompetitive conduct, we will take appropriate enforcement action. If you have not done so already, you may wish to contact the CFTC. Please see below for information on how to contact the CFTC.

We appreciate your interest in the enforcement of federal antitrust laws and the benefit of your perspective. Thank you for bring (sic) your concerns to our attention.

Sincerely,

Citizen Complaint Center

Antitrust Division

Department of Justice

My subscriber's original complaint did not mention JPMorgan, so obviously there were other complaints naming them. Having received too many form letters over the years (politely telling me to get lost), this response doesn't read like those. What does this mean?

I would assume it means what it says, namely, that the Justice Department is carefully considering if anticompetitive behavior has occurred in the silver market by JPMorgan and other traders. If the DOJ does exactly what it says it intends to do, then it is hard for me to envision how it can conclude anything other than the silver market has been manipulated. The facts demand such a conclusion.

The issues are clear. There is an unprecedented concentration on the short side of COMEX silver futures, held by JPMorgan and a few other large commercial traders. These traders use this dominant and controlling short position to manipulate prices to their unfair advantage in a non-competitive manner. I doubt it is possible that there could be a more blatant example of market manipulation than exists in silver. That's why hundreds, if not thousands, of investors have written to the regulators over the years on this specific silver issue. Those complaints are making a difference.

The entry of the DOJ into the silver fray is meaningful. For one thing, they would appear to have the muscle to stand up to JPMorgan. As much as I admire the Chairman of the CFTC, Gary Gensler, I have harbored doubts that his agency has the resources and manpower to stand up to a market bully like JPMorgan. I have no such doubts about the DOJ's ability to take on JPM. In fact, the DOJ is one of the very few entities that could stand up to Morgan. Hopefully, the DOJ and the CFTC will work together to finally bring an end to an outrageous crime that has been in progress for too many years.

That is not to say that the Justice Department will conclude that JPMorgan and others have manipulated the silver market, as I have long alleged. But the DOJ's self-admitted interest is a very good thing. It would appear that the DOJ has stepped into the ring with JPMorgan and one of them will back down and one won't. If the DOJ backs down and concludes that there has been nothing amiss in the silver market, then the coming silver shortage will destroy another institutional reputation. For the sake of America, I hope that is not the case.

At the very least, perhaps it will force the DOJ to confront JPMorgan's extreme and unprecedented concentration on the short side of COMEX silver futures and address the questions that have not been answered for a year and a half. How could the act of one or two US banks holding a concentrated short (or long) position equal to 25% to 30% of the world annual production of any commodity not be manipulative to the price of that commodity? Why does this level of concentration exist only in COMEX silver?

Ted Butler

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