

July 16, 2010 – A Done Deal

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The Senate passed the historic financial regulatory reform package and shortly President Obama will sign it into law. Make no mistake; FinReg is truly historic in nature, revamping financial regulation in a way not seen in 80 years. It promises to reverse the government's prior hands-off approach which many believe led to the financial crises of the past few years. Please understand that I am not attempting to pass a value judgment on the new prospective law, just to put it into proper perspective.

What makes it historically significant is the scope of power it intends to pass to financial regulators. It is important to understand that while FinReg is a done deal as far it now becoming law, its implementation is just beginning. In essence, Congress has directed various federal agencies to develop the rule making that will determine the true impact of what is to come. The devil, as they say, is in the details. But there are aspects of the process that are of particular concern to silver investors.

My first general observation is that I feel like I just completed an advanced political science course. I think I learned, quite unexpectedly, more about how government works and laws come into existence than I ever knew before. And all I was really interested in was what the impact would be on silver. I consider this a good thing, as you're never too old to learn something new.

My second observation was the performance of Gary Gensler, chairman of the CFTC, during the year long process. In short, his performance was magnificent. I'm fully aware that the silver manipulation is a crime in progress and that Gensler has yet to deal with it, but his role in FinReg must be acknowledged. When it came to derivatives reform, he was the go-to guy, the key player. That he didn't seek the limelight once, but instead concentrated on getting the job done, leaving the accolades to fall on others, is a personality trait I especially treasure. Therefore, it was a special treat for me to read others finally recognize his role in the process.

<http://online.wsj.com/article/SB10001424052748704746804575367242923030332.html?KEYWORD=wsj>

Just a few more words on Gensler, before getting to the important issue of what this means for silver. Over the past year, I have heaped praise on him, even though I have grown impatient with his failure to deal with an obvious crime in progress. I have referred to him, on more than one occasion, as the greatest chairman in CFTC history and a true servant to the interests of the American people. His role in the derivatives legislation, alone, confirms my overall assessment of him. I can think of no finer candidate to lead the agency in its even more important role in the implementation of what the new law mandates. I just hope for his sake that his avoidance of the silver manipulation doesn't destroy his legacy.

Now to silver. In spite of today's smack down in price, the new law is all good news for silver. Congress has clearly indicated that it stands behind all the principles I have outlined and you have petitioned the regulators to uphold. Transparency and position limits are first and foremost. Big banks will find it harder to muscle and distort markets at will. Specifically, the nonsense that JPMorgan has legitimately hedged its concentrated short position on the COMEX with OTC transactions will be exposed. It will become easier to petition lawmakers to end the silver manipulation by virtue of the bill they created.

The truth is that the legislation went far beyond anyone's expectations in the power and responsibility it has bestowed upon the CFTC. Congress seems to have made itself clear that it wants legitimate position limits and isn't concerned about whether traders leave our markets to evade that congressional intent. Those CFTC commissioners who were worried about traders leaving would seem to have been informed otherwise by Congress. Now it would appear that the only issue is what the position limits should be in COMEX silver, not whether we should have limits. This is real important. As far as I know, the only number I've seen publicly recommended is a limit close to 1500 contracts. Sooner or later, someone is going to have to come up with a specific number and why. While it is frustrating that the issue has been delayed so long, it can't be delayed forever. Even Commissioner Bart Chilton has publicly acknowledged that the CFTC was given all the powers it needs to address manipulation. No more "our hands are tied or we don't have the right tools." No more words; the time for action has arrived.

In reality, it almost didn't matter what was in the FinReg bill; the important issue is that it is now complete. As I had written previously, the passage of this comprehensive and historic legislation was the only thing preventing Gary Gensler from confronting the silver manipulation. To have dealt with silver before passage might have caused a derailment of the package if silver market conditions turned disorderly. If silver prices had turned as disorderly as I know they will soon become, many would have argued to go slow on overall derivatives reform, lest the same disorderly conditions affect other markets. I think this was on Gensler's mind. Now that the legislation has passed, the fear of derailment has also passed.

But perhaps I am wrong. While I know Gensler fully understands the exact situation in silver (he's too smart not to), I admit that I may be wrong about what he plans next. If he doesn't move against the manipulation, it won't be because he is less honorable or intelligent than I allege, it will be for a different reason. The one thing I learned in this last year of advanced political science is the art of compromise and due process. This is the way Washington, DC works; compromise to the bitter end. The problem is that silver is not given to a compromise solution. It either remains manipulated or it does not. Like pregnancy, you either are or are not. Because Gensler knows this, he may choose not to move against this crime in progress. He may have concluded that any attempt to dismantle the manipulation will set the price off and create the potential for the agency being blamed for the whole mess. Looking the other way and pretending not to see the problem is certainly not the honorable thing for him to do. If that's what he chooses to do, so be it. For his sake and the sake of the country, I pray he doesn't choose that route, but it's up to him.

The one thing I am not concerned with in the least is whether the silver manipulation is going to end soon, regardless of CFTC involvement. Everything I look at says the time is nigh; physical market conditions being at the top of a long list. So convinced am I of the silver manipulation's demise that let me advance an idea I don't mention very often. It's not just a question of the timing, but more in the nature of how the silver manipulation will end. By definition, all manipulations end suddenly and violently in price. I am convinced that the silver manipulation will end with the most violent move to the upside in history. I see no other way. It will be, quite literally, almost an overnight affair, with the silver price moving higher in the shortest time ever. Of course, I can't tell you which night, just that it feels real close to me. Therefore, this is a time for maximum exposure; including (if you have taken complete leave of your senses) call options.

It's been a long journey so far in silver, but in many important ways, the journey has just begun.

Ted Butler

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