

June 19, 2019 – Why Is JPMorgan Above the Law?

Recent developments indicate, almost beyond question, that when it comes to silver (and gold), JPMorgan is operating in direct violation of the law. So clear is the proof of this allegation that the only real question is why JPM is allowed to openly flaunt basic commodity and antitrust law? Before getting to the why, let me first establish that JPMorgan is, indeed, violating the law when it comes to silver and gold.

JPMorgan is the largest and most important bank in the US and many would consider its CEO, Jamie Dimon, to be not only the most respected voice in banking, but in the corporate world as a whole. Given its high profile, JPMorgan is closely monitored and analyzed. Despite this coverage, very few know that JPMorgan is the dominant force in silver and gold markets. Yet public data demonstrate that JPMorgan has come to dominate the derivatives and physical sides of silver and gold, particularly since acquiring Bear Stearns in early 2008.

There are two final arbiters in matters of commodity and antitrust law in the US. The federal commodities regulator, the Commodity Futures Trading Commission (CFTC), is responsible for resolving civil infractions in regulated futures trading and the Department of Justice, is the final adjudicator for interstate commodity matters on both a civil and criminal basis.

In regards to the CFTC, the public record indicates the agency was involved in investigating and reviewing allegations of a silver price manipulation on multiple occasions both before and after JPMorgan took over Bear Stearns and it became the largest short seller in COMEX silver and gold futures in March 2008 and would remain so until the present time. The agency began a five-year formal investigation of a potential COMEX silver manipulation in September 2008 that ended inconclusively five years later. Any involvement by JPMorgan in potentially manipulating the silver market was never mentioned by the CFTC, as is typical government policy.

However, a recent interview with Bart Chilton, a CFTC commissioner at the time of JPMorgan's acquisition of Bear Stearns and front line witness to JPM's ascension to the role of most dominant COMEX silver short seller, basically confirmed that the agency was in a running battle at the time to get JPMorgan to reduce its excessive silver short position. The CFTC's efforts to get JPMorgan to reduce its manipulative short position were unsuccessful, both at the time and for the following eleven years. Sadly and shockingly, Chilton passed away weeks after his interview of a natural cause he had to know would shortly end his life. There can be little doubt that Chilton wanted to go on the record about JPMorgan and silver before his coming certain demise. There is now a written transcript of Chilton's last interview with Chris Marcus at

<https://arcadiaeconomics.com/silver-manipulation/bart-chilton-on-jp-morgan-and-silver-manipulation/>

A measured review of the public record and Bart Chilton's last interview leaves little doubt that the CFTC (accompanied with interest and involvement from the Justice Department at the time) tried and failed to rein in JPMorgan from excessive and manipulative short selling in COMEX silver starting in 2008. Emboldened by its success in rebuffing CFTC and Justice Department efforts to limit its short selling in COMEX silver (and gold) futures contracts to manipulate prices to be artificially depressed, JPMorgan embarked on a new strategy in early 2011, namely, to begin to accumulate as much

physical silver and gold as it could to take advantage of the low prices it created by excessive futures short sales.

While clearly illegal, JPMorgan's new strategy proved phenomenally successful over the next 8 years to the present time. All told, JPMorgan has acquired 850 million ounces of physical silver and somewhere between 20 to 25 million ounces of physical gold since early 2011, at an average price of \$18 in silver and \$1200 in gold. At current prices, JPMorgan is about even to a bit ahead on its combined physical silver and gold holdings, down on silver and up on gold. Good luck to those trying to find these holdings on JPMorgan's books, as it is the undisputed master at hiding assets. Besides, the \$40 to \$50 billion worth of JPM's combined silver and gold holdings are less than 2% of its total assets of \$2.5 trillion+. More remarkably, JPMorgan has continued to profit from COMEX futures trading, never once taking a loss, always profits, over the past 11 years.

On November 6, 2018, it looked like the Feds had finally caught up with JPMorgan, when the Department of Justice announced it had unsealed a criminal guilty plea from a month earlier by a former precious metals trader from the bank for manipulating prices in the COMEX futures contracts from 2009 to 2015 and that it was involved in an ongoing investigation. The announcement indicated that the trader had conspired with other traders at the bank and, in fact, learned to manipulate from other traders at the bank and did so with his supervisors' knowledge.

<https://www.justice.gov/opa/pr/former-precious-metals-trader-pleads-guilty-commodities-fraud-and-spoofing-conspiracy>

Given the timing of the press release from the DOJ, it had to have been investigating COMEX precious metals by traders from JPMorgan for well over a year through today. I know that this is not a matter expected to be resolved within days or weeks, but price manipulation is the most serious market crime of all and the sad fact is that despite the guilty plea and announcement of an ongoing investigation, JPMorgan has continued to manipulate the price of silver and gold since the announcement, as well as continue to accumulate physical silver. Therefore, it appears highly unlikely that the Justice Department intends to truly crack down on JPMorgan, since the manipulation is still in effect.

This brings us to the question of why is JPMorgan above the law. What is it that has prevented both the CFTC and the Justice Department from upholding commodities law when it comes to JPMorgan? Some might suggest that JPMorgan is acting on behalf of the US Government in depressing the price of gold and silver, but if that was the case, why bother with announcements and ongoing drawn-out investigations? Certainly, no one would accuse the late Bart Chilton as being involved in such a conspiracy. There has to be a better explanation than some unfounded conspiracy theory.

I've narrowed it down to two possible explanations for why the CFTC and Justice Department have failed to crack down on JPMorgan for manipulating silver and gold prices. One certainly involves the CFTC and perhaps even the Justice Department knowing that they are inadequate in matching up to JPMorgan in legal terms. It's hard to imagine any entity, government included, being able to match the legal firepower of JPMorgan in a court of law. Knowing this, even US Government agencies would be reluctant to go toe-to-toe with JPM in open legal conflict out of the fear of loss - better to compromise and settle and to save face and reputation than to lose in court.

The second explanation is that JPMorgan is so important to the overall financial system that if the Justice Department did succeed in prevailing against JPMorgan in such a significant criminal matter as

market manipulation, what would be the fallout to the financial system? To be frank, I'm not sure I would crack down hard on JPMorgan if it meant its complete demise, even though I am beyond convinced it is a stone-cold crook when it comes to silver and gold. Please don't misunderstand me - I'm not suggesting for a moment that JPMorgan be allowed to continue its manipulation of silver and gold - I'm saying that there must be a better way of ending the manipulation, short of putting JPMorgan out of business, which is possible if the Justice Department prevailed in a criminal finding.

But one thing is certain - JPMorgan cannot be allowed to continue its manipulation of silver and gold, almost regardless of the consequences. Unfortunately, the current approach by the Justice Department is permitting just that and is making a mockery of the rule of law. No one is above the law, not even JPMorgan and the current DOJ approach of investigate but allow the crime to continue is more damaging to the rule of law in many ways than is JPMorgan's manipulation itself.

Perhaps even a bigger question than why is JPMorgan allowed to operate in open defiance of the rule of law, is why so few see it. I don't think there could be a more significant market issue than JPMorgan's manipulation of silver and gold and the only explanation for why so few see it is that they haven't examined the public facts. While it's true that precious metals prices being in the doldrums for much of the past eight years haven't encouraged interest in this space, but that can and will change. One good mainstream media story based upon the facts can focus attention in a hurry. Certainly there has been no rebuttal of the facts as I have presented them from the regulators or even from JPMorgan for that matter.

Even within the precious metals community, I get the sense that JPMorgan's activities are not widely appreciated. Here's a recent interview in which I sensed JPMorgan's role came as somewhat of a surprise.

<https://www.youtube.com/watch?v=4ObaScOxP9Q>

Turning to matters since the Saturday review, it sure looks like there has been continued managed money buying and commercial selling in both COMEX gold and silver futures through yesterday's cutoff for Friday's COT report. Gold prices rallied during the reporting week by as much as \$30 and finished at new 14-month closing highs yesterday, while silver rose as much as 30 cents during the reporting week and re-penetrated its 50 and 200 day moving averages to the upside (although the 100 day moving average has yet to be penetrated).

Therefore, it would be surprising if there weren't further significant increases in managed money buying and commercial selling. How much? I'd guess a minimum of 30,000 net contracts in gold and 10,000 in silver and hopefully not more than 40,000 in gold and 15,000 in silver. While I am intently aware of the many bullish factors promising higher gold (and silver) prices in place, it's hard to argue that the principle driver of the higher prices to this point is not the same driver witnessed time and time again, namely, managed money buying.

The real question is what the inevitable resolution of the managed money buying will be, whenever it has been completed. Will we, yet again, be subject to the same resolution as always, namely, a flush-out to the downside in which the commercials rig prices lower and get the managed money traders to sell? Or will the commercials get hooked bad and have to buy back shorts on higher prices for the very first time?

We're more advanced in the managed money buying in gold compared to silver and that is fully reflected in the superior price performance of gold relative to silver. But that's different than predicting what happens next. I do know that the commercials are not yet financially stressed at current prices, so it would be premature to begin my money scoreboard tally. But that could change suddenly, as a hundred dollar gold rally from here would bring a sudden \$2.5 billion open loss to the 8 big commercial shorts.

The key factor, as I've insisted continuously, is the role of JPMorgan in future COMEX gold and silver short selling. I'm convinced that JPMorgan is the precious metals kingpin and what it does or doesn't do will determine prices; specifically, if it doesn't add a sufficient number of new short sales in silver on any future rally, the price will fly.

Granted, the silver price has yet to fly, but that's because JPMorgan has always added heavily to its COMEX shorts on each and every rally over the past 11 years. I can even see JPMorgan adding a few new silver shorts, to keep it less obvious that it controls the price of silver on a rally, but if it doesn't add a substantial number of new shorts, the price should still fly. So, of course, that's what I will be focusing on in Friday's COT report, although without the benefit of a concurrent Bank Participation report, this becomes tricky business.

It should be no secret to regular readers that I tend to focus intently on the COT and Bank Participation reports and all other verifiable data, perhaps too intently. In doing so, I'm looking for anomalies that might confirm or refute the premises I hold or that might suggest something new. With that in mind, here's a new anomaly I've uncovered, although I'm not exactly sure what it means.

Starting with the COT report of April 30, there have now been seven straight weeks in which the concentrated long position of the four largest COMEX silver traders has been larger than the concentrated short position of the four largest traders. This is not something I've observed previously. In the most recent COT report, the concentrated net long position came to 54,590 contracts (13,647 contracts per trader on average), while the concentrated short position was 45,756 contracts (11,439 contracts per trader). This is largest the big 4 concentrated longs have ever been relative to the concentrated shorts. (To get equivalent amounts in ounces, multiple by 5000 oz).

As to who the big concentrated longs in silver may be, the skew of the disaggregated COT report would suggest some combination of managed money and commercial traders. There was a time, about a year ago, when there was a very large concentrated long position in silver (although not as large as the concentrated short position) that was exclusively in the managed money category that I followed closely and wrote about. As it turned out, those big longs got crushed in the silver sell-off to \$14 in late summer 2018.

Back then, the new concentrated longs came in at \$16.50 to \$17 or more and got bombed out at close to \$14. This time, it would appear the concentrated longs came in well-below \$15. Aside from the price

differential, as I just indicated, it doesn't appear that the new big concentrated longs are exclusively managed money traders, as was the case a year ago. I don't think JPMorgan is one of the big longs, although I suppose it could be a JPM surrogate.

Pure and simple, this unusually large concentrated silver long position is an anomaly that bears consideration – no more, no less. For what it's worth, it is unique to silver, in that the concentrated short position of the four largest traders in COMEX gold futures (139,562 contracts) is nearly double the size of the concentrated long position (77,479 contracts). What makes the comparison with gold more of an anomaly and perhaps more meaningful is that the extent of managed money gold buying is much more advanced than the managed money buying in silver to date. I'll continue to observe and report how this develops.

While I never know what to expect on days of Federal Reserve interest rate decisions (or what difference it makes for gold and silver), such days usually lead to price pops or drops. Today's announcement led to a price pop in gold and silver and a drop in the dollar and largely retained those moves into publication time. Any higher close today would represent new 14 month closing highs in gold and 2 month closing highs in silver.

(On a housekeeping note, I'll be attending a memorial service for a dear departed friend from Maine Saturday afternoon, so the weekly review will be delayed by a few hours – probably close to 6 PM EST).

Ted Butler

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Silver – \$15.08 (200 day ma – \$14.92, 50 day ma – \$14.80)

Gold – \$1357 (200 day ma – \$1269, 50 day ma – \$1299)

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