May 8, 2013 – The Worst Regulator Possible

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Sticking with the theme of milestones, we've just crossed a few important anniversary dates that relate to silver that taken in proper perspective point to a disturbing conclusion. That conclusion is that the US commodities regulator, the CFTC, has done more public harm than good over the past few years. Simply put, the public and our markets would have been better off had the agency not been run by the commissioners in place, specifically including Chairman Gensler and Commissioner Chilton. In fact, rarely has so much promise for genuine regulatory reform been squandered as badly as has been the case over the past few years.

Four years ago tomorrow, Gary Gensler was sworn in as chairman of the CFTC, following the financial crisis that brought the system to the brink. He hit the road running and immediately began to speak publicly in terms of position limits and concentration that paralleled exactly what I had been espousing for more than 20 years. Gensler followed up his public speeches with a series of unprecedented public meetings designed to garner industry consensus for how to prevent concentration and manipulation and how to institute legitimate speculative position limits in those commodities where they did not exist, such as silver.

To say I was awestruck would be an understatement and I began referring to him as the greatest chairman in CFTC history, much to the dismay of many. The issue of position limits and of prohibiting the big banks from speculating in the markets (the Volker Rule) reached a culmination in the passage of the Dodd-Frank Act, the commodities areas of which Gensler spearheaded through Congress. Finally, position limits were a part of commodity law all set out on a rigid timeline. Then it all fell apart. Years after the passage of Dodd-Frank, we are further away from instituting legitimate position limits than ever before. Whereas Gensler deserved great credit for including position limits as a matter of law, with much support from Commissioner Chilton, they must both share the blame for the matter blowing up in their faces. What went wrong? In simple terms, both lacked the courage necessary to deal in specifics when required.

Bart Chilton goes back longer than Gensler, having become a commissioner in mid-2007. Perhaps Chilton's greatest strength was his willingness to correspond with members of the public who contacted him. I started writing to him in 2007 after his public speech in which he likened the agency to a tough Â?cop on the beat.Â? I assumed he was unaware of the allegations of concentration and manipulation in COMEX silver on the short side, the very same issues that have remained to this day. (This was before JPMorgan became the big silver short crook when the bank acquired Bear Stearns in 2008).
http://www.investmentrarities.com/ted_butler_comentary/11-13-07.html

I stayed in communication with Chilton until the second CFTC public letter of May 2008 (another unfortunate anniversary) which denied any manipulation in silver but that omitted any mention that the biggest COMEX silver short, Bear Stearns, went bankrupt before the report was published. For the past few years, I have sent to Chilton and to all the other commissioners copies of my articles, as I do with JPMorgan and the CME Group.

Despite Commissioner Chilton's and the agency's insistence that all was well in silver in accordance with the May 2008 second public letter, the price of silver fell more than 50% that year after JPMorgan added to the Bear Stearns short position it inherited. The release of the August 2008 Bank Participation Report resulted in a third silver investigation initiated by the Commission, one that exists to this day.

Another unfortunate anniversary was that of the manipulative price smash of two years ago, in which silver fell an unprecedented $6 on the Sunday evening of May 1, 2011 and $15 (30%) for the week. There would be another 30%+ price smash that September. Although such price declines were unprecedented, neither Chairman Gensler nor Commissioner Chilton would publicly comment on them.

I know that silver was never the prime focus of the agency's push for financial reform, but I also knew that no market was more in need of position limits than COMEX silver. And the public provided Gensler and Chilton with more official comments and private e-mails about manipulation in silver and the need for position limits than for all other commodities combined. Sadly, Gensler and Chilton largely ignored the public or gave lip service to the many thousands of public requests.

Chilton seemed to come to his senses in late 2010 when he began to publicly reference the obvious concentration on the short side of COMEX silver and his comments appeared to result in a civil class action lawsuit being filed against JPMorgan. But then Chilton began to distance himself from his previous comments about concentration in COMEX silver and just as quickly, the lawsuit floundered.

I single out Gensler and Chilton because they were once the good guys on the Commission or the only ones pushing for position limits. Since they have allowed position limits, the silver investigation and the unprecedented price declines in silver to fade into the sunset unresolved, they must be held to the greatest standards of failure. In a very real sense, Gensler and Chilton have done more harm as a result of first championing the important issues and then abandoning them.

In fact, this whole Dodd-Frank experience looks like a colossal failure because neither was strong enough to speak out publicly about how the large banks and JPMorgan in particular had corrupted the process. By them cow tailing to JPM we are actually worse off today than if Dodd-Frank had never come up. As I said, I think it's a matter of Gensler and Chilton not being courageous enough. Where each could have used the bully pulpit to hammer the issues home, they squandered precious public TV time (Chilton in particular) talking about a variety of issues away from position limits and concentration and manipulation. The only plausible explanation is that someone got to them on silver and persuaded them not to intercede in the ongoing manipulation.

I wrote all of the above yesterday in preparation for today's article, but the disturbing news out of Cleveland and the rescue of the decade-long kidnapping and rape of three young women is the prime influence for what follows. It's hard to believe that human beings can be so cruel to other people and I found the news reports shocking. Most disturbing is the appearance that the local police had prior opportunities to discover and save the young women, but failed to do so. I've been tossing and turning all night contemplating that potential failure and comparing it to the CFTC's failure to end the ongoing silver manipulation.

Yes, I know that the physical imprisonment and torture of human beings is different than the financial rape and torture experienced by silver investors due to the actions of JPMorgan and the CME Group and the complicity of the CFTC. That said, on many other levels what has occurred in silver is actually worse. Please hear me out.

It appears that the police in Cleveland only had a few opportunities to discover and rescue the women and while it is alarming that they may not have properly utilized those opportunities, it's actually much worse in silver. I have petitioned the CFTC for more than 27 years about the silver manipulation in every way imaginable. For more than 4 years, I have sent to all the commissioners, the CEO of JPMorgan (Jamie Dimon) and the top regulatory officials at the CME Group (including Terry Duffy since the previous CEO was sacked), copies of all my articles in which I refer to JPM and the CME as crooks and criminal enterprises. Since I write two articles a week, the total amount of articles sent numbers in the many hundreds.

I'm very careful to include Gensler and the other commissioners and Dimon and Duffy on the same email sent so that they all know who else got the articles. I don't know if they read my articles (Chilton Â?boastedÂ? a while back that he doesn't read my stuff), but I have never had an email returned as undeliverable. These are all intelligent and powerful officials and they all know how unprecedented it is to have two of the most powerful financial institutions in the world being openly and continuously accused of criminal activity by an ordinary citizen. I'm not trying to pat myself on the back, but one thinks twice before calling JPMorgan and the CME crooks and signing your real name. I would only do so if the facts warranted it. The police in Cleveland had maybe a few chances to crack the case; the CFTC has had many hundreds of chances to crack the silver manipulation and has not done so. That makes the CFTC look much worse than the Cleveland police.

Supposedly, the police went to the house where the women were imprisoned but left when no one answered the door. Certainly, there was no formal investigation ever initiated against the perpetrators. Contrast that to the CFTC's actions. In the last 9 years alone, the agency has conducted three formal reviews into whether silver was manipulated by the big shorts. In the first two, the agency concluded no manipulation existed. Yet the idea that a silver manipulation exists is more widely embraced than ever. The current open formal investigation by the Enforcement Division is now more than 4.5 years old, making it perhaps the longest investigation in US Government history. Although I was directly responsible for all these reviews being initiated, I have never heard from the agency. This is some great way of conducting an investigation, never seeking input from the person who prompted the investigation in the first place. Not even the local police would think of such behavior.

The important point is that the issues that I raised that prompted the silver investigations must have been substantive enough to warrant the continuous reviews; otherwise a federal agency would just be squandering limited and valuable resources in their pursuit. It's hard to reach any other conclusion than the CFTC felt it must investigate silver given the facts in their own data but had predetermined that the outcome would find nothing beforehand. When it comes to silver, the agency has no intention of judging the matter objectively.

This jibes with the behavior of the agency regarding the truly unprecedented two silver 30% price smashes of 2011 and the recent 20% smash of mid-April. It is inconceivable that the CFTC would sit by and say nothing if any other regulated futures market fell as much as silver did (twice) in 2011 and a few weeks ago. The same goes for the CME which is the designated self-regulatory organization for COMEX silver. The inescapable conclusion is that the CFTC and CME know full well that silver is manipulated in price by JPMorgan and none of them has any intention of doing anything about it. Everyone in Cleveland wanted the women rescued, including the police. Because of this, it's hard to reach any conclusion other than the CFTC, CME and JPMorgan are corrupt beyond measure. This has nothing to do with the CFTC's competence; this strictly concerns the agency's intent to enforce the law which doesn't exist when it comes to silver.

Just so there is no misunderstanding about the issues involved; it's really quite simple when viewing the official data. JPMorgan holds such a large concentrated short position in COMEX silver that it is automatically manipulative to the price. Even after a reduction in this concentrated short position of nearly 50% over the past few months, JPMorgan is short 126% of the entire total commercial net short position in COMEX silver futures. In other words, without JPMorgan's net short position of 18,000 contracts (90 million oz), there would be no commercial net short position in COMEX silver (all data as of COT of April 30). It was precisely JPMorgan's concentrated short position that caused the CFTC to start the formal silver investigation in September 2008 and it is still JPM's concentrated short position that backs my allegations to this day.

Throw in the daily HFT trading scam and it's easy to see that the price of silver is not taking its cue from real supply and demand. Rather it is the crooked COMEX dictating prices to the real world. Of all the regulators around, the CFTC knows this better than anyone, yet they refuse to do anything about it. This is what makes the agency the worst regulator possible.

What is it that the CFTC should be doing? For starters, they should be resolving the matter once and for all. No federal agency should announce, with great fanfare, a formal enforcement investigation, complete with periodic updates saying the investigation continues, with no resolution. That undermines public confidence in and of itself. Worse, the price action in silver (to this day) has been so extreme and unprecedented and suggestive of manipulation while the supposed investigation has taken place that the agency's continued silence also undermines public confidence. And someone please tell Bart Chilton to stop saying in private emails that the agency is looking into it when it is clear that is the last thing they are doing.

It is time for the CFTC to come clean about silver and stop pretending it is investigating. It will be better for everyone (except holders of long COMEX contracts) for the CFTC to simply shut down this crooked exchange instead of letting the manipulation continue. At one time I did think the exchange could be reformed, but I no longer feel that is possible. The corruption goes too deep. It's bad enough that an important American financial institution is corrupt beyond repair, but it is more a loss that the COMEX has dragged the CFTC down with it.

In my latest article, I referred to the commissioners and other high officials of the agency as traitors to the American people. I still feel that way. Not only are none of them fit to hold their current positions, they should never hold any other public office again. Not even with the Cleveland police. I do plan on upping the pressure on these people. Some readers asked me to include the appropriate e-mail addresses.

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Gold – $1468

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