Position Limits Redux<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Some say that when the end comes, it often comes in the blink of an eye. That's part of how I'm feeling, having just witnessed the CFTC approve position limits yesterday. I had mentioned the open meeting last week and as has been the case with the eight or nine public meetings on position limits over the past few years, I watched the meeting yesterday. The meeting is available on a recorded basis in case you want to tune in. Follow the links here http://www.cftc.gov/PressRoom/Events/opaevent_cftcstaff110513

Because the issue of position limits had seemed to slip away each time it was poised to be enacted in the past, my expectations this time were low. In fact, position limits had been passed once by the Commission previously only to be overturned in the courts and I am not capable of handicapping if that will happen this time as well. I can tell you that up until yesterday's vote the matter of position limits had been the most contentious issue at the CFTC, with an extreme political divide rarely seen in the past. That's the first thing strange about yesterday's approval, namely, how smooth it went.

Also noteworthy at yesterday's meeting was the announcement by Commissioner Bart Chilton that he had submitted his resignation to President

Obama. I have had some mixed history with Chilton, including prodding him on the matter of position limits even before Chairman Gensler arrived at the Commission. http://news.silverseek.com/TedButler/1238529622.php I was always prodding him to do more and do it quicker, but I must say Chilton was consistently on the right side of position limits

Chilton must be given much credit for being staunchly in favor of position limits from the get go and it is no exaggeration to say that position limits were a signature issue for him (as well as Gensler). You could always count on Chilton to support the enactment of position limits and on this he served the American people honorably, in my opinion. It always comes down to if a man or woman leaves a better world or circumstance in their wake and I think Chilton left a favorable legacy.

If position limits were a signature issue for Chilton and Gensler, then they were much more than that for me. I had been petitioning the agency to institute position limits in COMEX silver for more than 20 years. All I got in return were polite dismissals and explanations why we didn't need position limits in silver. Then Gensler arrived in 2009 and position limits became the top priority for the agency. I always understood that any interest by the agency to enact position limits had to do with preventing price run-ups by speculators in energy or foodstuffs. My interest was in ending the downward silver manipulation, but I knew that it would be hard to exclude silver if position limits enacted (at least openly).

As was intoned repeatedly at yesterday's meeting, position limits are the only antidote to concentration, market corners and manipulation. As the term indicates, position limits limit speculative positions. I found it interesting that great attention was devoted at the meeting to the upward silver manipulation of 1979-80, as I have used that example often in explaining why what JPMorgan has been doing to COMEX silver on the downside is just the mirror imagine of what the Hunt Brothers did on the upside. Legitimate position limits would have prevented the Hunt Brothers' silver debacle and would have also prevented JPMorgan from having manipulated silver for the past 5 years.

Since position limits were approved by the Commission in the relative blink of an eye after years of almost pitched battle on the issue, the next step is figuring out what happens next. Left unchallenged by industry (basically JPMorgan and the CME), were the position limit proposal to advance without obstacle, I would guess the measure could be in place within several months. If legal challenges arise, your guess is as good as mine. Since we already know what happens if position limits are derailed, namely, JPMorgan continues to manipulate the price of silver (to the point of physical shortage), let me look at silver (and gold) from the perspective that no obstacles to enactment will be raised.

If the position limit proposal that the CFTC approved yesterday is fully enacted and (this is the key) enforced uniformly and in the true spirit of the rule, the silver manipulation will be terminated. The formula that the CFTC outlined for determining the actual number of contracts a speculator may hold was three to four times the 1% that I had advanced and thousands had petitioned the agency to adopt. http://www.investmentrarities.com/ted_butler_comentary09-14-10.shtml But even the higher limits would still restrict JPMorgan enough to break the bank's manipulative grip on the price of silver. As I said, if enforced in the true spirit of the proposal.

At current levels of total open interest (including spread positions); the formula would call for an all months combined position limit in COMEX silver of less than 5,000 contracts, or the equivalent of 25 million oz. In COMEX gold, the formula would dictate less than 12,000 contracts as the most a speculator could hold long or short. Lost in industry criticism of position limits is how few traders would be affected by position limits; by my estimate no more than 5 or 6 in silver and maybe double that in gold. Allow me to point out that, by extension, these are the only true opponents to position limits; hardly a broad constituency.

The problem is that JPMorgan is holding (at last count) 18,000 contracts short in COMEX silver, well in excess of the current 5,000 contract proposed limit and

72,000 contracts long in COMEX gold, six times more than the proposed 12,000 contract limit in gold. Will JPMorgan be forced to comply with the proposed position limit rule just approved and, if so, what impact will that have on the price of silver and gold? All I can do is reasonably speculate.

The approved position limit proposal has an exemption for bona fide hedging positions. Speculative position limits are designed to limit speculators, not legitimate hedgers who have always been able to exceed position limits if they can demonstrate they are hedging not speculating. So JPMorgan (or any large trader) can get an exemption if legitimately hedging.

But how the heck can JPM claim to be legitimately hedging silver and adding to short positions with the price at or below the cost of production for so many miners? The bank can't do that legitimately, in my opinion, but I'm not the one JPMorgan is going to be appealing to; it will be the CFTC who will decide. Even more fanciful would be the claim by JPMorgan that it is hedging with its long market corner in COMEX gold, since a year ago it held a short market corner in COMEX gold of about the same level. It's going to take some powerful □splaining to justify a hedge exemption in gold.

Undoubtedly, JPMorgan will try to exploit the role it plays in market making as justification for its holdings being way above proposed position limits. The crooked bank will try to convince the CFTC that it is providing necessary liquidity to silver and gold; in essence, claiming that without JPM's buying on sell offs and selling on rallies, silver and gold prices would be disorderly. This is rich JPMorgan manipulates prices and then claims that if they stop their manipulation prices would go crazy. I can't help but think of the guy who kills his parents and then pleads for mercy because he's an orphan. Will the CFTC buy JPMorgan's bologna?

Adding to the speculation of how this is going to turn out is what has transpired over the past year or so compared to the circumstances in place when the last attempt by the CFTC to enact position limits was overturned in the courts. There are some things I am particularly focused on. One is the regulatory profile of JPMorgan two years ago and its profile today. When the industry lobbying group funded by JPMorgan stopped position limits in the courts, JPMorgan was flying high, still basking in its role as a savior of the system during the financial crisis. Today, the bank is openly vilified for just how many crooked paths it took.

I can't help but think that the CFTC could have broken JPMorgan's back for the bank's role in manipulating silver and gold prices should it have so decided, instead of finding there was nothing amiss in silver after a five year investigation. However, if the CFTC had moved against JPMorgan for manipulating silver, that would have exposed the agency to criticism for coming to the case 20 years too late.

My sense (and it's only speculation) is that this approval for position limits was part of a grand scheme in which JPM dropped its opposition in return for not being charged. I think all parties, the CFTC, JPM and the CME, are looking for a way of quietly diffusing the silver manipulation with the least amount of publicity and collateral damage. From my perspective, I don't know if that is doable.

Another thing that bothers me is that the approval for position limits occurred for the very first time that JPMorgan has been able to position itself to the long side in COMEX gold; to the point of now holding a market corner. Up until a year ago, JPMorgan was always situated on the short side of both silver and gold. Now the bank is short silver and long gold for the first time. In a perfect world (which admittedly we don't live in), a fair outcome to position limits would necessitate JPMorgan reducing its short position in silver and long position in gold. That one has me scratching my head.

Also troubling to me is that JPMorgan recently added 6000 contracts to its short silver position, just as the proposal for position limits advanced. Surely, JPMorgan knew it was coming. I have distilled the silver manipulation down to whether JPMorgan adds short positions on the next silver rally as all anyone needs to know if the manipulation continues or ends. I still feel that way. At some point, JPMorgan will stop adding silver short positions on rising prices and there will be no more manipulation. But if not now, with the proposed position limit being approved, then when?

Let me conclude and summarize. On its face, the CFTC's vote to approve position limits should end the silver manipulation as and when those limits are fully implemented. If JPMorgan is denied the ability to add silver short positions, as the proposal would suggest, silver prices should fly. So, if silver prices do fly in the near future, we shouldn't have to dig deep for the reason. If prices don't fly, it just means that JPMorgan, with or without tactic approval from the CFTC, has found a way of neutralizing or defeating the proposal.

I suppose it's possible that the whole position limit approval process by the CFTC is some type of subterfuge and that it will be business as usual for the manipulation. Maybe the CME and JPMorgan will get it overturned in the courts again. Perhaps the proposal will be enacted, but never meaningfully enforced. I also can't help but think that silver and gold will somehow be excluded. It is hard not to feel there's some kind of catch here and I'm missing something really basic right in front of me. Add in the tepid price reaction leading up to the vote yesterday and the general lack of commentary afterward and the feeling that this is no big deal hangs in the air.

But having promoted position limits as the remedy for the silver manipulation for a quarter century, I know how important the issue is. Quite simply, aside from an acute physical shortage, nothing matters more to the price of silver than whether legitimately-enforced position limits exist in COMEX silver. I know that no one has written more about position limits than I have. Or how I argued until I was blue in the face with the CFTC about position limits for 20 years before Gensler and Chilton took up the banner (only to meet resistance at every turn). Suddenly, position limits have been proposed and put in motion again. If I hadn't used the word so often, I'd tell you it's all too surreal to witness issues I've raised for so many years rise to the forefront. That it is playing out in real time only adds to the interest.

No matter what, there is nothing negative about the proposal for position limits, excepting it may fall by the wayside or not be enforced. Since the silver market is already manipulated by JPMorgan's excessive position, the worst outcome is a continuation of the manipulation; in a sense a neutral for a while longer. If there is going to be any change as a result of position limits, it must be a positive change, as there is nothing to suggest that this would cause JPMorgan to increase positions already well in excess of proposed limits.

My main emphasis is that the position limit proposal is potentially a very big deal. If fully enacted and enforced, it will impact the price of silver and gold profoundly. At a minimum, it will sharpen the discussion of how JPMorgan has manipulated silver and gold prices and that was what I intended anyway.

Ted Butler

November 6, 2013

Silver – $21.80

Gold – $1317