October 10, 2012 – History Does Repeat

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I'd like to follow up on my comments Saturday about the new Bank Participation Report for October. In truth, I had forgotten about the report's release date until I was almost finished with Saturday's review, so my comments were quite off the cuff. I wouldn't change anything I wrote then, but I would like to add a few things. It occurred to me that I had been through this before, some four years earlier.

In August 2008, unable to sleep and killing time on the Internet, I chanced upon some obscure data that I hadn't checked in months. For many years, as a student of the markets, I had reviewed an obscure monthly publication from the CFTC that detailed the futures positions of commercial banks on the country's commodities markets. The Bank Participation Report was based upon the same data contained in the weekly Commitment of Traders Report (COT), so I rarely discovered anything of significance. Invariably, I came away from each review with the feeling that I had once again wasted my time in studying the BP report and vowed not to review it again. But it was 3 AM back then and I had exhausted my normal supply of data web sites to review; so I clicked upon the August 2008 Bank Participation Report. Not only was I unable to go back to sleep, the information contained in that report set off a series of chain reactions.

The August 2008 Bank Participation Report revealed a sudden and enormous concentration on the short side of COMEX silver and gold futures contracts by no more than 1 to 3 US banks. So large was the concentration on the short side that a reasonable person would conclude it was manipulative, in and of itself. The whole thrust of US commodity law and the heart of US antitrust policy revolves around preventing monopolies that inhibit competition. I wrote a series of articles, starting with, Â?The Smoking GunÂ?, analyzing the data http://news.silverseek.com/TedButler/1219417468.php As a result of many hundreds of you writing to the CFTC back then, the agency initiated a formal silver investigation still under way to this day. Another result was that after years of being unable to clearly identify the big COMEX silver short, the August 2008 BP report led directly to JPMorgan being fingered as the big silver manipulator. Let me state this clearly, without the August 2008 Bank Participation Report, there would be no active silver investigation by the CFTC, nor any widespread awareness that JPMorgan was at the center of the silver manipulation. That's a pretty impressive outcome from what had always been an obscure government publication almost not worth the time to review.

While I certainly can't call the October 2012 Bank Participation Report as being the shocker and game-changer as the August 2008 report, the report is compelling in its own way. My main takeaway in the new report is that a non-US bank holds a separate concentrated short position of at least 10,000 net COMEX silver futures contracts. Together with JPMorgan's 34,000 contract net short COMEX position, these two banks hold 44,000 contracts short in COMEX silver. That's the equivalent of 220 million ounces of silver, almost 30% of annual world mine production. If any two entities held the equivalent of 30% of the world production of any commodity (oil or corn or copper), it would be a scandal of epic proportions. Because the commodity is silver, the CFTC only pretends to investigate.

The 44,000 combined silver contracts held short by two banks is also almost 43% of the entire 102,500 contract net COMEX open interest (minus spreads). That's a level of concentration without precedent in any active futures market. Without these two banks' short position, there would be no commercial short position in silver worth mentioning. Certainly, absent these two banks being short 43% of the entire market, no credible allegation of manipulation would be possible. But the flip side is that it is impossible for a 43% market share by just two entities not to be manipulative.

I know this stuff gets old and continues to be met by silence from those who should be responding (JPMorgan, the CFTC and the CME), but the issue is not going away; not since the latest silver investigation began 4 years ago and not in the 20+ years that the CFTC has denied the existence of a silver manipulation. The continued silence will attract unsubstantiated excuses by others that JPMorgan and the unknown foreign bank has a legitimate reason to hold such a dominant market share, but the facts suggest otherwise. Why do these two banks hold such a disproportionate share of the short side of COMEX silver? For one thing, it is not a traditional banking practice on a historical basis.

For more than two years prior to the August 2008 BP report, there was no notable short position in COMEX silver by banks, either US or foreign. The silver short position by US banks averaged around 5000 contracts or so each month. That jumped by 5 to 8 fold after JPMorgan acquired Bear Stearns and has remained in that range since. We know now that Bear Stearns was the big silver short before its demise, not US or foreign banks. To those who might try to say that the banks are only doing what they normally do in shorting silver so aggressively; why weren't they doing it prior to the Bear Stearns rescue? What changed in banking practices that now makes it normal for two banks to control the short side of silver? My answer is that when Bear Stearns failed, someone had to replace them as the silver price manipulator and that fell to JPMorgan and its collusive foreign bank partner in crime. Otherwise, the price of silver would have been set free.

Of all the commodities included in the Bank Participation Report, only the precious metals (silver, gold, platinum and palladium) have a notable net short side presence by banks that didn't exist until Bear Stearns failed. This suggests that the silver short Â?diseaseÂ? may have spread to these other precious metals. http://www.cftc.gov/dea/bank/deaOct12f.htm (In copper, the US banks have a large long position). My point here is that the short position in silver by two banking entities is only normal in that it has existed for the more than four years since JPMorgan took over Bear Stearns and not for any historical or legitimate banking purpose. The reason JPM, the CFTC and the CME can't legitimately explain why two banks are allowed to hold a 43% market share is because there is no legitimate explanation possible. JPMorgan continues to manipulate the price of silver, while the CFTC continues to publish data proving that manipulation, while the CME continues to ignore everything in its headlong pursuit of bigger HFT revenue.

While I know that the CFTC can't publicly identify any single trader by commodity law, there is nothing preventing them from confirming the quantity of silver contracts held by the two largest shorts on the COMEX. The Commission can also respond to allegations that a 43% market share by two banks is manipulative. For the agency to remain silent on such basic matters is undermining market integrity and is instilling a public distrust of the regulator. The same goes for JPMorgan and the CME. The level of market concentration on the short side of COMEX silver is an issue that is not going away quickly or quietly.

In one of the great ironies of recent times, the latest unemployment report brought howls of protest that it was politically rigged. The Bank Participation and Commitment of Traders Reports were issued the same day as the Employment Report and no such protests about inaccuracy were lodged. In fact, everything about the CFTC published data looks accurate and fully explains the situation in silver. Silver is manipulated in price by two big banks, one of which is JPMorgan, and the government data confirm that. The problem in silver is that the CFTC refuses to act on the clear evidence of manipulation that it is publishing. This is a regulatory failure without precedent.

In fact, this whole silver manipulation situation is unprecedented in any number of ways. Not only does the primary federal regulator continue to confirm its existence while refusing to address it (along with the self regulator at the CME); the prime manipulator, JPMorgan, continues to add to concentrated short positions while remaining silent on the allegations. Nothing like this has ever occurred before. There has never been a situation where many thousands of market participants and observers have petitioned and re-petitioned the regulators and lawmakers about an ongoing market manipulation or where the regulators have been so unresponsive. There has never been a situation where direct allegations of wrongdoing have been leveled at such a powerful and important financial institution like JPMorgan, where that institution has remained silent in the face of the allegations. If you had ever told me in the past that I could make such direct and specific allegations about JPMorgan, including writing to each of their board of directors, without strong legal repercussion, I would not have believed you.

Almost everything about silver is unprecedented, including what it has done and will do pricewise. Yesterday was the fifth-year anniversary of the all-time high in the Dow Jones Industrial Average, which is still some 500 points higher than where we are today. Five years ago, silver was $12.50 (gold was $700). Despite the manipulation being more obvious than ever, silver managed to climb almost three fold in price thru today. It is hard to conceive how high the price might go once this manipulation is terminated. Of course, there have been some of the most manipulative price takedowns in commodity market history along the way and, unfortunately, there may be more intentional takedowns ahead. Still, silver's price performance has been impressive.

The new Bank Participation Report serves as a stark reminder of the August 2008 report in that it confirms the concentration on the short side has grown more intense and is, effectively, down to 2 banks. It's almost funny; the more specific the evidence of manipulation grows, the quieter the responsible parties and the regulators grow. While I have had to retract my former praise of CFTC Chairman Gensler as being the greatest chairman in agency history; at least I was correct in predicting that how he handled the silver issue would be the defining measure of how he would ultimately be judged by history. It is precisely on that silver measure that Gensler has stumbled badly and will continue to stumble unless he alters course radically. Trying to evade the full frontal assault on commodity law by JPMorgan, the CME, the foreign bank and others has been a fool's mission for the CFTC. Only by using the brute force of the law can the agency hope to end the silver manipulation; if, in fact, the agency and Gensler are at all interested in the enforcing the law. The same goes for Commissioner Chilton; next time he asks for a show of hands as to what constitutes manipulation, instead of asking about hypothetical percentages in imaginary markets, he can ask about the 43% share held by two banks on the short side of silver. Then again, courage and integrity have never been particularly abundant at this agency.

Even if the CFTC never does the right thing, the inevitable silver physical shortage will remedy the manipulation. I was reminded of that this week when watching the reports of gas lines and soaring prices in California due to local refinery problems. In a sure sign of advancing years, it brought back memories of shortages and long lines back in 1973, due to the OPEC oil embargo and in 1979, when the Shah of Iran fell in the revolution. Back then, making sure you had enough gasoline was the main focus of daily life; it was all-absorbing. Even though that was 30 and 40 years ago, it is not something I will ever forget. You can't really know how everyone will react in a shortage unless you've experienced it yourself.

It helped me understand what Izzy Friedman experienced in Eastern Europe during the War. In a genuine shortage, all bets are off as far as prices go. If there is not enough of an item to go around, price becomes secondary to securing needed supplies. Of course, I am speaking of shortages in industrially consumed commodities, like gasoline and silver. The real rush to secure such commodities comes from the actual consumers. I must leave gold out of the likely shortage scenario as it is not largely consumed industrially. Both silver and gold will see investment demand, but only silver can witness an industrial user surge of demand. User demand in a shortage will be like no other demand for silver in history. That's because we've never had a silver shortage before. The growing concentrated short position in COMEX silver, because it keeps prices lower than they would be otherwise, hastens when the silver shortage will appear. This is another blame to be placed at the CFTC's feet for ignoring JPMorgan's concentrated and manipulative short position to date. The agency, as well as JPMorgan and others are causing the silver shortage to come sooner rather than later.

Finally, the new short stock position report was released last night and the short position in SLV came down noticeably, falling more than 1.5 million shares to 11.66 million shares, one of the lowest short totals this year.
http://www.shortsqueeze.com/?symbol=slv&submit=Short+Quote%99 Having campaigned to see the short position in SLV reduced (or at least not increased greatly), I suppose I should feel a sense of relief. If I were a different person, I guess I might even celebrate the reduction and claim responsibility for it. But I am still torn by a distrust of the DTCC (compiler of the statistics) and I am uncomfortable that the COMEX short position is so extremely large and not the SLV short position as well. How about we just consider this circumstance to be in the Â?to be decidedÂ? category?

Gold and silver prices will break from the continued tight trading range of the past 3 to 4 weeks, but I am still unsure which way. The COT structure is too extreme not to be resolved up or down big from here. It's still the same story; up big in silver in the end, either way in the short term.

Ted Butler

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Silver – $34

Gold – $1763

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