Sins of the Father?<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

There continues to be a swirl of news concerning JPMorgan's legal issues. Last Friday, the bank reported its first quarterly loss in nine years due to litigation expenses of $9 billion; the first such loss since Jamie Dimon has been CEO. It was also revealed that JPMorgan has increased its reserves for future legal expenses to some $23 billion; this in addition to the $18 billion that the bank has absorbed in legal expenses and settlements over the past few years. A billion dollars here and a billion dollars there and pretty soon you're talking about some real money.

Primarily due to the staggering amount of legal costs, some have questioned if Mr. Dimon should remain in charge of running the bank. Let me first disclose that I sit firmly in the undecided and don't care camp. While the legal expenses are humongous and troubling, I am not the least bit qualified or interested in judging Mr. Dimon's performance. But, apparently, others feel differently, as this has become the topic of many recent commentaries. One particular piece caught my attention yesterday.
http://dealbook.nytimes.com/2013/10/14/hero-or-goat-jamie-dimon-inspires-no-consensus/

Having declared my neutrality on whether he stays or goes, I found the article by Andrew Ross Sorkin biased in Mr. Dimon's favor. Of more interest to me was the emphasis that the vast majority of the mortgage related legal problems occurred at Bear Stearns prior to its acquisition by JPM in March 2008. This was also a major talking point by Mr. Dimon on the earnings conference call and previously. Additionally, Mr. Sorkin quoted excerpts from the SEC's director of enforcement at the time to the effect promising that the agency would be lenient with JPMorgan for any infractions that occurred prior to the takeover. Considering that the US Government asked Mr. Dimon and JPM to take over Bear Stearns in a time of financial stress, this is how it should be in a fair world. It is an important point and one I remember previously writing about in agreement. The sins of the father should not be visited upon the son.

But what if it was the case that all the securities and mortgage related violations occurred after the Bear Stearns' acquisition and were committed under Mr. Dimon's tenure at JPMorgan? In that case, obviously, any prior assurances of leniency would not apply and Sorkin's article would not have been published. Violations before the takeover are very much different than violations afterwards. That, in essence, is the difference in JPMorgan's ongoing manipulation of silver (and gold) prices. JPMorgan should not be judged for manipulating silver prices prior to its acquisition of Bear Stearns; but should be raked over hot coals for rigging the price of silver from March 2008 through the present.

In fact, I only discovered that JPMorgan was the prime silver and gold price manipulator well after and because of the Bear Stearns takeover. So the argument of blaming it on prior bad acts by Bear Stearns falls flat, just like the post-Bear violations by JPM in energy manipulation or manipulation in the London Whale derivatives debacle. Many have come to Mr. Dimon's and JPMorgan's defense for taking over Bear at a time of great crisis in the financial markets and this defense is justified to a certain extent. But it is totally wrong to excuse serious violations by JPMorgan in the silver and gold markets because they took over Bear Stearns in 2008. No one should get a pass on manipulating markets, no matter what.

In keeping with an unfortunate (to me) pattern of major CFTC findings being announced just before my self-imposed publishing deadline on Wednesdays, the agency just announced its settlement order with JPMorgan over the London Whale case. You may recall that there was an unusual manipulation angle to the case in that the CFTC was alleging that JPMorgan's position in the credit default derivatives in question was large enough to constitute price manipulation. This is the same issue I have raised about JPMorgan's position in COMEX silver and gold. In fact, for an interesting exercise, read the Commission's order but substitute the word □silver□ for the credit default index referenced http://www.cftc.gov/PressRoom/PressReleases/pr6737-13

One expected disappointment in the release was the avoidance by the agency in establishing what percent of the market in question was held by JPMorgan on the short side as a share of the entire market. This has always been my key contention in alleging that JPMorgan has manipulated the price of silver by virtue of its dominant market share on the short side, as much as 40% of the entire COMEX silver market. After all, a market corner or price manipulation is nothing more than too large of position. Instead, the order highlighted in dollar terms by how much JPMorgan added to the position without getting into percentages or the exact concentration of that position. I don't think that was an accident, but was stated so as not to allow direct comparison with COMEX silver.

Other elements of the order mirrored the alleged manipulation in silver in terms of the concentrated holdings having an adverse impact on the legitimate market forces of supply and demand. It's not possible to have market manipulation without a concentrated position being held by some entity. In the London Whale case (as in COMEX silver), the entity holding the concentrated short position was JPMorgan. The CFTC alleged and JPMorgan agreed that excessive short positions were added that caused the price of the credit derivatives to fall and thereby benefit JPMorgan. Then, as a result of the artificially created low prices, the trade backfired on JPM causing its traders to buy back positions at a loss of approximately $6 billion. Please don't overlook that the CFTC alleged and JPMorgan agreed that this was a short side

manipulation (same as in silver).

I think the most important comparison of the London Whale case to the COMEX silver manipulation is in the differences. In basic terms, JPM's London Whale manipulation was a simple price rig in extremely complex securities. In silver, JPMorgan's price rig is complex in a simple commodity. Let me try to explain.

The London Whale manipulation was simple in that it followed the rigid blueprint of every previous manipulation, including the Hunt Brothers silver manipulation and the Sumitomo copper case, in that positions were added continuously which moved the price to the manipulators' advantage. Then, because the resultant prices became so out of line with what normal supply and demand forces would dictate, the whole thing collapsed leaving the manipulators with great losses and exposing the manipulative attempt.

In COMEX silver, JPMorgan has behaved differently. Instead of selling short silver at declining prices, as it did in the London Whale case, JPMorgan has only sold short additional quantities of silver on increasing prices. After these additional short sales have satiated all new buying interest, JPMorgan then causes prices to decline (through the manipulative device of HFT) and buys back its short sales at lower prices and great profit.

Wait a minute one might exclaim □ you're accusing JPMorgan of manipulating silver because it buys low and sells high? Isn't that the legitimate goal of any trader or investor? Yes, that's the goal of any legitimate trader.

The problem is that JPMorgan, by virtue of the excessive size of its silver position, is not a legitimate trader. By holding such an extremely large market share in COMEX silver over the past five and a half years, JPMorgan has eliminated any claim to legitimacy. In a nutshell, JPMorgan by the unlimited quantity of silver it has and can sell short, has created the first successful long-term market manipulation in history □ the perfect market manipulation. That's why the bank has been so opposed to position limits which would□well□.limit its silver position and end the silver manipulation. Even though JPMorgan has been successful in manipulating the silver market, it is still illegal and will end. More on that in a moment.

While the key to the silver manipulation is JPMorgan's dominant market share or market corner on the short side (same as in the London Whale case), there have been some important outside factors that have contributed to the silver price-rigging. The most important have been in the modern mechanics of trading, from HFT to the presence of technical traders and funds which mechanically and consistently buy and sell on price signals; buying as prices

move higher and selling and selling short as prices decline. These technical funds are the enablers which allow JPMorgan to sell high and buy low in silver. These technical funds and traders are important contributors to the perfect market manipulation.

I realize that every time the price of silver and gold get smashed down, the intuitive reaction is that JPMorgan or other commercial traders are bombing the market lower by selling thousands of contracts. But that's only partially true. Yes, JPMorgan rigs the price lower on those big down days, but not by selling enormous quantities of COMEX silver contracts short. JPM does get the price snowball rolling down the hill by selling a small quantity of contracts short at critical times and prices with the intent of inducing the technical funds to sell much larger quantities of contracts short (which JPM and other commercials then buy).

This is an important feature of the perfect market manipulation in silver and the reason it has lasted so long; JPMorgan can always proclaim it was a net buyer of silver (and gold) on the big down days as is consistently proven in COT reports. By itself, it is a significant defense against allegations that JPMorgan is manipulating the price of silver, as how the heck can you be accused of manipulation if you buy on big down days? More than any other factor, this has been the prime impediment to ending the silver manipulation. But it doesn't tell the whole story.

JPMorgan's real crime resides in its ability to sell unlimited quantities of COMEX silver contracts short on the way up in price to the point of creating unprecedented levels of market share and concentration. In December 2009, JPMorgan held more than 40% of the entire short side of COMEX silver and close to that market share on other occasions. To my knowledge, there has never been a greater market share or corner in any major market in history. These unlimited short sales by JPM inevitably satisfy technical buying interest and then that technical buying turns to selling at some point, with JPMorgan then working to induce the tech funds into selling. The buying back by JPMorgan is the illegal ringing of the cash register and closing out of the manipulative silver short positions sold at higher prices.

What I've described today and for many years appears to be the perfect market crime that could last forever except it can't. How can I be so sure? Well, for one thing, this London Whale case itself. While JPMorgan's army of lawyers hammered at the exact wording of the agreement so as to limit additional civil lawsuits, the point is clear JPMorgan was guilty of manipulating the securities in an important credit market. After the electricity manipulation case by the Federal Energy Regulatory Commission earlier this year, it can now be said without question that JPMorgan is a serial market manipulator. And the manipulations have the same common denominator an excessive and dominant market share enhanced by dirty trading tricks.

Because it is no different in COMEX silver with regard to dominant market share and dirty trading tricks (HFT), it gets harder for JPMorgan to dismiss the allegations in silver; so hard that the bank can't retaliate for being called the criminal enterprise it has come to be. I get asked almost every day what more can be done to bring attention to JPMorgan's silver (and gold) manipulation. The answer is to keep attention focused on the right issues, namely, JPM's concentrated market share and dirty trading tricks. I believe this effort is greatly enhanced by the constant revelations of wrongdoing by JPMorgan.

But the most important assurance for the coming end to the COMEX silver manipulation is what the artificially depressed price of silver has done to real supply and demand. The Commission's order in the London Whale case (above) placed great importance on the impact of price manipulation on legitimate forces of supply and demand. Silver is now ground zero for what can happen if prices are manipulated, now that the COMEX rigging has forced the price below the cost of production for many silver miners. In time, silver prices must rise above the cost of production. But it may not take a long time, given the current circumstances for JPMorgan.

For years, I have distilled the issue down to this whether JPMorgan adds new short contracts on the next silver price rally as the bank has done on every

silver rally for the past five and a half years. More than ever I believe this to be the critical element now. Simply put if JPMorgan doesn't add new short positions in silver, the manipulation is over. Someday, JPMorgan won't add to silver short positions and there are indications that day may be at hand. Yes, I know the CFTC has weaseled out on their silver investigation by not charging JPMorgan, but I am still convinced that was due to concern of the legal liability that would accrue to JPM and the financial system.

But no one can deny that JPMorgan has been involved in manipulating other markets as established with today's order from the Commission and the previous energy manipulation finding. That raises the likelihood that JPMorgan could be involved in a silver manipulation as I have alleged and lowers the likelihood the bank will continue in that manipulation. The fact is that JPMorgan has never been positioned better for ending the manipulation since it has a very low silver short position relative to its past positions and a massive long position in COMEX gold.

While I try to avoid short term price predictions, the recent price action seems to also indicate a sooner rather than later end to the silver manipulation. The recent sudden price takedowns and dismal price action seem indicative of a market washed out to the downside. Certainly, it's hard to imagine a market (silver and gold) with more extreme negative sentiment, also a sign of a washout and price bottom. If the CFTC had moved against JPMorgan for

manipulating silver instead of credit default swaps, we'd be over $100 silver right now. That the agency didn't just means it will take a little longer.

Ted Butler

October 16, 2013

Silver – $21.35

Gold – $1282