On the heels of the largest monetary settlement in CFTC history, the person most involved in the JPMorgan spoofing/manipulation case, Enforcement Director James McDonald, has announced his resignation and will depart the agency tomorrow, October 8.

https://www.cftc.gov/PressRoom/PressReleases/8275-20

As was the case with the settlement with JPMorgan in which the announcement was telegraphed well before actual release, McDonald's departure was also telegraphed in an interview with the Wall Street Journal late Friday (and as mentioned in Saturday's review). Even more than the obvious intentional leaking of the stories, for reasons we can only guess at, the most notable feature of the resignation is the short timeline of the actual departure date. More notice of leaving is generally the norm, even among fast food workers.

https://idioms.thefreedictionary.com/get+out+of+Dodge

Leaving out the possibility of some serious personal/family complications, which on a human decency basis, I hope isn't the case, I can't help but speculate as to what accounts for the sudden departure. Certainly, on the surface, it would appear McDonald accomplished more, in terms of Enforcement Division parameters, than any of his predecessors, so why the rush to leave? Why not the end of the month or year?

It appears to me that the leaking to the WSJ was designed to soften any shock at the quick end date. I've heard of various explanations, including he was fired, he was disgusted at the terms of the JPM settlement or that he was getting out before the election. I find all those explanations to be highly implausible. While McDonald didn't rule out changing sides to represent defendants in future commodity cases, he did state he didn't have anything lined up and I take him at his word. Let's face it, I don't see him becoming a race car driver, or airline pilot or plumber – his skill set is commodity law. The question is still why so quick a departure. Before I offer my own speculation, let's take a short stroll down memory lane.

Upon McDonald becoming the Enforcement Director in April 2017, I wrote to him, both privately and publicly, wishing him well and laying out my case against silver market manipulation and JPMorgan's leading role. I was polite and to the point and made my letter to him public, after informing him I would do so and inviting others to write to him as well. Generally, I've done this when all new Commissioners or Chairmen or Enforcement Directors assume office.

https://silverseek.com/article/another-opportunity

Over the past three and a half years, I have sent Director McDonald (and other high officials) all my articles, which have numbered more than 350 over this time. As regular readers know, I try to stick to the hard data when making my allegations about price manipulation, most often citing the agency's own data on concentration and COMEX futures positioning. Yet the last time I heard from the agency was in their public letter in 2008 (and before that in 2004) about concentration on the short side of COMEX silver futures. A year after McDonald joined the agency, I wrote an article for subscribers noting the anniversary.

https://www.butlerresearch.com/april-11-2018-an-interesting-anniversary/

While I didn't receive a reply from McDonald, he did record a podcast (since deleted) on the CFTC's website in which he offered reassurance that all was well in silver. I wrote in response and included a letter from James Cook, president of Investment Rarities, Inc., asking that Director McDonald please respond to basic questions.

https://silverseek.com/article/avoiding-obvious

No response was forthcoming and that's the point, namely, neither the agency nor Director McDonald has ever responded to simple questions concerning the silver manipulation. After denying a manipulation by JPMorgan for more than decade, the agency has secured the largest monetary settlement in its history against JPMorgan for precious metals manipulation, but still has managed to avoid the obvious – price suppression, never taking a loss and the secret hoarding of physical metal by the bank or its insiders.

With the historic JPM settlement which also managed to skirt the important issues, McDonald now appears to be beating it out of Dodge, perhaps before trouble sets in. I admit to talking my book a bit here, but it seems to me that McDonald may have figured out that it might be better to leave while he appears to be on top, as it looks highly unlikely he or the Commission is about to move against JPMorgan for the real reasons (price suppression and physical metals accumulation). So what trouble might McDonald be looking to avoid?

It seems to me that if the price of silver were to seriously erupt higher in the near future, say to or beyond the historic highs ($50+), the agency would quickly be faced with questions asking it to explain any such price surge. The Enforcement Division, in light of its previous five-year investigation which ended in 2013 and its recent settlement with JPMorgan and other banks for spoofing/manipulation would be included in such inquiries. Answers to such inquiries would be difficult to explain in free market terms. Let's face it, neither the agency nor McDonald could address bona fide questions about manipulation before a serious price explosion; such a price explosion would greatly complicate matters.

Therefore, my speculation is that McDonald may have decided to beat it out of Dodge to avoid having to answer questions after a price explosion. He has certainly avoided answers to serious questions to this point and after Thursday he will be asked no more. To be clear, I don't think he knew anything about the long running silver manipulation before he assumed the role of Enforcement Director, but it's hard to see how he can't be aware of it upon his departure.

Finally, McDonald has completed his three and a half year tenure, just like his immediate predecessors, namely, managing to completely overlook a long term and ongoing price manipulation that he took an oath to guard against. If, as I would expect, he does cross the street and begins a successful career of defending those accused of commodity violations, I can't help but believe it will be because he didn't go far enough against JPMorgan and the others, not because he went all the way.

Turning to the price action this week, Monday's fairly sharp gains were completely offset by yesterday's even sharper plunge. I wish I could eliminate for everyone (myself definitely included) the rotten emotional letdown the sharp selloffs create, but alas, all I can do is explain them as best I am able. Basically, it has everything to do with mindless computer to computer short term day trading and nothing to do with silver, gold or any of the markets that suddenly swoon.

Yesterday's price smash was aggravated in that it occurred at a particularly illiquid time of day, after the much higher volume COMEX "day" session closed, making the mindless computer trading more impactful on price. Pointing out that the extremely short term and mechanical nature of the computer day trading has nothing to do with the real supply and demand fundamentals that are supposed to set prices may be constructive in trying to explain things, but not when prices are crashing because of it.

Perhaps the greatest regulatory failure of our time is that the CFTC seems to be oblivious to the extent our markets have been captured by these mindless computers. Unfortunately, this mindless computer algo trading has become so firmly entrenched that it's hard for me to see how it can be eliminated and, in fact, may have been inadvertently strengthened by the recent spoofing cases. Therefore, it's something that must be tolerated by long term investors. That it stinks to high-heaven and should be cracked down on is beyond question, but that doesn't appear likely at this point, so that leaves getting used to it as best as we are able.

Don't get me wrong, the sharp selloffs caused by mindless computer to computer trading aggravate me to no end, even though I know in advance the selloffs have nothing to do with how silver is likely to perform in the future. I tell myself, just like I try to tell you that we must get used to the daily volatility and wait for the real fundamentals to kick in. Those fundamentals in silver include what's going on in the physical world and in the world of COMEX futures positioning. I believe these things can be much more objectively analyzed than the computer day trading.

As far as wholesale silver physical conditions, the combined holdings in the COMEX and world silver ETFs have shown no serious signs of investor liquidation and its's now two months since silver prices peaked and pulled back. Total visible silver holdings are right up against all-time highs (1.5 billion oz) and even considering the slight retreat in holdings in SLV, the biggest silver ETF, holdings in that trust are higher than they were a month ago. I'm not saying we won't have investor liquidation, just that there are few, if any signs of that to date, even in the face of a pretty sharp retreat in price since early August. And just to be clear, I expect renewed investor buying, particularly as and when we cross above the 50 day moving average to the upside.

As far as recent futures positioning changes, these too appear on the bullish side, at least to me. In gold, the $100+ price plunge of the last two reporting weeks, which took prices below the 50 day moving average for the first time in several months, resulted in no change in the headline total commercial net short position, although the concentrated short position of the 8 largest traders did increase by 11,000 contracts to its highest level since May. I still maintain that the highly unusual increase in the concentrated short position on falling prices is a case of these same 8 big shorts pushing prices lower into the end of the third quarter, thereby saving themselves between $2 and $3 billion in mark to market losses. I don’t imagine Director McDonald will have time to check that out before clearing out his desk tomorrow.

Another notable change in COMEX gold futures over the past two reporting weeks was the liquidation of 26,000 managed money long positions, as well as the net purchase of 19,000 gold contracts by the other largest reporting traders. As a result, the managed money traders have a very low historic long position, while the other large reporting traders hold a record long position. We may not know exactly who the heck are these other large trading guys, but I can’t help but think they might know what they are doing. And superimposed upon all these positioning changes is that JPMorgan is completely flat and, I feel, grinning like a Cheshire cat about what is likely to transpire.

On the much steeper $5+ price plunge in silver over the past two reporting weeks, which penetrated the 50 day moving average for the first time in seven months, there was less than a 3000 contract reduction in the total commercial net short position and hardly any change in the concentrated short position. There was a bit over 4000 contracts of managed money long liquidation, but that was more than offset by 6000 contracts of net other large reporting trader buying. The most plausible conclusion for why so little change in the face of a very sharp selloff is the often repeated observation that the silver market structure looked washed out.

Here too, the flat short position of JPMorgan, combined with its massive physical long position, as is the case in gold, puts it in the best position of all to reap the coming rewards of much higher silver prices. I know it's hard to think of all these things when the out of control computer jockeys are whipping prices around in mindless day trading, but it should be clear that aside from the managed money traders in gold, the most important trading categories are not being tricked by the disruptive computer trading. Instead, they are using it to their advantage, as we should be.

As far as what to expect in Friday's new COT report, I wouldn't anticipate much change in what was a fairly flat price and low volume reporting week. Any selling by the managed money traders on yesterday's late selloff (which continued overnight) came after the cutoff deadline for the report.

Stepping back a bit (or at least trying to do so) from the increased mindless daily computer trading, the world seems to be getting more unsettled by the day in broad economic and political terms. Trying to put things in proper perspective, it seems difficult to imagine how silver (and gold) won't come under increased and intense investment buying in time. With so few good investment choices and growing money and buying power being created as far as the eye can see, it's just a matter of time before the investment masses converge on the precious metals. And certain inevitable large industrial silver user buying seems impossible not to kick in before long. I know these thoughts don't come to mind when the computers are in the process of slamming prices yet again, but neither does that mean these factors don't exist.

At publication time, prices for gold are about $15 lower from Friday's close, while silver is down a nickel or so, bringing the 8 big shorts' total running losses down by around $400 million, to just over $12.8 billion. By adding to their concentrated short positions in gold and succeeding in pressuring prices lower into the quarter's end, the big shorts may have won a battle along the way, but do appear to have put themselves at a more disadvantaged position in overall war terms.

Ted Butler

October 7, 2020

Silver – $23.85 (200 day ma – $19.43, 50 day ma – $26.13)

Gold – $1890 (200 day ma – $1741, 50 day ma – $1952)