

September 25, 2019 – Still the Main Issue

I continue to believe that the recent announcement from the Justice Department of criminal indictments of precious metals traders from JPMorgan for spoofing and price manipulation was intended to get JPM to stop its much-wider price manipulation without the DOJ coming out and saying so. The simple proof of that is, apart from the fact that spoofing is blatantly illegal, that few are likely to recover losses caused by spoofing.

Since spoofing affects prices in the very short term, only those who can show direct damage on a very short term basis stand a chance of collecting from JPMorgan and then only after surviving the bank's fortress-like legal defenses. Unless one can show he or she was directly damaged by acts of spoofing, no damages will be recovered. In essence, the actual number of market participants which stand a chance of successful legal recovery for damages is miniscule. While most cheer the DOJ's actions against the traders from JPMorgan, in terms of really mattering to the vast bulk of investors and producers which have been victimized by JPM's actions for more than a decade – hold off on the celebrations, because no damages will be recovered.

This going after only spoofing was not an accident on the part of the Justice Department, but was carefully thought out. The DOJ's intent was to pressure JPMorgan to stop its much wider and far more pernicious suppression of silver and gold prices since it acquired Bear Stearns in 2008, but without coming out and saying just that. Had the Justice Department even raised the issue that JPMorgan had deliberately depressed the price of silver and gold, all hell would have broken loose. In an instant, the potential field of litigants seeking damages from JPMorgan would have exploded from a handful to just about every precious metals investor and producer in the world which was hurt by prices manipulated lower by JPMorgan.

Knowing that JPMorgan would not likely survive such a financial onslaught, the Justice Department did what it thought was the next best thing, namely, try to get JPMorgan to stop manipulating but without having to come out and declare the obvious. That may seem to be a brash statement on my part at first, but not when you objectively consider the real issue – concentrated short selling on the COMEX, particularly involving silver futures. I know that most people's eyes glaze over with the term "concentrated short position" but that doesn't alter the fact that this is and has always been the main issue.

A concentrated short position is simply a position held by just a few market participants. It's a fact that there must be a short position for every long position in every derivatives contract, so the mere existence of shorts is not the problem. The problem is that just a handful of traders hold the bulk of the short positions in COMEX silver. Since a price manipulation can only exist if a concentrated position exists, the CFTC regularly monitors and reports on the concentration in every commodity, both on the long and short side. Let me stop here to make a point.

Concentration data are perhaps the most important information of all in Commitments of Trader (COT) report, even though the data are rarely referred to by most commentators. Concentration data are the front line defense against market manipulation and that's why the CFTC complies and publishes detailed concentration information in every market. The problem is that concentration data on the short side of COMEX silver futures clearly indicate downward price manipulation that the CFTC refuses to

acknowledge. How so?

In the most recent COT report (as of Sept 17), the 8 largest traders on the short side of COMEX silver futures held 97,544 net contracts of silver short, the equivalent of 487.7 million oz of silver, 100 million ounces more than the entire commercial net short position. It is also 60% of the total world annual mine production of silver, a higher percentage in real production terms than any other commodity. The kicker is that not one of these 8 big shorts (led by JPMorgan) is a legitimate hedger, such as a silver miner. The 8 big shorts are mostly US and foreign banks speculating against long side speculators, under the guise of "market making".

In reality, it's much closer to the truth to call this activity "market rigging", since up until the present, the 8 big shorts in silver (and gold) have never lost when amassing large collective short positions (based upon historical concentration data from the CFTC). It wouldn't be possible to never lose when shorting a commodity like silver if the market was free; such results could only occur in a rigged market. And no market is more rigged than COMEX silver.

The issue of the short side concentration in COMEX silver is certainly not new and the CFTC has had to address the matter in the past. But the recent announcement from the Justice Department sheds new light on this issue. The DOJ was very careful in explaining that the traders at JPMorgan learned most of their dirty trading tricks from traders who came over to the bank with the takeover of Bear Stearns.

The DOJ revelation sheds new light on a serious matter I have raised previously - the very public lie and deliberate misrepresentation made by the CFTC shortly after the takeover of Bear Stearns by JPMorgan. On May 13, 2008, close to two months after JPMorgan took over Bear Stearns and inherited not only Bear's massive concentrated short position, but also the team of dirty traders running the short position, the CFTC issued a (second) 16-page public letter designed to rebut allegations of there being anything wrong with the concentrated short position in COMEX silver futures.

<https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/silverfuturesmarketre>

Since this public letter was published nearly two months after the silver and gold markets largest concentrated COMEX short seller, Bear Stearns, had failed, it is impossible that the CFTC wasn't aware of what had to be the most monumental event in the history of concentrated short selling. Yet there was no mention in the public letter of the largest concentrated short having failed. To this day, I remain convinced that Bear Stearns failed because it was unable to meet the \$2 billion in margin calls generated by the run up in silver and gold prices to the day it failed. The CFTC should be ashamed and condemned for lying so blatantly to the public and for failing, to this day, to address the most pressing issue in silver.

Simply put, the price of silver would never have been as low as it's been over the past 8 years had the CFTC come close to fulfilling its main mission of preventing manipulation by disallowing the 8 big shorts on the COMEX from capping prices every time silver attempted to rally. I'm not opposed to anyone selling or selling short silver; I'm opposed to 8 big shorts selling massive quantities to manipulate prices and never losing in the process. It isn't going to happen, but the Justice Department should expand its ongoing investigation to include why the CFTC lied so openly and brazenly to the public in May 2008; as well as why it has done nothing about the concentrated short position in silver to this day.

Today's sharp selloff in silver and gold prices, while not particularly welcome, can hardly be called surprising. Moreover, the sharp selloff can be laid directly on the existence of the super concentrated short positions on the COMEX. The 7 big COMEX silver and gold shorts (excluding JPMorgan) have had their backs up against the wall of late, incurring their largest open and unrealized losses in history. It must be expected that these big shorts will make a stand and fight to drive prices lower. It's either rig prices sharply lower to save their skins or be consumed, like Bear Stearns, if they lose control on higher prices.

That's the real problem with the concentrated short position in COMEX silver, namely, it creates a dangerous market condition for everyone, longs and shorts alike, regardless of whether market participants are aware of it or not. The financial fate of the 7 or so big shorts is all that matters and not anything else, including actual supply and demand factors. The CFTC knows this, yet has refused to acknowledge the obvious just like it has refused to admit Bear Stearns' failure as the largest concentrated short in the open public lie of May 2008. Because the Commission failed to act then or since, we all have to live with the consequences of its failure.

What that means is that the concentrated shorts will either succeed in causing prices to fall sharply enough for them to buyback enough short positions to escape permanent ruin or fail in doing so and be consumed in an orgy of short covering on sharply higher prices. If the big shorts succeed in rigging prices lower one more time, I'm further convinced they won't re-short on the following rally which will turn into the big one. One should be careful about black or white market predictions, but that's the way I continue to see it. I'm not saying which one it will be in the short term, just that it will be one or the other.

An important factor to which it will be either a downside cleanout or a commercial upside failure straightaway rests on what the criminal enterprise at JPMorgan does or doesn't do. If JPMorgan continues to aid and join in with the other big concentrated shorts, the odds of a downside cleanout increase. If, however, JPMorgan decides it's time to let silver and gold prices run to the upside, the 7 big shorts will be in real trouble. Not only is this black or white, it is incredibly specific to what JPMorgan does or doesn't do. This is far beyond the spoofing charges brought by the Justice Department. The real shame is that the entire metal world is dependent on how the crooked concentrated COMEX shorts fare and that is as wrong as is possible.

Turning to other matters (as if there are any other real matters), there was an increase in the short position of SLV, the big silver ETF, of roughly 2 million shares, to nearly 23.1 million shares (ounces) as of Sept 13. (There was a decent size increase in the short position on GLD, the big gold ETF). Based upon price action during the two-week reporting period, up for the first two trading days and then mostly down thereafter, I was more expecting a decrease, following the sharp 10 million increase

in the short position on SLV in the prior report.

<https://quotes.wsj.com/etf/SLV>

Clearly, the Authorized Participants (APs) most likely to have shorted shares of SLV, were doing so in lieu of providing metal to the trust. You'll remember that there was hardly any shorting or delay in metal deposits when the big silver whale was converting COMEX futures contracts into more than 100 million oz of silver ETFs. Now, the shorts on SLV are increasing amid delays in metal deposits. I still maintain much more metal was deposited previously and SLV short positions didn't increase because the one big buyer would have known immediately that many tens of millions of ounces were owed to the trust and would have complained to BlackRock, the sponsor of the SLV. The crooks know when they might be found out and act accordingly.

As far as what to expect in Friday's COT report, gold prices advanced more than \$25 over the reporting week, with the last three days of that week featuring solid gains. Plus, total open interest increased by 28,000 contracts in the gold reporting week, all pointing to increased managed money buying and commercial selling (no specific contract predictions). Silver also finished higher for the reporting week by around 50 cents, but the gains were confined to one big rally on Monday. Total silver open interest was up less than 3000 contracts for the reporting week, so any positioning changes should be less than what is reported in gold.

Today's sharp selloff not only erased what would have been a further worsening of the 7 big shorts' open and unrealized losses, but brought relief compared to where the big shorts stood as of Friday's late close. As I hit the "send" button, the latest prices indicate that the 7 big shorts are better off by about \$400 million from the \$4.2 billion in open and unrealized losses they held on Friday. But the \$3.8 billion they are still in the hole for remains gargantuan and amounts to nearly \$550 million for each trader on average, every penny of which had to have been deposited to meet variance margin calls along the way

Time will tell whether the open losses get converted to some amount of realized losses, but time has already indicated that the CFTC is still ducking the most critical factor in silver (and gold) pricing – a manipulative concentrated short position that defies a legitimate explanation for why it exists.

Ted Butler

September 25, 2019

Silver – \$17.90 (200 day ma – \$15.73, 50 day ma – \$17.35)

Gold – \$1509 (200 day ma – \$1356, 50 day ma – \$1494)

Date Created

2019/09/25