September 26, 2012 – Arguments Against Silver Manipulation

The Arguments Against a Silver Manipulation

No matter how convinced I may be that silver has been manipulated downward in price by JPMorgan's concentrated and rapidly increasing short position in COMEX futures contracts; it is vital to explore why that may be wrong. Particularly with a conviction held for a long period of time, it is important to make sure I am not missing anything basic. The best way to do that is to listen closely to those who may disagree with the silver manipulation allegations. However, uncovering the arguments against a silver manipulation is not as easy as you might think.

For one thing, there is certainly no strong case against manipulation being made by those that should be denying it forcefully, namely, JPMorgan and the regulators at the CFTC and the CME Group. Aside from a brief TV appearance in April which tried (unsuccessfully) to dismiss the matter, JPMorgan has been uncharacteristically mute on an allegation that is serious beyond description. That's why I wrote to JPM's board of directors recently. The CFTC has certainly denied that a silver manipulation existed on multiple occasions in the past, including public explanations in May of both 2004 and 2008; but since the evidence of a short side concentration by JPMorgan was revealed in August 2008, the Commission has been investigating silver again. The way I see it, that's less of an argument against a silver manipulation and more that the agency is investigating silver because JPM's concentration may be manipulative to the price. However, like JPMorgan, the Commission has been silent on the specific allegations of manipulation via JPM's concentrated position. The CME, true to its recent tradition, is only concerned with increasing trading revenues and can't be bothered to address allegations of the most serious market crime possible being in progress.

The bottom line is that after 4 years, no real response has been offered by those who should have responded. There is a good reason why there has been no response by JPM, the CFTC and the CME to persistent allegations of a silver manipulation; because to respond risks expanding the discussion further. If they say anything, it risks truly opening up a legitimate debate. That's because they (JPM, CFTC, and CME) know there is no legitimate explanation possible. So blatant is the short concentration by JPMorgan that any attempt to legitimately explain it away would invite additional scrutiny. By remaining silent, all three entities, effectively, muffle debate. There is no excuse possible that would permit JPMorgan to hold 31% of the entire net COMEX silver market (minus spreads) or for the four largest shorts to hold 49% of COMEX silver (as of the most recent COT). Just to give you a sense of the lopsided nature of big shorts compared to big longs, on the same methodology (no spreads) the 4 biggest longs hold only 13.4% of the COMEX silver market. JPMorgan, alone, holds a position more than 2.3 times larger than the 4 biggest longs combined. That's obscenely manipulative. Plus, JPMorgan has been virtually the only active short seller in COMEX silver for months.

JPM, the CFTC and the CME Group have been silent on the matter because all know that the massive concentration on the short side of COMEX silver cannot be defended openly. While all three understand that the issue is concentration, this issue is still not widely understood. Therefore, the void left by the official silence has been filled by others who do not appreciate the significance of JPMorgan's concentrated short position. What's being said by others that argue against the existence of the silver manipulation? Some actually sound reasonable at first, but when you dig into the arguments, they just don't hold up. Most center on JPMorgan holding physical silver or hedging for customers, as a reason to explain the outsized short position on the COMEX. Another version holds that JPM is holding offsetting positions in the OTC market, which is said to be much larger than the COMEX. As I said, all sound reasonable at first; until you apply some common sense.

Interestingly, none of the arguments defending JPMorgan's concentrated COMEX short position denies that the position exists; the arguments attempt to excuse or legitimize the position. It does raise the question Â? why would JPMorgan need semi-anonymous outsiders to defend the bank? JPMorgan is perhaps the most influential and well-funded US bank, commanding an army of legal and public relations talent capable of putting a favorable spin on any claim that the bank was doing something wrong. Yet the bank has been silent (save for the lone TV appearance) for 4 years. To the claim that JPMorgan holds the physical silver backing up its massive concentrated short position, why didn't the head of commodities for JPM say that was the case in the April TV spot? Instead she said it was for customer positions. Which is it? JPMorgan has sold roughly 80 million ounces of paper contracts short on the COMEX over the past 2 months, increasing their total silver short position to nearly 150 million oz. Does this mean they bought 80 million physical ounces in the past two months or that they had the 150 million physical oz all along?

None of this makes much sense, as who would buy or hold such a giant physical position and super aggressively short it in a concentrated manner? To accept that JPMorgan is selling short paper contracts aggressively in order to buy physical cheaply is to accept that they are manipulating prices; that's a motive for criminality, not an excuse. Even the alternative that JPMorgan is only interested in hedging a big silver position is preposterous. 150 million ounces is more silver than the Hunts or Warren Buffet ever held and we are to believe JPMorgan amassed that position secretly? Did JPM get it from Bear Stearns? You have to use some common sense here Â? if JPMorgan ever did hold 150 million oz of silver, I would bet they would drive the price to $500, not short it aggressively.

In reality, even if JPMorgan did hold all that real silver (I don't believe that for an instant) it would make no difference in terms of manipulation and concentration. There is no legitimate economic motive to holding such a large physical long position and paper short position simultaneously indefinitely, other than as a means to control the price, which is hardly legitimate. JPMorgan has been the dominant short in COMEX silver for 4 years. If JPMorgan were only interested in Â?hedgingÂ? a big long physical position, that would be a one-time transaction for a non-producer; they wouldn't be actively reducing and increasing their paper short position. Regulators would never permit Exxon or Saudi Arabia to hold a concentrated position that comprised 31% of the entire oil futures market, no matter what cockeyed excuse was offered. If any US bank held 31% of the corn or wheat futures market, heads would roll the day it became known. It is the outsized concentration that is the issue, not the invented excuses.

Another excuse, in which JPMorgan is only hedging for clients, also doesn't hold up when examined. (This is the excuse offered on TV by JPM). Is JPMorgan the only broker in the world hedging for clients? Of course not, yet JPM has been the only COMEX silver short seller over the past month. Positions for large traders are calculated by the CFTC in terms of who controls the trading in that account. This allows for the possibility that JPMorgan has arranged for a series of fake hedging accounts that it can say are behind the giant short position. But JPMorgan is reporting to the CFTC correctly that it is in control of the accounts; otherwise the positions wouldn't be in JPM's name and control. That's what matters Â? JPM's control. Commodity law would never allow the flimsy excuse of hedging to permit concentration and manipulation.

A version of the hedging excuse sometimes offered is in regards to market-making and that JPMorgan is only selling more silver short to serve as a counter party to speculative buying. Without JPMorgan's additional short sales, the reasoning goes, silver prices would shoot up dramatically. Hello? This is what I'm saying, namely, that without JPMorgan in the picture, the price of silver would be dramatically higher. The commodity futures market is an open auction market; not a specialist market like the New York Stock Exchange used to be. That means that the price of silver and other commodities is to be determined by the open meeting of legitimate buyers and seller, speculators and hedgers alike, and not by means of a dominant trader who smoothes out and controls the price. Nobody decreed that JPMorgan was to be the controller of the silver price and these market-making excuses are nonsense.

A final excuse for JPM's grotesquely large concentrated COMEX short position is that it only represents a small part of JPMorgan's total position when compared to the much bigger OTC market. In other words, JPM's COMEX short position is offset by (presumably long) OTC positions, netting out and neutralizing the COMEX short. The OTC market may be bigger in many things, but in silver, the COMEX is the big dog. COMEX silver is the fountainhead for world silver prices and the move to near 24 hour Globex trading only strengthens the COMEX's dominance. Some common sense is again in order.

JPMorgan has suffered very negative publicity for the past four years as a result of its big COMEX silver short position (including being sued civilly for manipulating silver); something the bank should be interested in ending. If the OTC market were so much larger than the COMEX, it would have been very easy for JPM to close out the COMEX short and confine its dealings to the (supposedly) much larger OTC market. Had they converted to the OTC market, no one would have been able to pinpoint JPM's concentrated short position and there would be no negative publicity. Yet for more than 4 years, JPMorgan has remained with its COMEX short position and has had to endure the negative publicity so hated by financial institutions. The reason is simple Â? the COMEX is the big dog and JPM can't transfer the position to the OTC market and is stuck with the position and the negative publicity that entails.

I admit that the silence of JPMorgan, the CFTC and the CME regarding JPM's concentrated short position has naturally raised questions asking for an explanation. But that doesn't mean we should accept any excuse as an explanation, particularly if the explanation doesn't hold up when examined. There has not been a legitimate explanation for JPMorgan's massive concentrated short position to date and I doubt there ever will be. I do expect that JPM, the CFTC and the CME will throw out something eventually and it is at that point that the legitimate discussion will begin. We are not at that point yet.

SLV Short Position

The new report on stock short sales indicated that, as of Sep 15, the short position in SLV was largely unchanged, climbing only 45,000 shares to 13.174 million shares. http://www.shortsqueeze.com/?symbol=slv&submit=Short+Quote%99 I don't recall whether I made a prediction, but I was expecting a big increase, as did turn out to be the case in GLD, the big gold ETF. Therefore, I have mixed feelings about the report.

I'm glad the SLV short position didn't expand in that I don't have to make a big deal out of it. But after the last two short reports, I'm leaning more to it being a case of misreporting of some type by the Depository Trust Clearing Corp (DTCC). I admit to not trusting the Depository Trust, but let me explain why. There has been a recent surge of metal deposits into the SLV over the past week or so, close to 8 million oz. This amount is not that much different than the amount of silver I thought was Â?owedÂ? to the Trust as a result of heavy trading volume and price gains in silver over the past month.

While I am glad to see the metal finally deposited into the Trust, it looks clear that there was a delay in the metal being deposited, contrary to what the prospectus requires. The delay confirms to me that the wholesale silver market is tight; otherwise it would have been deposited quickly. Since a tight physical market bordering on shortage is the one thing that can break JPMorgan's manipulative grip on the silver market, I am encouraged by the delayed deposits. But what bothers me is the nagging suspicion that someone got to the DTCC and devised an illegal scheme to distort the true short position in SLV. Having the metal deposited on a delayed basis is perhaps the best of both worlds, in that the metal is being deposited but it has become difficult enough to secure silver that it only comes in after a delay. As I said, I just don't trust the Depository Trust.

As easy as it might be for the DTCC to distort the short interest numbers, I've often worried about the CFTC distorting the data in the COT. Let's face it Â? if the COTs didn't indicate an excessive concentration on the short side of silver, I would have no case in claiming a manipulation. The fact is that I have rarely questioned the accuracy of the COTs. How could I when they explain and prove the silver manipulation? That's the great thing about the excuses I described above which tried to explain JPM's role in silver. None of them could refute that the massive concentration existed on the short side of silver to an extent not present in any other major market. Facts are stubborn things.

The resolution of JPMorgan's super concentrated short silver position remains to be seen, whether they ever speak up about it or not. We are at levels in the COT structure that suggest a sell-off could be at hand. Yet we may be at a point of such tight physical conditions in silver that it might be JPMorgan that is in trouble. I don't and can't know which it will be and can only choose what I feel is the most logical path, namely, look at it long term and be prepared (mentally and financially) for whatever the short term brings.

Ted Butler

September 26, 2012

Silver – $34

Gold – $1753

Date Created
2012/09/26