



CFTC ADMITS TO SUPPRESSING INFORMATION THAT WOULD EXPOSE MARKET MANIPULATORS

By Adrian Douglas

Recently while reviewing the Bank Participation Reports (BPR) released each month by the CFTC I noticed that, since November 2009, in silver and in some other commodities the CFTC has stopped listing the number of banks that hold positions.

GATA sent an inquiry to the CFTC as to why this data was now omitted. The following response was received dated February 19, 2010.

QUOTE

Commissioner Chilton asked that I look into your issue regarding the CFTC Bank Participation Report (the "BPR"). Specifically, you noticed that beginning with the December 2009 BPR, the CFTC has not included a breakdown of the participating banks in the silver futures, although the breakdown is provided for gold. You had inquired as to why the information has changed.

Beginning with the December 2009 BPR, the CFTC began suppressing the trader count in some markets. The change became effective with the Dec 2009 BPR because it was the next available report to be published following the Commission's November 2009 decision to implement the change. The decision to suppress the trader counts was made as part of an ongoing review of the methodology of the BPR. As part of that review, the Commission determined that where the number of banks in each reporting category is particularly small, fewer than four banks, there exists the potential to extrapolate both the identity of individual banks and the bank's positions. Under section 8(a) of the Commodity Exchange Act, the Commission, among other things, is generally prohibited from publishing data and information that would separately disclose the business transactions or market positions of any person/entity. Accordingly, in order to protect the confidentiality of market participants' positions, the Commission determined to suppress the individual category breakdown when that number is less than four. An explanation of this determination appears in the Explanatory

Notes section of the BPR as it appears on the CFTC website, www.cftc.gov. I have cut and pasted the language below for your convenience.

The Explanatory notes appear at:

http://www.cftc.gov/marketreports/bankparticipation/bankparticipation_about.html.

Notably, these Explanatory Notes were posted on November 30, 2009, prior to the release of the amended BPR.

I took a look at the January 2010 BPR, and noted that the change has affected the reporting on several commodities including soybeans, wheat, corn, heating oil, natural gas, etc., such that silver has not been treated in a manner inconsistent with the report structure.

I hope this explanation is helpful. Please do not hesitate to contact me if you have any further questions.

Regards,
Laura Gardy
Legal Assistant
END

In March 2009 I wrote an article entitled "[Pirates of the COMEX](#)". In this article I showed how the two largest short positions on the COMEX, which reached an outrageously manipulative extreme of 100% of the Commercial net short position must be held by JPMorgan Chase and HSBC by comparing data from the CFTC with the Bank Derivatives report of the Office of the Comptroller of the Currency (OCC). This article was sent to the CFTC.

The CFTC has been posting the monthly BPR for over 10 years. Under a strict interpretation of the law that prohibits the CFTC from "publishing data and information that would separately disclose the business transactions or market positions of any person/entity" giving the number of contracts held long and short and the number of banks holding the positions does not "separately disclose the business transactions or market positions of any person/entity". The CFTC claims that the identity of traders and their holding could be "extrapolated". If "extrapolation" is required then the CFTC has not "disclosed" the information. Extrapolation is, at best, an inference not a disclosure.

The new reporting protocol of the CFTC concerning the BPR is stated on their website as "The BPR includes data for every market where five or more banks hold reportable positions".

If one looks at the latest [COT report](#) there are plenty of examples of categories where there are only 4 traders holding positions. For example in Random Length Lumber 4 traders hold all the long positions in the swap trader category, and in Platinum 4 traders hold all the spread positions in the managed money category.

So not only has the CFTC gone out of its way to interpret “extrapolation” of data to infer traders’ positions and identities as equivalent to actual “disclosure” but they have not afforded this same level of anonymity to any other trader by eliminating the trader count if it is less than five.

What has made it possible to “extrapolate” and infer that the two biggest shorts of gold and silver on the COMEX are JPMorgan Chase and HSBC is their outrageously manipulative positions in the largely unregulated OTC derivatives market where they are not afforded anonymity because they must report their positions to the OCC who publishes their holdings and names. In the latest report HSBC and JPMorgan hold over 95% of the gold and precious metals derivatives of all US banks with a combined notional value of 109B\$.

The latest report of the [OCC's Quarterly Report on Bank Derivatives Activities](#) shows that the total notional value of all types of derivatives held by all US banks is 204 Trillion dollars. They show that just five US banks own 97% of them. They are JPMorgan Chase, Goldman Sachs, Bank of America, Citi, and Wells Fargo with HSBC in 6th place.

If the US government has a budget of 3.8T\$ and supposedly governs a 10T\$ economy yet five commercial banks control 198 T\$ of derivatives who do you think really runs the country?

This is what the OCC says about the derivative holdings of these banks:

QUOTE

A total of 1,065 insured U.S. commercial banks reported derivatives activities at the end of the third quarter, a decrease of 45 banks from the prior quarter. Nonetheless, derivatives activity in the U.S. banking system **continues to be dominated by a small group of large financial institutions**. Five large commercial banks represent 97% of the total banking industry notional amounts and 88% of industry net current credit exposure.

While market or product concentrations are normally a concern for bank supervisors, there are three important mitigating factors with respect to derivatives activities. First, there are a number of other providers of derivatives products whose activity is not reflected in the data in this report. Second, because the highly specialized business of structuring, trading, and managing derivatives transactions requires sophisticated tools and expertise, derivatives activity is concentrated in those institutions that have the resources needed to be able to operate this business in a safe and sound manner. Third, the OCC and other supervisors have examiners on-site at the largest banks to continuously evaluate the credit, market, operation, reputation, and compliance risks of derivatives activities.

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None of the three mitigating factors they cite accurately describe the problem with regulating these banks. The real mitigating factor is these banks are more powerful than the government. They have the power to destroy the global financial system quicker than any nuclear conflict could. And there is no Non-Proliferation Treaty for derivatives!

After my March 2009 article that exposed who are the massive short sellers of gold and silver the CFTC has now become totally farcical. They issue a Bank Participation report that is missing bank participation information!

In November 2009 HSBC & JPM held 43% of the commercial net short position in gold and 68% of the commercial net short position in silver. But the make-up of these positions highlights the manipulation. In gold they were short 123,331 contracts but long only 523 contracts and in silver short 41,318 contracts and long only 1,426 contracts. How could such one-sided bets be made unless the outcome was sure? These are obviously not positions for customers because statistically it is improbable that these two banks attract only investors who want to sell short!

It is clear that the generous interpretation of “disclosure” afforded to the biggest shorts in the precious metals, which is not necessary nor is it afforded to others, is evidence that the CFTC is aiding and abetting the manipulation of the precious metals markets and not preventing it, as is their charter.

The CFTC has been investigating possible market manipulation in gold and silver for one year and a half. Yet the CFTC has just facilitated the anonymity of those banks who GATA has long implicated in the suppression of the price of gold and silver. What is taking so long to investigate? Is the time being spent to expose manipulation or finding ways to cover it up?

JPMorgan Chase and HSBC are running a bucket shop. Very little metal is ever delivered on the COMEX so the market can be manipulated by anyone with large positions and deep pockets. JPM and HSBC qualify on both counts. This then allows them to make billions of dollars in the precious metal and gold OTC derivatives market, which is much bigger than the COMEX itself.

HSBC is the custodian of the gold in the GLD ETF and JPMorgan is the custodian of the silver in the SLV ETF. The prospectuses of these ETF's have omitted a “material fact” that their custodians have sold gold and silver on a massive scale and that they do not have the metal to meet those liabilities. There is an obvious conflict of interest.

Such an omission is a criminal offence under article 10(b) of the Securities Act. The CFTC has the power under the CEA to suspend the membership of anyone from an exchange if they have violated the Securities Act. Will they do so? I will not hold my breath.

This latest skullduggery only helps to confirm what GATA has been exposing for over 10 years (www.gata.org). Nor is this the first change in government reporting that has occurred as a direct result of GATA exposés. In 2000, the US Mint changed the denomination of 1700 tonnes of gold stored at West Point from “gold reserves” to “custodial gold”, which implies a change in ownership had occurred. When GATA inquired about this change all US Gold was reclassified into the thoroughly meaningless, and equally farcical, category of “Deep Storage Gold”!

But all market manipulations are unsustainable which means that the price suppression of gold and silver represents the investment opportunity of a lifetime because they will rise to their true market prices when these illegal activities come to a sticky end. More and more investors, institutions, Central Banks and countries are not only buying gold and silver but they are buying real physical gold and silver metal, not paper promises or substitutes. There are increasing signs that the supply of physical metal is becoming tight. Once the signs of impending default become apparent the precious metals will shake off their shackles of price suppression and be priced several fold more than they are today.

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