Market & Legal Update

JUNE 2024 REVIEW

Stay on top of the latest market developments and legal and regulatory updates that may affect your business.

MARKET UPDATE | Higher and Higher

Higher market gains in June were fueled by continued strength in the job market, inflation slowly progressing lower, possible Fed easing in 2024 and artificial intelligence. Top heavy large cap equity returns narrowed further as chip maker Nvidia (NVDA) briefly surpassed Microsoft (MSFT) mid-month to become the most valuable U.S. company at $3.34 trillion. The month of June included both a stronger than expected labor market data release and mild inflation reading, cumulating in the Fed maintaining their current restrictive monetary policy stance of 'higher for longer'. The Fed's quarterly dot plot chart, which records Fed official's projections for the federal funds rate, is now signaling a median of just one rate cut in 2024 despite pressure from central banks internationally. Seemingly unaffected by the interest rate outlook and fueled by cash rich Big Tech stocks, the broader S&P 500 index was up a staggering 15.3% six months into the year. The S&P 500 added 3.6% in June gains while the Dow Jones Industrial Average (DJIA) gained 1.2%. The tech-heavy NASDAQ rose 6%. Longer-term bond yields fell for the second consecutive month, with the 10-year treasury falling to 4.36% from 4.51%. The inverse nature of falling rates lead to a 1.0% gain in the Barclay's US Aggregate Index in June.

Market Return Indwexes	June 2024	QTD 2024	YTD 2024
Dow Jones Industrial Average	1.2%	-1.3%	4.8%
S&P 500	3.6%	4.3%	15.3%
NASDAQ (price change)	6.0%	8.3%	18.1%
MSCI Eur. Australasia Far East (EAFE)	-1.6%	-0.4%	5.3%
MSCI Emerging Markets	3.9%	5.0%	7.5%
Bloomberg High Yield	0.9%	1.1%	2.6%
Bloomberg U.S. Aggregate Bond	1.0%	0.1%	-0.7%
Yield Data	**June 2024**	**May 2024**	**April 2024**
U.S. 10-Year Treasury Yield	4.36%	4.51%	4.69%

The unemployment rate rose to 4% despite 272,000 jobs being added in May, a 30% increase from 190,000 jobs forecasted by economists. This comes after many forecasters expected hiring to continue at the newer, slower pace seen in April. The upward revision to April's 175,000 job report could mean the Fed's anti-inflation campaign is not yet dragging on business and consumer spending. This would also mitigate, for now, concerns associated with an abruptly softening labor market on the broader economy. May unemployment edged up to 4%, which remains low when compared to a 76-year historical average of 5.69%. The exact reason for a seemingly impossible increase in unemployment while adding additional jobs is not confirmed. Leading theories point to the recent immigration surges beginning to filter into the monthly employment surveys of around 119,000 U.S. businesses. While the unemployment rate is determined by a rotating survey of roughly 60,000 households, explaining the disjointed and occasionally conflicting nature of these two crucial surveys.

JUNE

The month of June included both a **stronger than expected labor market data release** and **mild inflation reading**

The lack of breadth in current U.S. equity returns have cumulated in two resounding drivers of market movement. The first has been demand for microchips, fueling the artificial intelligence race to dominance. The second, with far less idiosyncratic risk, is concerns regarding the economy and interest rate impacts on inflation. Diving into the U.S. Bureau of Labor Statistics May Consumer Price Index Summary, The Consumer Price Index (CPI) came in lower than expected, remaining unchanged from the previous month and up 3.3% from one-year earlier. This comes after a lack-luster month over month rise of 0.3% in April.

Core CPI, which omits the traditionally volatile food and energy baskets, rose 3.4% over the past year. This is a 0.2% rise from the April reading but represents the mildest increase in Core CPI since 2021. Shelter increased 0.4% in May and was the largest factor in the monthly increase for Core CPI. The Fed's preferred inflation gauge, the core Personal Consumption Expenditures (PCE) Index, came in at 2.6% at the end of June. Core PCE rose 0.1% in May, which will be a welcome sight for the Fed following a 0.3% increase in April. This is an encouraging sign that the broader price pressures measured by PCE may be moderating for a still chary Fed.

The Fed kept rates steady at the 5.25% to 5.50% range, a move that was anticipated given that inflation has remained sticky above their 2% target. June's quarterly economic projections showed 15 of 19 Fed officials penciling in reduced rates this year, with the group split between one or two rate cuts. Expectations that Fed officials will cut at one of the four remaining meetings this year heightened following decisions by the European Central Bank (ECB) and Bank of Canada (BoC) to decrease rates for the first time since 2019 and 2020 respectively. Their respective 25 basis point rate cuts have been met with some criticism for a lack of positive incoming economic data backing the decision. Overall, economic growth has been weaker abroad than in the U.S., where many homeowners have been shielded from the effects of higher interest rates because they locked in ultralow 30-year, fixed-rate mortgages in 2020 and 2021.

Shelter increased 0.4% in May and was the **largest factor in the monthly increase** for Core CPI

Before the May inflation data was released in early June, investors predicted a 47% chance the Fed would cut rates by 25 points in September. Most recent readings now predict a 56% chance of that happening, according to the CME FedWatch Tool. Fed officials will have three more inflation reports to digest by their September meeting before the November 5th presidential election to consider a change to the fed funds rate. This decision will be a key factor in determining if the broader market will participate in the earnings growth that we have seen from the current bull run by predominantly the technology sector.

LEGAL UPDATE

Overview of the U.S. Department of Labor's New Retirement Security Rule for Investment Advice Fiduciaries

On April 23rd, the U.S. Department of Labor (DOL) published a new fiduciary investment advice rule, the Retirement Security Rule, under the Employee Retirement Income Security Act (ERISA). This rule redefines fiduciary investment advice under ERISA by amending the regulations that have been in place since 1975, as well as some pre-existing corresponding prohibited transaction exemptions (PTEs).

BACKGROUND: When the prior rule defining an investment advice fiduciary was adopted in 1975, the most common type of retirement plans for workers were defined benefit pension plans managed and funded by employers who took the risk for poor investment performance and shortfalls. Decades later, 401(k)-type plans and IRAs have become the most common way in which workers save for retirement, and workers are responsible for making personal investment decisions and they shoulder the risk of investment losses.

The new rule looks to modernize the definition by holding trusted investment advisers to a fiduciary standard for recommendations that they make to retirement plans as well as individual investors.The Retirement Security Rule seeks to better protect retirement investors who make decisions about their retirement savings based on the advice they receive. The rule focuses on the nature of the relationship between the advice provider and the investor, and it extends to the types of advice retirement investors commonly receive from investment advisers, including advice given on a one-time basis, such as advice on rolling over assets from one plan to another *(e.g. recommendations to rollover assets from a 401(k) plan to an IRA)*. Under the new rule, the DOL seeks to close loopholes and hold trusted advisers to a fiduciary standard and ensure they are acting in the investors best interest.

Note: In 2016 the DOL finalized a new rule updating the definition of an investment advice fiduciary. However, in 2018, the Fifth Circuit Court of Appeals struck down the 2016 rule finding it was too broad and exceeded the DOL's rule making authority. The Retirement Security Rule is the DOL's second attempt to redefine the 1975 rule.

Definition of an Investment Advice Fiduciary

The new rule provides that a financial services provider will be an investment advice fiduciary if the:

- provider makes an investment recommendation to a retirement investor;
- recommendation is provided for a fee or other compensation, and
- financial services provider holds itself out as a trusted adviser by
  - specifically stating that it is acting as a fiduciary under ERISA; or
  - making the recommendation in a way that would indicate to a reasonable investor that it is acting as a trusted adviser making individualized recommendations based on the investor's best interest

Common Questions

1 When does the rule take effect?

The new provisions will start to take effect on September 23, 2024; however, some of the requirements under the amended PTEs will take effect in 2025.

2 Who does the new rule apply to?

The rule applies to financial institutions and any persons who give professional investment advice on retirement savings plans, including traditional pension plans, 401(k)s, 403(b)s, and IRAs. The investment adviser must provide advice that's in the plan's best interest and in the best interest of any individuals to whom they provide advice based on personal circumstances. This means they must follow the rule's requirements to provide prudent, loyal, and honest advice.

3 My advice provider is currently a fiduciary. What do they have to do?

Under the rule and amended PTEs, investment advisers will have to:

- Acknowledge their fiduciary status in writing;

- Disclose their services and any material conflicts of interest;
- Adhere to the Impartial Conduct Standards under PTE 2020-02 requiring them to:
  - investigate and evaluate investments, provide advice, and exercise sound judgment in the same way that knowledgeable and impartial professionals would in similar circumstances;
  - never place their own interests ahead of the retirement investor's interest, or subordinate the retirement investor's interests to their own;
  - charge no more than reasonable compensation; and
  - avoid making misleading statements about investment transactions and other relevant matters;
- Adopt firm-level policies and procedures prudently designed to ensure compliance with the Impartial Conduct Standards and mitigate conflicts of interest that could otherwise cause violations of those standards;
- Document and disclose the specific reasons for any rollover recommendations; and
- Conduct an annual retrospective compliance review.

4 What kind of activities are not considered fiduciary investment advice under the new rule?

Plan sponsors and their service providers can continue to provide nonfiduciary investment education by providing general financial and investment information to participants without having to adhere to the new rule. In addition, routine communications to plan participants such as the implications of taking participant loans or hardship distributions, and the need to take a required minimum distributions would not be considered investment advice recommendations under the new rule.

USI Consulting Group/USI Advisors Commentary:
USI Advisors is a registered investment adviser with the U.S. Securities and Exchange Commission (SEC) and has long acted in accordance with both the impartial standards of the SEC and the ERISA fiduciary standards in providing plan-level advice to plan sponsors, and will continue to do so. The new rule requires no additional action from USI Advisors at this time. USI Advisors will continue to monitor regulatory developments and will update you if any changes are necessary to your plan or its practices.

DOL Resources:

- Retirement Security Rule: Definition of an Investment Advice Fiduciary
- Fact Sheet: Retirement Security Rule and Amendments to Class Prohibited Transaction Exemptions for Investment Advice Fiduciaries
- Understanding the Retirement Security Rule: For Investors

How USI Consulting Group (USICG) Can Assist

USI Consulting Group's team can help answer any questions that you have regarding your retirement plan. We will continue to provide timely legal and regulatory updates that may affect your business.

To learn more, please contact your local USICG representative.

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Retirement Resources for You

USI Consulting Group's team of experts is happy to assist employers with all retirement plan compliance matters and changes in the market, including those discussed here, to help you mitigate risk and financial impact to your organization.

To learn more, please contact your local USICG representative, visit our Contact Us page or reach out to us at information@usicg.com.

Find the address and telephone number of your local USI Consulting Group office here.

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An index is a measure of value changes in a representative grouping of stocks, bonds, or other securities. Indexes are used primarily for comparative performance measurement and as a gauge of movements in financial markets. You can not invest directly in an index and, for comparative purposes; they do not reflect the effect of the various fees inherent in actual investment vehicles.

The S&P 500 Index is a market value weighted index showing the change in the aggregate market value of 500 U.S. stocks. It is a commonly used measure of stock market total return performance.

The Dow Jones Industrial Average is a price weighted index comprised of 30 actively traded blue chip stocks; primarily industrial companies, but including some service oriented firms.

The NASDAQ Composite Index is a market-value weighted index that measures all domestic and non-U.S. based securities listed on the NASDAQ Stock Market.

Gross Domestic Product (GDP) is the market value of the goods and services produced by labor and property in the U.S. It is comprised of consumer and government purchases, net exports of goods and services, and private domestic investments. The Commerce Department releases figures for GDP on a quarterly basis. Inflation adjusted GDP (or real GDP) is used to measure growth of the U.S. economy.

The MSCI Europe and Australasia, Far East Equity Index (EAFE) is a market capitalization weighted unmanaged index developed by Morgan Stanley Capital International to measure approximately 1,100 securities in 21 major overseas stock markets. It is a commonly used measure for foreign stock market performance.

The Barclays Capital U.S. Aggregate Index covers the U.S. Dollar denominated investment grade, fixed-rate, taxable bond market of SEC-registered securities.

The Barclays Capital U.S. Corporate High Yield Index covers the U.S. Dollar denominated, non-investment grade, fixed income, taxable corporate bond market. Securities are classified as high-yield if the middle rating of Moody's Fitch, and S&P is Ba1/BB+/BB+ or below.

The MSCI Emerging Markets Index (EM) is a free-float-adjusted market-capitalization index developed by Morgan Stanley Capital International. It is designed to measure the equity market performance of 26 emerging market countries.

The 10 Year Treasury Yield is the interest rate the U.S. government pays to borrow money for a 10-year period. In addition to influencing how much the government pays to borrow over this time-frame, the 10-year Treasury Yields also determines how much investors earn by investing in this debt and it is a good indicator of investor sentiment.

The higher the yield, the better the economic outlook.

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