Market & Legal Update

OCTOBER 2024 REVIEW

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

MARKET UPDATE | Investors Seek a Broadening Stock Market

Historically, October has been the weakest month for equities in an election year, with the S&P 500 down an average of 1.4% dating back to 1980. The trend continued at the last minute this year, with a tough day in the market on Halloween contributing to a loss of 0.9% for the S&P 500 in October. The current bull run, which began in October of 2022, can largely be attributed to investors' passion for a few artificial intelligence (AI) driven stocks within the technology sector, which accounted for over half of the S&P 500's gain last year. Their moniker, "the Magnificent 7", or "Mag 7" for short, has to an extent begun to loosen their grip on the stock market. A series of tamer inflation readings, the Fed's 50 bps rate cut in September, accelerated job growth in September, and a growing confidence in the central bank's ability to avoid a recession, had all helped boost areas of the stock market midmonth that have been neglected as of late. In fact, the third quarter saw value stocks outperform broad swaths of the market, including the technology sector. For example, the utilities sector has continued to outperform the technology sector, returning an additional 25 bps on the year. Utilities returned a total of 29.3% as of the end of October and are the second-best performing sector in the S&P 500 this year. Value-oriented industrial and financial sectors have both appreciated significantly since the end of Q2, returning 18.7% and 25.2% this year respectively.

The Dow Jones Industrial Average (DJIA) fell 1.3% while the more tech-heavy NASDAQ lost 0.5% in October. 10-year treasury bond yields climbed sharply to 4.28% from 3.81%, fueled by the prospect of a rising federal budget ahead of the November election. The inverse nature of rising rates led to a 2.5% loss from the Bloomberg US Aggregate Index in October.

Market Return Indexes	Oct 2024	YTD 2024	2023
Dow Jones Industrial Average	-1.3%	12.5%	16.2%
S&P 500	-0.9%	21.0%	26.3%
NASDAQ (price change)	-0.5%	20.5%	43.4%
MSCI Eur. Australasia Far East (EAFE)	-5.4%	6.9%	18.2%
MSCI Emerging Markets	-4.5%	11.7%	9.8%
Bloomberg High Yield	-0.5%	7.4%	13.4%
Bloomberg U.S. Aggregate Bond	-2.5%	1.9%	5.5%
Yield Data	**Oct 2024**	**Sep 2024**	**Aug 2024**
U.S. 10-Year Treasury Yield	4.28%	3.81%	3.91%

The September inflation reading showed cooling inflation, however not as fast as economists expected. The consumer-price index rose 2.4% from a year earlier in September, which was slightly higher than the estimated 2.3% rise. This still marks the smallest 12-month increase since February 2021, more than three years ago. Core prices, which exclude volatile food and energy items, climbed 3.3% over the previous 12 months, slightly hotter than the 3.2% rise in August due to notable increases in prices of apparel, car insurance and airfare. As expected, the Fed's preferred measure of inflation, the personal consumption expenditures index (PCE), showed Inflation continuing to close in on the Federal Reserve's 2% annual target. September's PCE saw a seasonally adjusted 0.2% increase for the month with 12-month inflation down to 2.1%. The core PCE index, which excludes food and energy components, gained 0.3% during September. The year-over-year gain held steady at 2.7%.

The economy continued to grow at a solid pace with real gross domestic product (GDP) increasing at an annual rate of 2.8% in the third quarter of 2024 per the U.S. Bureau of Economic Analysis "advance" estimate. Consumer spending remains the backbone of the U.S. economy. Making up 68% of the nation's GDP, the sector rose at an annual rate of 3.7% in the third quarter. This is the highest annual growth rate for consumer spending since the first quarter of 2023 and is a positive sign of a resilient economy.

Job growth accelerated in September despite revised estimates in October and the unemployment rate ticked lower. Employers added 223,000 jobs, approximately 49% higher than the anticipated 150,000 economists predicted, marking this the largest monthly increase since March. The unemployment rate decreased 10 bps to 4.1% in September. In the last major report before election day, employers added 12,000 jobs in October. This report was less auspicious and below economist expectations of 100,000 given Hurricane Helene and U.S. dockworker strikes midmonth. However, the unemployment rate remained steady at 4.1%, in line with economists' expectations, and highlighted that the climate and labor disruptions did not impact overall unemployment, which was viewed favorably by markets.

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Fatigue among the mega cap tech stocks tend to weigh on the S&P 500 as seen at the end of October, with markets tumbling momentarily based on revenue guidance from Microsoft despite a quarterly earnings beat. The near-uniform march upward of the AI hyperscalers has been interrupted as investors have begun to question the vast amounts of capital expenditures companies are committing to AI pursuits. AI spending plans thus far have trailed revenue gains for the five mega-cap tech hyperscalers. Only Meta, which reported revenue growth of 24.3%, has come close to its 33.4% capex surge. As market giants prepare to report their latest earnings, the attention will be on both capital spending and the timeframe under which the biggest tech companies expect to see monetization of these AI strategies. Many investors believe the economy looks healthy enough for stocks from a variety of industries to appreciate further. Either way, uncertainty over the Fed's plans for the remaining rate cuts in 2024 and the upcoming U.S. Presidential election means we expect markets to remain volatile.

LEGAL UPDATE

The Overturning of the Chevron Doctrine and the Possible Implications for ERISA Retirement Plans

Earlier this year the U.S. Supreme Court issued its decision in *Loper Bright Enterprises v. Raimondo*, which effectively overruled the decades-old *Chevron* doctrine. Under the Chevron doctrine federal courts have generally been required to defer to an administrative agency's reasonable interpretation of ambiguous statutory provisions. The court ruled that courts must now exercise independent judgment when determining the meaning of statutes, even when they are ambiguous or silent. The overruling of *Chevron* and the removal of the judicial deference to agency interpretations may have significant implications for ERISA retirement and employee benefits litigation.

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While this development may embolden plaintiffs to challenge the interpretations of federal agencies such as the Internal Revenue Service (IRS), Department of Labor (DOL) and the Pension Benefit Guaranty Corporation (PBGC), it remains unclear exactly how much impact this will ultimately have on employee benefit cases.

The *Loper Bright* decision does not mean that federal courts will no longer consider and give weight to agency expertise. Courts may still consider agency interpretations persuasive, especially if they are based on technical expertise or have remained consistent over time.

Additionally, the decision in *Loper Bright* acknowledges that a statute may contain an express delegation of authority to an agency to interpret and implement particular provisions. This is sometimes referred to as statutory regulations and it is not uncommon to see delegations to the IRS, DOL or PBGC in legislation that pertains to employee benefit matters. According to the ruling, courts should defer to such delegations, provided that the agency is properly acting within the scope of its lawful delegation.

Nevertheless, the *Loper Bright* decision clearly provides a wider runway for plaintiffs who do not like agency positions. The rules and regulations promulgated by the IRS, DOL and PBGC under ERISA may be scrutinized, modified, or vacated by the federal courts. As a result, the mere adherence to the agency's rules and regulatory requirements may not be enough to prove employers and plan fiduciaries are in compliance if the courts use their own judgment when interpreting laws like ERISA, especially in situations where the agency did not have explicit statutory authority to interpret the law.

The demise of *Chevron* may lead to more challenges to existing regulations and create greater uncertainty in how retirement plan rules are applied. For the time being, employers and plan fiduciaries should continue to adhere to agency guidance. However, it's important to keep an eye on the court rulings, as following the regulatory guidance may no longer have the same level of certainty.

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.

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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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