MARKET & LEGAL UPDATE

DECEMBER 2018 REVIEW

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"That Was a Wild Ride!"

Even though December has historically been a healthy month for the stock market, Christmas Eve brought some pretty large swings, making it the worst December since 1931. Markets rallied on the last day of the year, which trimmed some of the losses ahead of the New Year celebration, but U.S. equity markets closed out their worst year since 2008. December was essentially a microcosm of the entire year; high volatility, large swings, a focus on the escalating trade tensions with China and concerns about the future path of the Fed policy.

Markets were roiling most of December over concerns about a slowing global economy, unclear direction from the Federal Reserve, tariffs, peak earnings worries and possible recession signals from the yield curve. The volatility was further exacerbated by unusual economic remarks by the administration. President Trump has always been a critic of the Federal Reserve but after the most recent rate increase in December, he posted a series of tweets that had investors speculating whether he would look to fire Fed Chairman Jerome Powell. In addition, Treasury Secretary Steven Mnuchin contacted the chief executives of 6 US banks to ensure that they had enough liquidity to continue to run smoothly. Usually these assurances are made during a financial crisis so Mnuchin's call to several banks further stoked anxiety among investors, as it was perceived as an action to address liquidity concerns. As a result, the S&P 500 Index went into bear market territory on the worst Christmas Eve trading session ever. Other indices were also on the brink of a bear market decline. Markets rebounded on New Year's Eve, cutting the losses for 2018. The S&P 500 Index was down 9% in December and 4.4% for the year. The Nasdaq and Dow Jones Industrial Average lost 9.5% and 8.6% respectively in December and both were in negative territory for the year. The last time all three major U.S. indices closed the year lower was in 2008.

Lifted by a strong labor market (98 consecutive straight months of job gains) and lower gas prices, consumers mainly ignored the large losses in the market, as sales during the holiday shopping season rose 5.1%, the strongest level in the last 6 years. Inflation, which is a closely watched measure by the Fed, remains calm, as Core CPI in November came in at 2.2% year-over-year. As a result, market expectations remain "dovish" on 2019 rate moves. The market is expecting only one rate increase in 2019 given the low inflation readings and slowing economy in the U.S. and abroad. As we approach a neutral rate, the Fed's decisions will be more data dependent.

	December 2018	Q4 2018	YTD
DJIA	-8.59%	-11.31%	-3.48%
S&P 500	-9.03%	-13.52%	-4.38%
NASDAQ (price change)	-9.48%	-17.54%	-3.88%
MSCI EAFE	-4.85%	-12.54%	-13.79%
MSCI Emerging Markets	-2.66%	-7.47%	-14.58%
Bloomberg Barclays Aggregate	1.84%	1.64%	0.01%
Bloomberg Barclays U.S. High Yield	-2.14%	-4.53%	-2.08%
	12.31.2018	11.30.2018	
U.S. 10-Year Treasury Yield	2.69%	3.01%	

With the U.S. midterm elections in the rear-view mirror, the focus in December was on governmental problems overseas. Almost two years after the Brexit vote, the EU and U.K. Prime Minister Theresa May finalized a withdrawal agreement which had to go through a parliamentary vote on December 11th. The vote was most likely going to be rejected so it was eventually postponed. Meanwhile, riots in France, budget proposals in Italy that do not comply with E.U. rules and a negative third quarter GDP growth in Germany are all indicative of struggles in Europe. It is no surprise that international markets suffered the largest losses in 2018. The MSCI EAFE Index was down 4.8% in December and 13.8% for the year while the MSCI Emerging Markets Index lost 2.7% in December and 14.6% for the year. The only index that produced positive results for the month was the Barclays U.S. Aggregate Bond Index, which was up 1.8% in December. Even with such a strong month, it ended the year flat. The riskier U.S. High Yield Index posted a loss of 2.1% for the month.

After a calm 2017, markets showed a strong departure in 2018 with significant moves on the down side and sharp counter rallies. Throughout the year, the risk sentiment seemed disproportionate to economic fundamentals. The last few weeks of the year were also representative of this dichotomy. By most measures, the U.S. economy is still in excellent health, yet stocks continued to sink in December. Although the market isn't the economy, stocks could be signaling bigger problems than the economic data is telling and investors will closely watch if this diversion continues into 2019.

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LEGAL UPDATE | **REMINDER: Timing Rules for Depositing Employee Contributions to Defined Contribution Plans**

If you sponsor a defined contribution plan that allows employees to contribute their own money, such as a 401(k) plan or a 403(b) plan, and the plan is subject to ERISA, you must be aware of the Department of Labor (DOL) timing rules for depositing employee contributions to the plan. In general, the DOL requires that an employer deposit elective deferrals (employee contributions) as soon as they can be segregated from the employer's general assets. However, separate rules apply to small and large plans. Small plans consist of plans that have fewer than 100 participants. In all cases under federal law, it is the employer's obligation to ensure that deposits are made timely, despite whether you have contracted with service providers to perform related administrative duties for the plan. Additionally, many plan documents require that the employer appoint a "Special Trustee;" this is the person who is obliged to ensure that employee contributions are deposited timely.

Small Plan Rules (Safe Harbor) – the DOL has a "safe harbor" rule for small plans only. These rules apply to plans with fewer than 100 participants on the first day of the plan year:

1. Under the safe harbor, employee contributions will be deemed to be deposited timely under ERISA if they are deposited to the plan no later than the 7th business day following the date they are withheld from wages.

2. Employee contributions have to be made to the plan by this deadline, but do not necessarily need to be allocated to specific participants or specific investments by this deadline.

3. The same deadline applies to plan loan repayments.

Large Plan Rules – the DOL has no safe harbor rule for large plans. Employee deferrals must be deposited on the earliest date the funds can reasonably be separated from the employer's general assets. However, large plans are subject to an outer limit rule - employee deferrals must be deposited to the plan no later than the 15th business day of the month following the month in which amounts are withheld from wages, but this is not a safe harbor and DOL and internal audits require that deposits be made much earlier than the outer limit. While "reasonably" is not defined under the DOL rules, deposits can be considered late and delinquent if the employer has a history of being able to make deposits on or within a few business days of the payroll date.

Late Transmittal of Contributions – if employee contributions are not deposited within the required timeframes, it will be noted on the Form 5500 and corrective action is generally required. Corrective action involves paying the missed earnings on the late deposits, a filing through the DOL's Voluntary Fiduciary Correction Program (VFCP), and paying an excise tax penalty of 15% on the missed earnings.

Avoid Late Contributions – a plan sponsor should coordinate with the payroll provider to determine the earliest date that you can reasonably deposit employee deferrals, and establish procedures to ensure that elective deferrals are deposited coincident with these dates.

If you would like more information on these rules or have any questions, please contact your USI Consulting Group representative.

For previous market commentaries please click here.

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.

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