USI CONSULTING GROUP

Market & Legal Update

APRIL 2023 REVIEW

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

MARKET UPDATE | Slowing Growth and Inflation But Pressures Remain

April was another positive month for the markets, as the consumer continued to hold up well despite relatively high inflation and rising interest rates. Consumer prices eased to 4.2% in March, slower than the 5.1% rise in February, but still well above the Fed's target rate of 2%. The prospect of "looser" monetary policy was well received by the market. Accordingly, the Dow Jones Industrial Average rose in April by 2.6%, while the NASDAQ took somewhat of breather edging up 0.04% for the month, maintaining its top-performing year-to-date return of 16.8%. In foreign markets, the MSCI EAFE Index gained 2.8%, while the MSCI Emerging Market Index slid slightly by 1.1% in April. Within fixed income, the Bloomberg U.S. Aggregate Index increased 2.5%.

Market Return Indexes	April 2023	YTD 2023	2022
Dow Jones Industrial Average	2.6%	3.5%	-6.9%
S&P 500	1.6%	9.2%	-18.1%
NASDAQ (price change)	0.04%	16.8%	-33.1%
MSCI Eur. Australasia Far East (EAFE)	2.9%	11.8%	-14.5%
MSCI Emerging Markets	-1.1%	2.9%	-20.1%
Bloomberg High Yield	1.0%	4.6%	-11.2%
Bloomberg U.S. Aggregate Bond	0.6%	3.6%	-13.0%
Yield Data	**April 2023**	**March 2023**	**Feb. 2023**
U.S. 10-Year Treasury Yield	3.44%	3.48%	3.94%

April ended with more banking drama, as regulators seized First Republic Bank and struck a deal to sell most of its operations to JPMorgan Chase & Company. First Republic Bank could not recover from a combination of deposit outflows and bad bets on bonds. As of April 13, 2023, First Republic Bank had approximately $229.1 billion in total assets and $103.9 billion in total deposits. In addition to assuming all the deposits, JPMorgan Chase Bank, National Association, agreed to purchase most First Republic Bank's assets.

The Federal Deposit Insurance Company (or "FDIC") and JPMorgan Chase Bank, National Association, are also entering into a loss-share transaction on single family, residential and commercial loans it purchased of the former First Republic Bank. The FDIC as receiver and JPMorgan Chase Bank, National Association, will share in the losses and potential recoveries on the loans covered by the loss–share agreement. The loss–share transaction is projected to maximize recoveries on the assets by keeping them in the private sector. The transaction is also expected to minimize disruptions for loan customers. In addition, JPMorgan Chase Bank, National Association, will assume all Qualified Financial Contracts.

The demise of First Republic is the largest bank failure since the collapse of Washington Mutual in 2008 and is now the third major U.S. bank failure to have occurred so far in 2023. These would include First Republic, Silicon Valley Bank and Signature Bank, a New York-based lender that also failed in March. Despite these failures, most industry experts believe this banking contagion is unlikely to spread due to the unique circumstances of these banks.

Although Federal Reserve Chair Jerome Powell has repeatedly told Congress that the Fed would need to raise rates higher and faster than anticipated to control inflation, recent economic data suggests the Fed may not need to be so aggressive. In fact, the most recent GDP report shows U.S. economic growth slowed to a 1.1% annual rate in the first quarter as consumers grappled with high inflation and rising interest rates. Consumer spending and hiring are slowing after a strong start to the year. Therefore, the Fed's hawkish monetary policy appears to be cooling the economy and dampening price increases.

The Fed also has less reason to be aggressive given the latest statistics in the housing market. Home sales fell across the U.S. in March. Despite a surprisingly strong February, existing home sales fell 2.4% in March from the previous month and 22% from a year earlier. In fact, March was the 13th month out of 14 that home sales fell. Higher mortgage rates and inflation are starting to weigh on prices, which have now fallen for two straight months—the first time in 11 years (e.g., since 2012).

The market will be eagerly anticipating the next FOMC (Federal Open Market Committee) meeting, scheduled for the beginning of May. If there is continued weakness or slowing, the Fed may pivot toward a less hawkish approach. Although the prospect of lower inflation and interest rates is certainly positive for investors, many fear the Fed unnecessarily risks a recession with a continued hawkish monetary policy.

LEGAL UPDATE

SECURE 2.0 Act Expands Plan Eligibility for Long-Term Part-Time Employees

This month's legal update is focused on the expanded plan eligibility rules for long-term part-time employees under the SECURE 2.0 Act of 2022 ("SECURE 2.0"). SECURE 2.0 revises the 401(k) eligibility requirements for certain long-term part-time employees ("LTPT"), as provided under the Setting Every Community up for Retirement Enhancement Act of 2019 ("SECURE Act"), by reducing the 3 consecutive year requirement to 2 consecutive years and by extending the LTPT coverage rules to 403(b) plans that are subject to ERISA, for plan years beginning after December 31, 2024. Section 457 plans are excluded from the LTPT rules.

Current Rules under SECURE Act of 2019

Effective for plan years beginning after December 31, 2020, eligible LTPT employees are defined as employees who: **(1)** have attained age 21; and **(2)** have worked 3 consecutive 12-month periods during which they have performed at least 500 hours of service, but less than 1,000 hours of service, each year. Any 12-month periods beginning before January 1, 2021 can be disregarded for eligibility purposes, which means the earliest date an LTPT employee must be permitted to participate in a 401(k) plan is January 1, 2024.

New Rules under SECURE 2.0

Effective for plan years beginning after December 31, 2024, eligible LTPT employees are defined as employees who: **(1)** have attained age 21; and **(2)** have worked **2** consecutive 12-month periods during which they have performed at least 500 hours of service, but less than 1,000 hours of service, each year. Under the consecutive two-year requirement, any 12-month periods beginning before January 1, 2023 can be disregarded for eligibility purposes, which means the earliest date an LTPT employee must be permitted to participate in a 401(k) plan or 403(b) plan is January 1, 2025.

Additionally, SECURE 2.0 permits plans to disregard 12-month periods beginning before January 1, 2021 for 401(k) plans (or before January 1, 2023 for 403(b) plans) for vesting purposes, just as such service is disregarded for eligibility purposes.

In general, all other provisions remain the same under SECURE 2.0, as provided under the SECURE Act, including the following:

- LTPT employees who meet the above criteria will be eligible to contribute salary elective deferrals to the 401(k)/403(b) plans.
- The employer is not required to provide employer contributions to LTPT employees who become eligible to make elective deferrals. However, employers can certainly make matching contributions or non-elective contributions to LTPT employees if they choose to do so.
- Plans are not required to include LTPT employees in their annual nondiscrimination testing.
- Plans are not required to make any top-heavy minimum contributions on behalf of LTPT employees.

Next Steps

While additional regulatory guidance is expected regarding the LTPT rules, employers who employ long-term part-time employees are encouraged to review their plan design and enrollment features, and to set-up internal processes and procedures to ensure the compliance with these new requirements.

How USI Consulting Group (USICG) Can Assist

The USICG team can help answer any questions that you have regarding SECURE 2.0. Both the IRS and the DOL are expected to issue additional guidance regarding the SECURE 2.0 provisions and as soon as additional information becomes available, we will provide updates to inform you about such guidance and its impact on plan compliance and administration.

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Retirement Resources for You

The USICG team 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.

Follow USICG on LinkedIn to stay up to date with retirement news!

For previous market and legal commentaries please click 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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