



### **Third Quarter 2011 Market Review: Stocks Reverse Course**

U.S. equity markets tumbled over the third quarter, posting a negative 15 percent return for the broad U.S. equity market (DJW 5000 Index). This was one of the markets' worst quarters since 2009, a time when a credit crisis was underway. International equities posted similar results, posting a negative 15.7 percent return for the quarter (MSCI EAFE Index). U.S. fixed income, however, made significant gains, no doubt helped by the rising equity volatility and the uncertainty that accompanied it. The broad U.S. fixed income market posted a strong positive 3.8 percent return (Barclays Aggregate Index). Yields, accordingly, sunk to record lows, as investors flocked to the safety of high quality investment grade debt (and to a large extent, U.S. Treasury Bonds).

The yield on the 10-year treasury ended the quarter below 2 percent, levels not seen in recent history. The decrease in yields was dramatic, as the yield on the 10-year treasury was above 3 percent at the start of the quarter. Investors are now essentially sacrificing yield for the "guarantee" that they will be paid back their money in full at some point in time. In fact, any significant pick-up in inflation would potentially mean that investors would be paying money to ensure they get their investment (principal) back at some later date. Certainly, yields could head lower, yet there is much less room to fall. Year-to-date, U.S. fixed income has posted a spectacular 6.7 percent return (Barclays Capital Aggregate Index).

European sovereign debt issues weighed on the U.S. markets over the quarter, with many U.S.-based investors concerned that these issues could tip the global economy (including the U.S.) into a recession. Due to the global economy's interconnectivity, it is likely that the U.S. would not be immune to a failure overseas. The other notable event over the quarter was the Fed's latest round of "quantitative easing", essentially another attempt to help further stimulate the economy. The Fed's new policy involves selling shorter-term debt and buying longer-term debt, in order to keep down long-term interest rates. While rates are already at historically low levels, it is important to note the Fed plans to do this through June of 2012, meaning that pressure on rates to remain at these low levels may very well be with us for a bit longer.

## 2012 Plan Limits

The Internal Revenue Service has announced cost of living adjustments affecting dollar limitations for pension plans and other retirement-related items for 2012. In general, many of the pension plan limitations will change for 2012 because the increase in the cost-of-living index met the statutory thresholds that trigger their adjustment. However, other limitations will remain unchanged. For more information about retirement plan limits, please contact David Forsheew, or visit [www.irs.gov/retirement](http://www.irs.gov/retirement).

Plan Limits for Plan Year	2012	2011
401(k), 403(b), 457 Elective Deferral Limit	\$17,000	\$16,500
Catch-Up Contribution Limit	\$5,500	\$5,500
Annual Compensation Limit	\$250,000	\$245,000
Defined Contribution Limit	\$50,000	\$49,000
Defined Benefit Limit	\$200,000	\$195,000
Key Employee	\$165,000	\$160,000
Definition of Highly Compensated Employee	\$115,000	\$110,000
Social Security Wage Base	\$110,100	\$106,800

## DOL Issues Final Regulations Regarding Investment Advice to Participants

On October 25, 2011, the Department of Labor's Employee Benefits Security Administration issued a final regulation that will enhance retirement security by improving workers' access to

quality fiduciary investment advice. The prohibited transaction rules in ERISA and the IRC generally prevent a fiduciary investment adviser from recommending plan investment options if the adviser receives additional fees from the investment providers. Although these rules protect participants from conflicts of interest, ERISA provides exemptions from the rules in appropriate circumstances and permits the department to grant exemptions that have participant-protective conditions. The new regulation implements an exemption that Congress enacted as part of the Pension Protection Act of 2006 to improve participant access to fiduciary investment advice, which contains certain safeguards and conditions to prevent investment advisers from providing biased advice that is not in a participant's best interest.

To qualify for the exemption in the final regulation, investment advice must be given through the use of a computer model that is certified as unbiased by an independent expert or through an adviser compensated on a "level-fee" basis, meaning that the fees do not vary based on investments selected. Both types of arrangements must also satisfy several other conditions, including the disclosure of the adviser's fees and an annual audit of the arrangement for compliance with the regulation. For more information regarding the recently finalized regulations please visit [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

### **Considering a Safe-Harbor 401(k) Plan**

It may be advantageous for a plan sponsor to consider adopting a safe-harbor design for their 401(k) plan. Adopting a safe-harbor 401(k) plan design permits an employer to essentially avoid discrimination testing (the testing is deemed met). Remember, this testing limits highly compensated employees' contributions based upon non-highly compensated employees' contributions. By making a safe-harbor contribution highly compensated employees can defer the maximum amount allowed by their plan and Internal Revenue Code limits, without receiving any refunds. General rules for all safe-harbor contributions include the following:

- Safe-harbor contributions are 100% vested.

- There may be no allocation requirements imposed on safe-harbor contributions, for example, a 1,000-hour service requirement or a last day employment rule.
- Safe-harbor contributions may be used toward satisfying the top-heavy plan minimum contribution requirement.
- All eligible participants must receive a written notice describing the applicable safe-harbor provisions between 30 and 90 days before the beginning of the plan year. This notice must be provided for each year the plan will be safe-harbored.

Generally, there are two types of Safe Harbor contribution: 1) the nonelective contribution, which is a 3% contribution to all eligible participants, or 2) a matching contribution to participants who are contributing to your plan. There are two options from which to choose, for the matching contribution, either the basic or the enhanced match. The basic safe-harbor matching contribution is defined as a 100% match on the first 3% of compensation deferred and a 50% match on deferrals between 3% and 5% of compensation. Alternatively, the employer may choose an enhanced matching formula equal to at least the amount of the basic match; for example, 100% of the first 4% deferred. All that said, employers wishing to explore a safe-harbor solution should also be aware that it may entail more cost (if their present contribution structure is less than the required safe-harbor required structure).

To learn if a safe-harbor feature is appropriate for your plan, contact your RPAG plan consultant or email David Forshew at [dforshew@ccadvisors.com](mailto:dforshew@ccadvisors.com).

### **Fiduciary Reminders: End-of-Year Planning**

As the end of the year approaches, you may wish to review your goals and objectives to determine if any changes should be made to your retirement plan. Typically, a calendar-year defined contribution plan can be amended as late as December 30<sup>th</sup> (other than time-sensitive items like adopting safe harbor design) in order to take advantage of changes for the 2012 year. End of year considerations can include the following:

- Match reinstatement
- Requirements for allocations
- Safe-Harbor feature (see related article)
- Acquisitions during the year
- Catch-up provisions
- Lump Sum Deferral option at year-end
- Cross-testing tiers
- Sales or down-sizing during the year
- Distributions to terminees with account balances
- Compliance with 404(c)

We welcome the opportunity to discuss with you any changes or answer any of your questions about improving the value and success of your retirement plan. Email David Forshew at [dforshew@ccadvisors.com](mailto:dforshew@ccadvisors.com).

### **Communication Corner: Plan Limits 2012 Employee Notice**

This month's sample participant communication memo outlines the 2012 Plan Limits. Email Sherri Attili at [sattili@ccadvisors.com](mailto:sattili@ccadvisors.com) for copy that you can print and distribute to employees.

"Retirement Report" is published monthly by Retirement Plan Advisory Group's marketing team. This material is intended for informational purposes only and should not be construed as legal advice and is not intended to replace the advice of a qualified attorney, tax adviser, investment professional or insurance agent. (c) 2011. Retirement Plan Advisory Group. All rights reserved. 111003 RPAG 2011-83