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Special focus: Energy and climate, DOL regulations for ESG investing

Markets paused a bit this week on news that the economic recovery may be slowing with a continued rise in COVID-19 cases across the country. There were a few bright spots with China's economy expanding 3.2% in the second quarter (NYT) and retail sales expanding in June (NPR), but on the whole the economic data points to a slowing recovery. Job openings in July are down from June across widespread industries and states, not just those states seeing the greatest increase in COVID-19 illnesses. New applications for unemployment held flat this week at 1.3 million. Employees who are back to work with reduced hours are expressing concern about their ability to survive with partial unemployment payments after the end of July, when the $600 weekly enhanced unemployment payments run out (WSJ). Several banking executives indicated on their quarterly earnings calls that they expect things to get worse before they get better. (NYT). Recognizing these concerns, Congress is hoping to pass another stimulus package this month. Those deliberations are ongoing and, in part, are taking longer as the White House is insisting that legislators include a payroll tax cut, despite the legislators' widely held belief about its ineffectiveness (Forbes). The S&P ended the week up 1.2%, the DJIA up 2.3% and the NASDAQ down 1.1%.

Special Focus: Energy and Climate. According to analytics company Rystad Energy, up to 250 oil and gas companies could file for bankruptcy by the end of next year, as these companies have been among those hardest hit by the COVID-19 pandemic. This is more bankruptcy filings in the oil and gas industry than in the previous five years combined. Meanwhile, several of those companies which have already filed for bankruptcy have managed to first pay their executives millions in cash bonuses.

Additionally, as these companies fail, they often leave abandoned wells unplugged and leaking methane. Companies are required by regulators to restore abandoned wells to their original state, but they often set aside insufficient funds to do so. Carbon Tracker recently released its first report about decommissioning abandoned wells, which provides more useful detail about this issue (Carbon Tracker). Clearly, more (or better) regulation and innovation are needed to solve these issues, as opposed to the plan the White House is finalizing that would eliminate the need for companies to detect and fix leaks (NYT).

Fortunately, this week presidential candidate Joe Biden released a $2 trillion comprehensive plan to address the economic recovery, climate, and racism (NYT). Speaking about his plan, Mr. Biden said "If I have the honor of being elected president, we're not just going to tinker around the edges. We're going to make historic investments that will seize the opportunity, meet this moment in history." Finally, we are seeing a U.S. based effort to build back the economy more sustainably!

Special Focus: DOL Regulations for ESG Investing. Recently, the Department of Labor (DOL) issued guidance that ESG investments could only be selected in retirement plans if those investments made money. In an Op-ed in the Wall Street Journal, Retirees' Security Trumps Other Social Goals, the Secretary of Labor argues that ESG investments don't have a place in the fiduciary duty that plan sponsors and managers owe to plan beneficiaries. As many of our readers know, we've built a practice and a track record on the conviction that environmental, social and governance factors, when applied correctly, help mitigate risk and deliver performance in investing. Short, pithy and to the point, we appreciate Senator Warren of Massachusetts' editorial response as well as this recent article from Financial Times. We will need more of these fact-based responses to push back on efforts like the DOL, and other misguided claims like this one, which ignore evidence showing that proper application of ESG factors to the investment approach leads to performance.

We'd like to add that the issues ESG factors illuminate, and their rightful consideration in all portfolios, is thornier than the Labor Secretary allows. Secretary Scalia's goal to stem the flow of money into ESG investments ignores the most ironic of points: "Should the pension be forced to buy economically riskier companies to satisfy the Department of Labor?" (Syntrinsic) As the shareholder advocacy group As You Sow's CEO frames it, "Why is DOL picking on Big Oil like this?" (E&E News) If investments can only be included in retirement plans if they can be expected to deliver financial returns, it is ironic that the DOL is targeting the removal of ESG oriented funds when the energy sector of the S&P 500 has only returned 26.1% since the March 2009 low until June 30th of this year, compared to a 480% return of the full index in the same period.

If you are interested in helping push back against the DOL, the proposed rule is subject to a 30-day public comment period, closing on July 30th. Anyone can submit public comments, which the DOL must review and consider before writing a final rule. Comments can also be shared with members of Congress to encourage them to express concern or opposition to the proposed rule. Find your senators' contact information here and representative's contact information here.

The International Endowments Network has done a nice job organizing a response to the DOL. If your organization is a member and you have not already done so, IEN is encouraging its members to submit a comment letter online, opposing the proposed rule to the DOL and to share your concerns with your members of Congress. They have a Sample letter (to customize and send) and Factsheet of supporting arguments.

This week the environmental community lost one of our biggest advocates, Huey Johnson. He founded the Trust for Public Lands, served as the Nature Conservancy's western director from 1968 to 1972, served as resources secretary under CA Governor Jerry Brown, and established The Resource Renewal Institute, an environmental think tank. Among his many accomplishments, he helped to protect the Marin Headlands from development and to create the Golden Gate National Recreation Area (SF Chronicle, Marin IJ).

Have a wonderful weekend and contact us with any questions or concerns!

Written by Thomas Van Dyck, Catherine Chen, and Michelle Levy

Weekend Reads

WSJ SEC Urged to Help Diversify Asset-Management Industry
Department of Labor Financial Factors in Selecting Plan Investments
Financial Times Lagarde puts green policy top of ECB bond buying agenda
NYT Heatwave adds risk in areas already hit by virus
NYT Inside the White House, a Gun Lobbyist Delivers
NYT If you want diversity in corporations, incentivize executives
NCR How Dayton University divested from fossil fuels and what happened to its bottom line

Politico Should banks account for climate change?
The Guardian COVID-19 could set women back decades
Newsweek: ICE announces new "Citizens Academy"