



## **News and Updates for Plan Sponsors and Fiduciaries of Defined Contribution Plans**

### **Q1 '09 Market Review: Dead Cat Bounce or New Bull Market?**

The first quarter ended with capital markets rallying sharply in the final month (and in fact, weeks) of March. The U.S. equity market was up almost 9% (Russell 3000) for the month, posting gains of over 20% in the last 3 weeks alone. Now, well over 20% from our bear market lows of last year, we have well exceeded the commonly used criteria that signifies a new bull market. Unfortunately, the latest rally only helped limit the severe losses posted earlier in the quarter, as U.S. equity finished the quarter down a negative 10.8% (Russell 3000). Volatility was still a prominent theme and we experienced a similar run-up in equity markets at the end of last year (which, subsequently faded in the beginning of the first quarter). International markets fared much worse than their U.S. equity counterparts, posting a loss of 13.85% (MSCI EAFE Index) for the quarter. Presumably, U.S. equity was still considered the safer option for equity investors. High quality bonds and cash started to lose their luster near the end of the quarter, as investors gravitated toward riskier asset classes. Clearly, the opportunity for performance in high quality bonds and cash was diminished in the current (and historical) low interest rate environment.

While the positive rally at the end of the quarter was refreshing, the 20+% increase from our bear market low of last year does not necessarily mean we're in a new bull market (yet). As of March, unemployment in the U.S. stood at 8.5%, its highest level since 1983. While unemployment is a lagging indicator, it is still too early to tell if the current economic situation is going to get worse before it gets better. The financial system and the consumer, are still in a process of deleveraging, a process that takes some time to play out. In past recessions, the market has gotten ahead of itself (in multiple instances) and that could be the case this time, just another "dead cat bounce." However, there are some positive developments that give us hope that this recovery will be a bit more lasting. Many measures indicate that the markets are undervalued when compared to their historical measures. In addition, news that the Federal Reserve is committing hundreds of billions of dollars to purchase government securities and mortgage debt (in an effort to keep long-term rates low) has reinforced to investors the great lengths the Government will go to in order to support the economy. The fact that many financial institutions came out with good news regarding their expected first quarter (positive) earnings was another positive indicator, giving some investors confidence that things were (and are) getting better. So the question remains, is this a new bull market? While there are some antidotes that suggest this wasn't just another dead cat bounce, the higher levels of volatility this time around make some of those old and time tested definitions obsolete. Only with a little more hindsight will we be ready to have that answer.

### **New Investment Policy Statement Now Available for Hub International Clients**

During the past few years the qualified plan landscape has been inundated with change. The change is attributable to legislation (Pension Protection Act of 2006), regulatory guidance (Department of Labor and Treasury regulations) and ongoing fiduciary litigation. In response to the change Hub International has revised its sample Investment Policy

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Statement (IPS) to ensure that procedures remain contemporary, compliant and continue to represent best practices. Among other changes, the sample IPS contains language reflecting the new qualified default investment alternative (QDIA) safeharbor, reflects the possibility of trading restrictions and provides procedures for monitoring a broader range of investment vehicles.

If you have previously adopted an IPS we encourage you to adopt our updated version. If you have yet to adopt an IPS now is the perfect time to place the new sample IPS on your letterhead and have it executed. Please contact us at [401khelp@hubinternational.com](mailto:401khelp@hubinternational.com) with any questions.

## Plan Audits Primer

Federal law requires “Large” employee benefit plans to conduct an audit each year as part of their obligation to file the Form 5500. Since the audit requirement is solely dependent on the number of participants, an accurate participant count is critical. By definition, a “Large Plan” is a pension (profit sharing, 401(k), money purchase, etc.) plan that has over 100 eligible participants at the beginning of the plan year. A participant can include someone who is active (even those non-deferring), retired, terminated or deceased. If the plan qualifies as a Large Plan, it must file Schedule H with the Form 5500 and have the plan audited by a qualified independent public accountant. Exceptions to the audit requirement include a **Short Plan Year** (if the plan would qualify as a Large Plan and its plan year is seven months or less, the plan sponsor may elect to defer the audit requirement to the following plan year. In the subsequent year, if the plan qualifies as a Small Plan, the plan sponsor will nevertheless be required to have the plan audited for the short plan year.) The other exception is the **80 to 120 Rule** (if the number of participants covered under the plan as of the beginning of the plan year is between 80 and 120, and a small plan annual report was filed for the prior year, the plan administrator may elect to continue to file as a small plan).

Federal law requires that an auditor engaged for an employee benefit plan audit be licensed or certified as a public accountant by a State regulatory authority. For more information on this topic, please contact us at [401khelp@hubinternational.com](mailto:401khelp@hubinternational.com).

## What Should Fiduciaries Be Doing in Down Markets?

With the tremendous stock market drop over the past year, fiduciaries are wondering what they should be doing or if they have done enough. Following are two governance items for you to follow in times of market turmoil.

- **Analyze investments thoroughly.** The *Scorecard*<sup>SM</sup> reviews actively managed funds from several different quantitative and qualitative points. The key findings in the Scorecard are as important today as they have always been. Probably the most important aspect of analyzing investments is to make sure that you adhere to written guidelines, which are commonly found in the Investment Policy Statement. Decisions regarding investments must be consistent with other timeframes. Remember you protect yourself by following and documenting a Fiduciary process.
- **Talk to Employees.** Employees need to be reminded they should be investing in appropriate investments for their timeframe and risk tolerance. It’s important to explain how their contributions work for them during these times when the markets are down. Participants need to remember that they are buying shares of a fund, not a return. As such their dollars may buy more shares today than they did a year ago.

## Communication Corner: The Case Against Market Timing

This month’s sample participant communication memo discusses Market Timing and why this particular investment strategy is discouraged. Please continue to distribute these participant memos to your plan participants every month.