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The Year in Bankruptcy 2009: Part 1

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The author reviews the bankruptcy highlights of the year just past.

The penultimate year in the first decade of the second millennium was one for the ages, or at least most people hope so. Almost nobody would choose to relive the tumultuous, teeth grinding events of 2009 any time soon. 2009 saw what was (hopefully) the worst of the "Great Recession" that gripped most of the world beginning in the fall of 2008. In its waning months, 2009 also nurtured the green shoots of a recovery that, plagued by indicators (lagging or otherwise) such as enduring double digit unemployment, high fuel costs, high mortgage foreclosure rates, tight credit markets, low interest rates, and low residential and commercial real estate values, is admittedly still fragile. As of the end of 2009, seven million Americans had lost their jobs and 3.7 million homes had been foreclosed upon since the beginning of the recession. U.S. household net worth has contracted nearly 20 percent since the middle of 2008 — an epic $12 trillion.

After all the "worst," "lowest," "least," "direst," and "biggest" designations awarded to the cataclysmic events of 2008, the catalog of original superlatives for the business and financial developments of 2009 is comparatively slim. Even so, 2009 was far from short on exceptional, notable, groundbreaking, and even historic events, particularly in the areas of commercial bankruptcy and restructuring.

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2009 will be remembered as the year that terms such as "TARP," "TALF," "cash for clunkers," "Ponzi scheme," "too big to fail," and "stress tests" became ubiquitous (if not original) parts of the American financial lexicon. It will also enter the history books as the year that two of Detroit's Big 3 automakers motored through bankruptcy with the benefit of billions in taxpayer dollars, the year with the most unemployed Americans in over a quarter century, and the year that the U.S. deficit, as a percentage of U.S. economic output, surged to $1.42 trillion, the largest since World War II. 2009 will also enter the annals of U.S. history as the year that disgraced financier Bernard Madoff was sentenced to 150 years in prison for orchestrating the largest Ponzi scheme in history, a crime described by the sentencing judge as "extraordinarily evil" due to the billions bilked from thousands of investors. Standard & Poor's reported that global corporate bond defaults totaled 265 in 2009, with junk-rated companies comprising almost 90 percent of those that defaulted. The number of defaults was the highest annual total since S&P began tracking them in 1981, breaking the previous record of 229 in 2001. The U.S. led the world with 193 of those defaults, roughly twice the number recorded for 2008.

The nation's biggest banks began repaying their bailout money in 2009, although cynical observers have suggested that banks were motivated less by eagerness to repay American taxpayers than a desire to avoid restrictions on executive pay for TARP recipients. However, the largest players in the U.S. mortgage debt market remained on government life support throughout 2009 and are likely to stay there for some time. Fannie Mae and Freddie Mac, which buy and resell mortgages, used $112 billion in TARP money in 2009. Moreover, the Obama administration pledged on Christmas Eve to provide unlimited financial assistance to the mortgage giants, paving the way for the government to exceed the current $400 billion cap on emergency aid without seeking permission from a bailout weary Congress. GMAC, which finances auto sales but also guarantees mortgage debt, has already drawn $13.4 billion in TARP money but needs at least $5.6 billion more, according to the government's "stress test" results. Insurance conglomerate AIG, which also guarantees billions in mortgage paper, is similarly in dire financial straits, having recently drawn $2 billion from a special $30 billion government facility created in the spring of 2009 after a $40 billion infusion of taxpayer money proved to be inadequate. The ongoing $180 billion AIG fiasco continued to figure prominently in headlines in 2010, after news outlets reported that the Federal Reserve Bank of New York advised the troubled insurer at the end of 2008 to withhold details of its bailout deal from the public.

All things considered, U.S. stock markets had a reasonably good year. After posting its worst January in percentage terms on record and plunging to 6,547.05 on March 9 — less than half its peak only 17 months earlier — the Dow Jones Industrial Average regained some lost ground in 2009. The Dow closed above the 10,000 mark for the first time in more than a year on October 14, 2009, and closed out the year at 10,428 with an 18.8 percent gain for 2009, the biggest annual percentage gain in six years, although it was still down 26.4 percent from its all time record set in October 2007.

210 public companies (*i.e.*, companies with publicly traded stock or debt) filed for Chapter 7 or Chapter 11 bankruptcy protection in 2009, compared to 138 in 2008. This figure falls short of the record 263 filings in 2001 but nevertheless represents the most public company bankruptcy filings since 2002, when there were 220. According to annual reports filed with the Securities and Exchange Commission, the aggregate pre-bankruptcy asset pool for the 210 public filings in 2009 was valued at nearly $600 billion, compared to the $1.2 trillion in assets placed under bankruptcy administration in the previous year (thanks, in large part, to Lehman Brothers, which tallied an eye popping $691 billion in assets, the largest Chapter 11 filing of all time). Year end statistics released by Automated Access to Court Electronic Records, which is part of Jupiter eSources LLC, indicate that U.S. business bankruptcies rose 38 percent last year, with 89,402 Chapter 7 and Chapter 11 filings by businesses in 2009, compared to 64,584 in 2008. The volume of business filings set a new record in the bankruptcy era postdating enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA").

There were 55 names added to the "billion dollar bankruptcy club" in 2009, more than double the number of initiates in 2008. Notable among them (including companies that are featured below in the Top 10 List for 2009) were Big 3 automakers GM and Chrysler; myriad bank holding companies and mortgage lenders (continuing a trend established in 2008), including small to mid-sized business financier CIT Group; chemicals titan Lyondell Chemical; poultry products giant Pilgrim's Pride; gaming and entertainment company Station Casinos; hotelier Extended Stay; Reader's Digest, a fixture in U.S. households for more than three quarters of a century; and door manufacturer Masonite, just to name a handful. Prominent names in the bankruptcy headlines of 2009 that did not crack the billion dollar threshold included media conglomerate Sun-Times Media, which once owned the Chicago Cubs; newspaper and web site publisher the Journal Register Company; clothing retailer Eddie Bauer; and elevator music pioneer Muzak. Few industries were spared bankruptcy's trial by fire in 2009.

140 federally insured banks failed in 2009, straining to the breaking point the insurance fund administered by the besieged Federal Deposit Insurance Corporation, which projected in September 2009 that bank failures would cost the deposit insurance fund about $100 billion in the next four years. For the first time since it was formed in 1933, the FDIC was forced to demand prepayment of insurance premiums by banks. Although the number of bank failures quintupled the 25 failures of 2008, they were nowhere near the record volume experienced during the savings and loan crisis in 1989, when 534 banks closed their doors.

Private companies fared no better in 2009. For example, according to peHUB, an interactive forum for the private equity community, private equity-backed bankruptcies (excluding minority stake and hedge fund-backed bankruptcies) already numbered 46 only halfway through 2009, on a pace to double the 49 leveraged buyout-backed Chapter 11 cases filed in all of 2008. The blistering pace abated, however, as seriously overleveraged companies found a way to stay out of the bankruptcy courts, chiefly by prevailing on lenders to extend debt maturities or face the prospect of a total meltdown and evaporation of asset and collateral values. peHUB placed the total number of private equity bankruptcies for all of 2009 at 74, while other watchdogs reported the total number to be above 100. The ranks of the fallen in 2009 included greeting card company Recycled Paper Greetings, media companies Source Interlink and Bluewater Broadcasting, mattress maker Simmons Bedding, newspaper publisher the Star Tribune, jewelry retailer Fortunoff, and home ventilation products manufacturer Nortek.

More remarkable than the volume of business bankruptcy filings in

2009 was (renewed) evidence of the marked paradigm shift in Chapter 11 cases, exemplified by the lightning fast bankruptcy asset sales in the Chrysler and GM cases in 2009 and the Lehman Chapter 11 case in 2008. The Chapter 11 landscape is changing. Largely gone are the once typical Chapter 11 cases of uncertain duration with a stable and reorganization-committed creditor base, an ample supply of inexpensive debtor-in-possession and/or exit financing, and an adequate "breathing spell" from creditors to devise a Chapter 11 plan and to decide whether to assume or reject executory contracts and unexpired leases.

Those halcyon days have been supplanted by bankruptcy "quick fixes" involving prepackaged or prenegotiated Chapter 11 plans and rapid fire asset sales under Section 363(b) of the Bankruptcy Code, a model that has been much criticized as antithetical to Chapter 11's policies of adequate disclosure, absolute priority, and fundamental fairness. Overleveraged companies are burdened with multiple layers of senior, mezzanine, and second (or even third) tier debt. DIP and exit financing are hard to find, and loans, when available, are very expensive. Prebankruptcy creditors are more apt than ever before to cut their losses by selling their claims in the robust, multibillion market for distressed debt. The remaining creditor constituency is motivated more by the desire for profit than a commitment to develop an enduring and mutually beneficial relationship with a viable enterprise going forward. Among other things, this means that Chapter 11 cases have become more contentious, and companies have fewer qualms about proposing Chapter 11 plans that distribute little or no value to unsecured creditors.

Much abbreviated "drop dead" dates have constricted the time frames for a Chapter 11 debtor to propose and confirm a Chapter 11 plan and to determine which of its contracts and leases are worth retaining. New categories of administrative claims have made it more difficult for debtors to muster the financial means necessary to confirm a plan of reorganization. Likewise, enhanced protections for utilities and new ERISA "termination premiums" triggered by termination of a Chapter 11 debtor's pension plans have made bankruptcy a more expensive proposition. Special protections in the Bankruptcy Code for financial contracts that were significantly augmented in 2005 mean that swap and repurchase agreements, forward contracts, and other types of financial contracts operate notwithstanding a bankruptcy filing. Because the automatic stay does not prevent these contracts from being liquidated or netted out, billions of dollars can be (and in many cases were) siphoned overnight from a contract party despite its filing for bankruptcy protection.

Bankruptcy professionals, commentators, and lawmakers have been taking a hard look at the current state of Chapter 11, which has evolved considerably from its infancy in 1978. Some have expressed the view that Chapter 11's "one size fits all" mentality is outdated or that the many changes made to the Bankruptcy Code by special interests have emasculated Chapter 11 as a vehicle for reorganizing companies, saving jobs, and preserving value for creditors. For example, the Obama administration proposed legislation in December 2009 that would create a "resolution authority" and a "systemic resolution fund" to deal with bank holding companies and other nonbank financial institutions that pose "systemic risk." A competing bill introduced in the U.S. House of Representatives in 2009 — the Consumer Protection and Regulatory Enhancement Act of 2009, H.R. 3310 — proposes to add a new Chapter to the Bankruptcy Code (Chapter 14) to deal with the adjustment of debts of nonbank financial institutions that are deemed "too big to fail." The legislation was proposed in response to a widespread perception that the U.S. government fumbled the ball in dealing (or not dealing) with the collapses of Lehman Brothers, Bear Stearns, and AIG, which fueled a nationwide financial panic. The debate concerning this controversial issue will doubtless endure for some time.

WHERE DO WE GO FROM HERE?

Prognostication is always an iffy proposition when it comes to developments in business bankruptcy and reorganization. Even so, given trends established or persisting in 2009, such as the continuing weakness in consumer demand, ballooning health care and employee legacy costs, high fuel prices, double digit unemployment, and dubious prospects for a "jobless recovery," it is not difficult to predict that the waves of commercial bankruptcies will continue well into 2010 and probably beyond. Industries especially susceptible to bankruptcy risk continue to be media, automotive (despite the sale of 700,000 (mostly Japanese) new vehicles as part of the "cash for clunkers" program), airline, home construction, retail, mortgage lending, entertainment and, due to chronic high vacancy and default rates, commercial real estate. Prepackaged Chapter 11 cases, Section 363 asset sales, and Chapter 7 liquidations are likely to continue to predominate in 2010.

HIGHLIGHTS OF 2009

January 6 — It is announced that U.S. auto sales plunged 36 percent in December 2008, dragging the industry's volume in 2008 to a 16 year low as the recession ravages demand. GM's annual total was the smallest in its home market since 1959. Toyota and Honda report their first drop in full year U.S. sales since the mid-1990s after December declines of at least 35 percent. Chrysler's 53 percent dive in December was the poorest among major automakers, while Ford slumped 32 percent and GM and Nissan fell 31 percent. GM's 2008 U.S. sales of 2.95 million light vehicles amounted to its lowest total in 49 years, and Ford's tally sagged to a 47 year low, according to trade publication *Automotive News*.

January 7 — Great Britain's national bank lowers interest rates to 1.5 percent, the lowest in more than 300 years.

January 8 — Interest rates on home mortgages fall to 5.01 percent, the lowest since Freddie Mac started its mortgage survey in 1971. Citigroup, one of the largest mortgage lenders in the U.S., agrees to support the Helping Families Save Their Homes in Bankruptcy Act of 2009, legislation that would allow bankruptcy courts to modify home mortgage loans.

January 13 — The U.S. Treasury Department announces that the federal government has already run up a record deficit of $485.2 billion in just the first three months of the current budget year.

Citigroup, staggered by losses despite two federal rescues, accelerates moves to dismantle parts of its troubled financial empire in an effort to placate regulators and its anxious investors, heralding the end of the landmark merger that created the conglomerate a decade ago.

January 15 Democrats in Congress roll out recommended spending increases and tax cuts totaling $825 billion, and the Senate votes to release $350 billion in financial rescue funds sought by President-elect Barack Obama for the financial industry.

The average 30 year fixed rate mortgage falls to 4.96 percent, the lowest ever in Freddie Mac's weekly survey.

The European Central Bank, alarmed by the rapid economic downturn, lowers its benchmark interest rate to two percent, the lowest ever.

Preqin, the London and New York-based alternative assets research consultancy, reports that 768 private equity funds secured $554 billion globally in 2008, marking the second highest record year of fundraising in the industry. It also reports that more than $1 trillion in commitments raised by private equity funds (and $472 billion specifically in buyout funds) remains to be drawn down or put to use in new investments.

January 16 The U.S. Treasury extends a $138 billion aid package to Bank of America, including $20 billion in cash from the Troubled Asset Relief Program (on top of the $25 billion in TARP funds already issued to the bank), in exchange for preferred Bank of America stock and $118 billion in loan guarantees, following a 23 percent drop in Bank of America's stock caused by concerns that it cannot survive the Merrill Lynch buyout.

Citigroup reports an $8.29 billion loss (with losses totaling $18.72 billion in 2008) on the heels of its announcement that it will split into two stand alone businesses: Citicorp, a bank with operations in more than 100 countries, and Citi Holdings, which will house its noncore asset management and consumer finance operations.

January 19	The U.K. government dramatically extends the scope of its October 2008 banking rescue package with a raft of new measures, including insurance against "toxic" losses, taking it nearer to a wholesale nationalization of the sector. The expanded rescue program is a recognition that October's £500 billion ($737.4 billion) package failed to increase lending or revive the comatose market for mortgage-backed securities.
January 20	Barack Obama is sworn in as the 44th President of the U.S.
January 21	GM reports that it sold 8.35 million vehicles in 2008, about 620,000 fewer than Toyota, marking the first time since 1931 that GM could not call itself the world's largest automaker.
January 26	Pfizer agrees to pay $68 billion for Wyeth to become the world's biggest pharmaceuticals company and replenish its dwindling portfolio of drugs. 60,000 U.S. job cuts are announced, the most in a single day in the U.S. since the recession began.
January 29	Ford reports that it lost $14.6 billion in 2008, its worst annual performance in 105 years.
January 30	Exxon Mobil Corp. reports a profit of $45.2 billion for 2008, breaking its own record for a U.S. company.
February 1	U.S. stock markets post their worst January on record. The

Dow Jones Industrial Average finishes January down 8.84 percent on the month. Previously, the worst January for the Dow had been that of 1916, when it fell 8.64 percent. The S&P 500 index posts cumulative losses in January of 8.57 percent, eclipsing its worst January from 1929 onward, which occurred in 1970, when it lost 7.65 percent.

February 4	President Obama announces limitations on executive compensation for companies accepting taxpayer-funded bailout money. Any executive pay in excess of $500,000 must be in the form of stock that cannot be cashed out until taxpayer loans are repaid.
February 5	Great Britain's national bank lowers the benchmark interest rate to 1.0 percent, the lowest since the central bank was founded in 1694 by William III to fund a war against France.
February 6	The U.S. Labor Department reports that nearly 600,000 jobs disappeared in January and that a total of 3.6 million jobs have been lost since the start of the recession in December 2007, increasing the aggregate nonfarm unemployment rate to 7.6 percent.
February 12	The U.S. House and Senate reach a compromise on the details of a new $789 billion stimulus package.
February 13	Peanut Corporation of America, the company responsible for a salmonella outbreak in the U.S. that sickened 600 people and may have caused the deaths of eight others, files for Chapter 7 bankruptcy after the bacterial infection traced to its Blakely, Georgia, plant leads to one of the biggest product recalls in U.S. history.
February 17	President Obama signs into law the American Recovery

and Reinvestment Act, a $787 billion stimulus package intended to create jobs, jump start growth, and transform the U.S. economy to compete in the 21st century.

GM and Chrysler announce that they need an additional $14 billion in government aid to remain operating until the end of March.

Less than half a year after various governments changed their policies to boost investors' faltering confidence in banks, Thomson Reuters reports that financial institutions worldwide have issued $317 billion in debt backed by their governments, accounting for 15 percent of the total debt issued worldwide by such institutions since the fall of 2008.

The SEC charges Texan cricket impresario Allen Stanford, who once boasted that his global empire contained $50 billion in assets, with defrauding investors of $9.2 billion, igniting a frenzied rush to liquidate their investments by investors in 140 countries who bought bonds from Stanford International Bank in Antigua.

February 18 President Obama unveils a $75 billion Homeowner Stability Initiative to keep as many as 9 million Americans from losing their homes to foreclosure by providing incentives to mortgage lenders to restructure the loans of up to 4 million borrowers on the verge of foreclosure.

Moody's Economy.com reports that of the nearly 52 million U.S. homeowners with a mortgage, about 13.8 million, or nearly 27 percent, owe more on their mortgages than their homes are now worth.

GM and Chrysler announce that, if forced to file for Chapter 11 protection, they would need up to $125 billion in DIP financing to fund the bankruptcy cases.

February 19 The number of U.S. workers drawing unemployment aid jumps to a record high of nearly five million.

February 20 Swedish automaker Saab files for bankruptcy protection in Sweden and asks its government for financial support to remain in business as an independent company separate from its parent, GM.

February 26 GM reports it lost $9.6 billion and bled through $6.2 billion in cash during the last quarter of 2008, bringing its total losses for the year to $30.9 billion — or $85 million per day — on sales of $149 billion, compared to total losses for 2007 of $43.3 billion.

The FDIC reports that U.S. banks lost $26.2 billion in the last three months of 2008, the first quarterly deficit in 18 years, as the housing and credit crises escalated, and that for all of 2008, the banking industry earned $16.1 billion, the smallest annual profit since 1990.

The Department of Labor reports that claims for unemployment insurance and the number of people in the U.S. on the dole are at their highest since October 1982. 5.1 million workers remain on the unemployment rolls — the largest number since 1967, when the Labor Department began keeping track.

February 27 The Dow Jones Industrial Average drops 119.15 points to end at 7,062.93. The blue chip benchmark ends down 937.93 points on the month — the worst percentage drop for February since 1933, when it fell 15.62 percent.

Lyondell Chemical Co. wins approval of $8 billion in DIP financing, the largest bankruptcy financing package to date.

March 2 The U.S. government agrees to provide an additional $30 billion in taxpayer money to AIG and loosen the terms of its huge loan to the insurer, even as the insurance giant reports a $61.7 billion loss, the biggest quarterly loss in history. The government's commitment to AIG now stands at roughly $180 billion.

March 3 The U.S. Treasury and the Federal Reserve launch the highly anticipated Term Asset-Backed Securities Loan Facility ("TALF"), aimed at generating up to $1 trillion in loans to purchasers of highly rated securities backed by new auto, credit card, student, and Small Business Administration guaranteed loans.

March 4 The ADP employment index reports that U.S. private sector firms cut 697,000 jobs in February, the largest loss ever in the ADP index, which dates back to 2001. The goods producing sector shed 338,000 jobs, manufacturing lost 219,000 jobs, construction lost 114,000 jobs, and the services sector lost 359,000 jobs.

The Obama administration releases details of its $75 billion Making Home Affordable plan, which will help as many as 9 million homeowners refinance or modify their mortgages and provide loan servicers with guidelines and incentives to begin modifying eligible mortgages immediately.

March 5 GM reports that its auditors have raised "substantial doubt" about the troubled automaker's ability to continue operations and announces that it may have to seek bankruptcy protection if it is unable to restructure.

Shares of Citigroup, once the world's biggest bank by market value, drop below $1 in New York trading for the first time, as investors lose confidence the shares can recover after more than $37.5 billion in losses and a government rescue.

The Bank of England cuts official interest rates by half a percentage point to a record low of 0.5 percent and announces plans to expand the domestic money supply in an attempt to revive Britain's ailing economy. The European Central Bank drops its benchmark interest rate from two percent to an all time low of 1.5 percent.

March 6	The U.S. Labor Department reports that 651,000 jobs disappeared in February and that a total of 4.1 million jobs have been lost since the start of the recession in December 2007, increasing the aggregate nonfarm unemployment rate to 8.1 percent, the highest in more than 25 years.
March 9	Financial markets shudder, with the Dow Jones Industrial Average falling to 6,547.05 — nearly half the peak it hit 17 months earlier. According to a study commissioned by the Asian Development Bank entitled "Global Financial Turmoil and Emerging Market Economies: Major Contagion and a Shocking Loss of Wealth?," the value of global financial assets including stocks, bonds, and currencies fell by more than $50 trillion in 2008, equivalent to a year of world gross domestic product.
March 10	Credit rating firm Moody's releases a list called "the Bottom Rung," which includes 283 companies it believes are at risk of bankruptcy. The companies span various sectors of the economy. Industries that make up the biggest pieces of the pie include autos, casinos, retailers, and media companies. Moody's predicts that 45 percent of its "Bottom Rung" nominees will end up defaulting on loans over the next year.
March 11	Freddie Mac posts a fourth quarter loss of $23.9 billion, reporting that it will ask for additional government aid of nearly $31 billion.
March 12	The French Finance Ministry announces that French companies shed the most jobs in 40 years in the fourth quarter as manufacturing slumped and employers braced for the worst recession since World War II. Disgraced 70 year old financier Bernard L. Madoff is sent

to jail pending sentencing on June 16 after pleading guilty to 11 federal felony fraud counts arising from one of the largest Ponzi schemes in history, telling a courtroom filled with people he cheated that he was "sorry and ashamed" for bilking so many out of their life savings.

It is reported that by the end of 2008, the largest 100 U.S. corporate pension plans were underfunded by $217 billion, comparing assets to long term liabilities.

The U.S. Federal Reserve reports that U.S. household net worth dropped by $11.2 trillion in 2008, reflecting steep declines in the housing and stock markets. The declines in household net worth are the largest since quarterly and annual records began in 1951 and 1946, respectively.

March 16 — PricewaterhouseCoopers LLP reports that U.K. households lost £1.9 trillion ($2.7 trillion) of their wealth since July 2007 because of the financial crisis.

March 19 — In a report prepared for the Group of 20 meeting of finance chiefs in Britain, the International Monetary Fund reports that the world economy, reeling from financial crisis, is on track in 2009 to shrink for the first time in 60 years, by as much as 1.0 percent.

March 23 — The Obama administration presents the latest step in its financial rescue package. The Public-Private Investment Program will provide financing for $500 billion in purchasing power to buy troubled or toxic assets, with the potential of expanding to as much as $1 trillion. At the core of the financing package will be as much as $100 billion in capital from the existing TARP, along with a share provided by private investors, which the government hopes will come to five percent or more. Leveraging this program through the FDIC and the Federal Reserve will enable huge numbers of bad loans to be acquired. Private investors would be subsidized but could stand to lose their investments, while taxpayers could share in prospective profits as the assets are eventually sold.

March 24 — It is reported that U.S. Treasury Secretary Timothy F. Geithner will ask a congressional panel to grant the Treasury greater powers to seize troubled financial institutions that are not banks, authority that might have averted the global crisis precipitated by AIG's meltdown.

In a letter to the SEC, NASDAQ OMX Group Inc., NYSE Euronext Inc., BATS Exchange Inc., and the National Stock Exchange Inc. jointly propose a "modified uptick rule" that would make it easier for the exchanges to prevent abusive short selling. The exchanges also call for implementing circuit breakers that would be triggered after the price of a stock has declined by a certain percentage (suggested at 10 percent).

Nearly doubling its loss estimate issued in December 2008, the International Air Transport Association announces that global airline losses may total $4.7 billion in 2009, as revenues plunge below levels seen after the terrorist attacks of September 11, 2001.

March 25 — The Mortgage Bankers Association reports that average 30 year fixed rate mortgages dipped to 4.63 percent, the lowest since the MBA began its weekly surveys in 1990.

March 27 — Richard Wagoner resigns as chairman and CEO of GM at the behest of the Obama administration, which tells GM and Chrysler that they have 60 days to come up with restructuring plans or face bankruptcy and instructs Chrysler to form a partnership with Fiat within 30 days as a condition for new aid.

March 31 — peHUB reports that there were 24 private equity-backed bankruptcy cases during the first quarter of 2009, compared to a total of 49 for all of 2008, with the biggest losers so far in 2009 being TPG's Aleris and KKR's Masonite, clocking in at $4.2 billion and $2.6 billion in liabilities each.

Neil Barofsky, a special inspector general overseeing government efforts to bail out portions of the private sector, reports that the U.S. so far has committed nearly $2.98 trillion toward stabilizing financial companies and rescuing domestic automakers. Only $109.5 billion remains in the $700 billion TARP launched originally as a way to remove toxic assets from bank balance sheets.

It is reported that the Standard & Poor's/Case-Shiller index of U.S. home prices in 20 major cities tumbled by a record 19 percent from January 2008, the largest decline since the index started in 2000.

Four small banks become the first to return millions of dollars of emergency aid, as the banking industry tries to escape what it considers the onerous conditions attached to the government's money. Signature Bank of New York repaid $120 million to the Treasury Department, Old National Bancorp of Indiana returned $100 million, Iberiabank of Louisiana paid back $90 million, and Bank of Marin Bancorp of Novato, California, repaid $28 million. All of the banks paid five percent interest on the money they had received.

April 1 — Industry data tracker Preqin Ltd. reports that private equity fundraising hit a five year low as the financial crisis has made it difficult to raise new money, institutional investors' portfolios have sunk in value, and many struggle to meet capital calls. In the first quarter of 2009, $45.9 billion was raised globally, the lowest since the fourth quarter of 2003, when just $34 million was closed.

The average rate on 30 year fixed rate mortgages falls to 4.61 percent.

April 2	Leaders at the G-20 meeting in London agree to make an extra $1.1 trillion of new money available to borrowers through the IMF and other institutions, pledging that $5 trillion will be provided overall for their economies from the start of the financial crisis to the end of 2010. They also agree to clamp down on tax havens, to name and shame those jurisdictions that fail to sign up for international rules on transparency and disclosure, and to work together to limit bankers' pay and bonuses, regulate hedge funds, and force rating agencies to offer more detailed data for structured products. The U.S. unemployment rate jumps to 8.5 percent, the highest since late 1983.
April 8	Japan announces its biggest ever economic stimulus plan, a $154 billion package of subsidies and tax breaks that aims to stem a deepening recession in the world's second largest economy.
April 13	Thomson Reuters reports that bankruptcy-related M&A deals hit their highest level globally since August 2004 and are set to keep rising, with 67 bankruptcy-related deals announced thus far in 2009, with the vast majority in the U.S. and Japan.
April 16	In a sign of the bleak economy's impact on discretionary consumer spending, General Growth Properties, Inc., the second largest owner/operator of shopping malls in the U.S. with $29 billion in assets, files for Chapter 11 protection in the largest U.S. real estate failure ever.
April 17	The number of failed federally insured U.S. banks reaches 25, equaling the total number of banks that failed during all of 2008.

April 22 Great Britain's deficit swells to £90 billion — the largest since World War II — and unemployment rises to the highest in 12 years.

Japanese lawmakers approve new regulations allowing the state to inject cash into struggling companies by buying shares.

April 24 The Federal Reserve reveals the bank "stress test" results to the 19 biggest U.S. financial firms in nonpublic meetings, with public disclosure of the banks' report delayed until early May.

Microsoft, the world's largest software maker, reports the first year-over-year sales decline in its history, with revenue in the first quarter of 2009 slipping 6 percent to $13.65 billion.

April 27 In an effort to convince the Obama administration that it is willing to take harsh measures and cut its bloated infrastructure to match its steadily declining share in the U.S., GM announces that it will eliminate another 21,000 factory jobs, close 13 plants, cut its vast network of 6,500 dealers almost in half, and shutter its Pontiac division. When finished, GM expects to have only 38,000 union workers and 34 factories left in the U.S., compared with 395,000 workers in more than 150 plants at its peak employment in 1970.

April 28 World stock markets fall as investors worry that a swine flu pandemic could derail a global economic recovery. The World Health Organization says it is too late to contain the virus and urges countries to do what they can to mitigate the effects.

April 29 In a progress report on his first 100 days in office, President Obama calls for a "New Foundation" for the American economy — a catchphrase to link his agenda on energy and health care to the country's prospects for long term recovery.

The U.S. Congress approves a $3.55 trillion budget that embraces President Obama's agenda, including his call to allow fast track approval of an overhaul of the health care system.

April 30 After finalizing an alliance with Fiat SpA but failing to reach a restructuring deal with its bondholders, Chrysler, the smallest of Detroit's Big 3, files for Chapter 11 protection in New York with the intention of seeking court authority to sell substantially all of its assets to a new company formed with Fiat. Chrysler's reorganization is to be financed by $4.5 billion in DIP financing provided by the U.S. Treasury. The bankruptcy filing is the first ever by a major U.S. automaker. White House involvement in the bankruptcy case, including President Obama's announcement of the filing and U.S. Treasury financing, together with a statement of support for Chrysler, is unprecedented.

May 1 Chrysler temporarily shuts down its 22 U.S. auto plants as part of its Chapter 11 restructuring and sale to Italian automaker Fiat.

May 2 It is reported that U.S. auto sales fell 34.4 percent in April to reach the lowest sales volume since 1979.

May 3 The U.S. unemployment rate jumps to 8.9 percent.

May 5 The U.S. Treasury informs Bank of America that it needs $33.9 billion in capital to withstand any worsening of the economic downturn.

May 6 The three month London Interbank Offered Rate ("LIBOR") falls below one percent for the first time since its 1984 creation.

May 7 — Federal Reserve stress tests on the 19 biggest lenders show that Bank of America, Wells Fargo, and Citigroup together require about $54 billion. Goldman Sachs, JPMorgan Chase, and Bank of New York have enough capital to help prop up flows of credit to businesses and consumers grappling with the worst recession in five decades. The long awaited stress test results show that 10 of the nation's 19 largest banks would need a total of about $75 billion in new capital to withstand losses if the recession worsens.

Toyota, now the world's largest automaker, cuts its annual dividend for the first time and predicts a loss that is almost twice analysts' estimates as global car demand plunges. The 72 year old automaker's loss was ¥766 billion, or $8.2 billion, for the three months that ended in March, capping its first annual deficit in 59 years. For the quarter, Toyota's loss was wider than GM's $5.98 billion and Ford's $1.43 billion.

May 8 — The U.S. unemployment rate soars to 8.9 percent.

May 13 — Standard & Poor's reports that U.S. prepackaged bankruptcies hit an eight year high in the first quarter of 2009, as companies sought a speedy alternative to full blown Chapter 11 filings. In the first three months of the year, six companies with bonds worth $16.5 billion filed prepackaged bankruptcies. By comparison, there were just four prepackaged bankruptcies by companies with publicly listed shares or bonds, affecting only $1 billion in debt in all of 2008.

S&P reports that globally, $541 billion of debt defaulted in the first quarter of 2009.

The Obama administration unveils a plan to regulate some of the complex financial instruments that helped fuel the global crisis, as regulators call for Congress to amend the Commodities Exchange Act and to allow for greater regulation of credit default swaps and other over-the-counter derivatives. The administration wants all standardized credit default swaps and most derivatives to be traded through clearinghouses and wants new capital and business conduct requirements to be imposed on the large Wall Street companies that issue the financial instruments.

May 14 — The Madrid-based National Statistics Institute reports that Spain's economy, shattered by a housing market collapse and the global financial crisis, contracted the most in four decades in the first quarter of 2009 as manufacturing sank and unemployment soared toward 20 percent.

Chapter 11 debtor Chrysler announces plans to close 789 dealerships effective June 9.

The U.S. Treasury Department notifies six major insurance companies that they will receive billions of dollars of support under the TARP in exchange for preferred stock. The companies are Hartford Financial Services Group Inc., Prudential Financial Inc., Allstate Corp., Principal Financial Group Inc., Ameriprise Financial Inc., and Lincoln National Corp., which will join AIG, the only insurer thus far to receive government bailout funds.

May 15 — In another step toward a probable bankruptcy filing at the end of May, GM tells more than 1,100 dealers that their franchises will not be renewed in 2010, bringing to nearly 2,000 the number of car dealers that learn they are no longer wanted.

The U.S. Labor Department announces that in 2009 consumer prices in the U.S. fell at the fastest annual rate since 1955, as declining energy prices pulled back the cost of living.

May 19 A rare mid-year financial update requested by Congress shows that the $11.1 billion deficit posted by the Pension Benefit Guaranty Corporation at the end of its fiscal year on September 30, 2008, swelled by more than $22 billion to $33.5 billion, the highest level in the PBGC's 35 year history.

The Bank for International Settlements reports that in the second half of 2008, with the global financial crisis curbing trading, the derivatives market contracted for the first time. The amount of outstanding contracts linked to bonds, currencies, commodities, stocks, and interest rates fell 13.4 percent to $592 trillion, the first decline in 10 years of compiling the data. The amount of credit default swaps protecting investors against losses on bonds and loans fell 27 percent to cover a notional $41.9 trillion of debt.

May 20 Congress sends President Obama a set of new rules governing credit card companies, completing a trio of consumer-related measures that Democrats had raced to get signed into law by Memorial Day. Under the Credit Cardholders' Bill of Rights Act of 2009, which would take effect in nine months, banks and card companies would be required to give 45 days' notice before a change in interest rates. Companies would be prohibited from raising rates on existing balances unless a cardholder fell 60 days behind on minimum payments.

The bill makes it much harder to issue credit cards to students and prevents companies from charging a fee to those who exceed their credit limits unless the customer elects to pay the fee in exchange for being allowed to charge more.

May 22 The U.S. Conference Board announces that the recession is the worst since at least 1958, the year that the index of coincident indicators, intended to measure how the economy is doing on an overall basis, was initiated. The index has declined 5.7 percent, surpassing the 5.6 percent decline that it experienced in the 1973–75 recession.

May 28 — The U.S. Treasury Department announces that its program to find buyers for impaired loans and toxic securities on banks' balance sheets — the Public-Private Investment Program announced in March — is plagued by complexity and that a wide gulf exists between the prices investors will pay and the amount sellers will demand.

June 1 — GM surpasses Chrysler as the largest manufacturer to file for bankruptcy. Detroit-based GM plans to launch a new company in 60 to 90 days, armed with vehicles from its Cadillac, Chevrolet, Buick, and GMC units for the U.S. market. The court will supervise the sale or liquidation of unprofitable brands, such as Saturn and Hummer, and at least 11 unwanted factories. American taxpayers invest an additional $33 billion in the company in the form of DIP financing in exchange for a 60 percent stake in the reorganized company. Founded in 1908, GM ruled the car industry for more than half a century, with a broad range of vehicles that reflected the company's promise to offer "a car for every purse and purpose."

A New York bankruptcy court approves the sale of Chapter 11 debtor Chrysler to Fiat, paving the way for the smallest of the U.S. Big 3 automakers to emerge from bankruptcy.

June 2 — The Alliance of Merger & Acquisition Advisors and PitchBook Data Inc. report that private equity funds have raised $400 billion more than they have invested in 2009, an all time high, indicating just how much the drying up of leveraged lending has affected buyout firms.

June 5 — The Second Circuit Court of Appeals refuses to block the bankruptcy court-approved sale of Chrysler to Fiat by rejecting an appeal lodged by Indiana pension funds. The sale is to be consummated on June 8 unless the U.S. Supreme Court agrees to consider the issue.

The U.S. unemployment rate spikes to 9.4 percent.

June 7 — The U.S. Supreme Court temporarily stays the sale of Chrysler to Fiat pending its decision whether to hear the pension funds' appeal.

June 8 — The Obama administration announces plans to require banks and corporations that have received two rounds of federal bailouts to submit for approval any major executive pay changes to a new federal official who will monitor compensation as part of a broad set of regulations on executive compensation.

The International Air Transport Association nearly doubles its forecast for global airline industry losses in 2009 to $9 billion and warns that the economic battering will continue for some time. The association had projected as recently as March that it would lose only $4.7 billion. The trade group also reports that it now expects 2009 revenues across the industry to fall 15 percent to $448 billion a much steeper decline than after the September 11, 2001, terrorist attacks.

June 9 — Deeming them financially fit enough to begin repaying TARP money, the U.S. Treasury permits the 10 largest banks in the U.S. to start paying back $68 billion in TARP loans.

The U.S. Supreme Court clears the way for Chrysler's sale to Fiat, turning down a last ditch appeal by opponents that included consumer groups and three Indiana pension plans.

A bankruptcy court authorizes Chrysler to reject 789 dealership franchise agreements. Chrysler allows the dealers until June 15 to transfer unsold inventory to its remaining dealers and has announced that it will not send new inventory or guarantee warranty protection for vehicles sold.

June 10 — Italian automaker Fiat becomes the new owner of the bulk of Chrysler's assets, closing a deal that saves the troubled U.S. automaker from liquidation and places a new company in the hands of Fiat, clearing the way for a new, leaner Chrysler.

The Obama administration appoints a compensation overseer with broad discretion to set the pay for 175 top executives at seven of the nation's largest companies, which received hundreds of billions of dollars in federal assistance to survive.

June 11 — The U.S. Federal Reserve reports that Americans saw $1.3 trillion of wealth vaporize in the first quarter of 2009 as the stock market and home values continued to decline. Overall household net worth fell to $50.4 trillion, Americans' stock holdings plunged 5.8 percent to $5.2 trillion, and mutual fund holdings slid 4.1 percent to $3.3 trillion, while home values dropped 2.4 percent to $17.9 trillion.

June 15 — Chrysler reopens a small factory in Detroit that makes the Viper sports car, the first restart since the company shut down all of its plants on May 4 after filing for Chapter 11.

June 17 — President Obama unveils a financial overhaul plan calling for the creation of a council of financial services regulators, chaired by the U.S. Treasury but giving sweeping new powers to the Federal Reserve Board.

All financial firms would be required to increase capital levels, and banks would face stricter accounting controls that take a more "forward looking" assessment of expected loan losses.

The proposal would also establish a Consumer Financial Protection Agency to review credit and lending practices, providing some protection for potential homeowners, students, and credit card holders.

June 19	The U.S. unemployment rate jumps to 9.4 percent in May, its highest level since 1982, when the rate was 10.8 percent.
June 22	peHUB reports that the first two quarters of 2009 witnessed 46 bankruptcy filings from companies backed by private equity firms, putting 2009 on pace to double last year's total of 49. The second quarter list includes the first mega-buyout bankruptcies: Extended Stay Inc., backed by Lightstone Group, and Chrysler, backed by Cerberus Capital Management.
June 25	A bankruptcy court authorizes GM to borrow $33.3 billion from the U.S. Treasury, the largest DIP loan in history.
June 29	Bernard Madoff is sentenced to a prison term of 150 years for orchestrating the largest Ponzi scheme in history and refusing to divulge his accomplices; of the amount invested in his funds, ranging from $13.2 billion to as much as $50 billion, only $1.2 billion has been located by investigators. In sentencing Madoff, 71, Judge Denny Chin acknowledges that a lengthy sentence would be largely symbolic because of the defendant's advanced age but remarks that "a message must be sent that Mr. Madoff's crimes were extraordinarily evil."
July 1	The U.S. nonfarm unemployment rate spikes to 9.5 percent.

The Wall Street Journal reports that there were 112 U.S. restructuring deals due to bankruptcy or distressed situations in the first half of 2009, with a total value of $59.3 billion, the highest on record.

July 5 — A bankruptcy judge approves GM's plan to sell its most desirable assets, including the Chevrolet and Cadillac brands, to a new company owned largely by the American and Canadian governments and a health care trust for the United Automobile Workers union.

July 7 — Delinquencies on home equity loans and credit card payments hit record highs in the first quarter of 2009, according to data released by the American Bankers Association.

July 10 — The sale transaction involving Chapter 11 debtor GM closes, paving the way for GM to emerge from bankruptcy only 40 days after it filed for Chapter 11 protection. A 60.1 percent interest in the "new" GM is now owned by U.S. taxpayers. GM reduced its liabilities from $176 billion to $48 billion, cut its U.S. manufacturing sites by 13 to 34, dropped four of its eight brands, and reduced its workforce from 91,000 to 68,500 workers.

July 13 — The U.S. Treasury Department reports that the total deficit since the budget year started in October 2008 rose to $1.09 trillion, the highest ever. The administration forecasts that the deficit for the entire fiscal year will hit $1.84 trillion.

July 19 — With $75 billion in assets, the CIT Group, one of the nation's leading lenders to hundreds of thousands of small and mid-sized businesses, strikes a deal with its major bondholders to help avert bankruptcy through a $3 billion emergency loan, after spending the previous week appealing unsuccessfully to regulators for more financial help on top of the $2.33 billion in taxpayer money that it received late in 2008.

July 22	The PBGC agrees to assume $6.2 billion in pension liabilities under contracts between bankrupt auto supplier Delphi Corp. and 70,000 employees and retirees, the second largest pension rescue ever (after the 2005 bailout of United Airlines).
July 23	The Federal Reserve unveils sweeping new consumer protection rules for mortgages and home equity loans, designed to overhaul the timing and content of disclosures to consumers and ban controversial side payments to mortgage brokers for steering consumers to higher cost loans. Microsoft reports that it logged its first annual decline in sales since going public more than two decades ago.
July 31	The U.S. House of Representatives votes to approve an additional $2 billion in emergency funding to fund the "cash for clunkers" program, meant to give rebates to people who turn in old vehicles for new, more fuel efficient ones, after the program's $1 billion in funding is quickly exhausted.
August 10	It is reported that one in nine Americans receives government assistance to buy food, which amounts to 34 million people receiving food stamps.
August 11	Testifying to the robust distressed M&A market, Dealogic reports that more than 140 distressed debt transactions valued at $84.4 billion have taken place thus far in 2009, eclipsing the 102 deals valued at $20 billion for all of 2008.
August 12	Almost exactly two years after it embarked on what was

	the biggest financial rescue in American history, the U.S. Federal Reserve reports that the recession is ending and that it will take a step back toward normal policy.
August 14	The FDIC seizes Colonial BancGroup, Inc., the sixth largest bank failure ever (Washington Mutual's collapse in 2008 being the largest), bringing to 77 the number of failed U.S. banks in 2009. Colonial had assets of $25 billion and deposits of about $20 billion. The failure will reduce the FDIC's deposit insurance fund by $2.8 billion.
August 16	The Administrative Office of the U.S. Courts reports that bankruptcy filings for the 12 month period ending June 30, 2009, rose 35 percent (total filings 1,306,315) over the 12 month period ending June 30, 2008 (total 967,831). Non-business filings for the 2009 period totaled 1,251,294, up from 934,009 for 2008. Business filings totaled 55,021, up 63 percent from the 33,822 filings reported in the 2008 period.
August 17	The U.S. Federal Reserve announces that it will extend the TALF program, which was originally slated to expire at year end, through March 31, 2010, for most of the types of loans it makes.
August 21	Central bankers from around the world express growing confidence that the worst of the financial crisis is over and that a global economic recovery is beginning to take shape. Going beyond the central bank's most recent statement that economic activity was "leveling out," Ben S. Bernanke, head of the U.S. Federal Reserve, states that "[t]he prospects for a return to growth in the near term appear good."
August 25	The U.S. Office of Management and Budget raises its 10 year tally of deficits expected through 2019 to $9.05 tril-

lion, nearly $2 trillion more than it projected in February.

Senator Edward M. Kennedy dies of brain cancer at 77 after spending 46 years in the U.S. Senate, kick starting lawmakers' efforts to hammer out the details of a comprehensive overhaul of the nation's health care system.

President Obama nominates Ben Bernanke to a second four year term as chairman of the Federal Reserve.

August 26 The FDIC backs off stringent proposed rules that would have governed private equity investment in failed banks, including a rule that would have required PE firms interested in owning part of a failed bank to maintain a Tier 1 capital ratio of at least 15 percent — three times higher than the five percent capital ratio required for banks designated as "well capitalized companies." The FDIC also cuts a "source of strength" rule that would have required any private equity investor with a stake in a bank to be liable for further investment in the event the bank suffers additional losses.

The U.S. government's "cash for clunkers" program results in the sale of nearly 700,000 new vehicles (the majority of which are Japanese) at a cost of $2.88 billion to U.S. taxpayers.

August 27 The FDIC reports that the U.S. banking industry lost $3.7 billion in the second quarter amid a surge in bad loans made to home builders, commercial real estate developers, and small and mid-sized businesses. The agency's deposit insurance fund drops 20 percent to $10.4 billion, its lowest level in nearly 16 years, and the number of "problem banks" increases to 416 from 305 in the first quarter.

August 31 Japan's opposition party, the Democratic Party of Japan, wins an overwhelming victory at the polls, ousting the Liberal Democratic Party, which had reigned nearly uninterrupted throughout Japan's post-World War II history, and pledging to increase social welfare, better protect workers, and do away with American-style, pro-market reforms, to lead the country out of its long slump.

September 1 The International Air Transport Association reports that airline companies lost more than $6 billion during the first half of the year due to the economic crisis, even as fresh figures show some signs of recovery in the passenger and freight business.

September 3 It is reported that more than 35 million Americans received food stamps in June, up 22 percent from June 2008 and a new record, as the country continues to grapple with the worst recession since the Great Depression of the 1930s.

September 4 The U.S. Labor Department reports that the unemployment rate surged to 9.7 percent in August.

September 5 G-20 finance ministers meeting in London vow to keep their multitrillion-dollar stimulus efforts in place but fail to agree on any firm limits on bankers' bonuses, a sign of the deep rifts that remain between American and European leaders. The ministers do agree on a blueprint to raise capital requirements at banks to strengthen the world financial system as the recovery takes hold, a major goal of U.S. Treasury Secretary Timothy F. Geithner.

September 8 Switzerland supplants the U.S. on the top rung of the index of economic competitiveness compiled by the World Economic Forum — the first time the U.S. was not ranked first since the rankings began in 2004. The rankings consider "12 pillars of global competitiveness": institutions, infrastructure, macroeconomic stability, health and primary education, higher education and training, goods market efficiency, labor market efficiency, financial market sophistication, technological readiness, market size, business sophistication, and innovation.

September 10 The U.S. Census Bureau reports that the nation's poverty rate climbed to 13.2 percent in 2008 (up from 12.5 percent in 2007), the highest in 11 years.

September 14 As the world financial community marks the first anniversary of the collapse and bankruptcy of Lehman Brothers, the consensus among economists and other financial specialists is that the U.S. financial system has recovered to a degree but significant regulatory reform is needed to prevent another similar episode.

A U.S. district court rejects the proposed $33 million settlement of a suit brought by the SEC against Bank of America based upon billions of dollars of bonuses paid to Merrill Lynch executives on the eve of its 2008 merger with BofA. The judge calls the settlement "a contrivance designed to provide the SEC with the facade of enforcement and the management of the bank with a quick resolution of an embarrassing inquiry at the expense of the sole alleged victims, the shareholders."

September 15 In a speech given at the Brookings Institute, U.S. Federal Reserve Chairman Ben S. Bernanke says that it is "very likely" that the recession has ended, although he cautions that it could be months before unemployment rates drop significantly.

September 17 The SEC proposes a ban on "flash trading," a controversial practice aided by sophisticated computer programs generally available only to large brokerage houses. The agency also adopts new rules requiring credit-rating agencies to

	reveal much more information about their ratings both to the public and to competitors in order to stem conflicts of interest and provide more transparency for the industry, which was widely blamed for giving high grades to many securities that turned out toxic during the financial crisis.
	According to the Federal Reserve's Flow of Funds report, household wealth in the U.S. increased by $2 trillion in the second quarter, bringing an end to the biggest slump on record since the government began keeping quarterly records in 1952.
September 25	World leaders promise a new era of economic cooperation at the close of the G-20 summit in Pittsburgh, endorsing new guidelines for bankers' pay, a tight timetable for regulatory reform, and a new framework for balanced growth. Little progress is made on trade or climate change, however, and many experts express doubt that the accord on growth will actually result in policy changes by leading nations.
September 30	The FDIC projects that bank failures will cost the deposit insurance fund about $100 billion in the next four years and that the fund will be running at a deficit as of September 30. That is higher than an earlier estimate of $70 billion in failure costs through 2013. The agency makes the projections as its board votes to propose requiring banks to prepay an estimated $45 billion in regular insurance premiums for 2010–12. It would be the first time the FDIC has required prepaid insurance fees.
October 2	The U.S. unemployment rate spikes to 9.8 percent.
October 5	*The Wall Street Journal* reports that the pace of buyout-backed bankruptcies in 2009 remains well ahead of last year's total, at 64 in the year to date versus 49 last year (with a total of 62 for all of 2008).

October 8	The SEC releases a draft five year strategic plan outlining a series of 70 initiatives largely "designed to address specific problems brought to light by the global financial crisis." These include: (i) an overhaul of how it inspects investment advisors; (ii) more disclosures for asset backed securities; (iii) improved training for SEC personnel; (iv) improved communication in its Office of Compliance Inspections and Examinations; (v) an overhaul of registration and disclosure rules for banks that sell pools of debt to investors; (vi) enhanced oversight of derivatives; (vii) disclosure by brokerage firms of the extent to which their compensation is linked to selling certain mutual funds, variable annuities, and other investment products; (viii) increased oversight of credit rating agencies; and (ix) increased transparency of rating methodologies.
October 14	The Dow Jones Industrial Average closes above 10,000 for the first time since October 2008.
October 16	The U.S. Treasury reports that the deficit for the fiscal year ending September 30 jumped to $1.42 trillion, compared to $459 billion for fiscal year 2008. It is the biggest deficit since World War II as a percentage of U.S. economic output.
October 21	Responding to the furor over executive pay at companies bailed out with taxpayer money, the Obama administration announces plans to order the firms that received the most aid to slash compensation to their highest paid employees. The plan, for the 25 top earners at seven companies that received exceptional help, will on average cut total compensation in 2009 by about 50 percent. The companies are Citigroup, Bank of America, AIG, GM, Chrysler, and the financing arms of the two automakers. The plan

will have no direct impact on firms that did not receive government bailouts or that have already repaid loans they received. Firms such as Goldman Sachs, JPMorgan Chase, and Morgan Stanley are no longer under any pay restrictions because they have repaid the tens of billions of dollars in loans and loan guarantees they received.

October 23 — Seven more banks are seized by the FDIC, bringing total closures in 2009 to 106, the most since 1992. A record 531 lenders were seized in 1989 during the savings and loan crisis.

October 31 — The Securities Investor Protection Corp. reports that the liquidation of Bernard L. Madoff Investment Securities Inc. to pay 2,861 claims has already cost SIPC in excess of $534 million, more than the $520 million SIPC provided customers in the previous 321 broker/dealer liquidations since the fund was created by Congress in 1970.

November 1 — The CIT Group Inc., the nation's leading provider of factoring and financing to small and middle market businesses, files a prepackaged Chapter 11 case in the fifth largest U.S. bankruptcy filing ever (and the largest prepack), portending a loss to U.S. taxpayers of $2.3 billion in TARP money loaned to CIT in December 2008.

November 2 — In surprising news, Ford announces that its cost cutting efforts and improving sales helped it earn nearly $1 billion in the third quarter of 2009.

November 3 — The daily bankruptcy filing rate in October hits 6,200, according to Automated Access to Court Electronic Records, setting a new record since the 2005 changes to the U.S. bankruptcy law.

November 5	The U.S. unemployment rate increases to 10.2 percent. Moody's Investors Service reports that the global speculative grade ("junk") default rate rose to 12.4 percent in October, the highest proportion of defaults since the Great Depression.
November 13	The PBGC reports that its deficit in fiscal year 2009 nearly doubled, jumping to $22.0 billion from $11.2 billion in fiscal year 2008.
November 16	GM announces that although it lost more than $1 billion during the period from July 10 through the end of the third quarter of 2009, it will begin repaying the approximately $8 billion it owes to the U.S., Canadian, and Ontario governments in December and is likely to have the loans repaid in full earlier than previously anticipated.
November 24	As the pace of bank failures accelerates, the FDIC administered insurance fund falls into the red for the first time since the fallout from the savings and loan crisis of the early 1990s. The FDIC reports that it had a negative balance of $8.2 billion at the end of the third quarter.
November 25	The Administrative Office of the U.S. Courts reports that bankruptcy filings for fiscal year 2009 rose 34.5 percent over bankruptcy filings for the 12 month period ending September 30, 2008. The number of bankruptcies filed in the 12 month period ending September 30, 2009, totaled 1,402,816, up from 1,042,993 filings reported for the 12 month period ending September 30, 2008. Filings for FY 2009 increased in all bankruptcy chapters, with Chapter 11 filings increasing the most — a 68 percent increase in total filings compared to FY 2008. Business filings totaled 58,721, up 52 percent from the 38,651 business filings in FY 2008. Chapter 11 filings

	rose 68 percent, increasing from 8,799 in FY 2008 to 14,745 in FY 2009.
	The government of Dubai announces the restructuring of Dubai World, one of the emirate's three state owned investment giants, asking all of its lenders to "stand still" and extend maturities for at least six months on $60 billion in debt amassed during the years of a building spree that turned the desert emirate into a Middle Eastern version of Las Vegas, Wall Street, and Sodom and Gomorrah, all rolled into one.
December 1	The Bank of Japan announces that it will pump more money into the Japanese financial system after unveiling a ¥10 trillion ($115 billion) program to help an economy battered by falling prices and the yen's surge to a 14 year high.
December 2	Bank of America, the largest U.S. lender, announces that it will repay $45 billion it received from the TARP in 2008, allowing it to escape restrictions on executive compensation.
December 4	In the strongest job report since the recession began, the U.S. Labor Department reports that only 11,000 jobs disappeared in November and that the overall unemployment rate decreased to 10 percent from 10.2 percent.
December 9	U.S. Treasury Secretary Timothy F. Geithner announces that the Obama administration is extending the $700 billion TARP, which had been slated to expire on December 31, until October 2010, explaining in a letter to Senate and House leaders that even with the improving economic situation, extension of the program is "necessary to assist American families and stabilize financial markets."

December 10	Britain announces the imposition of a "super tax" of 50 percent on bonuses paid by banks and other financial institutions in excess of £25,000. France later follows suit. RealtyTrac Inc., a mortgage industry watchdog, reports that foreclosure filings in the U.S. will reach a record for the second consecutive year, with 3.9 million notices sent to homeowners in default, surpassing 2008's total of 3.2 million, as record unemployment and price erosion batter the housing market.
December 14	In the largest single state aid payment to a company ever approved in the history of the EU, the European Commission agrees to a U.K. restructuring plan for The Royal Bank of Scotland involving the payment of between $98 billion and $163 billion of taxpayer money for the bank's toxic assets.
December 15	The International Air Transport Association reports that despite lower oil prices and a resurgent economy, the airline industry will lose $11 billion in 2010, and it revises its estimate for losses in 2010 from $3.8 billion to $5.6 billion, based upon industry margins badly damaged by a sharp increase in oil prices.
December 30	The U.S. Treasury Department announces that it will provide $3.8 billion more to GMAC Financial Services, which handles financing for customers and dealers of both GM and Chrysler, and become the auto lender's majority owner (56 percent) because GMAC has been unable to raise sufficient capital on its own. It is the third round of government financing for GMAC, bringing taxpayers' total investment to $16.3 billion at a time when other lenders rescued by the Treasury have already begun repaying their debt.

December 31 The Dow Jones Industrial Average ends the year down 120.46 points on the final day, or 1.1 percent, at 10,428, but with an 18.8 percent gain for 2009, the biggest annual percentage gain in the Dow in six years, although it is still down 26.4 percent from its all time record set in October 2007.

TOP 10 BANKRUPTCIES OF 2009

Unlike 2008, when the Chapter 11 case of Lehman Brothers Holdings Inc. far outstripped the "competition" for the largest public bankruptcy filing of the year (and in U.S. history, for that matter) with an awe inspiring $691 billion in assets, the contenders vying for primacy on the Top 10 List for 2009 were grouped at least roughly in the same galaxy. Then again, the 55 public billion dollar bankruptcy cases filed in 2009 more than doubled the 24 cases commenced in 2008. Continuing a trend initiated at the beginning of the recession in the late fall of 2008, most of the top bankruptcy filings in 2009 featured companies involved in the banking and/or financial services sectors. The remainder of the spots on the Top 10 List went to two automobile manufacturers, a real estate investment trust, and a chemical manufacturer.

Grabbing the pole position on the Top 10 List for 2009 was General Motors Corporation ("GM"), which filed a pre-negotiated Chapter 11 case on June 1 in New York together with three of its domestic subsidiaries: Chevrolet-Saturn of Harlem Inc., Saturn LLC, and Saturn Distribution Corporation. None of GM's operations outside the U.S. was included in the filings. Founded in 1908, Detroit-based GM manufactured cars and trucks in 34 countries, employed 243,000 people in every major region of the world, and sold and serviced vehicles in approximately 140 countries. In 2008, GM sold 8.35 million cars and trucks globally under the Buick, Cadillac, Chevrolet, GMC, GM Daewoo, Holden, Hummer, Opel, Pontiac, Saab, Saturn, Vauxhall, and Wuling brands. GM's largest national market is the U.S., followed by China, Brazil, the U.K., Canada, Russia, and Germany.

With $91 billion in assets, GM's Chapter 11 case was the fourth largest bankruptcy in U.S. history, after Lehman Brothers Holdings Inc. ($691 billion); Washington Mutual, Inc. ($328 billion); and WorldCom, Inc. ($104 billion). The world's largest automaker until its 77 year reign was ended by Toyota Motor Corporation in 2008, GM surpassed Chrysler LLC (see below) as the largest U.S. manufacturer to file for bankruptcy. The filing triggered credit default swaps protecting nearly $3.1 billion of GM debt, in the largest settlement of derivatives since the collapse of Lehman Brothers.

When it sought bankruptcy protection in June, GM planned to launch a new company in 60 to 90 days, armed with vehicles from its Cadillac, Chevrolet, Buick, and GMC units for the U.S. market. The sale transaction closed on July 10, paving the way for the "new" GM to emerge from bankruptcy only 40 days after it filed for Chapter 11 protection. A 60.1 percent interest in the new company is now owned by U.S. taxpayers, with the remainder owned by the Canadian government and a health care trust for the United Automobile Workers union. During the case, GM reduced its liabilities from $176 billion to $48 billion, sold or liquidated unprofitable brands such as Saturn and Hummer, reduced its workforce from 91,000 to 68,500 workers, cut its U.S. manufacturing sites by 13 to 34, and jettisoned 2,600 dealers. The restructuring was financed by American taxpayers with $33 billion in debtor in possession financing.

The No. 2 spot on the Top 10 List for 2009 went to the CIT Group Inc. ("CIT"), which filed for Chapter 11 protection on November 1 in New York with $80.4 billion in assets. CIT's Utah bank, which holds nearly $10 billion in assets, was not part of the bankruptcy filing. CIT's bankruptcy filing was the fifth largest in U.S. history and the largest prepackaged Chapter 11 case ever. A New York, New York-based, 101 year old company with 4,995 employees, CIT is a leading provider of financing to small businesses and middle market companies, principally through factoring, a key element in the day to day financing of the retail industry. It also plays a key role in shipping goods, as the third largest lessor of rail cars in the U.S. and the world's third largest lessor of aircraft.

CIT received $2.3 billion as part of the TARP in December 2008. Those funds helped stabilize the company, but the giant lender was undone due to billions in bad student loans and subprime mortgage loans. CIT's tenure in bankruptcy was brief — the bankruptcy court confirmed CIT's Chapter 11 plan on December 8, 2009. The plan reduces CIT's debt by more than $10 billion and gives unsecured noteholders new debt instruments valued at 70 percent of their prebankruptcy claims, plus new common stock. The plan extinguishes preferred stock received by the U.S. Treasury Department in exchange for TARP funding, representing the first (but likely not the last) time that taxpayer funds were lost since the federal government implemented its economic stimulus package to help pull the country out of the worst downturn since the Great Depression. One of the largest financial victims of the credit crisis, CIT was the first of the ill fated financial companies to emerge from bankruptcy protection; Lehman Brothers, Washington Mutual, IndyMac, and other financial companies were unable to weather the storm.

The landmark Chapter 11 cases of Chrysler LLC and 24 affiliates, the smallest of Detroit's Big 3, motored into position No. 3 on 2009's Top 10 List. Chrysler was the first U.S. automaker ever to file for bankruptcy when it sought Chapter 11 protection on April 30 in New York, listing $39 billion in assets and $55 billion in liabilities. Its bankruptcy filing was the sixth largest in U.S. history.

An Auburn Hills, Michigan-based company founded in 1925 with 39,000 employees at the time of the filing, Chrysler manufactures, assembles, and sells cars, trucks, and related automotive parts and accessories primarily in the U.S., Canada, and Mexico. From 1998 to 2007, Chrysler and its subsidiaries were part of the German-based DaimlerChrysler AG. In August 2007, DaimlerChrysler sold 80.1 percent of its stake in Chrysler to the private equity firm Cerberus Capital Management, L.P., with Cerberus acquiring the remainder of Chrysler on April 27, 2009 (three days before Chrysler's bankruptcy filing).

Chrysler filed for Chapter 11 protection with the stated intention of consummating a sale of substantially all of its assets under Section 363(b) of the Bankruptcy Code to a consortium led by Italian automaker Fiat SpA. At that time, the transaction was unprecedented in terms of its scope and asset value. On May 1, 2009, Chrysler temporarily shut down all of its 22 U.S. auto plants as part of its Chapter 11 restructuring and proposed sale to Fiat. The New York bankruptcy court approved the sale on June 1 — just over one month after Chrysler filed for bankruptcy — igniting a pitched and historic battle in the courts that Chrysler ultimately waged all the way to the U.S. Supreme Court.

Chrysler consummated the sale of substantially all of its assets to the Fiat led “New Chrysler” (Chrysler Group LLC) on June 10, providing the opportunity for its iconic brands and U.S. operations to survive. During its bankruptcy case, Chrysler eliminated 789 dealerships and significantly reduced both its debts and employee related expenses. Chrysler’s bankruptcy and successful rapid fire asset sale strategy paved the way for GM to file for Chapter 11 one month afterward and demonstrated that a bankruptcy filing is not a death sentence for U.S. automakers. White House involvement in the bankruptcy case, including President Barack Obama’s announcement of the filing and U.S. Treasury financing, together with a statement of support for Chrysler, was unprecedented at the time. With the Chapter 11 cases of Chrysler and GM, Ford Motor Company stands alone as the only member of Detroit’s Big 3 to decline a taxpayer funded bailout and bankruptcy filing to wash clean its assets and rid itself of redundant dealerships, outmoded brands, and crippling employee legacy costs.

The fourth largest public bankruptcy case of 2009 was filed by Santa Fe, New Mexico-based Thornburg Mortgage, Inc., which filed for Chapter 11 protection on May 1 in Maryland with $36.5 billion in assets, making it one of the largest casualties of the nation’s housing slump and credit crisis. Thornburg, a specialist in originating “jumbo” mortgage loans in excess of $417,000 to borrowers with good credit, operated as a residential mortgage lender originating and acquiring investments in adjustable and variable rate mortgage assets. It sought bankruptcy protection after announcing in early April 2009 that it would use Chapter 11 as a vehicle to liquidate its assets while allowing lenders to take possession of their collateral. Thornburg struggled with liquidity problems since the summer of 2007, when the value of mortgages on its balance sheet began to plummet, and it later confronted a series of margin calls from creditors.

Rounding out the upper half of the Top 10 List for 2009 was General Growth Properties, Inc., a Chicago-based self-administered and self-managed real estate investment trust with 3,500 employees. General Growth, the biggest shopping mall operator in the nation after the Simon Property Group, filed for Chapter 11 protection on April 16 in New York, listing $29.5 billion in assets in one of the biggest commercial real estate collapses in U.S. history. As of December 31, 2007, General Growth had ownership interest in or management responsibility for a portfolio of approximately 200 regional shopping malls in 45 states. Founded in 1954 and expanded through a series of acquisitions — topped by a $12.6 billion deal for the Rouse Company in 2004 — General Growth has an enormous retail presence. It has long served as a barometer for the troubles of the U.S. retail market, which has been bedeviled by weak consumer spending.

On December 23, 2009, the bankruptcy court confirmed Chapter 11 plans for General Growth and 193 other affiliated debtors owning 85 regional shopping centers, including Ala Moana in Honolulu and St. Louis Galleria in St. Louis; 15 office properties; and three community centers associated with approximately $10.25 billion of secured mortgage loans. The plans provide for the restructuring of 87 mortgages and payment in full of all undisputed claims of creditors. Confirmation of the reorganization plans for 26 additional debtors owning 10 properties associated with an additional $1.7 billion of secured mortgage loans has been adjourned pending satisfaction of various conditions, including receipt of the approval of certain secured lenders, with whom negotiations are ongoing.

Lyondell Chemical Company, the Houston-based third largest independent chemical manufacturer in the U.S. as of 2008, filed the sixth largest public bankruptcy case of 2009. Lyondell sought Chapter 11 protection in New York on January 6, together with 79 subsidiaries, listing $27 billion in assets. Established in 1985 from certain facilities owned by Atlantic Richfield Company, Lyondell grew by means of various acquisitions to be a *Fortune* 500 company operating in five continents with more than 11,000 employees. It is an indirect subsidiary of LyondellBasell Industries AF, a Netherlands-based global refiner of crude oil and producer of polymers and petrochemicals that operates 60 manufacturing sites in 19 countries. Lyondell, whose Chapter 11 filing had been expected for some time, agreed in 2008 to a $12.7 billion sale to Basell, a Dutch subsidiary of the industrial conglomerate Access Industries. The deal ballooned the combined companies' debt load to nearly $30 billion, forcing LyondellBasell to seek relief from its creditors. Like those of many other chemical companies, Lyondell's profits were significantly eroded by astronomical oil prices for much of 2008, and the slumping economy has constricted demand for its products.

Capturing the No. 7 spot on the Top 10 List for 2009 was the Colonial BancGroup, Inc., which filed for Chapter 11 protection in Alabama on August 25 — 11 days after regulators seized its banking operations and sold most of those assets to BB&T, a Southeast regional bank. Based in Montgomery, Alabama, Colonial BancGroup acted as the holding company for Colonial Bank, a provider of retail and commercial banking, wealth management services, mortgage banking, and insurance products with 4,800 employees and 346 branches in five states. The company collapsed after an aggressive foray into Florida left it exposed to many losses from construction loans and foreclosures. The FDIC, which arranged the sale of most of Colonial's banking assets to BB&T, agreed to split the losses with BB&T on a $15 billion pool made up largely of commercial real estate and construction loans. Including the deposits of Colonial Bank, Colonial BancGroup's corporate families' total assets were estimated at $25.8 billion, although assets listed in the Chapter 11 petition (which involved solely the holding company) amounted to no more than $45 million.

Capmark Financial Group, Inc., a Horsham, Pennsylvania-based company with 1,900 employees providing a broad range of financial services to investors in commercial real estate-related assets in North America, Europe, and Asia, filed the eighth largest public bankruptcy case in 2009. Capmark filed for Chapter 11 protection on October 25 in Delaware with $20.6 billion in assets. Capmark was once the servicing and mortgage banking business of GMAC LLC. It was known as GMAC Commercial Holding Corp. before General Motors Corp. sold a controlling interest in the company in 2006 to a private equity group for $1.5 billion in cash and repayment of $7.3 billion in debt. Capmark, suffering as a consequence of the enduring woes plaguing the commercial real estate market, filed for Chapter 11 to complete a sale of most of its business for $1.09 billion to Berkshire Hathaway Inc. and Leucadia National Corp. Some Capmark subsidiaries also filed for Chapter 11, but Capmark's banking unit, with assets of $11.12 billion and deposits of $8.39 billion, did not seek bankruptcy protection.

The penultimate position on the Top 10 List for 2009 belongs to Guaranty Financial Group Inc. Guaranty Financial is a Texas-based company with 2,500 employees. It is the holding company for Guaranty Bank, a consumer and business banking network with 150 branches located in Texas and California, and for Guaranty Insurance Services, Inc., one of the largest independent insurance agencies in the U.S., with 17 offices located in Texas and California. With total corporate family assets once estimated at $16.8 billion but listed as not exceeding $25 million at the time of its bankruptcy filing (since only the holding company filed for bankruptcy), Guaranty Financial filed for Chapter 11 protection on August 27 in Texas, six days after Guaranty Bank was seized by the Office of Thrift Supervision ("OTS") and handed over to the FDIC. It was the 11th largest bank failure in U.S. history and is projected to cost the FDIC approximately $3 billion.

Securing the final spot on the Top 10 List for 2009 was BankUnited Financial Corp., a Coral Gables, Florida-based company with 1,504 employees founded in 1984, which operated as the holding company for BankUnited, FSB, a provider of consumer and commercial banking products and services to consumers and businesses located primarily in Florida. With aggregate assets once reported at $15 billion, BankUnited Financial filed for bankruptcy on May 21 in Florida, one day after the OTS seized BankUnited, FSB, and the FDIC transferred the bank's $12.7 billion in assets and $8.3 billion in nonbrokered deposits to a new holding company owned by a private equity group that includes W.L. Ross, The Blackstone Group, and The Carlyle Group. The BankUnited Financial holding company listed no more than $38 million in assets at the time of its bankruptcy filing.