# PRATT'S JOURNAL OF BANKRUPTCY LAW

VOLUME 7 NUMBER 3 APRIL 2011

*ISSN 1931-6992*

# The Year in Bankruptcy: Part I

CHARLES M. OELLERMANN AND MARK G. DOUGLAS

*In the first part of a two-part article, the authors explore the key bankruptcy developments from the past year.*

What should have been the best economic news of 2010 was largely obscured by the deluge of bad news dominating world headlines. The latter included tidings of:

- chronically high unemployment;
- a continuing malaise in the U.S. housing market;
- wars in Iraq and Afghanistan;
- debt crises precipitating the implementation of austerity measures in Britain, Portugal, Italy, Greece, Spain, and Ireland (to name but a few), as well as countless state and local governments in the U.S.;
- a sharp escalation of food prices worldwide;
- a deepening U.S. mortgage foreclosure crisis;
- natural disasters; and
- the worst environmental disaster in U.S. history.

---

Charles M. Oellermann is a partner in the Business Restructuring and Reorganization Practice of Jones Day in Columbus. Mark G. Douglas is the firm's Restructuring Practice Communications Coordinator. The authors can be contacted, respectively at coellermann@jonesday.com and mgdouglas@jonesday.com.

## END OF THE GREAT RECESSION?

Now for the good news. According to the National Bureau of Economic Research, the organization responsible for marking turning points in the U.S. business cycle, the U.S. recession that started in December 2007 ended in June 2009. On January 7, 2010, the Euler Hermes Economic Outlook for Winter 2009/10 similarly reported that the world economy has "staged a technical exit from recession" by piggybacking on the positive performance of the Asian markets.

Pronouncements of the demise of the Great Recession — to the extent that anyone other than economists was paying attention — were greeted with a healthy dose of (well-deserved) skepticism. Abroad, Eurozone countries struggled in 2010 to rein in spending, resulting in the adoption of highly unpopular austerity budgets and yet another round of sovereign bailouts. The United States' balance sheet fared no better. Year-end official debt figures published by the U.S. Treasury show that the federal government accumulated more new debt — $3.22 trillion — during the tenure of the 111th Congress (which expired at the end of 2010) than it did during the first 100 Congresses combined. That equals $10,429.64 in new debt for each of the 308,745,538 people counted in the U.S. by the 2010 Census. At the end of 2010, the total national debt of $13.86 trillion stood at $44,886.57 for every man, woman, and child in America.

In 2010, more U.S. banks failed than in any other year since 1992, the height of the savings-and-loan crisis. Amid near double-digit unemployment, a struggling economy, and a still-devastated real estate market, the U.S. closed the year with 157 bank failures, up from 140 in 2009. Moreover, the Federal Deposit Insurance Corporation's list of "problem" banks — banks whose weaknesses "threaten their continued financial viability" — stood at 860 as of September 30, the highest since 1993.

Average Americans are not only more debt-ridden, but poorer. U.S. Census Bureau data released in September 2010 showed that poverty among the working-age population of the U.S. had risen to the highest level in almost 50 years at the beginning of 2010. Poverty among those aged 18 to 64 rose by 1.3 percentage points to 12.9 percent — the highest level since the early 1960s, prior to then-President Lyndon Johnson's "War on Poverty." The overall poverty rate rose by 1.1 percentage points to 14.3 percent, the highest since 1994.

More than 14.5 million U.S. workers were out of work at the end of 2010, including 6.4 million who have been jobless for six months or longer, according to data reported by the U.S. Department of Labor in January 2011. This equates to an unemployment rate of 9.4 percent. Some estimates put the "underemployment" rate, which counts those looking for jobs as well as those who have given up looking, in addition to people who want full-time employment but settle for part-time, at nearly 17 percent.

The number of Americans filing for personal bankruptcy topped 1.5 million in 2010, as high long-term jobless rates, depressed home prices, and soaring medical bills drove more households to seek court protection. This represents a nine percent increase from 2009 and is the highest level since the Bankruptcy Code was overhauled in 2005, according to the American Bankruptcy Institute, an association of bankruptcy professionals, and the National Bankruptcy Research Center.

Banks took steps to repossess a record 2.87 million U.S. homes in 2010, as the two year old mortgage crisis continued to weigh heavily on the economy. According to RealtyTrac, an online marketplace for foreclosure properties, foreclosures hit 2.23 percent of all housing units in the country, or one out of 45, an increase from 2.21 percent in 2009. More than one million homes were actually repossessed in 2010.

According to the National Association of Realtors, fewer people bought previously owned U.S. homes in 2010 than in any year since 1997. Sales fell 4.8 percent to 4.91 million units in 2010, the weakest performance in 13 years. Home prices were depressed by a record number of foreclosures and high unemployment, and many potential buyers held off on purchases in 2010, fearful that prices had not yet bottomed out.

## MUNICIPAL DISTRESS

The financial plight of towns, cities, counties, and other municipalities in the U.S. remained in sharp focus in 2010. On December 10, the U.S. Congressional Budget Office ("CBO") released an economic and budget issue brief on the fiscal stress that local governments are facing and the options they have, including defaulting on their debt or filing for Chapter 9 bankruptcy protection. According to the report, weak economic conditions can lead to fiscal stress — the "gap between projected revenues and expenditures" — for local governments "by reducing their tax revenues, lessening the state aid they receive, increasing the demand for some services and triggering investment losses."

Unlike state governments, the report states, local governments facing "significant fiscal stress may default on their debt or file for bankruptcy," but these options are rarely used. Only 54 out of 18,400 municipal bond issuers defaulted during the period from 1970 to 2009, and only six of the defaulting entities were counties, cities, or towns — the remaining defaulting entities were special districts or government entities. Although investors generally recover most or all of the debt owed, defaults have been rising, with more than $4 billion in defaults in 2010. Furthermore, defaults "may lead a municipality to file for bankruptcy, in part to protect itself from lawsuits." Roughly 600 governmental entities filed for bankruptcy protection over the past 70 years, 203 of which filed between 1988 and the end of 2010.

According to the CBO, filing a Chapter 9 bankruptcy may not solve a municipality's problems. The obligation to pay debt service limits a municipality's ability to cut taxes, cover increased costs of existing services, and pay for new services. Additionally, any fiscal advantages of Chapter 9 may be reduced due to legal costs incurred during the bankruptcy case. Finally, the CBO noted that "bankruptcy does not necessarily eliminate the political dynamics and state laws that may make recovery difficult" and may "continue to limit the ability of municipalities to address their fiscal problems." Moreover, cutting spending will not affect the heaviest burden that these political subdivisions face. States and cities have nearly $3 trillion in outstanding bonds and more than $3.5 trillion in shortfalls in projected pension obligations. Promised future health benefits alone amount to more than $500 billion.

On a potentially ominous note, for the first time in two years, Switzerland's UBS AG began making markets again in 2010 in derivatives tied to municipal bonds and other securities. These credit-default swaps obligate swap sellers to compensate buyers if a municipal debt issuer misses an interest payment or restructures its debt. In addition, five large derivatives dealers — Bank of America Merrill Lynch; Citigroup, Inc.; Goldman Sachs Group Inc.; JPMorgan Chase & Co.; and Morgan Stanley — met in November 2010 to discuss standardizing agreements for "muni CDSs" in an effort to attract more participants.

## ACCOUNTABILITY FOR TRANSGRESSIONS

2010 was the year that recriminations for the financial crisis began in a serious way. The Financial Crisis Inquiry Commission created in 2009 formally convened in January 2010 to begin investigating the root causes of the crisis, and both civil and criminal investigations were opened by state and federal agencies into the conduct of some of the major players involved, including the credit-rating agencies. 2010 was also the year that the most sweeping reforms to the U.S. financial system in decades were enacted, in an effort to prevent any recurrence of the events that led to the crisis.

## SILVER LININGS

All things considered, the financial sound bites and catchwords of 2010, such as "QE2," "ObamaCare," "PIIGS," "flash crash," "robo signers," and "Repo 105 loophole," were relatively innocuous compared to those of the previous two years.

2010 saw some notable and encouraging developments belying predictions that recovery might be thwarted by the specter of a "double-dip" recession. The Troubled Asset Relief Program, implemented in 2008 at the end of the George W. Bush administration to rescue the U.S. financial industry, formally expired in October 2010. Of the $700 billion in bailout funds authorized under the program by Congress, $475 billion in TARP money was actually disbursed. All but the smallest banks repaid their TARP loans in full during or prior to 2010. On October 5, 2010, the TARP bailout, originally expected to cost U.S. taxpayers $356 billion, was estimated to be between $25 billion and $30 billion, significantly less than the burden shouldered by taxpayers in connection with the savings-and-loan crisis of the late 1980s. Even the once written-off American International

Group is considered “on track” to repay a significant portion of its $182 billion in bailout money.

At the very end of 2010, the U.S. unemployment rate fell from 9.8 percent to 9.4 percent, its lowest rate since July 2009.

2010 saw the largest overhaul of the overpriced U.S. health-care industry since Medicare was passed in 1965. Cost estimates by the Congressional Budget Office, although disputed, indicate that the bill will reduce federal budget deficits by $143 billion over the next decade. It remains to be seen whether the reforms, if not repealed or defunded, will have any meaningful impact on an industry whose costs have spiraled out of control.

On November 23, 2010, the U.S. Commerce Department reported that American businesses earned profits at an annual rate of $1.659 trillion in the third quarter. This is the highest figure recorded since the government began keeping track more than 60 years ago, at least in nominal or noninflation-adjusted terms.

Domestic automakers ended 2010 with an 11 percent increase in December sales in the U.S. over December 2009, much of which was achieved without the help of big incentives like “cash for clunkers” and despite increased fuel prices, a fact that suggests consumers are becoming better able to afford new cars and trucks. Each of Detroit’s Big 3 posted substantial gains in 2010. By contrast, plagued by the fallout from vehicle recalls, Toyota (which became the world’s largest automaker in 2009) was the only full-line automaker to report lower sales in 2010.

The high point in 2010 of this unexpected reversal of fortune for Detroit’s Big 3 came on November 23, when General Motors Corp. (“GM”) raised $23.1 billion in the nation’s largest initial public stock offering ever, returning billions of dollars in bailout money to the federal government. Although the automaker will have to build on its revival for the government to recoup its entire $50 billion investment, the development is unquestionably positive and a far cry from the questionable prognosis given GM’s prospects for recovery when it emerged from a government-brokered bankruptcy sale 17 months earlier.

Another positive event in 2010 was the reopening of the world of financing to businesses, at least large businesses, thanks to a wave of high-yield financing that rescued a significant number of companies from bankruptcy. Meanwhile, according to Moody's Investors Service, the U.S. speculative-grade default rate plummeted in 2010 from its December 2009 high of 14.7 percent and is expected to dip even further in 2011. The low default rates and open credit markets paint an optimistic picture for big businesses in 2011. With interest rates likely to stay low, many experts foresee ample opportunities for companies to refinance, thereby skirting the "wall of maturities" that once loomed large on the horizon.

The most significant development in mergers and acquisitions in 2010 may be the renewed confidence of dealmakers. 2010 saw the first annual gain in dealmaking worldwide since the financial crisis began. Global dollar volume in announced mergers and acquisitions rose 23.1 percent in 2010 to $2.4 trillion, according to data reported by Thomson Reuters. In the U.S., merger volume rose 14.2 percent to $822 billion — far from the peak of 2007, but an improvement nevertheless.

Private equity deals rebounded in spades in 2010. According to Preqin, an independent research firm that focuses on alternative assets, buyout transactions globally reached more than $200 billion for the first time since 2007. Among the largest deals consummated or announced in 2010 were private equity firm Cerberus Capital Management's agreement to sell Chrysler Financial, the former financing arm of the automaker, for $6.3 billion; the $1.6 billion buyout offer for fabric and craft retail industry leader Jo-Ann Stores; the announced buyout of Del Monte Foods for $5.3 billion; the $4 billion acquisition of supplement and vitamin producer NBTY; and the $4.6 billion acquisition of Tomkins, a British engineering and manufacturing company.

Most U.S. securities markets ended the year on a positive note. The Dow Jones Industrial Average ended 2010 having surged 11 percent, helped by strong corporate earnings, a spike in M&A activity, and boosts to dividend payouts. The S&P 500 jumped 13 percent, while the NASDAQ Composite soared 17 percent. Stocks, commodities, bonds, and the dollar all finished out the year higher. Investor sentiment in 2010 swung from extreme pessimism in the first half of the year, following the debt crisis in Greece and the May "flash crash," to soaring confidence in the second half as the U.S. Federal Reserve initiated another round of quantitative easing ("QE2") and economic data and earnings improved.

## BUSINESS BANKRUPTCY FILINGS

Business bankruptcy filings dropped off in 2010, especially public-company bankruptcy filings. According to data released by Epiq Systems Inc., the number of U.S. businesses declaring bankruptcy last year fell for the first time since 2005. 85,011 companies sought bankruptcy protection in 2010, a 5.2 percent decrease from the number of business bankruptcy filings during 2009. The number of Chapter 11 filings also fell in 2010. According to the Epiq data, 13,619 businesses filed for Chapter 11 last year, a 10 percent decline from 2009.

The number of public bankruptcy filings (defined as companies with publicly traded stock or debt) for 2010 was 106, according to data provided by New Generation Research, Inc.'s Bankruptcydata.com, roughly half the 211 public-company filings in 2009. Moreover, 2010 added only 19 names to the billion-dollar bankruptcy club, compared to 56 in 2009 and 25 in 2008. The largest bankruptcy filing of 2010 — Ambac Financial Group, Inc., with $19 billion in assets — was only the 28th-largest filing of all time, based upon asset value. However, no fewer than 30 public companies with assets greater than $1 billion emerged from bankruptcy, were liquidated, or obtained confirmation of Chapter 11 plans in 2010.

According to some commentators, the declining number of U.S. businesses seeking bankruptcy protection is an indication that credit markets have opened and that more companies are able to restructure their debts outside of court. Others have characterized the drop as either a return to or a new era of "normalcy." By most accounts, the bankruptcy boom of 2008–2009 is over. Many bankruptcy professionals predict that the U.S. bankruptcy landscape, at least in the near term, will be populated with cases filed by middle-market companies locked out of the credit thaw rather than their mega-case brethren.

Many of the companies that remain standing shored up their balance sheets during the recession by cutting costs, paring down workforces, and deleveraging, and some have benefited from decreased competition as rivals were driven out of business. Bigger companies have also regained access to the credit markets.

## WHERE DO WE GO FROM HERE?

Wading into the sometimes treacherous waters of prognostication, most industry experts predict that the volume of big-business bankruptcy filings will not increase in 2011. Also expected is a continuation of the business bankruptcy paradigm exemplified by the proliferation of prepackaged or prenegotiated Chapter 11 cases and quick-fix Section 363(b) sales.

Companies that do enter bankruptcy waters in 2011 are more likely to wade in rather than free-fall, as was often the case in 2008 and 2009. More frequently, struggling businesses are identifying trouble sooner and negotiating prepacks before taking the plunge, in an effort to minimize restructuring costs and satisfy lender demands to short-circuit the restructuring process. Prominent examples of this in 2010 were video-rental chain Blockbuster Inc.; Hollywood studio Metro-Goldwyn-Mayer, Inc.; and newspaper publisher Affiliated Media Inc.

Industries pegged as including companies "most likely to fail" (or continue foundering) in 2011 include:

- health care;
- publishing;
- restaurants;
- entertainment and hospitality;
- home building and construction; and
- related sectors that rely heavily on consumers.

Finally, judging by trends established in 2010, companies that do find themselves in bankruptcy are more likely to rely on rights offerings than new financing as part of their exit strategies.

## HIGHLIGHTS OF 2010

| | |
|---|---|
| January 7 | The Euler Hermes Economic Outlook for Winter 2009/10 states that the world economy has "staged a technical exit from recession" by piggybacking on the positive performance of the Asian markets. A similar report issued in January 2009 by Euler Hermes, the world's largest credit insurer, predicted that a worldwide wave of bankruptcies was imminent. |
| January 8 | China overtakes the U.S. to become the biggest car market in the world. The Chinese purchased more than 13.5 million vehicles in 2009, compared with 10.4 million cars and light trucks sold in the U.S., the fewest in 27 years. |
| | The U.S. Labor Department reports that 85,000 jobs were lost in December 2009, leaving the unemployment rate at 10 percent. |
| | The European Union statistics office in Luxembourg reports that unemployment in the Eurozone rose to 10 percent from a revised 9.9 percent in October, the highest since August 1998. |
| | Standard & Poor's reports 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 for the year was the highest since S&P began tracking them in 1981, breaking the previous record of 229 in 2001. The U.S. led the world with 193, roughly twice the number of defaults recorded for 2008. |
| January 13 | The Financial Crisis Inquiry Commission created in 2009 convenes in Washington, where principals of Goldman Sachs, JPMorgan Chase & Co., Morgan Stanley, and Bank of America testify about their roles in the financial crisis. |

January 19 — Japan Airlines, the once mighty flagship carrier and Asia's biggest airline, files for bankruptcy protection in Japan, crippled by years of mismanagement and more than $25 billion in debt. It is Japan's largest-ever corporate failure outside the financial sector.

Democrats lose their 60-seat supermajority in the U.S. Senate as a Republican, Scott Brown of Massachusetts, is elected to fill the seat left vacant upon the death of Senator Edward Kennedy.

January 20 — The Air Transport Association of America reports that the airline industry suffered its largest drop ever in passenger revenue in 2009, as a weak economy grounded many would-be travelers. Total passenger revenue for the major U.S. carriers fell 18 percent in 2009 versus 2008, the largest drop on record, exceeding even the 14 percent decline in 2001.

January 21 — Declaring that big U.S. banks nearly wrecked the economy by taking "huge, reckless risks in pursuit of quick profits and massive bonuses," the Obama administration proposes the "Volcker Rule" (in recognition of the former Federal Reserve chairman, Paul A. Volcker), which would ban bank holding companies from owning, investing in, or sponsoring hedge funds or private equity funds and from engaging in proprietary trading, or trading on their own accounts, as opposed to the money of their customers. The rule, eroding the 1999 law that repealed the Depression-era Glass-Steagall Act, which once banned banks from selling securities or insurance, would also cap any one financial firm's share of overall market liabilities.

In the largest automobile recall in history, Toyota, after recalling 5.2 million vehicles on November 2, 2009, to correct an accelerator-pedal entrapment/floor-mat problem, recalls an additional 2.3 million vehicles in the U.S.

to correct possible mechanical sticking of the accelerator pedal causing unintended acceleration. Toyota will later widen the recall to include 1.8 million vehicles in Europe and 75,000 in China and will issue a separate recall in February 2010 to correct a problem in anti-lock brake software installed in its hybrid models, including the bestselling Toyota Prius. The total number of recalled vehicles will eventually grow to nine million.

January 25 — Shortly after defaulting on $3 billion in debt, the owners of Stuyvesant Town and Peter Cooper Village, the iconic middle-class housing complexes overlooking the East River in Manhattan, decide to turn over the properties to creditors, four years after the $5.4 billion purchase of the complexes' 110 buildings and 11,227 apartments in what was the most expensive real estate deal of its kind in American history.

The National Association of Realtors reports that sales of previously occupied homes took the largest monthly drop in more than 40 years in December 2009, sinking more dramatically than expected even after lawmakers extended the deadline for taking advantage of the first-time homebuyer's tax credit from November 30, 2009, to April 30, 2010, and created a $6,500 credit for existing homeowners who purchase new homes between November 6, 2009, and April 30, 2010.

January 26 — The U.K. Office for National Statistics reports that Britain finally experienced positive growth in the final quarter of 2009, after six straight quarters of contraction, possibly signaling an end to the recession in Britain. The country is the last of the G-7 industrialized nations to emerge from recession, behind France and Germany. Among the major European economies, only Spain has not commenced recovery.

January 28 Ben S. Bernanke is confirmed by the Senate as the chairman of the U.S. Federal Reserve for an additional four-year term. The 70-30 vote is the lowest margin of approval ever in the Fed's history.

It is reported that the U.S. economy grew at its fastest pace in more than six years at the end of 2009. Gross domestic product expanded at an annual rate of 5.7 percent in the fourth quarter, after growing at an annualized rate of 2.2 percent in the previous quarter. Analysts had forecast annualized growth of 4.8 percent in the fourth quarter. The strong growth in the fourth quarter capped a year that saw the biggest contraction since 1946.

January 30 In his report to Congress, Neil Barofsky, the special inspector general for TARP, admonishes U.S. lawmakers for failing to tackle the problems that rocked the nation's financial system in the first place. According to the report, the government's efforts to fix the financial system have created a "heads I win, tails the government bails me out" mentality on Wall Street. Barofsky also warns that while many Wall Street recipients repaid their rescue funds last year, the financial system is no safer than it was at the height of the credit crisis.

February 1 President Obama proposes a $3.8 trillion budget for the coming fiscal year that raises taxes on businesses and upper-income households by $2 trillion over 10 years and cuts spending on programs but will still leave the nation with $8.5 trillion in added debt over the next decade. The budget plan for fiscal 2011 calls for nearly $1 trillion in tax increases on families with income above $250,000 — largely by allowing tax cuts from the administration of George W. Bush to expire. Banks and multinational corporations would face new fees and levies, and oil companies would lose $36.5 billion in tax breaks over the next decade.

| | |
|---|---|
| February 2 | The research firm First American CoreLogic projects that the number of Americans who owe more than their homes are worth (virtually none when the real estate collapse began in mid-2006) will climb to 5.1 million by June 2010 — approximately 10 percent of all Americans with mortgages. |
| February 9 | Official data is released confirming that China overtook Germany in 2009 to become the world's largest exporter, with total 2009 exports of $1.2 trillion, ahead of the €816 billion ($1.17 trillion) forecast for Germany. |
| February 18 | President Obama officially establishes a bipartisan commission to propose ways to rein in the national debt, which is projected to approach $1.6 trillion in 2010, nearly 11 percent of the overall economy, the highest level since the end of World War II. By 2020, Obama projects that the national debt will have grown to more than 77 percent of the overall economy. |
| February 24 | The World Trade Organization reports that world trade fell by 12 percent in 2009 — the biggest drop since World War II. The level of trade between nations had been expected to decline by 10 percent in 2009. |
| February 26 | Greece's prime minister calls on the EU for more solidarity over the country's debt crisis. Moody's and S&P consider downgrading Greece's debt to junk status. |
| | Fannie Mae, the nation's largest provider of residential mortgage funds, reports a loss of $16.3 billion for the fourth quarter of 2009 and requests $15.3 billion from the U.S. Treasury to maintain a positive net worth. To date, Fannie has asked for $76.2 billion from the Treasury's unlimited credit line and expects that losses are likely to continue. |

March 2 — It is reported that Ford outsold GM in February, gaining customers from recall-plagued Toyota. It is the first time in 40 years that Ford's sales surpassed GM's — except for a blip in 1998, when GM was on strike. All of Detroit's Big 3 automakers posted sales gains in February over the previous year. Toyota's sales slid 8.7 percent from a year ago.

The Administrative Office of the U.S. Courts reports that bankruptcy filings in the federal courts rose 31.9 percent in calendar year 2009. The number of bankruptcies filed in the 12-month period ending December 31, 2009, totaled 1,473,675, up from 1,117,641 bankruptcies filed in CY 2008.

Business filings totaled 60,837 in CY 2009, up 40 percent from the 43,533 business filings in CY 2008. Chapter 11 filings rose 50 percent to 15,189, up from the 10,147 filings in CY 2008.

March 3 — EU officials indicate that €4.8 billion in new taxes and cutbacks adopted by the Greek government to deal with its staggering debt load and impending bankruptcy clears the way for the first bailout in the history of the euro.

March 11 — In the Wall Street equivalent of a coroner's report, the bankruptcy court-appointed examiner for Lehman Brothers issues a 2,200-page report laying out in new and startling detail how the defunct company used accounting sleight of hand, including the "Repo 105 loophole," to conceal the bad investments that led to its undoing. The 158-year-old company, it concludes, died from multiple causes, including bad mortgage holdings and, less directly, demands by rivals like JPMorgan Chase and Citigroup that the foundering bank post collateral against loans it desperately needed. Examiner Anton R. Valukas also details "materially misleading" accounting gimmicks that Lehman used to mask the perilous state of its finances, including financial engineering to temporarily shuffle $50 billion of troubled assets off its books in the months before its collapse in September 2008 to conceal its dependence on leverage.

March 15 — Moody's Investors Service warns that the U.S., Germany, and other major economies have moved "substantially" closer to losing their top-notch credit ratings and cannot depend solely on economic growth to save themselves. The ratings of the AAA governments — which also include Britain, France, Spain, and the Nordic countries — are currently "stable," Moody's writes in the report, but it adds that "their 'distance-to-downgrade' has in all cases substantially diminished."

After filing the largest bankruptcy case ever in September 2008 with $691 billion in assets, Lehman Brothers Holdings Inc., once the world's fourth-biggest investment bank, files a liquidating Chapter 11 plan with the bankruptcy court. The plan details how Lehman's remaining assets will be divided up to pay more than $830 billion in claims filed against the company by more than 130 classes of creditors.

March 21 — By a vote of 219 to 212, the U.S. House of Representatives approves the Patient Protection and Affordable Care Act ("PPACA"), a far-reaching overhaul of the nation's health-care system, over unanimous Republican opposition, giving final approval to legislation passed by the Senate on Christmas Eve 2009. The health-care bill will require most Americans to have health insurance, will add 16 million people to the Medicaid rolls, and will subsidize private coverage for low- and middle-income people, at a cost to the government of $938 billion over 10 years, according to the Congressional Budget Office. The budget office estimates that the bill will provide coverage to 32 million uninsured people but still leave 23 million uninsured in 2019, one-third of whom will be illegal immigrants. The new costs will be offset by savings in Medicare and by new taxes and fees, including a tax on high-cost employer-sponsored health plans and a tax on the investment income of the most affluent Americans. Cost estimates by the budget office also show that the bill will reduce federal budget deficits by $143 billion in the next 10 years.

March 23 President Obama gives his imprimatur to the PPACA — the most expansive social legislation enacted in decades and the most sweeping piece of federal legislation since Medicare was passed in 1965. Along with the Health Care and Education Affordability Reconciliation Act of 2010, the PPACA is a product of the health-care reform agenda of the Democrat-controlled Congress and the Obama administration.

Fourteen states immediately file legal challenges to the constitutionality of the health-care overhaul.

March 24 The U.S. Congressional Budget Office announces that the Social Security Administration will pay out more in benefits in 2010 than it receives in payroll taxes, an important threshold it was not expected to cross until at least 2016. Partly because of steps taken during the early 1980s to avert a crisis and partly because of many years of robust economic growth, the latest projections show the program will not exhaust its funds until about 2037.

March 30 President Obama signs legislation to expand college access for millions of young Americans by revamping the federal student loan program in what he calls "one of the most significant investments in higher education since the G.I. Bill."

| | |
|---|---|
| March 31 | The U.S. Federal Reserve terminates its $1.25 trillion program to buy mortgage-backed bonds guaranteed by Fannie Mae and Freddie Mac.<br><br>The Commodity Futures Trading Commission approves the creation of a sixth and separate "account class" — this one for over-the-counter derivatives — that would be used in the event of a futures commission merchant's bankruptcy under either the Securities Investor Protection Act or Chapter 7 of the Bankruptcy Code. |
| April 6 | The U.S. Government Accountability Office reports that the pension plans at GM and Chrysler are underfunded by a total of $17 billion and could fail if the automakers do not return to profitability.<br><br>Moody's Investors Service downgrades nearly $39 billion of subprime residential mortgage-backed securities on the eve of the commencement of a series of hearings on the origins of the subprime mortgage market crisis at the Financial Crisis Inquiry Commission. |
| April 7 | A study released by the Mortgage Bankers Association entitled "What Happens to Household Formation in a Recession?" reports that approximately 1.2 million U.S. households were lost from 2005 to 2008, a loss that contributed significantly to the surplus of apartments and single-family homes on the market. |
| April 11 | European leaders provide a long-awaited financial rescue package to Greece, offering the country up to $40 billion in aid to meet its giant debt obligations. |
| April 12 | The Dow Jones Industrial Average closes at 11,005.97, finishing above the 11,000 mark for the first time since the end of September 2008. The Dow has soared 68 percent since March 2009 but remains some 3,100 points below |

the highs reached in 2007, before the economy sank into recession.

April 16 The SEC charges Goldman, Sachs & Co. and one of its vice presidents with defrauding investors by misstating and omitting key facts about a financial product tied to subprime mortgages as the U.S. housing market was beginning to falter. The SEC alleges that Goldman Sachs structured and marketed a synthetic collateralized debt obligation ("CDO") that hinged on the performance of subprime residential mortgage-backed securities ("RMBS") and that Goldman failed to disclose to investors vital information about the CDO, particularly the role a major hedge fund played in the portfolio selection process and the fact that the hedge fund had taken a short position against the CDO.

April 20 An explosion on BP America oil rig *Deepwater Horizon* in the Gulf of Mexico kills 11 workers, leading to the collapse and sinking of the rig and causing the largest oil spill in U.S. history. The spill dwarfs the cataclysmic *Exxon Valdez* disaster, which spilled about 250,000 barrels of oil into Prince William Sound in Alaska in 1989. U.S. warships are later deployed to assist with the cleanup, which threatens Gulf fisheries as the spill invades the Louisiana and surrounding coastlines. The gushing 5,000-foot-deep well is not capped even temporarily until July 15, and the well is not declared "dead" until September 19. An estimated 4.9 million barrels, or about 205 million gallons, of oil will enter the water before the well is sealed.

April 21 G-20 advocates of a global banking levy gain support as the IMF backs new banking taxes, including a radical fee on lenders' future profits. The IMF proposes an initially flat-rate "financial stability contribution," or FSC, to ensure that banks pay the costs of rescuing or winding down any failing financial institutions. The IMF also advocates a "financial activities tax," or FAT, on banks' profits and remuneration, going well beyond temporary taxes on bankers' bonuses that had been introduced in the U.K. and France.

The FSC is similar in structure to the Financial Crisis Responsibility levy proposed in January by President Obama, although that proposal was designed specifically to recoup the $700 billion TARP funding. The IMF expects these countries to raise between two and four percent of gross domestic product from the FSC.

The U.S. Senate Agriculture Committee votes in favor of a bill imposing tougher rules for derivatives. The bill would require most derivative contracts to be traded on a public exchange and to be processed, or cleared, through a third party to guarantee payment if one of the parties to a trade goes out of business. The derivatives bill also would require most big banks and Wall Street firms to spin off their derivatives trading into separate subsidiaries.

GM announces that it repaid the U.S. and Canadian governments $5.8 billion, paying in full the loans the governments extended in connection with the automaker's bankruptcy restructuring. GM's loan repayments — $4.7 billion to the U.S. Treasury and C$1.1 billion to Export Development Canada — come five years ahead of the scheduled maturity dates and two months earlier than previously predicted.

April 22 — Assistant U.S. Treasury Secretary for Financial Stability Herbert Allison testifies before the House Appropriations Subcommittee on Financial Services and General Government that TARP will end up costing no more than $120 billion, instead of the $700 billion amount appropriated by Congress in 2008.

April 27 — Hearings commence before the Senate Permanent Subcommittee on Investigations concerning the role that Goldman, Sachs & Co. played in the subprime mortgage crisis, building on a case initiated by the SEC, which has accused Goldman of defrauding investors in a transaction known as "ABACUS 2007-AC1." The subcommittee takes the SEC case one step further by claiming that the bank had devised not just one of the deals, but a series meant to profit from the collapse of the home mortgage markets.

Stock markets stumble worldwide as Standard & Poor's downgrades Greece's national debt to junk status, warning that bondholders could face losses of up to 50 percent of their holdings in a restructuring. The agency also downgrades Portugal's debt by two notches.

The U.S. Government Accountability Office reports that American International Group ("AIG") is "stable," primarily as a result of the U.S. Treasury's infusion of $182 billion into AIG beginning in March 2008. As of December 31, 2009, the outstanding balance of the bailout assistance provided to AIG was $129.1 billion.

April 29 — U.S. federal prosecutors open an investigation into trading at Goldman Sachs, raising the possibility of criminal charges against the Wall Street giant.

May 3 — United Airlines and Continental Airlines announce a $3 billion merger to supplant Delta Air Lines as the world's largest airline.

May 6 — World stock markets plummet amid continued fears that Greece's debt crisis may be going global and what appears to have been a technology glitch in computerized mass-trading systems. In the U.S., the Dow takes a brief, 1,000-point plunge before recovering, the biggest intra-day loss since the market crash of 1987, ending down 347.80, or 3.2 percent, at 10,520.32. Regulators later conclude in a report issued at the beginning of October that the automated sale of a large block of futures by a single mutual fund touched off a chain of events that caused the plunge.

May 11 It is reported that U.S. prosecutors are investigating whether Morgan Stanley misled investors about mortgage-derivatives deals it helped design and sometimes bet against, in a step that intensifies Washington's scrutiny of Wall Street in the wake of the financial crisis.

May 12 New York attorney general Andrew M. Cuomo starts an investigation of eight banks — Goldman Sachs, Morgan Stanley, UBS, Citigroup, Credit Suisse, Deutsche Bank, Crédit Agricole, and Merrill Lynch, which is now owned by Bank of America — to determine whether they provided misleading information to rating agencies Standard & Poor's, Fitch Ratings, and Moody's Investors Service in order to inflate the grades of certain mortgage securities. The investigation parallels federal inquiries into the business practices of a broad range of financial companies in the years before the collapse of the housing market.

May 13 The Federal Reserve Bank of New York reports that approximately one-third of U.S. subprime mortgages are either in foreclosure or delinquent by at least 90 days.

May 14 The Administrative Office of the U.S. Courts reports that bankruptcy filings for the 12-month period ending March 31, 2010, increased 27 percent over filings for the 12-month period ending March 31, 2009. Bankruptcy filings totaled 1,531,997 — the highest number of total bankruptcy filings since the 12-month period ending March 31, 2006 — compared to the 1,202,395 cases filed in the 12-month period ending March 31, 2009. Business filings totaled 61,148, up 25 percent from the 49,077 filed in the 12-month period ending March 31, 2009.

May 18 — The SEC announces new rules designed to halt trading of some stocks that have big price swings to avoid market plunges. Under the new rules, trading of any Standard & Poor's 500 stock that rises or falls 10 percent or more would be halted for five minutes. These rules, known as "circuit breakers," would be applied if the price swing occurs between 9:45 a.m. and 3:35 p.m., Eastern Time. The rules are intended to prevent a repeat of the May 6 market plunge.

May 20 — Dubai World, the debt-plagued conglomerate and proxy for the free-spending emirate of Dubai, reports that it has reached an agreement with a group of banks to restructure $23.5 billion in debt. The deal comes after months of discussions involving Dubai World and a committee representing more than 90 lenders.

May 26 — Apple, the maker of iPods, iPhones, and iPads, shoots past computer software giant Microsoft to become the world's most valuable technology company. Wall Street values Apple at $222.12 billion and Microsoft at $219.18 billion. The only American company valued higher is Exxon Mobil, with a market capitalization of $278.64 billion. This changing of the guard caps one of the most stunning turnarounds in business history, Apple having been given up for dead only a decade earlier.

More than a year after bailing out Citigroup, the U.S. Treasury Department announces that it began selling its stake in the financial giant — and that the government is turning a profit on its investment. The Treasury sold 1.5 billion shares of Citigroup, or about a fifth of its holdings, at a profit of $1.3 billion. At that rate, the government stands to make about $6.6 billion on its entire investment in Citigroup, of which the Treasury still owns 22 percent.

June 9 — U.S. Federal Reserve chairman Ben S. Bernanke warns that "the federal budget appears to be on an unsustainable path," but also acknowledges that an "exceptional increase" in the deficit has been necessary to ease the pain of recession.

June 17 — Hoping to repair shattered confidence in the health of its financial sector, the EU agrees to publish the results of stress tests imposed on 25 major banks operating across the borders in the 27-nation bloc. European leaders also renew their pledge to press for a banking levy and a possible transaction tax at the global level.

June 22 — Germany, the U.K., and France announce bank levies in hopes of convincing other G-20 nations to follow suit at a meeting scheduled for the weekend of June 26 in Toronto. The U.K.'s levy, which will include a charge on assets including Tier 1 capital and insured retail deposits, will raise £2 billion ($2.97 billion) after going into effect in January, while Germany hopes to collect €1 billion ($1.23 billion) annually. The U.K.'s new levy will target domestic banks and the local operations of overseas lenders, exempting small institutions. In the U.S., any bank tax awaits final passage of financial reform legislation, which remains tied up in Congress.

June 25 — Nearly two years after the U.S. financial system teetered on the verge of collapse, congressional negotiators reach agreement to reconcile competing versions of the biggest overhaul of financial regulations since the Great Depression.

The final bill vastly expands the regulatory powers of the Federal Reserve and establishes a systemic risk council of high-ranking officials, led by the Treasury secretary, to detect potential threats to the overall financial system. It creates a new Consumer Financial Protection Bureau and widens the purview of the SEC to broaden regulation of hedge funds and credit-rating agencies.

June 27 Leaders of the world's biggest economies agree on a timetable for cutting deficits and halting the growth of their debt, but also acknowledge the need to move carefully so that reductions in spending do not set back the fragile global recovery. The action at the G-20 summit meeting in Toronto signals the determination of many of the wealthiest countries, after enacting spending programs to counter the worldwide financial crisis, to now emphasize debt reduction. It also underscores the conviction of European nations in particular that deficits represent the biggest threat to their economic stability.

The U.S. joins other countries at the summit by endorsing a goal of cutting government deficits in half by 2013 and stabilizing the ratio of public debt to gross domestic product by 2016.

G-20 leaders also discuss banking regulations but cannot agree on a proposal for a global bank tax, supported by the U.S., Britain, and the EU, but opposed by Canada and Australia.

June 28 Average rates on 30-year fixed-rate mortgages reach their lowest levels in more than 50 years at 4.69 percent. However, demand for new mortgages remains low, since many well-qualified borrowers already refinanced their mortgages in 2009, when rates were also low, and other borrowers with an incentive to refinance cannot qualify under today's tougher lending standards.

July 6 Real estate research firm Reis, Inc., reports that demand for U.S. office space hit a 17-year low in the second quarter and could dip further this year. The U.S. office vacancy rate reached 17.4 percent in the second quarter, a level unseen since 1993 during the last U.S. commercial real estate implosion.

July 7 The European Parliament approves one of the world's strictest crackdowns on exorbitant bank pay, going beyond some of the limits that many banks were pressed to adopt in the wake of the financial crisis. Bankers in the 27-nation bloc will be barred from taking home more than 30 percent of their bonus in cash starting next year and will risk losing some of the remainder if the bank's performance erodes over the next three years. Banks that refuse to curb the salaries of their biggest earners will have to set aside more capital to make up for the risk.

July 12 Portugal's credit rating is cut two notches by Moody's Investors Service, a move that lends urgency to the discussions of EU finance ministers about how banks would be affected if a government were to default on its debts.

July 16 Standard & Poor's Ratings Services reports that annual corporate defaults in the U.S. hit their highest rate since 1981, as 191 companies defaulted in 2009. The dollar amount of U.S. corporate defaults in 2009 totaled $516 billion, which accounted for 82 percent of the global total. Globally, the total number of corporate defaulters rose to 264 in 2009 from 125 in 2008. The default rate for U.S. corporations rated as speculative-grade was 11 percent at the end of 2009, which was almost two percentage points higher than the global rate of 9.35 percent.

July 19 Ireland's efforts to pull out of a deep economic slump suffer a setback when Moody's Investors Service, citing a weak banking system and rising debt, downgrades the country's debt to Aa2 from Aa1, although it remains above junk level. Moody's also changes the outlook on the ratings to stable from negative.

July 21 President Barack Obama signs into law the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Among other things, the sweeping financial reforms include a ban on proprietary trading by banks and: (i) the creation of the Financial Stability Oversight Council headed by the Treasury secretary to watch for major risks in the overall economy and to step in and dismantle failing firms that pose "systemic risk"; (ii) the creation of a new consumer financial protection agency to combat lending abuse by monitoring mortgage lenders and credit card companies and capping the fees debit card companies can charge retailers; (iii) the implementation of stricter oversight of hedge funds, private equity firms, and the derivatives market; (iv) increased capital requirements (beginning in five years) for large banks to ameliorate losses in the event loans go bad; and (v) a watered-down version of the "Volcker Rule," which limits to three percent of its capital a bank's ability to make speculative investments (*e.g.*, investments in hedge funds and private equity funds) that do not benefit its customers.

July 22 The Committee of European Banking Supervisors reports that seven European lenders failed a stress test performed on 91 banks in 20 countries to check the health of the Continent's financial sector while restoring confidence in banks. Five Spanish banks, one state-run bank in Germany, and another in Greece dipped below the Tier 1 capital ratio requirements during the stress test.

August 5 — The U.S. Senate confirms Elena Kagan as an associate justice on the U.S. Supreme Court by a vote of 63-37. Kagan is only the fourth woman to serve on the High Court. After being formally sworn in as the 112th Supreme Court justice on October 1, she joins Justices Ruth Bader Ginsburg and Sonia Sotomayor, marking the first time three women have served together on the Court. Justice Sandra Day O'Connor, the first woman justice, retired from the Court in 2006.

August 10 — The U.S. Federal Reserve announces that it will begin buying U.S. Treasury debt in a second round of "quantitative easing" ("QE2") deemed necessary because it can no longer lower interest rates. The first round of quantitative easing, which began in 2008 and ended earlier in 2010, was the Federal Reserve's unprecedented purchase of agency debt to prop up the housing market, along with credit facilities for big banks.

August 16 — After three decades of spectacular growth, China passes Japan in the second quarter to become the world's second-largest economy behind the U.S., according to government figures. Experts say unseating Japan — and in recent years passing Germany, France, and Great Britain — underscores China's growing clout and bolsters forecasts that China will pass the U.S. as the world's biggest economy as early as 2030. America's gross domestic product was about $14 trillion in 2009.

August 17 — The Administrative Office of the U.S. Courts reports that bankruptcy filings rose 20 percent in the 12-month period ending June 30. A total of 1,572,597 bankruptcy cases were filed in federal courts in that period, compared to 1,306,315 bankruptcy cases filed in the 12-month period ending June 30, 2009. This represents the highest number

| | |
|---|---|
| | of bankruptcy filings for any period since many of the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 took effect. |
| | Business filings totaled 59,608, up 8 percent from the 55,021 filings reported for the year ended June 30, 2009. Chapter 11 filings totaled 14,272, up two percent from the 13,951 filings during the 12-month period ended June 30, 2009. |
| August 18 | Just over 14 months after seeking Chapter 11 protection in the third-largest bankruptcy filing in U.S. history, GM, 70 percent of which is owned by the U.S. and Canadian governments, files for a landmark public stock offering that will allow government shareholders to begin selling off their stakes in the automaker as well as raise money for GM's turnaround. |
| August 20 | In its Pension Insurance Data Book 2009, the Pension Benefit Guaranty Corporation ("PBGC") reports that claims by insolvent multi-employer plans most likely will increase significantly in the years ahead. Since fiscal year 1981, the PBGC has provided more than $500 million in financial assistance to 62 insolvent multi-employer plans covering more than 93,000 participants. The PBGC estimates that in the future it will incur liability for financial assistance of about $2.3 billion for approximately 104 plans with about 136,000 participants. |
| August 27 | U.S. Federal Reserve Chairman Ben S. Bernanke states that the central bank is determined to prevent the economy from slipping into a cycle of falling prices, even as he emphasizes that he believes growth will continue in the second half of the year, "albeit at a relatively modest pace." Mr. Bernanke gives his strongest indication yet that the Fed is ready to resume its large purchases of lon- |

ger term debt if the economy worsens, a move that would add to the Fed's already substantial holdings.

The U.S. Justice Department clears the planned $3 billion merger between United Airlines and Continental, lifting the biggest regulatory hurdle to the creation of the world's top airline. Together, the airlines will have 21 percent of domestic capacity, in terms of available seat miles (one seat flown one mile), exceeding the 20 percent held by Delta, the current market leader.

August 31 — The SEC declines to charge Moody's Investors Service for violating securities laws by failing to comply with its own procedures for rating complex derivative securities in 2007, because of jurisdictional issues, as the securities in question originated in and were rated and sold in Europe. However, the SEC warns all of the national credit-rating agencies that it will use new powers under the Dodd-Frank banking law to take action against similar conduct, even if it occurs outside the U.S. Although the credit-rating agencies have come under criticism over their role in the financial crisis, they have not been the subject of major enforcement actions by securities regulators.

September 6 — President Obama, looking to stimulate a sluggish economy and create jobs, calls for Congress to approve major upgrades to the nation's roads, rail lines, and runways — part of a six-year plan that would cost tens of billions of dollars and create a government-run bank to finance innovative transportation projects.

September 12 — At a meeting of financial officials from 27 countries in Basel, the world's top bank regulators agree on far-reaching new rules intended to make the global banking industry safer and protect international economies from future financial disasters.

| | |
|---|---|
| | The new requirements will more than triple the amount of capital that banks must hold in reserve, an effort to move banks toward more conservative positions and force them to maintain a larger cushion against potential losses. |
| September 16 | U.S. Census Bureau data show that poverty among the working-age population of the U.S. rose to the highest level in almost 50 years in 2009. Poverty among those aged 18 to 64 rose by 1.3 percentage points to 12.9 percent — the highest level since the early 1960s, prior to then-president Lyndon Johnson's "War on Poverty." The overall poverty rate rose by 1.1 percentage points to 14.3 percent, the highest since 1994. |
| September 17 | After it becomes clear that key senators intend to block the confirmation of Harvard Law School professor Elizabeth Warren as the first director of the newly created Consumer Financial Protection Bureau, the White House announces that she will become an assistant to the president and a special advisor to the Treasury secretary, responsible for overseeing creation of the bureau. |
| September 20 | In a new report, the National Bureau of Economic Research ("NBER"), the organization responsible for identifying turning points in the U.S. business cycle, states that the U.S. recession which started in December 2007 ended in June 2009, but it also highlights the weaknesses still facing the U.S. economy. As worries persist about the struggling economy and its future path, the NBER warns that "any future downturn of the economy would be a new recession and not a continuation of the recession that began in December 2007." |
| September 21 | 24/7 Wall St., an internet-based financial news and opinion operation, issues a report on how American business |

has changed, showing that corporate America today is dominated by service companies, tech firms, and huge retailers that have thousands of locations and hundreds of thousands of workers. This contrasts with the corporate landscape 55 years ago, when most of the largest corporations in the U.S. built cars, supplied car parts, or provided fuel for America's vehicles.

Among the 10 largest employers in 1955 were GM, Chrysler, U.S. Steel, Standard Oil of New Jersey, Amoco, Goodyear, and Firestone, none of which could have existed or been nearly as large as they were without the huge appetite for American-made cars. Today, four of the 10 largest companies by total employees are Walmart, Target, Sears, and Kroger. Two other companies on the list — IBM and Hewlett-Packard — represent the tip of an iceberg comprising dozens of large tech companies with high margins, rapidly growing sales, and well-paid workforces, such as Dell, Google, Cisco, and Oracle.

September 24 The U.S. government swoops in to stabilize a crucial part of the credit-union sector battered by losses on subprime mortgages. Regulators announce a rescue and revamping of the nation's wholesale credit-union system, underpinned by a federal guarantee valued at $30 billion or more. The move includes the seizure of three wholesale credit unions, plus an unusual plan by government officials to manage $50 billion of troubled assets inherited from failed institutions. To help fund the rescue, the National Credit Union Administration plans to issue $30 billion to $35 billion in government-guaranteed bonds, backed by the shaky mortgage-related assets.

September 28 President Obama signs into law the Small Business Jobs Act. Among other things, the new law significantly expands the ability of the Small Business Administration

("SBA") to provide loans to small businesses, doubles the maximum loan size for the largest SBA programs, creates a new $30 billion small business lending fund, and implements new tax cuts for small businesses.

U.S. Census Bureau statistics show that the income gap between the richest and poorest Americans grew in 2009 to its widest amount on record as young adults and children in particular struggled to stay afloat in the recession. The top-earning 20 percent of Americans — those making more than $100,000 each year — received 49.4 percent of all income generated in the U.S., compared with the 3.4 percent earned by those below the poverty line.

A different measure, the international Gini index, finds U.S. income inequality at its highest level since the Census Bureau began tracking household income in 1967. The U.S. also has the greatest disparity among Western industrialized nations.

October 1 Bank of America, the country's largest mortgage lender by assets, announces that it is reviewing documents in all foreclosure cases now in court to evaluate if there are errors. It is the third major lender in the last two weeks to freeze foreclosures in the 23 states where the process is controlled by courts due to errors in mortgage and court foreclosure documentation. According to LPS Applied Analytics, a mortgage data firm, two million households are in foreclosure and another 2.37 million households are seriously delinquent.

AIG, the beneficiary of a $182 billion bailout, outlines an ambitious plan to repay the $130 billion actually disbursed in loans by the U.S. Treasury and the Federal Reserve by spinning off profitable divisions and exchanging its preferred stock for common stock in a public offering.

October 3 — TARP formally expires. Of the $700 billion in bailout funds authorized under the program by Congress, $475 billion in TARP money was actually disbursed. Although the nation's largest banks have repaid their TARP loans in full, the smallest banks have been unable to do so, and it is estimated that up to $50 billion will never be recovered.

October 5 — The Japanese central bank lowers its benchmark interest rate to a range of zero to 0.1 percent, a tiny change but a symbolic shift back into an age of zero interest rates. The Bank of Japan also announces that it will set up a fund of ¥5 trillion, or $60 billion, to buy Japanese government bonds, commercial paper, and other asset-backed securities amid concerns about weakening growth in the economy, the world's third-largest, after those of the U.S. and China.

The U.S. Treasury Department reports that it expects to lose $29 billion on the federal bailouts stemming from the financial crisis, with most of the losses in its housing finance program and the auto rescue. Treasury officials declare the bailout (which includes TARP) a success, emphasizing that much of the program's money has been returned and that losses are now likely to be less than expected. The cost, the report says, is far below the $350 billion the Congressional Budget Office once estimated.

In total, the Treasury has received back about $204 billion of the bailout funds, or just over half the money it doled out. The report segregated the money given out under the Bush administration — $294 billion — from the $94 billion awarded under the current administration. All of the large bank bailouts were made under the prior administration, and since then, the money was invested in small banks, automakers, housing programs, and AIG.

| | |
|---|---|
| October 8 | Bank of America Corp. imposes a moratorium on all foreclosure sales across the U.S., amid political pressure on U.S. banks to examine foreclosure-documentation problems. The nation's largest bank by assets is the first financial institution to stop all foreclosure sales amid revelations that the banking industry had used "robo signers," people who sign hundreds of documents a day without reviewing their contents, when foreclosing on homes. Bank of America, JPMorgan Chase & Co., and Ally Financial Inc. (parent of GMAC Mortgage) last week postponed foreclosures in 23 states where a court's approval is required to foreclose on a home. |
| October 10 | It is reported that China's foreign-exchange reserves, the world's largest, may have climbed to a record $2.5 trillion, adding fuel to complaints that its currency intervention is undermining the global economic recovery. |
| October 12 | According to a *Wall Street Journal* survey, financial firms, including banks, investment banks, hedge funds, money management firms, and securities exchanges, are projected to pay $144 billion in compensation and benefits in 2010, a 4 percent increase over the $139 billion paid out in 2009. |
| October 13 | The attorneys general of all 50 states announce that they will open a joint investigation into flawed paperwork filed to support home mortgage foreclosures. |
| October 21 | The Federal Housing Finance Agency reports that, based upon "stress tests" performed on Fannie Mae and Freddie Mac, the companies could cost taxpayers another $19 billion over the next three years, but the total tab could nearly double if the U.S. economy slides back into a recession. Fannie and Freddie have already cost taxpay- |

ers a combined $135 billion. The bulk of the losses have stemmed from soured mortgages bought or guaranteed between 2005 and 2008.

Fannie and Freddie, which own or guarantee around half of the nation's $10.6 trillion in mortgages, are well on their way to becoming the most expensive legacy of the financial crisis.

November 3 Formally launching its long-anticipated QE2 program, the U.S. Federal Reserve announces that it will purchase up to $600 billion in long-term treasury bonds by the end of June 2011, somewhat more than the $300 billion to $500 billion that many in the markets had expected.

November 5 The total number of U.S. banks seized by regulators reaches 141, topping the 140 shuttered last year. By year-end, a total of 157 U.S. banks will fail, the highest number of closings in a single year since the savings-and-loan crisis two decades ago.

November 8 The Administrative Office of the U.S. Courts reports that bankruptcy filings for fiscal year 2010, the 12-month period ending September 30, 2010, increased 13.8 percent over bankruptcy filings for fiscal year 2009. The number of bankruptcies filed during FY 2010 totaled 1,596,355 versus 1,402,816 filings reported for FY 2009. Business filings totaled 58,322, a 0.7 percent decrease from FY 2009. Chapter 11 filings in FY 2010 fell 3.8 percent to 14,191.

November 12 The municipal bond market experiences its biggest decline since the financial collapse of 2008, amid concern over the increasingly strained finances of states and cities and a growing backlog of new bonds for sale.

| | |
|---|---|
| November 17 | American taxpayers' ownership of GM is halved, and billions of dollars in bailout money is returned to the federal government, as a result of the nation's largest initial public stock offering ever. The offering raises $23.1 billion, and the new shares will begin trading November 18 at $33 each. To break even on its investment in GM, the Treasury Department will need to sell its remaining 500 million shares at an average price of $53 each in the months and years to come. |
| November 21 | Ireland agrees to accept a rescue package worth more than $100 billion, a move that prompts a call for early elections and a warning from a major ratings agency that the bailout could prove to be a "credit negative" for the country. |
| November 23 | The U.S. Commerce Department reports that American businesses earned profits at an annual rate of $1.659 trillion in the third quarter, the highest figure recorded since the government began keeping track more than 60 years ago, at least in nominal or noninflation-adjusted terms. |
| November 30 | Having arranged to repay its $130 billion taxpayer-financed bailout, AIG announces that it will sell about $2 billion worth of bonds in its first debt offering since the financial crisis. |
| December 4 | Complying with the new Dodd-Frank law, the U.S. Federal Reserve discloses the recipients of $3.3 trillion from emergency lending programs put in place during the crisis days of 2008. The data show that the biggest recipient of taxpayer assistance was Citigroup, followed closely by Morgan Stanley, Merrill Lynch, and Bank of America. Goldman Sachs was also a large beneficiary. |

December 9 The Federal Reserve's Flow of Funds report states that household wealth in the U.S. rose by $1.2 trillion in the third quarter as share prices jumped in response to an improving economy. Net worth for households and nonprofit groups increased at a 9.1 percent annual pace to $54.9 trillion after dropping at a 9.9 percent rate in the previous three months. American families also cut debt for a 10th consecutive quarter.

Web-based real estate service Zillow reports that $9 trillion in U.S. home value has been destroyed since June 2006, of which $1.7 trillion in losses occurred during 2010.

December 10 The Congressional Budget Office releases an economic and budget issue brief on the fiscal stress local governments are facing and the options they have, including defaulting on their debt or filing for Chapter 9 bankruptcy protection. According to the report, weak economic conditions can lead to fiscal stress — the "gap between projected revenues and expenditures" — for local governments "by reducing their tax revenues, lessening the state aid they receive, increasing the demand for some services and triggering investment losses."

December 17 President Obama signs the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, giving his imprimatur to an extension of the Bush-era tax cuts and other tax breaks in a stimulus package valued at $858 million, the biggest slice of the $2.8 trillion in stimulus poured into the U.S. economy since the recession began three years ago. The other components of the stimulus packages included the $700 billion TARP, the $787 billion stimulus bill passed in the early days of the Obama administration, $151 billion spent to shore up Freddie Mac and Fannie Mae, the $168 billion stimulus package approved in early 2008 and signed by President George W. Bush, and various smaller stimulus programs aggregating $162 billion.

December 21 The Financial Report of the United States Government, which applies corporate-style accrual accounting methods to Washington, shows that the U.S. government's liabilities exceeded assets by $13.473 trillion, compared to a gap of $11.456 trillion a year earlier.

December 27 Official debt figures published by the U.S. Treasury show that the federal government has accumulated more new debt — $3.22 trillion — during the tenure of the 111th Congress than it did during the first 100 Congresses combined. That equals $10,429.64 in new debt for each of the 308,745,538 people counted in the U.S. by the 2010 Census.

The total national debt of $13.86 trillion now equals $44,886.57 for every man, woman, and child in the U.S.

December 30 Freddie Mac reports that the average rate for a traditional 30-year, fixed-rate mortgage loan for 2010 was 4.7 percent, which represented the lowest annual average since 1955, when the average price of a U.S. home was $22,000.

December 31 The Dow Jones Industrial Average ends the year having surged 11 percent during 2010, helped by strong corporate earnings, a spike in M&A activity, and boosts to dividend payouts. The S&P 500 jumped 13 percent, while the NASDAQ Composite soared 17 percent. Commodities outpaced returns from stocks and bonds in 2010 as demand from China, tight supply, and loose monetary policy boosted the prices of everything from cotton and silver to copper and corn. However, stocks, commodities, bonds, and the dollar all finished the year higher.

## TOP 10 BANKRUPTCIES OF 2010

Bank or financial services holding companies that filed for bankruptcy protection as mere shell corporations for the purpose of liquidating their (comparatively) negligible remaining assets dominated the Top 10 List for 2010, according to the calculation customarily performed in assessing the asset values of public Chapter 11 filings, which looks to the most recent public financial statements filed by the companies before filing for bankruptcy. This designation applied to no fewer than eight of the 10 companies gracing the Top 10 List for 2010.

The top spot in 2010 belonged to yet another company whose destruction was heralded by the meltdown of American International Group ("AIG") in 2008 amid the onslaught of the Great Recession. Ambac Financial Group, Inc. ("Ambac Financial"), is the holding company for Ambac Assurance Corp. ("Ambac"). Founded in 1971 and headquartered in New York City, Ambac was once one of the largest insurers of municipal bonds. However, the company was doomed after it pioneered the practice of selling guarantees on mortgage-backed securities and more complex collateralized debt obligations ("CDOs").

Ambac's demise highlights the decline of bond insurance, a previously booming business that was among the hardest hit during the financial crisis. When home prices started slumping in 2007 and mortgage defaults accelerated, Ambac was saddled with huge liabilities that it could not pay. The most toxic part of the company's business, which was seized by regulators in March 2010, has gradually been shut down in a controversial process that leaves many policyholder claims unpaid.

When Ambac and its main bond insurance rival, MBIA Inc., first encountered problems in 2007, investors worried that the demise of the companies might rock the foundations of the financial system. Together, the companies guaranteed hundreds of billions of dollars of municipal bonds, while also serving as a valuable source of hedging for big investment banks playing in the market for mortgage-backed securities and CDOs. When counterparty banks realized that the bond insurers were unable to pay their guarantee claims in full, they agreed to accept pennies on the dollar.

The troubles of Ambac and MBIA, however, paled in comparison to those of AIG, which had written similar guarantees on CDOs partly backed by mortgage-related securities. When AIG could not afford to pay its guarantee obligations, the company was saved from bankruptcy by the U.S. government, which committed more than $100 billion of taxpayer money. Ambac was not so fortunate. Even though Ambac Financial reported nearly $19 billion in total assets in its most recent filings with the SEC, the company listed only $394.5 million in assets and $1.68 billion in liabilities as of June 30, 2010, in its Chapter 11 filing.

Positions 2 through 4 on the Top 10 List for 2010 belong to bank holding companies that filed for bankruptcy to liquidate their remaining assets after their banking operations were seized and sold by regulators. These companies included Corus Bankshares, Inc. (No. 2), a Chicago-based company with 521 employees that acted as the holding company for Corus Bank, N.A., which was placed into receivership in September 2009. In its most recent 10-K filed with the SEC, Corus Bankshares reported total assets of $8.35 billion, but its Chapter 11 petition listed assets of only $314 million. Nos. 3 and 4 on the Top 10 List went to FirstFed Financial Corp. and R&G Financial Corp., bank holding companies that reported $7.45 billion and $7.25 billion in assets, respectively, before filing for bankruptcy to liquidate the negligible vestiges of their once substantial banking empires.

The first non-shell corporation on the Top 10 List for 2010 is real estate investment trust ("REIT") Anthracite Capital, Inc. A privately owned specialty finance REIT with public debt founded in 1998 and based in New York City, Anthracite targeted investments in high-yield commercial real estate loans by acquiring commercial mortgage-backed securities ("CMBS"), issuing debt backed by CMBS, or providing mezzanine financing. The company disclosed in SEC filings that the economic downturn in late 2008 reduced the value of its assets and resulted in rising delinquencies on its CMBS and commercial real estate loans. Liquidity used to finance Anthracite's investments also began to decline in the second half of 2007 before evaporating completely in 2009. Anthracite filed a Chapter 7 petition in New York on March 15, 2010, with $3.8 billion in assets.

Bank holding companies with vestigial assets also grabbed Positions

6 through 8 on the Top 10 List for 2010. Position No. 6 belongs to AMCORE Financial, Inc. ("AMCORE Financial"), a Rockford, Illinois-based company with 962 employees that operated as the bank holding company for AMCORE Bank, N.A. ("AMCORE Bank"). Before being seized by regulators on April 23, 2010, AMCORE Bank operated 66 branches in northern Illinois and southern Wisconsin. AMCORE Financial reported total assets of $3.8 billion in its most recent SEC filings but listed only $7.2 million in assets in its Chapter 11 filing. Melrose Park, Illinois-based Midwest Banc Holdings, Inc. (assets previously reported at $3.4 billion, listed in the Chapter 11 filing at $9.7 million), and Lincoln, Nebraska-based TierOne Corporation (assets previously reported at $3.1 billion, listed in the Chapter 7 filing at less than $1 million) grabbed rungs No. 7 and 8 on 2010's Top 10 List.

The penultimate position on the Top 10 List for 2010 belongs to The Great Atlantic & Pacific Tea Company, Inc. ("A&P"), the venerable 110-year-old supermarket chain. A&P was incorporated in New Jersey in 1900, 41 years after having opened its first store on Vesey Street in New York City under the name The Great American Tea Company. The company changed its name to The Great Atlantic & Pacific Tea Company in 1869, in honor of the completion of the coast-to-coast transcontinental railroad and its intention to operate stores across the country. A&P expanded to California, Washington, and Canada in the 1930s, with 15,357 stores across the continent at its height.

As of December 12, 2010, the day it filed for Chapter 11 protection in White Plains, New York, A&P operated nearly 400 supermarkets under the names Waldbaum's, The Food Emporium, Pathmark, Super Fresh, and Food Basics; employed 45,000 people nationwide; and had $8.8 billion in annual sales. The Montvale, New Jersey-based company sought bankruptcy protection after failing to compete successfully amid a significant shift in consumer spending to wholesale clubs, supercenters, and drugstores. A&P had $2.8 billion in assets and $3.2 billion in debt when it filed for Chapter 11.

The final entry on the Top 10 List for 2010 was yet another bank holding company, Community Bancorp, which filed a Chapter 7 petition on May 28, 2010, in Nevada after regulators seized its banking subsidiary

Community Bank of Nevada in August 2009. Community Bancorp reported assets of nearly $1.7 billion in 2009 but listed only $43.7 million in assets in its Chapter 7 filings.

Among the most notable bankruptcies failing to grace 2010's Top 10 List were the following:

- Los Angeles-based Metro-Goldwyn-Mayer Studios, Inc. ("MGM"), a privately held company that develops, produces, and distributes feature films, television programming, interactive media, and music and also licenses merchandise. MGM and 160 affiliates filed a prepackaged Chapter 11 case in New York on November 3, 2010, with the intention of exchanging nearly $5 billion in secured debt for 99.5 percent of the equity in the reorganized companies. The company listed its assets at more than $2.67 billion and its liabilities at more than $5.76 billion. The bankruptcy court confirmed MGM's prepackaged Chapter 11 plan on December 2, 2010, effectively ending the studio's month-long stay in bankruptcy.
- AmericanWest Bancorporation, the Spokane, Washington-based bank holding company that filed for Chapter 11 protection on October 28, 2010, with $1.65 billion in assets for the purpose of selling and recapitalizing its banking subsidiary, AmericanWest Bank (which was not included in the filing), in an accelerated transaction pursuant to Section 363(b) of the Bankruptcy Code. On December 9, 2010, the bankruptcy court approved the sale of the bank to an investor group supported by $750 million from private equity groups, mutual funds, and pension plans. This represents the first time that the Section 363(b) sale process has been used to orchestrate the sale of a substantial financial institution in lieu of seizure and sale by government regulators.
- Blockbuster Inc. ("Blockbuster"), which joined its smaller rival Movie Gallery, Inc., in bankruptcy when it filed for Chapter 11 protection on September 23, 2010, in New York. The filing was precipitated by Blockbuster's largely ineffective efforts to grapple with competition from mail-delivery video rental services offered by Netflix, Inc.; Redbox Automated Retail, LLC's DVD-dispensing kiosk machines; Apple Inc.'s iTunes platform; Google Inc.'s YouTube; and an array

of cable providers that offer on-demand and streaming videos. Blockbuster filed for bankruptcy with more than $1.5 billion in assets.

- Vertis, Inc. ("Vertis"), a Baltimore-based privately owned provider of integrated marketing communications services, and one of the largest offset printers in North America. Vertis filed for Chapter 11 protection on November 17, 2010, in New York with $1.5 billion in assets. The bankruptcy court confirmed its prepackaged Chapter 11 plan on December 16, 2010, allowing the company to emerge from bankruptcy having successfully reduced its debt by approximately 60 percent, or more than $700 million.
- Privately owned Palm Beach, Florida-based REIT Innkeepers USA Trust, which owns upscale and extended-stay hotel properties throughout the U.S., including interests in 72 hotels with approximately 10,000 rooms in 19 states and the District of Columbia. The company filed for Chapter 11 protection on July 19, 2010, in New York with approximately $1.5 billion in assets.
- Reston, Virginia-based telecommunications provider TerreStar Networks Inc., which filed for Chapter 11 protection on October 19, 2010, in New York with $1.4 billion in assets, after emerging from a previous stay in bankruptcy in 2002.
- Truvo USA LLC ("Truvo"), a Wilmington, Delaware-based holding company that, through its non-U.S. subsidiaries, is a multinational provider of local search and advertising services, with a primary focus on publishing printed and online directories. Truvo filed for Chapter 11 protection in New York on July 1, 2010, due to problems caused by the continuing shift from print media toward online products. It exited from bankruptcy on November 30, 2010, after the bankruptcy court confirmed a Chapter 11 plan implementing a secured debt-for-equity swap.
- Privately owned Penton Media Inc. ("Penton"), the third-largest business-to-business media company in the U.S. as publisher of 113 trade magazines, including *Ward's AutoWorld*, *Restaurant Hospitality*, and *National Hog Farmer*. Penton filed for Chapter 11 protection on February 10, 2010, in New York, listing assets of $841 million against

debt totaling $1.13 billion. The company obtained confirmation of a prepackaged Chapter 11 plan eliminating $271 million of debt on March 5 — only 23 days after filing for bankruptcy.

- Movie Gallery, Inc. ("Movie Gallery"), which reprised its role as a Chapter 11 debtor when it filed for bankruptcy protection on February 2, 2010, in Virginia. A Wilsonville, Oregon-based company with more than 19,000 employees that was founded in 1985, Movie Gallery operated as a home entertainment specialty retailer in North America, with approximately 3,290 retail stores under the names Movie Gallery, Hollywood Video, and GameCrazy. The Chapter 11 filing came less than eight months after the company emerged from its first bankruptcy (filed in 2007), with more than $800 million in secured debt still on its balance sheet arising from the company's ill-fated $1.25 billion acquisition of rival Hollywood Entertainment Corp. The movie-rental chain filed for bankruptcy with only $660 million in assets. The bankruptcy court confirmed a liquidating Chapter 11 plan for Movie Gallery on November 18, 2010.
- Mesa Air Group, Inc. ("Mesa"), a Phoenix-based air carrier with 4,113 employees and 130 aircraft serving 127 cities in 41 states, Canada, and Mexico. Mesa filed for Chapter 11 protection in New York on January 5, 2010, with $959 million in assets and the stated intention of using Chapter 11 to resolve an "untenable financial situation" with its aircraft leases as well as its ongoing dispute with Delta Air Lines over regional carrier service.