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The Year in Bankruptcy: Part II

CHARLES M. OELLERMANN AND MARK G. DOUGLAS

In the second part of a two-part article, the authors discuss and analyze the past year's most significant bankruptcy law developments.

Claims/Debt Trading

A Delaware bankruptcy-court ruling in 2012 reignited the debate concerning whether sold or assigned claims can be subject to disallowance under Section 502(d) of the Bankruptcy Code on the basis of the seller's receipt of a voidable transfer. In *In re KB Toys, Inc.*, 470 B.R. 331 (Bankr. D. Del. 2012), the court rejected as unworkable the distinction between a sale and an assignment of a claim for purposes of disallowance that was drawn by the district court in *Enron Corp. v. Springfield Associates, L.L.C. (In re Enron Corp.)*, 379 B.R. 425 (S.D.N.Y. 2007) ("*Enron IP*"), *vacating Enron Corp. v. Springfield Associates, L.L.C. (In re Enron Corp.)*, 2005 WL 3873893 (Bankr. S.D.N.Y. Nov. 28, 2005), and *Enron Corp. v. Avenue Special Situations Fund II, LP (In re Enron Corp.)*, 340 B.R. 180 (Bankr. S.D.N.Y. 2006).

In *KB Toys*, the bankruptcy court ruled that several transferred trade claims should be disallowed under Section 502(d) because the transferors had

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received voidable preferences. According to the court, “The plain language, legislative history, and decisional law support the view that a claim in the hands of a transferee has the same rights and disabilities as the claim had in the hands of the original claimant. Disabilities attach to and travel with the claim.” The court also wrote that “the assertion that subjecting transferred claims to § 502(d) disallowance would cause disruption in the claims trading market is a hobgoblin without a house to haunt.”

In *Longacre Master Fund, Ltd. v. ATS Automation Tooling Systems Inc.*, 2012 WL 4040176 (2d Cir. Sept. 14, 2012), the Second Circuit handed down an unpublished ruling that might have addressed the claims-trading Section 502(d) controversy head-on but did not. In *Longacre*, the debtor objected to a traded claim (among others) under Section 502(d) for the purpose of preserving its ability to prosecute preference actions associated with the claim. The objection was ultimately settled, but the buyer of the claim sued the seller, arguing that the claim had been “impaired,” thereby triggering the seller’s obligation under the claims-assignment agreement to repurchase the claim.

The district court ruled in favor of the seller, reasoning that the debtor’s objection under Section 502(d) did not amount to “impairment” under the agreement because it merely preserved the debtor’s right to object, rather than being “substantive.” Moreover, the district court wrote, “because the Agreement [e]ffected a sale and not a pure assignment of the Claim, for the reasons stated in [*Enron II*], no Section 502(d) objection (even if one were to have been made) would have constituted an Impairment in the first instance.” The court also determined that the assignor had not breached its representations and warranties regarding the absence of potential preference actions because it had no knowledge of such actions.

The Second Circuit vacated the judgment, ruling that “nothing in the language of [the agreement] requires that the objection be meritorious” to constitute impairment triggering the repurchase obligation. The court also faulted the district court’s decision regarding the absence of any breach of warranty, finding that a disputed material issue of fact existed as to the assignor’s knowledge of a possible preference action and related objection. The Second Circuit briefly discussed whether the agreement constituted a sale rather than an assignment. However, it did not rule on this issue, nor did it

address the district court's observations regarding *Enron II* and the purported protection from disallowance under Section 502(d) of claims that have been sold rather than assigned.

Creditor Rights

In *Akanthos Capital Mgmt., LLC v. CompuCredit Holdings Corp.*, 677 F.3d 1286 (11th Cir. 2012), the Eleventh Circuit reversed a district-court decision declining to dismiss claims brought by noteholders under Georgia's Uniform Fraudulent Transfers Act ("UFTA") to avoid fraudulent transfers allegedly made by the issuing company. The primary issue confronting the Eleventh Circuit involved the circumstances under which a "no-action" clause in a bond indenture precludes noteholders from taking legal action against a debt issuer. In enforcing the terms of the no-action clause to bar noteholders from bringing UFTA claims, the court refused to deviate from legal precedent that generally discourages efforts to circumvent the provisions of a contract and refused to alter the terms of an agreement in cases not involving an indenture trustee's demonstrated conflict of interest.

In *In re Windmill Durango Office, LLC*, 481 B.R. 51 (B.A.P. 9th Cir. 2012), a bankruptcy appellate panel ruled that a bankruptcy court did not abuse its discretion in denying, for lack of "cause" under Bankruptcy Rule 3018(a), the motion of a secured creditor that had been assigned another creditor's claim, whereby the secured creditor sought to withdraw the assignor's vote in favor of the debtor's Chapter 11 plan and to submit a substitute ballot rejecting the plan. The secured creditor had admittedly purchased the claim as a means to block confirmation of a plan providing for cramdown treatment of its secured claim. The bankruptcy court below explained that it is not appropriate for creditors "to wait 'til the plans [were] balloted and then decide what claims [they were] going to buy" and that the bank's attempt to change its vote to block confirmation was improperly motivated and "did the process violence." Accordingly, the bankruptcy court denied the bank's motion to change its vote for failure to show "cause" under Rule 3018(a). The appellate panel affirmed.

Cross-Border Bankruptcy Cases

October 17, 2012, marked the seven-year anniversary of the effective date of Chapter 15 of the Bankruptcy Code. Governing cross-border bankruptcy and insolvency cases, Chapter 15 is patterned after the Model Law on Cross-Border Insolvency (the "Model Law"), a framework of legal principles formulated by the United Nations Commission on International Trade Law in 1997 to deal with the rapidly expanding volume of international insolvency cases. The Model Law has now been adopted in one form or another by 19 nations or territories. There were several notable rulings handed down in 2012 in connection with cross-border bankruptcy cases.

For example, addressing an apparent matter of first impression concerning the ability of a U.S. bankruptcy court presiding over a Chapter 15 case to examine foreign-court decisions for the purpose of determining whether litigants received their due-process rights, the court in *SNP Boat Service S.A. v. Hotel Le St. James*, 2012 WL 1355550 (S.D. Fla. Apr. 18, 2012), concluded that the bankruptcy court abused its discretion in ordering discovery for the purpose of examining whether a creditor's interests were sufficiently protected in a French *sauvegarde* proceeding. It accordingly reversed the bankruptcy court's dismissal of the debtor's Chapter 15 case as a sanction for failing to comply with its discovery orders.

A New York district court held in *CT Investment v. Carbonell and Grupo Costamex*, 2012 WL 92359 (S.D.N.Y. Jan. 11, 2012), that because a U.S. bankruptcy court had recognized a foreign debtor's Mexican insolvency proceeding under Chapter 15, "comity" should be extended to the Mexican insolvency court's orders by staying litigation commenced in the U.S. district court by the Mexican debtor's secured creditors seeking to recover on guarantees issued by the debtor's nondebtor affiliates. The court concluded that the Mexican court order staying collection actions against nondebtor guarantors was not "manifestly contrary" to U.S. public policy. The court reached this conclusion in light of, among other things, several U.S. bankruptcy-court rulings extending the automatic stay, under appropriate circumstances, to nondebtor parties in order to assist in and maintain the integrity of the administration of a debtor's bankruptcy case.

A contrary conclusion was reached by the bankruptcy court in *In re Vitro S.A.B. de C.V.*, 473 B.R. 117 (Bankr. N.D. Tex. 2012). In *Vitro*, one of

several court rulings involving the same Chapter 15 debtor, the court ruled that releases of nondebtor guarantors included in the Mexican plan of reorganization of Mexican glassmaker Vitro S.A.B. de C.V. (“Vitro”) were unenforceable as being contrary to U.S. public policy. On direct appeal to the Fifth Circuit, the court affirmed, ruling in *Ad Hoc Group of Vitro Noteholders v. Vitro S.A.B. de C.V. (In re Vitro S.A.B. de C.V.)*, 2012 WL 5935630 (5th Cir. Nov. 28, 2012), that such releases *could* be enforceable in the U.S. under Section 1507 of the Bankruptcy Code as a form of “additional assistance” to a foreign representative in a foreign bankruptcy proceeding recognized by a U.S. bankruptcy court under Chapter 15 of the Bankruptcy Code, but only under “exceptional circumstances” not present in the case before it.

In *In re Metcalfe & Mansfield Alternative Investments*, 421 B.R. 685 (Bankr. S.D.N.Y. 2012), the court, by way of “additional assistance” in a Chapter 15 case involving a Canadian debtor, enforced a Canadian court’s order confirming a restructuring plan that contained nondebtor releases and injunctions, even though it was uncertain whether a U.S. court would have approved the releases and injunctions in a case under Chapter 7 or 11 of the Bankruptcy Code. The court reasoned that such uncertainty was of little consequence in the case before it, which involved not the propriety of nondebtor injunctions and releases in a plenary bankruptcy case, but rather a request to enforce a foreign judgment in a Chapter 15 case. The court concluded that “principles of enforcement of foreign judgments and comity in Chapter 15 cases strongly counsel approval of enforcement in the United States of the third-party non-debtor release and injunction provisions included in the Canadian Orders, even if those provisions could not be entered in a plenary chapter 11 case.”

In *In re Vitro, S.A.B. de C.V.*, 470 B.R. 408 (N.D. Tex. 2012), the district court affirmed a bankruptcy court’s decision that an individual appointed by foreign debtor Vitro, rather than the Mexican bankruptcy court, could serve as Vitro’s “foreign representative” under Chapter 15 of the Bankruptcy Code and was thus authorized to commence a Chapter 15 case on Vitro’s behalf. The Fifth Circuit later upheld the ruling on appeal. See *In re Vitro, S.A.B. de C.V.*, 2012 WL 5935630 (5th Cir. Nov. 28, 2012).

In *In re Vitro Asset Corp.*, 2012 BL 317004 (Bankr. N.D. Tex. Dec. 4, 2012), the court ruled that the decision by Vitro to shift property secretly out

of the U.S. and to reincorporate a number of subsidiaries offshore amounted to fraud under U.S. law justifying the commencement of involuntary bankruptcy cases against the subsidiaries. The court held that the actions, including the reincorporation of five subsidiaries in the Bahamas and failure to disclose information to U.S. courts in an effort to frustrate a bid by a group of hedge-fund bondholders to push Vitro's U.S. subsidiaries into bankruptcy, constituted "special circumstances" allowing creditors to file an involuntary bankruptcy case against a company "when there is fraud, trick, artifice, or scam by an alleged debtor." The court also ruled that, on the basis of rulings handed down by New York state courts, the bondholders' claims were not subject to *bona fide* dispute within the meaning of Section 303(b)(1) of the Bankruptcy Code.

In *In re Elpida Memory, Inc.*, 2012 WL 6090194 (Bankr. D. Del. Nov. 20, 2012), the court ruled that, when evaluating a transfer of assets located in the U.S. as part of a "global" transaction previously approved by a foreign court in a bankruptcy proceeding recognized under Chapter 15 of the Bankruptcy Code, the U.S. bankruptcy court must review the transaction under the "business judgment" standard applied to a proposed transfer by a bankruptcy trustee outside the ordinary course of the debtor's business under Section 363(b) of the Bankruptcy Code. According to the court, requiring a U.S. bankruptcy court to defer in all instances to a foreign-court decision would "gut" Section 1520 of the Bankruptcy Code, which makes Section 363 applicable to proposed transfers of U.S. assets.

In *In re Lee*, 472 B.R. 156 (Bankr. D. Mass. 2012), the court, addressing an apparent matter of first impression, ruled that a foreign representative bears the initial burden of establishing that he is entitled to turnover of the debtor's U.S. assets under Sections 1521(a)(5) and 1521(b) of the Bankruptcy Code, as well as the initial burden of demonstrating that the interests of the foreign debtor and creditors are sufficiently protected in connection with such relief, as provided in Section 1522. However, the court also held that the ultimate burden of establishing the absence of sufficient protection rests on the parties opposing the relief.

In *Trillium (Nelson) Properties Ltd v. Office Metro Ltd* [2012] EWHC 1191 (Ch) (09 May 2012), the English High Court for the first time ruled on the requirements governing the existence of an "establishment" under the

EC Regulation. Under the EC Regulation—like the Model Law and Chapter 15—“main” insolvency proceedings may be commenced on behalf of a debtor only in the single jurisdiction in which the debtor’s “centre of main interests” is located. Where a main proceeding has been instituted in one EU Member State, the EC Regulation provides that “secondary” proceedings may be commenced in another Member State if the debtor “possesses an establishment within the territory of that other Member State.” “Establishment” is defined by the EC Regulation as “any place of operations where the debtor carries out non-transitory economic activity with human means and goods.” In *Trillium*, the English Court ruled that a foreign debtor whose main insolvency proceedings had been opened in Luxembourg carried on no more than “transitory” functions in the U.K. that did not amount to “economic activity” necessary to create an “establishment.”

In *Rubin v. Eurofinance SA* [2012] UKSC 46 (24 Oct. 2012) and *New Cap Re v. AE Grant* [2012] UKSC 46 (24 Oct. 2012), the U.K. Supreme Court handed down judgments in two cases where insolvency practitioners were seeking to enforce foreign (non-EU) court judgments arising from insolvency proceedings in their jurisdictions (the U.S. and Australia) against English defendants in English courts. The majority held that *Cambridge Gas Transportation Corporation v. Official Committee of Unsecured Creditors of Navigator Holdings Plc* [2007] 1 AC 508, which previously promoted the idea of universality of recognition in insolvency proceedings, was wrongly decided. Instead, the Supreme Court held that insolvency judgments are subject to standard common-law principles relating to recognition and enforcement. According to the Court, a foreign judgment cannot be enforced under either the Cross-Border Insolvency Regulations 2006 (enacting the Model Law in the U.K.) or Section 426 of the Insolvency Act because, in the Court’s view, neither expressly provides for the enforcement of judgments. The decision will make it more difficult to enforce foreign insolvency judgments in England and may lead to an increase in the volume of parallel insolvency proceedings filed in English courts in cross-border bankruptcy cases (e.g., “nonmain” proceedings under the Model Law) for the purpose of obtaining recognition of (and enforcing) such judgments.

Estate Property

In *Lowry v. Croft (In re Croft)*, 2012 BL 321154 (W.D. Tex. Dec. 10, 2012), the district court considered, as a matter of first impression, whether the right to appeal a judgment entered prior to bankruptcy on a claim asserted against the debtor is property of the estate, as defined in Section 541(a) of the Bankruptcy Code, and thus subject to sale by a bankruptcy trustee under Section 363(b). The court ruled that such a “defensive appellate right” is a salable asset of the estate. In doing so, the court was persuaded by *In re Mozer*, 302 B.R. 892 (C.D. Cal. 2003), in which the district court came to a similar conclusion, and rejected the contrary decision in *In re Morales*, 403 B.R. 629 (Bankr. N.D. Iowa 2009).

Executory Contracts and Unexpired Leases

The Seventh Circuit held as a matter of first impression in *Sunbeam Products, Inc. v. Chicago American Manufacturing, LLC*, 686 F.3d 372 (7th Cir. 2012), *cert. denied*, 2012 WL 4812510 (Dec. 10, 2012), that when a trademark license is rejected in bankruptcy, the licensee does not lose the ability to use any licensed intellectual property. In doing so, the court expressly rejected the holding in *Lubrizol Enters., Inc. v. Richmond Metal Finishers, Inc.*, 756 F.2d 1043 (4th Cir. 1985), providing what appeared to be a compelling invitation to U.S. Supreme Court review of this important issue to resolve the resulting split in the circuits. However, the Supreme Court declined to hear the case December 10, 2012, when it denied a petition for a writ of *certiorari*.

In *In re Spansion, Inc.*, 2012 WL 6634899 (3d Cir. Dec. 21, 2012), the debtor, a computer-memory manufacturer, sued Apple Inc. (“Apple”) and Samsung Electronics Co., Ltd., for patent violations. Apple settled with the debtor in an agreement whereby the debtor promised to dismiss the complaint as to Apple and to not sue Apple in the future for use of the intellectual property involved. The debtor subsequently filed for Chapter 11 protection and rejected the settlement agreement. Apple claimed that the agreement provided it with an intellectual property “license” entitled to the protections of Section 365(n) of the Bankruptcy Code. The Third Circuit upheld the lower courts’ rulings that Apple’s rights under the agreement were protected by Section 365(n). According to the Third Circuit, “[A] license... [is] a mere

waiver of the right to sue by the patentee,” such that a covenant not to sue and a license are effectively equivalent. Because the settlement agreement provided Apple with such a license, the court concluded that the debtor’s rejection of the agreement triggered Apple’s right to elect to retain its licensing rights under Section 365(n).

Courts disagree as to whether the rights of a nondebtor lessee or sublessee under Section 365(h)(1) of the Bankruptcy Code to remain in possession are effectively extinguished if the leased real property—or the lease itself, rather than being rejected—is sold free and clear of any “interest” under Section 363(f). In *In re Zota Petroleums, LLC*, 482 B.R. 154 (Bankr. E.D. Va. 2012), the bankruptcy court distinguished the Seventh Circuit’s arguably contrary decision in *Precision Industries, Inc. v. Qualitech Steel SBQ*, 327 F.3d 537 (7th Cir. 2003), ruling that “[t]he rights of the tenant may not be extinguished by a § 363 sale; to hold to the contrary would give open license to debtors to dispossess tenants by utilizing the § 363 sale mechanism.”

In *In re Hostess Brands, Inc.*, 477 B.R. 378 (Bankr. S.D.N.Y. 2012), the court ruled that, where a collective bargaining agreement has expired prebankruptcy, the agreement cannot be assumed or rejected under Section 1113 of the Bankruptcy Code, which governs assumption or rejection of bargaining agreements in bankruptcy. Instead, the parties are left to the “fallback regime” of otherwise applicable law, including the National Labor Relations Act. As a consequence, the court dismissed the debtors’ motion under Section 1113 to reject an expired bargaining agreement for lack of subject-matter jurisdiction. However, the court separately granted the debtors’ motion pursuant to Section 1113(e) to implement interim changes to the terms of expired agreements and granted their motion to reject collective bargaining agreements that had not expired.

Filing Eligibility

In *In re Northern Mariana Islands Retirement Fund*, Case No. 12-00003 (Dist. N. Marianas June 13, 2012), the court ruled that the Northern Mariana Islands Retirement Fund, a significantly underfunded public-employee pension plan expected to fail in 2014, was not eligible to be a Chapter 11 debtor. The case is noteworthy because it is the first time that a court has

addressed whether a public pension fund with significantly underfunded defined-benefit liabilities can file for bankruptcy protection. The ruling turned on the fund's lack of autonomy and its limited function, leading the court to conclude that the fund was a "governmental unit" rather than a "person" eligible for bankruptcy relief.

Financial Contracts/Setoffs

"Safe harbors" in the Bankruptcy Code designed to insulate nondebtor parties to financial contracts from the consequences of a bankruptcy filing by the debtor counterparty have been the focus of a considerable amount of scrutiny in recent years, including 2012. Some of these rulings addressed the "settlement payment" defense to avoidance of a transfer provided by Section 546(e) of the Bankruptcy Code.

For example, in *AP Services LLP v. Silva*, 483 B.R. 63 (S.D.N.Y. 2012), the court held that payments made in connection with a leveraged buy-out to holders of privately held securities were safe-harbored under Section 546(e), notwithstanding the fact that the payments passed directly from the purchaser to the seller rather than through a financial intermediary. The decision is consistent with the trend among the federal circuit courts of appeal interpreting Section 546(e) broadly. See *In re Enron Creditors Recovery Corp. v. Alfa, S.A.B. de C.V.*, 651 F.3d 329 (2d Cir. 2011); *In re Plassein Int'l Corp.*, 590 F.3d 252 (3d Cir. 2009); *In re QSI Holdings, Inc.*, 571 F.3d 545 (6th Cir. 2009); *Contemporary Indus. Corp. v. Frost*, 564 F.3d 981 (8th Cir. 2009).

In *Lightfoot v. MXEnergy Electric (In re MBS Management Services, Inc.)*, 690 F.3d 352 (5th Cir. 2012), the Fifth Circuit ruled that an agreement between a property-management company and a power company for the purchase of "full electric requirements" for specified properties was a "forward contract" within the meaning of Section 101(25) of the Bankruptcy Code. As a consequence, the management company's payments to the power company pursuant to the agreement within 90 days of the power company's Chapter 11 filing were exempt from preference recovery under Section 546(e), despite the contention that the agreement did not specify exact quantities and delivery dates. According to the Fifth Circuit, neither the statutory definition of

“forward contract” nor Section 546(e) contains limitations regarding a specific quantity and delivery date.

In *In re Quebecor World (USA) Inc.*, 480 B.R. 468 (S.D.N.Y. 2012), the district court ruled that payments made to redeem outstanding notes by a company on the verge of bankruptcy qualified as “settlement payments” under Section 546(e) and thus could not be clawed back in an avoidance action. The court upheld the bankruptcy court’s application of the Second Circuit’s decision in *Enron* and confirmed that Section 546(e) broadly encompasses cash transfers made to “complete a securities transaction.”

Municipal Debtors

The contrasts between Chapter 9 and other chapters of the Bankruptcy Code were highlighted in a ruling handed down in 2012 by the Alabama bankruptcy court presiding over the largest municipal bankruptcy in U.S. history. In *In re Jefferson County, Alabama*, 474 B.R. 228 (Bankr. N.D. Ala. 2012), the court denied a state-court-appointed receiver’s request to retain control of the debtor’s sewer system, holding that the bankruptcy court had exclusive jurisdiction over the property and that the automatic stays imposed by Sections 362 and 922 of the Bankruptcy Code precluded continuation of the receiver’s stewardship. The bankruptcy court also refused to abstain from hearing the bankruptcy case or to modify the automatic stays. However, the court ruled that the stays did not preclude the continuation of payments to warrant holders from the sewer system’s pledged revenue stream, net of any necessary operating costs.

In *In re City of Stockton, California*, 478 B.R. 8 (Bankr. E.D. Cal. 2012), the court held that: (i) the debtor city could unilaterally reduce the benefits of its retirees without offending the Contracts Clause of the U.S. Constitution (even where those benefits otherwise may be considered contractual in nature under state law); and (ii) the court was not permitted to enjoin the debtor from implementing the benefit reductions due to the express limitations on a bankruptcy court’s jurisdictional mandate in Chapter 9 cases. The ruling is an additional blow to the rights of municipal employees and retirees in the wake of the ruling in *In re City of Vallejo, California*, 432 B.R. 262 (E.D. Cal. 2010). In *Vallejo*, the district court affirmed a bankruptcy-court ruling that Section

1113 of the Bankruptcy Code does not apply in Chapter 9, potentially making it easier for a municipal debtor to reject a collective bargaining agreement.

Several courts in Alabama have considered the issue of eligibility to file for Chapter 9 relief under Alabama law. In another ruling involving Jefferson County, Alabama, *In re Jefferson County, Ala.*, 469 B.R. 92 (Bankr. N.D. Ala. 2012), the court ruled that a municipal debtor was eligible for Chapter 9 relief even though it issued sewer warrants rather than bonds. According to the court, resort to a bankruptcy court “is not constrained by the types of debts outstanding on the day a bankruptcy case is initiated.”

The *Jefferson County* ruling contravened an earlier ruling by another Alabama bankruptcy judge, who held that the City of Prichard, Alabama, was not eligible to be a Chapter 9 debtor because it did not have outstanding bonds. See *In re City of Prichard, Ala.*, No. 1:09-BK-15000 (Bankr. S.D. Ala. Aug. 31, 2010). *Prichard* was appealed to the district court, which asked the Alabama Supreme Court to weigh in on the question in May 2011.

The Alabama Supreme Court did so in *City of Prichard v. Balzer*, 95 So. 3d 1 (2012), ruling that state law “does not require that an Alabama municipality have indebtedness in the form of refunding bonds or funding bonds as a condition to eligibility to proceed under Chapter 9.” According to the court, “It is clear that the legislature intended to authorize every county, city, town, and municipal authority...to file for federal bankruptcy protection.”

Sovereign Debtors

In *NML Capital, Ltd. v. Republic of Argentina*, 699 F.3d 246 (2d Cir. 2012), the Second Circuit upheld a lower-court order enjoining the Republic of Argentina from making payments on restructured debt without making comparable payments to bondholders who did not participate in the restructurings in accordance with an “equal treatment” or “*pari passu*” clause in the bond indenture. The Second Circuit remanded the case below for the purpose of clarifying how the injunction was to operate.

On November 21, 2012, the district court on remand ordered Argentina to pay holdout bondholders approximately \$1.33 billion. See *NML Capital, Ltd. v. Republic of Argentina*, 2012 BL 329784 (S.D.N.Y. Nov. 21, 2012). However, Argentina received a reprieve of its obligation to make the pay-

ments on November 28, 2012, when the Second Circuit stayed the ruling until it has an opportunity to hear Argentina's appeal, which has been scheduled for argument on February 27, 2013. The emergency stay quelled investor fears of a default by Argentina on December 15, 2012, when \$3.3 billion in debt repayments were due.

On December 4, 2012, the Second Circuit denied an emergency motion by old bondholders to modify the stay by requiring Argentina to post \$250 million in security. On December 28, 2012, Argentina asked the Second Circuit to reconsider its *pari passu* ruling, claiming that the decision violates Argentina's sovereignty. The U.S. government filed an "*amicus*" brief backing Argentina's request, arguing that the ruling impacts U.S.-Argentina relations, threatens future debt restructurings, and blocks the legal immunity given to a sovereign country.

Venue

Under 28 U.S.C. § 1408, a bankruptcy case (except a case under Chapter 15) may be filed in any federal district in which the debtor's "domicile, residence, principal place of business... or principal assets in the United States... have been located for the one hundred and eighty days immediately preceding" the filing of the case. The debtor may also file for bankruptcy in the district in which a case is pending concerning any affiliate, general partner, or partnership of the debtor. Consistent with general rules governing the proper venue for litigation in federal courts, a corporation's "domicile" is generally held to be its state of incorporation.

Under 28 U.S.C. § 1412, "[a] district court may transfer a case or proceeding under title 11 to a district court for another district, in the interest of justice or for the convenience of the parties." Most bankruptcy courts have interpreted 28 U.S.C. § 1406 (regarding cure or waiver of venue defects) to require transfer of venue to an appropriate district if the debtor, faced with an objection to venue, cannot establish compliance with the requirements of 28 U.S.C. § 1408.

In *In re Houghton Mifflin Harcourt Publishing Co.*, 474 B.R. 122 (Bankr. S.D.N.Y. 2012), the debtor and 24 of its affiliates filed for Chapter 11 protection in the Southern District of New York to seek confirmation of a pre-

packaged Chapter 11 plan. According to the debtors, venue was proper in that district under the “affiliate rule” because one debtor had a “residence” in New York City and a second had its “principal asset” there. No creditors objected to the venue selected by the companies. In fact, creditors unanimously approved the debtors’ prepackaged plan of reorganization and signed plan support agreements that required the cases to be filed in the Southern District of New York.

The U.S. Trustee objected to the chosen venue. The bankruptcy court was critical of the U.S. Trustee’s objection, noting that “a transfer would be more expensive and much less convenient for the Debtors’ creditors—especially since we here have a prepack, where the case otherwise would be over in 30 days.” However, the court felt constrained by 28 U.S.C. § 1406 to rule on the U.S. Trustee’s objection. It ultimately held that: (i) the “residence” basis for venue in 28 U.S.C. § 1408 applies only to natural persons and thus could not apply to the first debtor; and (ii) the second debtor’s principal asset was its ownership interest in its subsidiaries, and such property was located outside New York.

Despite its determination that venue in the Southern District of New York was improper, the court realized that “a transfer would be destructive to creditor interests, to the great expense and inconvenience of the parties (especially creditors), and the exact opposite of the interests of justice.” It accordingly fashioned a creative solution. The court confirmed the debtors’ Chapter 11 plan while the U.S. Trustee’s objection was still pending and ordered venue of the cases to be transferred to another district *after the effective date of the plan*.

In *In re Patriot Coal Corp.*, 482 B.R. 718 (Bankr. S.D.N.Y. 2012), the court held that the debtor parent company’s incorporation of two subsidiaries in New York shortly before its bankruptcy filing, while technically complying with the “affiliate rule” in 28 U.S.C. § 1408, was inconsistent with the intent of the rule. “Whether one characterizes the creation of venue as exploiting a loophole or as simply not fair,” the court wrote, “one thing is clear: It is not the thing which the statute intended.” According to the court, although the debtors complied with Section 1408, how they complied with the statute must be taken into account when considering the “interest of justice” prong of Section 1412. The court directed that venue be transferred to Missouri because the debtors’ corporate headquarters and executive offices were located there and because it would offer the most convenience to the greatest number of parties.

FROM THE TOP

The U.S. Supreme Court handed down only two rulings in 2012 concerning bankruptcy issues.

In *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 132 S. Ct. 2065 (2012), a unanimous Court upheld a ruling by the Seventh Circuit denying confirmation of a “cramdown” Chapter 11 plan that contemplated the sale of encumbered assets free and clear of all liens without giving a secured creditor the right to credit-bid its claim in connection with the sale. By its ruling, the Supreme Court resolved a circuit split on the proper application of the “indubitable equivalent” prong of Section 1129(b)(2)(A) of the Bankruptcy Code.

In *Hall v. U.S.*, 132 S. Ct. 1882 (2012), the Court considered whether federal capital-gains-tax liability resulting from the sale by “family farmer” debtors of their farm property during a Chapter 12 case was “incurred by the estate” under Section 503(b) of the Bankruptcy Code. This is required to enable the debtor to strip the federal government’s corresponding tax claim of its priority, pay the claim *pro rata* with other general unsecured claims, and discharge any remaining obligation to the government under Section 1222(a)(2)(A)—the priority-stripping provision added to the Bankruptcy Code in 2005. The Court, affirming a ruling below by the Ninth Circuit, held by a 5-4 margin that “[t]he federal income tax liability resulting from petitioners’ postpetition farm sale is not ‘incurred by the estate’ under § 503(b) of the Bankruptcy Code and thus is neither collectible nor dischargeable in the Chapter 12 plan.”

On October 29, 2012, the Supreme Court agreed to review a case concerning the kinds of trustee misconduct that qualify as “defalcation” under Section 523(a)(4) of the Bankruptcy Code and thus constitute a basis to deny discharge of a debt. In *Bullock v. BankChampaign N.A. (In re Bullock)*, 670 F.3d 1160 (11th Cir.), *cert. granted*, 2012 BL 282292 (Oct. 29, 2012), the Eleventh Circuit aligned itself with the Fifth, Sixth, and Seventh Circuits by ruling that defalcation under Section 523(a)(4) requires a showing of recklessness by the fiduciary.

Notable Exits From Bankruptcy in 2012

Company	Filing Date (Bankr. Court)	Conf. Date Effective Date	Assets at Filing	Industry	Result
Lehman Bros. Holdings Inc.	9/15/2008 (S.D.N.Y.)	12/06/2011 CD 3/06/2012 ED	\$691 billion	Financial Services	Liquidation
Washington Mutual Inc.	9/26/2008 (D.Del.)	2/24/2012 CD 3/19/2012 ED	\$327.9 billion	Bank Holding	Liquidation
Ambac Financial Group, Inc.	11/08/2010 (S.D.N.Y.)	3/14/2012 CD Not Yet Effective	\$19 billion	Bond Insurer Holding Company	Reorganization
BankUnited Financial Corp.	5/22/2009 (S.D. Fla.)	3/02/2012 CD 3/09/2012 ED	\$15 billion	Bank Holding	Liquidation
The Tribune Company	12/08/2008 (D.Del.)	7/23/2012 CD 12/31/2012 ED	\$13.2 billion	Media	Reorganization
Imperial Capital Bancorp, Inc.	12/18/2009 (S.D. Cal.)	5/24/2012 CD 6/08/2012 ED	\$4.4 billion	Bank Holding	Liquidation
PFF Bancorp., Inc.	12/05/2008 (D.Del.)	4/26/2012 CD 5/04/2012 ED	\$4.1 billion	Bank Holding	Liquidation
Dynegy Inc.	7/06/2012 (S.D.N.Y.)	9/05/2012 CD 10/01/2012 ED	\$4.1 billion	Energy	Reorganization

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NewPage Corporation	9/07/2011 (D. Del.)	12/13/2012 CD 12/21/2012 ED	\$3.5 billion	Paper Manufacturing	Reorganization
The Great Atlantic & Pacific Tea Co., Inc.	12/12/2010 (S.D.N.Y.)	2/28/2012 CD 3/13/2012 ED	\$2.8 billion	Retail	Reorganization
Houghton Mifflin Harcourt Publishing Co.	5/21/2012 (S.D.N.Y.)	6/21/2012 CD 6/22/2012 ED	\$2.7 billion	Publishing	Reorganization
W.R. Grace & Co.	4/02/2001 (D. Del.)	6/11/2012 CD Not Yet Effective	\$2.6 billion	Chemicals	Reorganization (Asbestos Trusts)
The Los Angeles Dodgers	6/27/2011 (D. Del.)	4/13/2012 CD 5/01/2012 ED	\$2.15 billion	Baseball	Sale
General Maritime Corp.	11/17/2011 (S.D.N.Y.)	5/03/2012 CD 5/17/2012 ED	\$1.8 billion	Maritime Shipping	Reorganization
Borders Group, Inc.	2/16/2011 (S.D.N.Y.)	12/20/2011 CD 1/12/2012 ED	\$1.4 billion	Retail	Liquidation
TerreStar Networks, Inc.	10/19/2010 (S.D.N.Y.)	2/15/2012 CD 3/29/2012 ED	\$1.4 billion	Telecom	Sale
TerreStar Corp. (Parent of TerreStar Networks)	2/16/2011 (S.D.N.Y.)	10/24/2012 CD Not Yet Effective	\$1.4 billion	Telecom	Reorganization

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Lee Enterprises, Inc.	12/12/2011 (D. Del.)	1/23/2012 CD 1/30/2012 ED	\$1.16 billion	Print Media	Reorganization
Delta Petroleum Corp.	12/15/2011 (D. Del.)	8/16/2012 CD 8/31/2012 ED	\$1.02 billion	Oil & Gas	Reorganization
TBS International plc	2/06/2012 (S.D.N.Y.)	3/28/2012 CD 4/12/2012 ED	\$686 million	Maritime Shipping	Sale
William Lyons Homes	12/19/2011 (D. Del.)	2/10/2012 CD 2/28/2012 ED	\$649 million	Homebuilding	Reorganization
Nebraska Book Company, Inc.	6/27/2011 (D. Del.)	5/30/2012 CD 6/29/2012 ED	\$616 million	Publishing	Reorganization
Reddy Ice Holdings	4/12/2012 (N.D. Tex.)	5/22/2012 CD 5/31/2012 ED	\$434 million	Manufacturing	Reorganization
Evergreen Solar, Inc.	8/15/2011 (D. Del.)	7/13/2012 CD 7/16/2012 ED	\$424 million	Manufacturing	Liquidation
Buffets, Inc.	1/18/2012 (D. Del.)	6/27/2012 CD 7/18/2012 ED	\$385 million	Restaurant	Reorganization

Highlights of 2012

- January 6 The U.S. Bureau of Labor Statistics reports that the unemployment rate dropped to 8.5 percent at the end of 2011.
- In a fundamental policy shift, the Securities and Exchange Commission (“SEC”) announces that it will no longer allow defendants to say they neither admit nor deny civil fraud or insider-trading charges when, at the same time, they admit to or have been convicted of criminal violations. The change comes in the wake of the rejection in November 2011 by federal district-court Judge Jed S. Rakoff of an SEC settlement with Citigroup over securities-fraud charges.
- For the first time on record, the U.S. Treasury auctions 10-year Treasury notes yielding less than 2 percent.
- The U.S. Commodity Futures Trading Commission (“CFTC”) completes Dodd-Frank Act regulations to protect swap traders’ collateral that is used to reduce risk in trades. This so-called segregation rule gained urgency after as much as \$1.2 billion in client funds went missing as MF Global Holdings Ltd. collapsed in 2011. The rule seeks to insulate clients’ collateral if their brokers default, while also allowing the customer funds to be pooled before a bankruptcy.
- January 12 RealtyTrac Inc. reports that approximately 1.9 million U.S. homes entered the foreclosure process in 2011, the lowest level since 2007, when the recession began.
- January 13 Standard & Poor’s (“S&P”) downgrades the credit ratings of France, Italy, and seven other European countries, a move that may have more symbolic than fundamental financial impact but serves as a reminder that Europe’s economic woes are far from over. The only eurozone nations retaining their top AAA ratings are Germany, The Netherlands, Finland, and Luxembourg.
- January 16 S&P cuts its credit rating of the eurozone’s rescue fund (the European Financial Stability Facility (“EFSF”), stating that the decision was all but inevitable following identical cuts three days earlier to the creditworthiness of France and Austria, two of the EFSF’s guarantors.
- Sean Quinn, a businessman who was once one of the richest men in Ireland, is declared bankrupt by an Irish court, where stiff regulations could prevent him from resuming his business activities for up to 12 years. The declaration concerns

- more than €2.8 billion, or \$3.5 billion, that he owes to the former Anglo Irish Bank, now known as the Irish Bank Resolution Corporation. Anglo Irish Bank was at the center of Ireland's property collapse and was nationalized early in 2009.
- January 17 The World Bank cuts its global growth forecast by the most in three years, saying that a recession in the euro region threatens to exacerbate a slowdown in emerging markets such as India and Mexico.
- Credit insurer Euler Hermes forecasts that world economic growth will slow to 2.7 percent in 2012 from 3 percent in 2011, as growth in emerging countries runs out of steam and the "submerged" countries sink further into the mire.
- January 24 During his State of the Union address, U.S. President Obama pledges to use government power to balance the scale between America's rich and the rest of the public, trying to present an election-year choice between continued leadership toward an economy "built to last" and what he calls irresponsible policies of the past that caused an economic collapse.
- January 25 The U.S. Federal Reserve, declaring that the economy would need help for years to come, says it will extend by 18 months the period during which it plans to hold down interest rates in an effort to spur growth. The Fed states that it now plans to keep short-term interest rates near zero until late 2014, continuing the transformation of a policy which began as shock therapy in the winter of 2008 into a six-year campaign to increase spending by rewarding borrowers.
- January 26 The U.K. government abandons a plan to overhaul prepackaged administrations, a practice viewed as controversial because creditors are wiped out by the administration, and the buyers are sometimes directors of the company or connected parties. The decision to scrap the changes provokes a furious response, with the British Property Federation claiming that the government has "wasted 18 months" of consultation.
- As outlined by President Obama during his State of the Union address, U.S. Attorney General Eric Holder announces that a new government unit will investigate misconduct in the bundling of mortgage loans into securities that fueled the housing bubble and contributed to the financial crisis. In providing details about the new group, Mr. Holder says that the Justice Department in the past few days has subpoenaed 11 financial institutions in related investigations. The mortgage-fraud unit

- will “streamline” and “strengthen” current efforts to investigate fraud in residential-mortgage-backed securities.
- January 30 All but two countries of the European Union (“EU”) agree to tougher measures to enforce budget discipline in the eurozone, but the bloc still shows few signs of producing a comprehensive solution for the sovereign-debt crisis or a credible plan to revive fragile economies in the Mediterranean region. The meeting in Brussels of the 27 EU heads of state and government is aimed at completing the text of a so-called fiscal compact for the 17 nations relying on or intending to join the eurozone—with only Britain and the Czech Republic opting not to adopt the measures. The fiscal pact imposes substantial fines on any signatory nation whose deficit averages more than 0.5 percent of gross domestic product over a full economic cycle.
- January 31 The U.S. Congressional Budget Office (“CBO”) releases a report predicting the U.S. deficit to be \$1.1 trillion by the end of the fiscal year (“FY”) in September, compared to \$1.3 trillion in FY 2011. The report also says that annual deficits will remain in the \$1 trillion range for the next several years if Bush-era tax cuts slated to expire in December are extended.
- Eurostat, the EU’s statistics office, reports that unemployment across the 17 countries that use the euro ended 2011 at a record high of one person in every 10 (10.3 percent), the highest level since the euro was launched in 1999.
- February 1 Chrysler Group reports its first annual profit since 2005, capping a comeback a little more than two years after a federal bailout, a bankruptcy filing, and a takeover by Italian automaker Fiat. The automaker, which includes the Chrysler, Dodge, and Jeep brands, earned \$183 million in 2011, compared with a loss of \$652 million in the prior year.
- President Obama outlines details of a new housing proposal that would make millions of additional mortgage borrowers eligible to refinance using historically low interest rates through government-assistance programs. The proposal would allow mortgages not guaranteed by government-sponsored enterprises Fannie Mae and Freddie Mac to be refinanced through a new program run by the Federal Housing Administration (“FHA”). The administration estimates that the cost of the plan will be in the range of \$5 to \$10 billion. It would pay for the refinancings by assessing a new tax on large financial institutions—a proposal that was first floated

- in 2010 during debate on the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- February 2 The U.S. Department of Labor reports that the U.S. unemployment rate dropped to 8.3 percent at the end of January, the lowest in three years.
- February 9 Freddie Mac reports that the average rate on 30-year fixed mortgages in the U.S. fell to a record low of 3.87 percent.
- February 9 U.S. government authorities and five of the nation's biggest banks agree to a \$26 billion settlement that could provide relief to nearly 2 million current and former American homeowners harmed by the bursting of the housing bubble. It is part of a broad national settlement aimed at halting the housing market's downward slide and holding the banks accountable for foreclosure abuses. Under the plan, \$5 billion would be paid to states and federal authorities, \$17 billion would be earmarked for homeowner relief, roughly \$3 billion would go for refinancing, and a final \$1 billion would be paid to the FHA. If nine other major mortgage servicers join the pact, the total package could rise to \$30 billion.
- February 12 Greece's prime minister, Lucas Papademos, wins approval from Parliament for austerity measures needed to receive a second aid package of €130 billion (\$172 billion), which eurozone finance ministers must decide whether to release when they meet on February 15.
- February 13 President Obama unveils his \$3.8 trillion budget request for FY 2013, with tax increases on the affluent and cuts in spending, especially from the military, both to reduce deficits and to pay for priorities like education, public works, research, and clean energy. He projects a deficit for FY 2013 of \$901 billion, or 5.5 percent of GDP, compared to \$1.3 trillion in 2012. Looming just beyond the November election is the prospect of what some are calling "Taxmageddon," or what Ben S. Bernanke, the Federal Reserve chairman, has referred to as "a massive fiscal cliff." Unless Mr. Obama and a lame-duck Congress can reach agreement, all of the Bush-era tax cuts will expire on December 31, along with Obama stimulus measures like the payroll-tax holiday, just as \$600 billion in deep "sequestration" cuts in federal spending would be kicking in—an event that the CBO predicts would probably put the economy back into recession.
- Moody's Investors Service cuts the debt ratings of six Eu-

- European countries, including Italy, Spain, and Portugal, and becomes the first big ratings agency to switch Britain's outlook to negative. The move comes a month after similar downgrades by S&P and Fitch Ratings. All three agencies cite the debt crisis and its ramifications for the region's economy.
- February 16 U.S.-based General Motors, the world's largest automaker, reports that it recorded its biggest profit ever in 2011, two years after emerging from bankruptcy with the help of a government bailout. The century-old carmaker says strong sales in the U.S. and China helped push its profits to \$7.6 billion, easily topping the company's previous \$6.7 billion earnings peak in 1997. The company continues to lose money on its operations in Europe, where the economy has slowed under the weight of the continent's debt crisis. GM regained the top global sales mark last year over Japan's Toyota, whose manufacturing was disrupted by the earthquake and tsunami in Japan and flooding in Thailand.
- February 19 Japan posts a record trade deficit as the yen's strength and weaker global demand erode profits at manufacturers and slow the nation's recovery from the earthquake and tsunami last year. The trade gap widens to ¥1.48 trillion yen (\$19 billion).
- February 21 Greece reaches an agreement with creditors to secure the biggest sovereign restructuring in history, paving the way for a second bailout of the debt-ridden nation and averting economic collapse. Under the terms of the \$172 billion bailout, Greece will reduce its debt from 160 percent to 120.5 percent of GDP by 2020. Banks that hold Greek bonds, which had agreed in October to take a 50 percent loss on the face value of their bonds, agreed to take a 53.5 percent loss on the face value, the equivalent to an overall loss of approximately 75 percent.
- February 28 The Dow Jones Industrial Average finishes above the 13,000 mark for the first time since May 2008.
- March 1 The International Swaps and Derivatives Association ("ISDA") decides that Greece had not breached the terms of credit-default-swap agreements aggregating \$3.25 billion by preparing to force losses on private bondholders while exempting official creditors.
- March 5 A report released by the Federal Reserve Bank of New York renews concerns about the growing debt load of U.S. college students and graduates by suggesting that as many as 27

percent of the 37 million borrowers have past-due balances of 30 days or more. The report states that the total balance of U.S. federally insured student loans is \$870 billion, with the average outstanding debt totaling \$23,300. Ten percent of borrowers owe more than \$54,000, and 3 percent owe more than \$100,000. The outstanding student-loan balance surpasses the total U.S. credit-card balance (\$693 billion) and the total U.S. auto-loan balance (\$730 billion). With college enrollments increasing and the costs of attendance rising, this balance is expected to continue its upward trend, with aggregate student debt projected to amount to \$1.4 trillion by 2020.

March 8

Forbes releases its list of world billionaires for 2012, the 26th year that it has been tracking global wealth. The 2012 Billionaires List breaks two records: total number of listees (1,226) and combined wealth (\$4.6 trillion). Atop the heap is Mexican telecom mogul Carlos Slim Helú. With an estimated net worth of \$69 billion, he has pulled far ahead of his two closest rivals, Bill Gates, No. 2, and Warren Buffett, No. 3, who are now worth \$61 billion and \$44 billion, respectively.

In an apparent about-face, the ISDA decides that Greece's bond swap constitutes a "credit event" that entitles holders of Greek credit-default swaps to compensation, triggering roughly \$3.25 billion in credit-default swaps.

March 12

Greece implements the biggest debt write-down in history, swapping the bulk of its privately held bonds with new ones worth less than half their original value. Bonds issued under Greek law with a total face value of €177.2 billion (\$232.5 billion) are exchanged. A smaller batch worth €28.5 billion (\$37.4 billion), issued under foreign law or by state enterprises, will be swapped in the coming weeks. The debt exchange opens the way for Greece's second international bailout and will transfer the majority of the country's debt from private to public ownership—its eurozone partners and the International Monetary Fund ("IMF").

After 244 years, Encyclopædia Britannica announces that it is going out of print, acknowledging the realities of the digital age—and of competition from Wikipedia. Encyclopædia Britannica will focus primarily on its online encyclopedias and educational curricula for schools. The final print version was the 32-volume 2010 edition, which weighed 129 pounds and included new entries on global warming and the Human Genome Project.

The U.S. Federal Reserve reports that 15 of the 19 largest financial firms have enough capital to withstand a severe recession. However, the stress tests underscore the uneven nature of the industry's recovery. Firms such as JPMorgan and Wells Fargo are proving resilient, but others, including Citigroup and Ally Financial, remain on shaky ground, grappling with soured mortgages and other troubled businesses. Banks are completing their third round of stress tests, with the Fed looking at whether they would have enough capital to weather a peak unemployment rate of 13 percent, a 21 percent drop in housing prices, and severe market shocks, as well as economic slowdowns in Europe and Asia.

The NASDAQ Composite Index closes above 3,000 for the first time since 2000.

- March 14 Goldman Sachs mid-level executive Greg Smith publicly resigns from the firm, publishing an editorial in *The New York Times* rebuking Goldman for prizing personal profit over client service and stating, "It makes me ill how callously people still talk about ripping off clients." The op-ed reignites a firestorm of debate on the internet and in other media over whether Wall Street is hopelessly corrupted by greed and excess.
- March 15 Pew Research Center reports that, unable to find well-paying work in a weak U.S. economy, escalating numbers of young adults—as many as three in 10—are returning home to the family nest, resulting in the highest share of young adults living in multigenerational U.S. households since the 1950s.
- The U.S. Treasury Department announces that it finished selling \$225 billion in mortgage-backed securities which it bought to help stabilize the markets during the worst of the financial crisis. The government made a \$25 billion profit on the securities, which are guaranteed by Fannie Mae and Freddie Mac.
- March 20 The Consumer Financial Protection Bureau created by the Dodd-Frank Act delivers its first annual report to Congress on enforcement of the Fair Debt Collection Practices Act. Among other things, the report shows that debt collection continues to be a leading subject of consumer complaints.
- March 30 The Spanish government announces an annual budget that includes €17.8 billion (\$24 billion) in spending cuts for the central government, one day after it faced a nationwide general strike and stated it would continue increasingly unpopu-

- lar austerity measures.
- April 3 The U.S. Financial Stability Oversight Council ("FSOC") votes to approve its final rule implementing the controversial Dodd-Frank Act provision that directs the federal government to identify systemically important financial institutions (SIFIs) outside the traditional banking sector which could pose a threat to the U.S. financial system. Once designated by a two-thirds majority of the FSOC (including an affirmative vote of the Treasury secretary), each "nonbank financial company" would be placed under Federal Reserve Board supervision, as well as become subject to a host of enhanced prudential measures—including capital, liquidity, leverage, stress-testing, resolution-planning, and risk-management requirements.
- April 6 The U.S. Labor Department reports that the unemployment rate ticked down 0.1 percent to 8.2 percent.
- April 11 According to Thomson Reuters' Distressed Debt & Bankruptcy Restructuring Q1 Round-up, completed distressed-debt and bankruptcy restructuring activity totaled \$38.3 billion during the first quarter of 2012, a 38.5 percent decline from the same period last year. In terms of volume, the number of completed deals decreased by 29.8 percent to 86 transactions. The largest completed transaction of the quarter was the \$10.4 billion Washington Mutual restructuring, and the largest announced transaction was Greece's \$272.6 billion debt-exchange transaction.
- U.S. deal activity totaled \$20.8 billion during the first quarter of 2012, a 7.2 percent decrease compared to the same period last year. There were 47 restructuring transactions announced in the first quarter of 2012, a 53.9 percent increase compared to the previous year. The Financials and Media & Entertainment industries accounted for more than 70 percent of the U.S. debt-restructuring market.
- April 17 In what is believed to be a first by a U.S. public pension plan, the Northern Mariana Islands Retirement Fund files for Chapter 11 protection. The public defined-benefit plan is only 38.8 percent funded, thanks to low investment returns and a benefit structure that has been increased without any increase in funding. The filing is later challenged by fund participants on the basis that the pension fund is not eligible to be a Chapter 11 debtor because it is a "governmental unit" rather than a "person." The court will dismiss the case on June 13, 2012, on this basis. The ruling could have widespread implications for

- other public pensions in the U.S.
- April 19 The newly created American Bankruptcy Institute Commission (“ABI Commission”) holds its first public meeting in Washington, D.C., to study the reform of Chapter 11 of the Bankruptcy Code. Reforms are deemed necessary in light of the expansion of the use of secured credit, the growth of distressed-debt markets, and other externalities that have affected the effectiveness of the current Bankruptcy Code, including more complex capital structures; diverse creditors and investors with different agendas; and changes in companies and their key assets.
- April 20 The IMF announces during its 2012 Spring Meetings at the World Bank headquarters that it has raised at least \$430 billion in extra lending capacity to be used if the eurozone crisis worsens or global financial conditions deteriorate. By some estimates, this brings the total amount of money devoted to rescuing the world economy since the Great Recession began to more than \$14 trillion and counting.
- April 23 Dutch Prime Minister Mark Rutte and his cabinet resign after failing to reach agreement on reducing the country’s budget to meet European guidelines.
- April 25 U.S. student-loan debt surpasses \$1 trillion, as lawmakers scramble to reach a compromise that will prevent student-loan interest rates from doubling (to 6.8 percent) on July 1. The average debt load of all new graduates rose 24 percent, adjusted for inflation, from 2000 through 2010, to \$16,932, according to the Progressive Policy Institute. Over the same period, the average earnings of full-time workers aged 25 to 34 with no more than a bachelor’s degree fell by 15 percent to \$53,539.
- Official figures released by the British government indicate that Britain has fallen into its first double-dip recession since the 1970s, a development that raises more questions about whether government belt tightening in Europe has gone too far.
- April 26 S&P downgrades Spain’s credit rating for the second time in 2012, saying that the country’s sovereign-debt levels are too high and that its banks need an infusion of aid as the country’s economy contracts. The downgrade comes with Spain’s emergence as a looming problem for Europe, with fears that the country will be next in line for a huge bailout, after

- Greece.
- April 30 Spain joins seven other eurozone nations in recession, providing new evidence that austerity policies are failing to spark confidence in the region's economies, ahead of a week of expected anti-austerity protests and a string of important national elections.
- U.S. Census Bureau statistics indicate that the homeownership rate in the U.S. fell to 65.4 percent in the first quarter of 2012, hitting a 15-year low amid still-high foreclosure rates and a stronger market for rents. The rate hit a high of 69.2 percent in 2004, before the housing bubble burst.
- May 2 Fannie Mae and Freddie Mac announce new guidelines to streamline the process for "short sales." The guidelines, required by the Federal Housing Finance Agency and effective June 15, would require servicers of mortgages backed by Fannie and Freddie to review and respond to requests for short sales within 30 calendar days of receipt of a buyer's offer. A "short sale" is a transaction in which a lender agrees to accept less than the amount owed on the mortgage.
- Eurostat reports that eurozone unemployment rose to a new high of 10.9 percent in March 2012.
- May 4 Rules drafted by the Municipal Securities Rulemaking Board, a self-regulatory body for market participants, are approved by the SEC to rein in abusive practices by Wall Street firms, such as underwriting a state's bonds while simultaneously helping other customers trade against the bonds, or taking municipal officials on lavish junkets and billing the costs to unsuspecting local taxpayers. The rules, which will take effect in August, require bond underwriters to properly disclose the risks of the deals, as well as any potential conflicts of interest. Underwriters will also be required to tell municipal clients about any payments received from bond insurers taking part in bond transactions.
- May 6 In a popular backlash against austerity measures, voters in France oust the pro-austerity administration of Nicolas Sarkozy, and Greece is plunged into political uncertainty after voters bolster the far left and the neo-Nazi right in a wave of protest involving the crushing defeat of the dominant political parties they blame for Greece's economic collapse. François Hollande is elected the first Socialist president of France since 1995, promising relief from austerity to address

- Europe's financial crisis. In a major shift, the Greek Socialists, who dominated for decades and were in power when Greece asked for foreign aid in 2010, win only 14 percent of the vote, or 42 seats—down significantly from their 44 percent share in 2009.
- May 10 The U.S. Postal Service reports a quarterly loss of \$3.2 billion and blames Congress for blocking the agency's cost-cutting efforts to offset declining mail volume and mounting costs for future retiree health benefits.
- JPMorgan Chase, which emerged from the financial crisis as the biggest bank in the U.S., discloses that it had lost more than \$2 billion in trading, a surprising stumble that promises to escalate the debate over whether regulators need to rein in trading by banks. The losses stemmed from wagers gone wrong in the bank's Chief Investment Office, which manages risk for the New York company. *The Wall Street Journal* reported in April 2012 that large positions taken in that office by a trader nicknamed "the London Whale" had roiled a sector of the debt markets. The bank, betting on a continued economic recovery with a complex web of trades tied to the values of corporate bonds, was hit hard when prices moved against it, causing losses in many of its derivatives positions. The losses, which by later estimates could be as much as \$9 billion, occurred while JPMorgan Chase tried to scale back that trade.
- Mortgage buyer Freddie Mac reports that the average rate on U.S. 30-year mortgage loans ticked down to 3.83 percent, the lowest since long-term mortgages began in the 1950s. The 15-year mortgage, a popular option for refinancing, dropped to 3.05 percent, also a record.
- May 17 As investors race to buy shares of Facebook, the sprawling social network raises \$16 billion in an initial public offering that values Facebook at \$104 billion, the third-largest IPO ever.
- The U.S. Bureau of Labor Statistics shows that the percentage of workers over the traditional retirement age of 65 is at a record high. However, job totals had fallen sharply for men under 55 during the recession and have only now begun to recover, while the proportion of women aged 25 to 54 with jobs also slid and is close to the lowest level of the last two decades.
- May 20 The NASDAQ Stock Market announces that it bungled Facebook Inc.'s IPO, acknowledging that technology problems

affected trading in millions of shares. The trading glitches, coupled with underwhelming investor appetite for Facebook shares, fueled doubts about Wall Street's ability to handle hot IPOs. Facebook's stock price will drop 20 percent in its first week of trading.

May 23 Egyptians go to the polls in the Arab world's first competitive presidential election, choosing among a dozen candidates spanning the nation's secular and Islamist traditions after decades of authoritarian rule.

May 24 For the fourth straight week, U.S. mortgage rates for 30-year loans fall to a record low—3.78 percent.

May 25 President Obama signs into law the Temporary Bankruptcy Judgeships Extension Act of 2012 (H.R. 4967), averting a crisis in the U.S. bankruptcy-court system by reauthorizing 29 temporary judgeships in 14 states and Puerto Rico.

May 30 Charles G. Taylor, the former president of Liberia and a once powerful warlord, is sentenced to 50 years in prison over his role in atrocities committed in Sierra Leone during its civil war in the 1990s. Mr. Taylor is the first head of state to be convicted by an international court since the Nuremberg trials after World War II.

It is reported that India's problems have dampened hopes that it, along with China and other non-Western economies, might help revive the global economy, as happened after the 2008 financial crisis. Instead, India is now facing a political reckoning, as the country's elected leaders must address difficult, politically unpopular decisions—or risk even deeper problems. India's currency, the rupee, is falling; investment is down; inflation is rising; and deficits are eating away at government coffers. India's difficulties come as the global economy is wobbling once again. Europe is grappling with a sovereign-debt crisis that could shatter the continent's economic and political union. The U.S. is still not producing enough new jobs. China's growth has weakened, with a real estate downturn and stalling exports, while important emerging economies like Brazil are slowing down, adding to pessimism about the world economy at a critical time.

June 2 Britain celebrates the Diamond Jubilee of Queen Elizabeth II—only the second celebrated in 1,000 years of British monarchy. The queen, who is 86 and has reigned since 1952, is feted by her subjects in a four-day gala celebration of her 60-year rule.

- June 4 Bankruptcy-court-appointed trustee James W. Giddens issues a 275-page report detailing how the brokerage firm MF Global fell and its money vanished, capturing the recklessness of its managers and woefully inadequate risk controls. The firm, entrusted with about \$6 billion of client money, sometimes relied on “oral” reporting to track the cash it held, the report shows. The trustee states that he will decide whether to pursue litigation to recover money for customers, who are missing about \$1.6 billion, within 60 days, as well as possible claims against Jon S. Corzine and other top executives over their “negligence” at the helm.
- June 6 According to a report from the John J. Heldrich Center for Workforce Development at Rutgers University, only one in six U.S. post-high school youths is working full time. Three out of five live with their parents or other relatives. A large majority—73 percent—think they need more education to find a successful career, but only half of those say they will definitely pursue further education during the next few years.
- Faced with a sharply slowing economy, weak exports, and faltering investment, China’s central bank unexpectedly announces that it will cut interest rates by a quarter of a percentage point. The action by the People’s Bank of China represents the strongest measure taken this year by the Chinese government to counteract an economic malaise that has infected Europe and the U.S. and now seems to be affecting China faster and more extensively than most policymakers or private economists had anticipated. The interest-rate cut is the first by the central bank since December 2008, the last time policymakers in China were deeply worried that they might be behind in responding to an economy slipping downhill faster than they had expected.
- June 9 Spain agrees to accept a bailout for its cash-starved banks as European finance ministers offer an aid package of up to \$125 billion. The decision makes Spain the fourth and largest European country to agree to accept emergency assistance as part of the continuing debt crisis. The aid offered by countries that use the euro is nearly three times the \$50 billion in extra capital the IMF said was the minimum which the wobbly Spanish banking sector needed to guard against a deepening of the country’s economic crisis.
- June 11 The International Air Transport Association (“IATA”) nearly doubles its forecast of European airline losses in 2012 to

\$1.1 billion, stating that the worldwide aviation industry will scrape by with thin profit margins because of high fuel prices. American and Asian airlines should make money this year, but more airlines in Europe might follow Malév of Hungary into bankruptcy if the European financial crisis worsens. The worldwide aviation industry should make a total profit this year of \$3 billion on revenue of \$631 billion, a 0.5 percent margin, the association says. IATA represents 240 airlines carrying 84 percent of the world's passengers and cargo, but its forecast covers the entire industry.

June 13 Spain's borrowing costs spike to euro-era highs after Moody's Investors Service downgrades the nation's credit. The yield on Spain's 10-year bonds reaches 7 percent, the level that has set off full international bailouts of some other eurozone members.

June 14 Former jet-setting Texas tycoon R. Allen Stanford is sentenced to 110 years in prison for bilking investors out of more than \$7 billion over two decades.

June 15 Rajat K. Gupta, the retired head of the consulting firm McKinsey & Company and a former Goldman Sachs board member, is found guilty of conspiracy and securities fraud for leaking boardroom secrets to a billionaire hedge-fund manager. He is the most prominent corporate executive convicted in the government's sweeping investigation into insider trading. The case, which caps a wave of successful insider-trading prosecutions over the last three years, is a significant victory for the government. Mr. Gupta is one of the 66 Wall Street traders and corporate executives charged with insider-trading crimes since 2009. Of those, 60 have either pleaded guilty or been found guilty. Juries have convicted all seven defendants who have gone to trial.

A U.S. Census Bureau report indicates that U.S. household heads aged 35 to 44—the group usually saddled with mortgages and college-bound children—have watched their median net worth slump 59 percent from before the recession. Overall, average American household net worth decreased 35 percent from 2005 to 2010 to \$66,740, from \$102,844 in 2010 constant dollars, reflecting “drops in housing values and stock market indices.” Previously, the U.S. Federal Reserve reported that the typical American family lost nearly 40 percent of its wealth from 2007 to 2010, with net worth down to \$77,300 from \$126,400, adjusting for inflation.

- June 28 The U.S. Supreme Court leaves standing the basic provisions of the Affordable Care Act, ruling that the government may use its taxation powers to compel people to buy health insurance. The ruling upholds the “individual mandate,” requiring that nearly all Americans obtain health insurance, by saying it was authorized under Congress’s power to tax. The ruling is a crucial milestone for the law, which is intended to end the status of the U.S. as the only wealthy country with large numbers of uninsured people, by expanding both the private market and Medicaid.
- Stockton, California, a northern California municipality with nearly 300,000 residents, becomes the largest city to file for Chapter 9 protection in U.S. history, after months of negotiations with creditors fail to patch up a \$26 million budget hole.
- June 29 The U.S. Congress approves a measure freezing federally subsidized student-loan rates for a year, averting a doubling of rates scheduled to occur on July 1. The change is estimated to help more than 7 million students. President Obama will sign the bill into law on July 6.
- July 2 The ABI Commission to study the reform of Chapter 11 of the Bankruptcy Code releases the names of nearly 130 corporate restructuring experts who will be serving on one of 13 advisory committees. The work of the commission is expected to take two years.
- Eurostat reports that unemployment in the 17-country euro currency bloc hit another record in May as the crippling financial crisis pushed the continent toward the brink of recession. Unemployment rose to 11.1 percent. May’s rate was the highest since the euro was launched in 1999 and adds further urgency to the eurozone countries’ plan to create economic growth and cut excessive government debt.
- Robert E. Diamond Jr., the chief executive of Barclays, resigns, less than a week after the British bank agreed to pay \$450 million to settle accusations that it had tried to manipulate key interest rates for its own benefit. Barclays’ chairman, Marcus Agius, is the first big casualty of the scandal. Lloyd’s and The Royal Bank of Scotland are also among the approximately 20 major western banks that have come under investigation by U.S. and British authorities for allegedly trying to manipulate the London Interbank Offered Rate, or “LIBOR,” a benchmark for interest rates on corporate and consumer loans. The focus of the LIBOR scandal will later turn to whether regulators

- allowed banks to report false rates in the run-up to the 2008 financial crisis and afterward. Criminal investigations will later be initiated in the U.S. and elsewhere.
- July 3 The U.S. Federal Deposit Insurance Corporation and the U.S. Federal Reserve release “living wills” for nine of the nation’s largest banks—blueprints for how they could be dismantled in the event of a collapse—but some analysts and other banking experts warn that they are still too big to fail without sending shock waves through the financial system.
- July 6 The ABI Commission and Epiq Systems, Inc., report that U.S. bankruptcies decreased across the board in the first half of 2012, with commercial filings taking the biggest dip, falling 21.8 percent to 30,946, compared to 39,598 from the same six-month period in 2011. Chapter 11 filings from January to June also fell nationwide in 2012, with 5,313 cases, marking a 12.5 percent decrease from the 6,070 reported in the same period in 2011, while total bankruptcies numbered 632,130, a 13.6 percent slide from the 731,500 cases filed in the six months ended June 30, 2011.
- Scranton, Pennsylvania, Mayor Chris Doherty abruptly cuts all municipal employees’ pay (including his own) to the federal minimum wage of \$7.25 per hour, saying it is the only way for the cash-strapped city to pay its bills. Doherty is locked in a dispute with Scranton’s city council over a financial recovery plan as it faces a \$16.8 million budget deficit.
- Italy’s government approves €4.5 billion (\$5.58 billion) in spending cuts for 2012 aimed at slashing the size of Italy’s bloated public sector and delaying a new tax increase until after the first half of 2013. The cuts come as Prime Minister Mario Monti fights to shore up Italian finances in line with EU requests.
- July 10 The CFTC takes a major step toward reining in risky Wall Street trading, approving new rules aimed at preventing a repeat of the financial crisis. The rules give regulators more control over the \$700 trillion derivatives industry, an opaque business that was blamed for many of the ills of the 2008 crisis. The CFTC also approves a broad exemption from the requirement that derivatives trades go through regulated clearinghouses. The exemption applies to “commercial end users”—such as oil companies, airlines, and other firms that use swaps to counteract risk associated with a potential swing in the value of goods they buy or manufacture. Under

the agency's final rule, swaps do not need to go through clearinghouses if at least one party in the trade is a "nonfinancial" entity and is using the swap to hedge against its "commercial risk." The exempt firms must still alert regulators when they enter into swap transactions. Regulators also extend the exemption to small banks and other financial firms with total assets of \$10 billion or less.

Thomson Reuters reports that completed distressed-debt and bankruptcy restructuring activity totaled \$335.9 billion during the first half of 2012, a 223.9 percent increase compared to the \$103.7 billion from the same period in 2011. However, 242 fewer deals were announced in 2012 compared to the first half of 2011. Activity was led by Greece's \$263.1 billion debt-exchange transaction, the largest restructuring deal on record. U.S. deal activity totaled \$31.3 billion during the first half of 2012, a 14.7 percent decrease compared to the same period in 2011. There were 74 restructuring transactions announced in the first six months of 2012, 87 fewer than in the previous year. Europe Middle East Africa (EMEA) distressed-debt restructuring deal volume totaled \$300.1 billion in the first six months of 2012. Excluding deals involving sovereign debt, activity was down by almost 50 percent. Asia-Pacific (including Japan) deal volumes during the first half of 2012 reached \$6.5 billion, up 26.3 percent from the same period last year.

The city council of San Bernardino, California, votes to become the third California municipality in 2012 to seek bankruptcy protection after officials learn they may not have enough cash to pay workers. San Bernardino, which has more than 200,000 residents, follows Stockton, a community of approximately 300,000 east of San Francisco, which on June 28 became the biggest U.S. city to enter bankruptcy. Mammoth Lakes, a mountain resort of 8,200, sought court protection from creditors on July 3, saying it could not pay \$43 million owed on a legal judgment, more than twice its general-fund spending for the year. Declining tax revenue, growing worker costs, accounting discrepancies, and an unemployment rate in the metropolitan area of almost 12 percent helped propel San Bernardino toward court.

Brokerage firm Peregrine Financial Group, operator of PFC Best, files for Chapter 7 protection after founder Russell Wasendorf, Sr., unsuccessfully attempts suicide, with as

- much as \$220 million in customer funds reportedly missing. Wasendorf will later be arrested after admitting responsibility in a suicide note for the fraud that led to the loss in customer funds.
- July 13 China's National Bureau of Statistics reports that the nation's growth slowed for a sixth quarter to the weakest pace since the global financial crisis began, putting pressure on Premier Wen Jiabao to boost stimulus to secure a second-half economic rebound.
- July 17 The nonpartisan State Budget Crisis Task Force releases a report studying the finances of California, Illinois, New Jersey, New York, Texas, and Virginia—which together represent nearly a third of the U.S. population. According to the report, these six states are facing long-term budget problems caused by rising health-care and pension costs, dwindling tax revenue, and cuts in federal funding that may raise the threat of more bankruptcies for local municipalities. The report identifies several major problems threatening states' ability to sustain financial stability: rising Medicaid costs, nearly \$3 trillion in unfunded government pension liability, more than \$1 trillion in health-care liabilities for public-employee retirees, budgeting gimmicks aimed at addressing short-term deficits, eroding tax revenue, and cuts in federal revenue.
- The U.S. National Climatic Data Center reports that more of the U.S. is experiencing drought conditions than at any time since 1956, prompting ranchers without adequate feed to liquidate cattle herds and driving up the price of beef, corn, and related products.
- July 18 The U.S. Financial Stability Oversight Council, created by Dodd-Frank to identify threats to U.S. financial stability, designates eight financial-market utilities as "systemically important": the Chicago Mercantile Exchange, The Clearing House Payments Company LLC, CLS Bank International, The Depository Trust Company, Fixed Income Clearing Corporation, ICE Clear Credit LLC, National Securities Clearing Corporation, and The Options Clearing Corporation.
- July 20 A report released by the U.S. Department of Education and the Consumer Financial Protection Bureau estimates that total outstanding student-loan debt exceeded \$1 trillion in 2011, composed of \$864 billion in federal government loans and \$150 billion in private student-loan debt. Cumulative defaults on private student loans exceeded \$8 billion, a sum

derived from more than 850,000 distinct loans. That total has risen in the last decade as lenders bypassed college financial-aid offices and marketed loans directly to students, who often signed on without realizing the difference between private and government loans or that government loans usually offer better terms.

July 23

An Associated Press survey of more than a dozen economists, think tanks, and academics indicates that the ranks of America's poor are on track to climb to levels unseen in nearly half a century, erasing gains from the war on poverty in the 1960s amid a weak economy and a fraying government safety net. According to the survey, which precedes U.S. Census Bureau statistics scheduled to be released in the fall, the official poverty rate will rise from 15.1 percent in 2010 to as high as 15.7 percent. Several participants predicted a more modest increase, but an increase of even 0.1 percent would put U.S. poverty at the highest level since 1965.

July 27

Spain reports a record unemployment rate of 24.6 percent. Youth unemployment rose to 53 percent in the second quarter. The rise in Spanish unemployment underlines the challenge faced by the government of Prime Minister Mariano Rajoy: to turn around an economy that is sinking further into recession and to clean up public finances. As part of a new €65 billion (\$86.5 billion) austerity package announced earlier in the year, the government is also set to reduce unemployment benefits.

President Obama's Office of Management and Budget announces that the U.S. federal budget deficit will be slightly lower for FY 2012 and for the rest of the decade than projected earlier this year. The required midyear update on the nation's fiscal health indicates that while revenues are coming in lower than projected—the consequence of a slowed economy—federal spending has been lower as well. For the fourth year since the financial crisis of 2008, the deficit will exceed \$1 trillion, totaling \$1.2 trillion for the fiscal year ending September 30. The updated estimate is \$116 billion lower than the \$1.3 trillion deficit forecast by the administration last February in President Obama's annual budget.

July 31

India suffers the largest electrical blackout in history, affecting an area encompassing about 670 million people, or roughly 10 percent of the world's population. Three of the nation's interconnected northern power grids collapse for several hours, as blackouts extend almost 2,000 miles, from India's eastern

border with Myanmar to its western border with Pakistan. For a country considered a rising economic power, Blackout Tuesday—which comes only a day after another major power failure—is an embarrassing reminder of the intractable problems still plaguing India: inadequate infrastructure, a crippling power shortage and, many critics say, a yawning absence of governmental action and leadership.

Eurostat reports that unemployment in the eurozone remained at a record high of 11.2 percent in June, significantly higher than the rate of 10 percent posted a year earlier. For the 27 nations of the EU, the unemployment rate was stable, at 10.4 percent. Eurostat estimates that 25.1 million were unemployed in the EU in June, 17.8 million of whom were in the eurozone.

- August 1 San Bernardino, California, a city of more than 200,000 residents on the eastern tip of Greater Los Angeles, files for Chapter 9 protection, the third city in the Golden State to do so in 2012, stoking concerns that other cities could follow suit. For the first time ever, the U.S. Postal Service defaults on a payment to Treasury. The post office warned of a default in a statement on July 31, saying it would not make the \$5.5 billion payment due on August 1 and that it would also default on a \$5.6 billion payment due September 30. Both of those payments are federally mandated and go toward prefunding retiree health benefits.
- August 3 Broker Knight Capital Group's electronic trading program runs amok over the course of 45 minutes, leading to \$440 million in losses and reigniting the debate over automated trading. The Administrative Office of the U.S. Courts reports that bankruptcy filings for the 12-month period ending June 30 totaled 1,311,602, 14 percent less than the 1,529,560 petitions filed in the 12-month period ending June 30, 2011. Nonbusiness filings totaled 1,267,167, and business filings totaled 379,790, both down 14 percent. Chapter 11 filings fell 14 percent to 10,921 from the 12,714 Chapter 11 filings in the same time period ending in 2011.
- August 8 U.S. government scientists report that July's average temperature for the contiguous United States was 77.6 degrees Fahrenheit, eclipsing the record set during the height of the Dust Bowl in 1936.
- August 10 With the worst drought in 50 years decimating U.S. crops, the

- government slashes its estimate of the annual corn yield to the lowest level since 1995. The failing crop will translate into higher prices for goods like processed food, animal feed, and ethanol.
- August 14 Eurostat data shows that the economy in the eurozone officially shifted to contraction from stagnation in the second quarter of 2012, portending a recession for the region later in the year that would put even more pressure on political leaders struggling to keep the common currency intact. Economists say the decline in output, caused partly by government budget cutting, means the eurozone is likely to enter recession, broadly defined as two consecutive quarters of shrinking output. Even the German economy, which helped compensate for weakness in Italy and Spain, appears to be losing momentum.
- August 20 Apple, a company that nearly filed for bankruptcy in 1996, becomes the most highly valued public company ever. Apple already boasted the largest market value of any public company, a distinction it has held since toppling ExxonMobil from that spot. However, until now, Microsoft still held on to the record for the biggest market capitalization ever, \$616.34 billion, which it set at the close of trading on December 27, 1999. Apple blows past that mark today when its stock surges 2.6 percent to close at \$665.15, giving it a market value of \$623.52 billion.
- August 22 The U.S. CBO projects a \$1 trillion-plus budget deficit for the fourth straight year, estimating that the red ink will total \$1.1 trillion for FY 2012, which ends September 30.
- August 23 It is reported that, after three decades of torrid growth, China is encountering an unfamiliar problem with its newly struggling economy: a huge buildup of unsold goods that is cluttering shop floors, clogging car dealerships, and filling factory warehouses. The glut of everything from steel and household appliances to cars and apartments is hampering China's efforts to emerge from a sharp economic slowdown. Problems in China give some economists nightmares in which, in the worst case, the U.S. and much of the world slip back into recession as the Chinese economy sputters, the European currency zone collapses, and political gridlock paralyzes the United States. China is the world's second-largest economy and has been the largest engine of economic growth since the global financial crisis began in 2008. Economic weakness means that China

is likely to buy fewer goods and services from abroad when the sovereign-debt crisis in Europe is already hurting demand, raising the prospect of a global glut of goods and falling prices and weak production around the world.

August 29

The U.S. Office of Mortgage Settlement Oversight, created as part of the \$25 billion settlement over abusive foreclosure practices, reports that the five largest U.S. mortgage servicers have given approximately \$10.6 billion in relief to borrowers under the terms of the settlement. Most of that aid, \$8.7 billion, came in the form of "short sales" (in which customers sell their homes for less than the mortgage value). Lenders including JPMorgan Chase & Co. and Wells Fargo & Co. also forgave \$749.4 million in mortgage debt, according to the report. The pact reached earlier this year requires lenders to spend \$20 billion on borrower relief and an additional \$5 billion in payments to states and the federal government. Unlike its competitors, Bank of America did not modify any first-lien mortgages to reduce the amount of money owed by the borrower, and it also did not complete any refinancings by June 30, according to the report. Bank of America did allow \$4.8 billion of short sales, the most of the five banks.

August 31

Health Affairs releases a study examining the impact of race and education on past and present life expectancy and trends in disparities from 1990 through 2008, concluding that in 2008, U.S. adult men and women with fewer than 12 years of education had life expectancies not much better than those of all adults in the 1950s and 1960s. When race and education were combined, the disparity was even more striking: in 2008, white U.S. men and women with 16 years or more of schooling had life expectancies far greater than black Americans with fewer than 12 years of education—14.2 years more for white men than black men, and 10.3 years more for white women than black women.

September 5

The World Economic Forum issues its Global Competitiveness Report 2012–2013, which assesses the competitiveness of 144 economies. The report shows that Switzerland tops the overall rankings for the fourth consecutive year. Singapore remains in second position, with Finland, in third position, overtaking Sweden (fourth). These and other northern and western European countries dominate the top 10, with The Netherlands, Germany, and the United Kingdom ranked fifth, sixth, and eighth, respectively. The U.S. (seventh), Hong Kong

(ninth), and Japan (10th) complete the top 10. The report emphasizes persistent competitiveness divides across and within regions, as short-termism and political deadlock continue to hold back the economic performance of many countries and regions. Looking forward, productivity improvements and private-sector investment will be key to improving global economies at a time of heightened uncertainty about the global economic outlook.

- September 6 The European Central Bank announces a sweeping new program for buying the bonds of troubled eurozone countries, giving the bank potentially unprecedented power as the lender of last resort. The program is designed to reduce the borrowing costs of Spain and Italy, to help them roll over their debts, and to get their economies moving again after two years of crisis.
- September 9 It is reported that, as the number of people taking out U.S. government-backed student loans has exploded, so has the number of those who have fallen at least 12 months behind in making payments—about 5.9 million people nationwide, up about a third in the last five years. In all, nearly one in every six borrowers with a loan balance is in default. The amount of defaulted loans—\$76 billion—is greater than the yearly tuition bill for all students at public two- and four-year colleges and universities, according to a survey of state education officials. To get the money back, the U.S. Department of Education during the last fiscal year paid more than \$1.4 billion to collection agencies and other groups to hunt down defaulters.
- September 10 The U.S. Treasury Department announces it plans to sell \$18 billion of its stake in American International Group Inc. (“AIG”), putting it on a path to turn a profit, a remarkable feat that no one anticipated four years ago at the peak of the crisis, when the widely criticized \$180 billion bailout of AIG was put in place.
- September 11 The Dow Jones reaches 13,323.36, its highest close since the end of 2007.
- The U.S. CBO reports that the government ran a \$192 billion deficit in August, putting the federal government \$1.17 trillion in arrears for FY 2012, the fourth year in a row that it has run a deficit exceeding \$1 trillion.
- A U.S. bankruptcy court confirms a Chapter 9 plan of adjust-

ment for the city of Central Falls, Rhode Island, the fastest resolution of a municipal bankruptcy in U.S. history (slightly more than 13 months). At the time Central Falls was placed into bankruptcy, the city of 19,000 was the smallest and poorest city in the state, facing an operating deficit of \$6 million in a budget of \$16 million, as well as approximately \$79 million in unfunded pension and retirement health-insurance obligations. Under the terms of the six-year plan, the city will have tax increases of approximately 4 percent annually through 2017; employee pension contributions and employee and retiree health-insurance contributions will increase; and retiree pensions will eventually be cut by up to 55 percent.

September 12 S&P's Global Fixed Income Research reports that approximately \$8 trillion in corporate debt will mature by the end of 2016, with \$1.76 trillion of that amount rated below investment grade and vulnerable to default. The report evaluates only the debt rated by S&P. The largest portion of the \$8 trillion in maturing debt will come due in 2014; \$2.21 trillion will mature that year, of which \$422 billion is speculative-grade, or junk-rated, debt.

Germany's Federal Constitutional Court rules that Germany can proceed with its contribution to the European Stability Mechanism ("ESM"), but subject to certain conditions, rejecting several applications for injunctions blocking laws approving the Treaty Establishing the European Stability Mechanism ("ESM Treaty") and the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union. The court directs that the ESM Treaty may be ratified only if, among other things, Germany's liability is limited to its share of approximately €190 billion in the authorized capital stock of the ESM. The ruling clears the way for the establishment of the ESM, to which Germany is obligated to contribute 27 percent of the authorized capital (€51.3 billion).

The U.S. Census Bureau reports that the income gap between the wealthiest 20 percent of American households and the rest of the country grew sharply in 2011, as an overwhelming majority of Americans saw no gains from a weak economic recovery in its second full year. Income for the top fifth of American households rose by 1.6 percent last year, driven by even larger increases for the top 5 percent of households. All households in the middle of the scale saw declines, while those at the very bottom stagnated. The numbers helped

drive an overall decline in income for the typical American family. Median household income after inflation fell to \$50,054, a level that was 8 percent lower than in 2007, the year before the recession took hold.

Dutch voters give Prime Minister Mark Rutte and his center-right Liberal Party a narrow victory over the center-left Labor Party, bringing a sigh of relief to European allies anxious about rising euro skepticism in the richer countries of the north. Voters reject more extreme calls for the Dutch to abandon the euro.

- September 13 The U.S. Federal Reserve opens a new chapter—"QE3," or "Unlimited QE"—in its efforts to stimulate the economy, announcing that it plans to buy mortgage bonds, and potentially other assets, until unemployment declines substantially. The Fed will expand its holdings of mortgage-backed securities and potentially take other steps to encourage borrowing and financial risk taking. For the first time, the Fed pledges to act until the economy improves, rather than creating another program with a fixed endpoint.
- The U.S. Commerce Department issues a formal disaster declaration for the Northeastern commercial groundfish fishery, paving the way for financial relief for the battered industry and the communities that depend on it. The declaration underscores the urgency of a groundfish depletion that has become apparent to many scientists and some fishermen who work in New England's waters.
- September 18 Professor Kenneth E. Scott and economist John B. Taylor of the Hoover Institute publish a book entitled *Bankruptcy Not Bailout: A Special Chapter 14*, which makes a case for fundamental reform of the oversight of large financial firms by, among other things, creating a new "Chapter 14" of the Bankruptcy Code to provide a credible alternative to bailouts for the resolution of such firms as a supplement to Dodd-Frank.
- September 19 Bill Gates tops the Forbes 400 list of the wealthiest Americans for the 19th straight year, with an estimated net worth of \$66 billion. Spots two through five went to Warren Buffett (\$46 billion), Larry Ellison (\$41 billion), Charles Koch (\$31 billion), and David Koch (\$31 billion). Facebook founder and CEO Mark Zuckerberg, who ranked No. 14 on the list in 2011, fell to a tie for 36th in 2012, as the plunge in Facebook stock since the social-media company went public in May shaved \$8.1 billion from the Facebook CEO's net worth (but still left him with a

- \$9.4 billion fortune).
- September 28 Consulting firm Oliver Wyman releases a Spanish bank "stress test" report concluding that Spain's ailing banking industry could need as much as €59.3 billion (\$76.4 billion) in additional capital. The report paves the way for Madrid to request bank-rescue loans that European finance ministers have agreed to extend. The number is within the range of previous estimates and well below the potential €100 billion (\$128.8 billion) in bailout money that Spain negotiated with other eurozone countries in June.
- October 1 Eurostat reports that unemployment in the 17-member eurozone rose to a record 11.4 percent in August, underscoring the pain inflicted by the slowing world economy and the euro crisis on citizens of the world's largest market. The unemployment rate for the 27-member EU came in at 10.5 percent.
- The U.S. Postal Service sinks deeper into debt after the agency defaults on a \$5.6 billion payment due at the end of September, the second time in 2012 that it misses a deadline to set aside money for its future retiree health benefits. The agency says it expects net operating losses to be \$15 billion for the fiscal year that ended September 30.
- October 3 The ABI Commission reports that U.S. commercial bankruptcy filings were down 22 percent in the first three quarters of 2012 against the same span last year, citing persistent low interest rates, though experts say the unusual length of the economic slump and other factors may be at work as well. According to the commission, 2012 has seen 44,750 business bankruptcy filings through September, compared with 57,613 for the same nine months in 2011. The data, compiled by Epiq Systems, Inc., also shows an 11 percent decline in Chapter 11 filings.
- The IMF's chief economist warns that the global economy will not be back in "decent shape" until at least 2018.
- October 4 Facebook founder and CEO Mark Zuckerberg announces that the social-media network founded in 2004 reached 1 billion users on September 14. Approximately one in seven people on earth now uses Facebook, given the U.S. Census Bureau's world-population estimate of 7.04 billion.
- October 5 The U.S. unemployment rate falls to 7.8 percent, its lowest level since the month President Obama took office.
- October 9 The IMF warns that the global economy risks skidding toward

recession just three years after pulling out of the previous one, adding that fighting a renewed worldwide downturn will be much more complex than it was in 2009. "Risks for a serious global slowdown are alarmingly high," the IMF's World Economic Outlook report states. It is the report's bleakest assessment of global growth prospects since the recession. The fund expects the world economy to expand by just 3.3 percent in 2012 and 3.6 percent in 2013, as growth slows in nearly every major nation.

October 12 The Obama administration reports that the U.S. federal deficit fell to \$1.1 trillion in FY 2012, down from about \$1.3 trillion a year earlier. It is the smallest deficit since 2008 but represents the fourth year in a row that the deficit has exceeded \$1 trillion. Before the recession, which prompted huge federal spending and large tax cuts, the deficit had never exceeded half a trillion dollars.

October 17 The ABI Commission, charged with studying the reform of Chapter 11, holds its first meeting in conjunction with the annual meeting of the Loan Syndications and Trading Association. Lending-industry leaders testify as to the positive effect that distressed-debt investors have had on the bankruptcy process. The commissioners deny that the commission is considering reforms which would place restrictions on claims trading in bankruptcy or weaken the rights of creditors who purchase debt on the secondary market because of a concern that distressed-debt investing has an adverse effect on the bankruptcy process. Commissioners also clarify that the commission is not considering any specific reform at the moment but is entirely in an information-gathering mode.

October 24 The trustee for Lehman Brothers Inc. reports that the remaining customers of the brokerage firm are at "the brink of a 100 percent distribution" if a bankruptcy court approves recent settlements with Lehman's London unit resolving \$38 billion in claims, meaning that all 110,000 brokerage customers would have received every cent of their \$105 billion back.

The U.S. government sues Bank of America, alleging more than \$1 billion in losses in connection with loans purchased by Fannie Mae and Freddie Mac. The complaint focuses on actions by the now defunct Countrywide Financial Corporation and its lending units, which Bank of America acquired in July 2008. The suit claims that Bank of America and Countrywide were both at fault for a high-speed, low-quality-control loan

- origination process that began in earnest in August 2007 and continued through 2009. The complaint seeks treble damages under the False Claims Act and civil penalties under the Financial Institutions Reform, Recovery, and Enforcement Act.
- October 26 Spain's unemployment rate surpasses 25 percent, with the ranks of the unemployed swelling to 5.78 million people at the end of the third quarter, compared with 2.6 million four years ago, when Spain's property bubble burst. The labor picture is so bleak that it could help Prime Minister Mariano Rajoy make the case that Germany and other lenders cannot risk imposing further austerity measures on Spain's economy in return for providing more European rescue funding.
- October 30 Hurricane Sandy (dubbed "Frankenstorm," together with an early winter storm advancing from the west) lashes the Eastern Seaboard of the U.S., killing 106 and leading, by some estimates, to as much as \$50 billion in economic loss for the world's largest economy. Sandy descends on a region with 60 million people, forcing the closure of U.S. financial markets, halting air and rail service, and idling workers in the federal and state governments from Virginia to Massachusetts.
- October 31 Eurostat reports that the jobless rate in the 17-nation currency union rose to a record 11.6 percent. Spain continues to have the highest jobless rate, at 25.8 percent. Greece, where the European sovereign-debt crisis began, was next at 25.1 percent. Austria, at 4.4 percent, had the lowest unemployment rate. For the EU overall, the unemployment rate in September stood at 10.6 percent. By way of contrast, the U.S. had an unemployment rate of 7.8 percent, and joblessness in Britain was at 7.9 percent.
- The U.S. Federal Deposit Insurance Corporation ("FDIC") files the first suit against an auditor of a bank brought down by the 2008 financial crisis. The FDIC, as receiver for the Colonial Bank of Montgomery, Alabama, sues PricewaterhouseCoopers and Crowe Horwath, claiming that they committed professional malpractice and breach of contract by failing to detect that two Colonial employees helped the notorious (and now defunct) mortgage lender Taylor Bean poke hundred-million-dollar holes in Colonial's balance sheet.
- November 6 Barack Hussein Obama is reelected president of the U.S., overcoming powerful economic head winds, a lock-step resistance to his agenda by Republicans in Congress, and an unprecedented torrent of advertising as a divided nation votes

to give him more time. Mr. Obama's victory in the bruising campaign marks a landmark in modern election history. No sitting president since Franklin D. Roosevelt in 1940 has won reelection with a higher unemployment rate, which stands at 7.8 percent. It is also the first time since 1816 that the U.S. has had three consecutive two-term presidents.

November 7 The Administrative Office of the U.S. Courts reports that bankruptcy filings in FY 2012 (the 12-month period ending September 30) totaled 1,261,140, down 14 percent from the 1,467,221 bankruptcy cases filed in FY 2011. Business bankruptcy filings totaled 42,008, down 16 percent from the 49,895 business filings reported in FY 2011. Nonbusiness bankruptcy filings totaled 1,219,132, down 14 percent from the 1,417,326 nonbusiness bankruptcy filings in FY 2011. Chapter 11 filings fell to 10,597, down 12 percent from the 11,979 chapter 11 filings reported in FY 2011.

November 14 For the first time since the start of the euro crisis, labor unrest takes on a European dimension as Spanish and Portuguese workers coordinate a general strike, while unions in Greece and Italy also plan protests and work stoppages. Spain's heavy industry and large parts of its transportation network are slammed by the second general strike since the Popular Party of Prime Minister Mariano Rajoy came to power in December 2011. The Spanish strike is called by unions after Mr. Rajoy presents a tough austerity budget for 2013 and the country's jobless rate reaches a record 26 percent. Portugal faces a similar situation, with soaring unemployment and budget cuts imposed to comply with the terms of a \$100 billion bailout agreement reached in 2011 with international creditors.

November 15 Xi Jinping is elected to the post of general secretary of the Communist Party of China ("CPC") and chairman of the CPC Central Military Commission by the 18th Central Committee of the CPC. It is expected that he will become president, China's head of state, in March 2013, when the National People's Congress convenes.

British oil company BP agrees to pay \$4.5 billion in fines and other payments to the government and plead guilty to 14 criminal charges in connection with the giant oil spill in the Gulf of Mexico in 2010. The payments include \$4 billion related to the criminal charges and \$525 million to securities regulators.

The U.S. Postal Service reports a record \$15.9 billion net loss

for the fiscal year that ended September 30, bringing the financially troubled agency another step closer to insolvency. The widely expected loss, more than triple the post office's loss last year, includes accounting expenses of \$11.1 billion related to two payments that the agency was supposed to make into its future retiree health-benefits fund. Because of revenue losses, the post office, for the first time, was forced to default on these payments. Nearly \$5 billion in other losses are due to a decline in revenue from mailing operations.

November 16 Iconic 82-year-old Hostess Brands, the maker of Wonder Bread, Twinkies, and HoHos, announces that it plans to wind down operations and sell off its portfolio of well-known brands, one week after one of the company's biggest unions went on strike to protest a labor contract. Hostess filed for Chapter 11 protection for the second time in January 2012, as the national appetite for snack foods waned. The work stoppage by the Bakery, Confectionery, Tobacco Workers and Grain Millers Union affected nearly two-thirds of Hostess's factories across the country. Hostess will soon begin to shut down the company's 33 bakeries and 565 distribution centers, prompting a rush to hoard the remaining supply of Hostess sweets. The vast majority of its 18,500 employees will be laid off.

New figures released by the U.S. Census Bureau show a spike in poverty during 2011, with the number of impoverished Americans increasing from 49 million in 2010 to 49.7 million in 2011. The findings contradict congressional estimates in September, which predicted that the number of impoverished Americans would drop to 46.2 million. Based on an updated formula devised by the Census Bureau to help the government better understand how to use safety-net programs, the report also states that nearly 20 percent of American children continue to live in poverty.

November 19 Moody's Investors Service downgrades France's sovereign-debt rating by one notch, to Aa1 from Aaa, citing the country's uncertain fiscal outlook as a result of "deteriorating economic prospects." S&P also downgraded France by one notch in January 2012. The loss of the top rating from two agencies poses a problem for France, as investment funds often require their best assets to have a minimum of two top-notch ratings to remain in their portfolios. On top of this, borrowing costs for France could rise.

November 20 Former UBS AG trader Kweku Adoboli is sentenced to seven

- years by a London judge after being found guilty of fraud in relation to a \$2.3 billion loss, the largest from unauthorized trading in British history.
- November 23 U.S. "Black Friday" retail sales online top \$1 billion for the first time ever, as more consumers use the internet to do their early holiday shopping. Online sales jumped 26 percent on Black Friday to \$1.04 billion from a level of \$816 million in 2011.
- November 30 The ABI Commission to study the reform of Chapter 11 wraps up its hearing schedule for 2012 after holding five public hearings to examine such topics as the expansion of the use of secured credit, the growth of distressed-debt markets, and other externalities that have affected the effectiveness of the current Bankruptcy Code. The commission expects to issue a report of its recommendations in April 2014. It anticipates holding as many as seven field hearings in 2013.
- December 1 This day marks the fifth anniversary of the beginning of the Great Recession, which according to the U.S. National Bureau of Economic Records began in December 2007, when the U.S. economy peaked.
- December 5 George Osborne, Britain's chancellor of the exchequer and the architect of the nation's austerity program, tells Parliament that the government missed one of its self-imposed debt-cutting goals and will have to extend the belt tightening into 2018, a year longer than previously promised.
- December 7 The U.S. Labor Department reports that employment growth was much better than expected in November, with the U.S. economy adding 146,000 jobs and the unemployment rate falling to 7.7 percent.
- December 10 A report by the U.S. National Intelligence Council projects that China will outstrip the U.S. as the leading economic power before 2030 but that America will remain an indispensable world leader, bolstered in part by an era of energy independence. The report projects that Russia's clout will wane, as will the economic strength of other countries reliant on oil for revenues. One remarkable development it anticipates is a spreading affluence that leads to a larger global middle class which is better educated and has wider access to health care and new communications technologies, like the internet and smartphones. The report warns that at least 15 countries are "at high risk of state failure" by 2030, including Afghanistan,

Pakistan, Somalia, Burundi, Rwanda, Yemen, and Uganda.

The U.S. Treasury announces that it plans to sell all of its remaining 234.2 million shares of AIG in a public offering that would raise more than \$7.8 billion. The stock sale would realize a goal few dreamed possible in September 2008 in the midst of the financial crisis; the government expects to walk away from AIG with a profit of more than \$15 billion.

- December 11 British authorities make the first arrests in the global investigation into interest-rate manipulation ("LIBOR-gate"), an inquiry that has ensnared the world's biggest banks. The U.K.'s Serious Fraud Office arrests three people in connection with rate rigging, including Thomas Hayes, a 33-year-old former trader at Citigroup and UBS, and an employee of RP Martin, a British brokerage firm that previously surfaced in the Canadian investigation into rate manipulation.

Dealing another blow to organized labor, Michigan, the heartland of the U.S. automobile industry, becomes the 24th state to pass right-to-work legislation designed to curb union power.

- December 12 For the first time ever, the U.S. Federal Reserve announces that its interest-rate policy will be pegged to the unemployment rate. The Fed decides to keep the target range for the federal funds rate at 0 to 0.25 percent and anticipates that this exceptionally low range will be appropriate at least as long as the unemployment rate remains above 6.5 percent, unless core inflation rises to more than 2 percent.

- December 13 EU leaders agree to place banks in the euro area under a single supervisor, calling it a concrete measure to maintain the viability of the currency as well as a step toward a broader economic union. The agreement would put between 100 and 200 major banks under the direct oversight of the European Central Bank, leaving thousands of smaller institutions to be overseen principally by national regulators. The new system is designed to strengthen oversight of a sector that, under the supervision of national regulators, failed to prevent banks from amassing debt quantities which could endanger the finances of eurozone states and threaten the future of the currency. The supervision mechanism, whose details have yet to be finalized, is to be fully operational by March 2014 and is subject to the approval of the European Parliament and national legislatures before it goes into effect.

- December 17 The U.S. Treasury Department reports that total foreign holdings of U.S. Treasuries hit a record \$5.5 trillion in October 2012. China, the largest holder of U.S. government debt, increased its holdings slightly to \$1.16 trillion. Japan, the second-largest holder, boosted its holdings by a smaller amount to \$1.13 trillion. Brazil, the country with the third-largest holdings, increased its total to \$255.2 billion. The new figures show investors still seeking the perceived safety of U.S. Treasuries, even as lawmakers and President Obama remain at odds over whether to raise the U.S. borrowing limit as part of a broader deal to avert the “fiscal cliff.”
- December 19 UBS AG agrees to pay a record 1.4 billion Swiss francs (\$1.5 billion) to U.S., U.K., and Swiss regulators to settle allegations of “pervasive” and “epic” efforts to manipulate interbank lending rates as two of its former traders face the first criminal charges in the worldwide LIBOR scandal.
- The U.S. Treasury Department announces plans to sell off its entire 32 percent stake in General Motors within 15 months, eliminating another reminder of the bailouts precipitated by the financial crash of 2008.
- December 20 Responding to the December 14 massacre of 20 first-graders and six teachers at Sandy Hook Elementary School in Newtown, Connecticut, private-equity fund Cerberus Capital Management announces that it will divest its ownership interest in the Freedom Group, which manufactures the Bushmaster assault rifle used in the attacks. The massacre reignited a long-simmering debate about gun control in the U.S. as well as investment in gun manufacturers.
- NYSE Euronext, the owner of the 220-year-old New York Stock Exchange, agrees to an \$8.2 billion deal that would give control of the longstanding symbol of American capitalism to an upstart competitor, the IntercontinentalExchange (“ICE”). The takeover signals the revival of consolidation in the world of market operators, after a wave of deals was quashed amid concerns over antitrust and nationalist sentiment. ICE had partnered with NYSE Euronext’s main rival, the NASDAQ OMX Group, in an \$11 billion hostile bid for the Big Board’s parent, but that offer was blocked by the U.S. Justice Department. NYSE Euronext had sought to combine with Deutsche Börse, creating a global giant in the trading of derivatives, but that merger was stymied by European antitrust regulators.
- December 30 The state of Michigan enacts legislation that establishes a

process for troubled local governments to choose from four options to address financial emergencies. The law provides that if an independent review team finds a financial emergency and the governor concurs, the jurisdiction can choose to either sign a consent agreement, have an emergency manager appointed (who has authority to void union contracts), undergo a neutral evaluation process, or file for Chapter 9 protection.