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Market Commentary

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The Pandemic

As expected the Omicron surge ripped through Europe and America causing about 60,000 deaths in the US, a similar number in Europe and once again disrupting the world economy. In this situation the Supreme Court decided to eviscerate the President's plan for controlling the epidemic. The President's goal was to diminish community spread in the workplace and in medical facilities.

His plan was to require employees of large firms and medical workers to follow a program of either masking and weekly testing or to present proof of vaccination. The Court took the apparently moderate course of upholding the plan for medical workers while overturning it for general workers. Unfortunately, the moderation is apparent rather than real as the vast majority of community spread is occurring outside of medical facilities.

The details of the Court's decision should be looked at as it is predictive of future decision making by the Court. The Court split 3-3-3. The trio of Thomas, Alito, and Gorsuch were fundamentally opposed to Federal authority. The trio of Kavanaugh, Barrett and Roberts sought a position of moderation. In Robert's case sensitivity to the diminishment of the Court's authority which results from hard line ideological decision making is probably the major concern. For him it was important that the Court appear moderate. The opinion of the Court was issued unsigned by this group. Their weighing of the matter was that the proposed plan was a big thing while the line of authority for the plan from statute and precedent was in their judgment inadequate. In a curious bit of reasoning, the Court held that as the hazard of Covid was prevalent in society as a whole and not just the workplace, OSHA lacked authority to protect workers in the workplace. But whereas workers to some extent control the hazards they take in their homes and in their participation in the public square, in the workplace they surrender that control to the employer. OSHA's entire mission is to set minimum standards in the workplace to counterbalance this loss of personal control. The decision of the Court fails to command our respect. Opposed to the majority of 6 was the trio of Breyer, Sotomayor and Kagan. They were willing to uphold the Federal government's traditional authority. Their dissent was a strongly argued line by line refutation of the Court's opinion.

Beyond doubt this is no way to manage an epidemic. President Biden has been hemorrhaging political authority for six months. Primarily this is the result of trying to do more than his political base will support and of not growing support for his initiatives by building a wider coalition – even if it grows only through ad hoc incorporation of frenemies. He should ask Congress for a joint resolution empowering him to take all necessary steps to suppress the epidemic. He most likely would not get such a request, but it would force his opponents to shoulder their share of the responsibility for the continuation of the epidemic. Only a rather blanket grant of authority will, in our view, be adequate to tamp down continuing interference by the Court.

The Ukraine

Diplomats met to discuss the Ukraine question. Putin's opening demand was that he should receive the fruits of having won a major war. The United States' written response (pointedly not called a Note) was not published. What was published was the putting of 8000 troops on alert for secondment to the NATO rapid reaction force, combined with withdrawal of diplomatic families from Kiev. This was swiftly followed by direct deployment of 2000 specialist troops to Europe. China, which normally is a consistent voice for national self determination, chose instead to complain about military blocks not respecting Russia's reasonable security concerns. The majority of the Republican party urges the President to take a strong line in resisting Russian aggression, while the Trump wing urges instead betraying the Ukraine and seeking accommodation with Russia.



The United States chose this moment to reveal that the mysterious Havana syndrome of brain injury suffered by its diplomats is the likely consequence of their being targeted by radio or ultrasonic waves. No country engaged in this alleged activity was identified, but an attack on the person of a country's diplomats is a classic *causis belli*.

Its attention suddenly caught by the resurgence of the Cold War, the stock market shed 1000 points before making a partial recovery. We have been calling attention to the deteriorating great power relations for six months.

In last month's commentary we suggested that Putin's thinking was dominated by security concerns even if couched in Russia's traditional aggressive manner. The swirl of events grows too fast and too obscure for us to have much confidence in how this matter will ultimately resolve. We think, however, that there is adequate room for a diplomatic solution to emerge which results in a considerable lessening of tensions. A Russian military move is, by contrast, pregnant with considerable long term risk for Russia. We feel Putin is a careful calculator of consequences and he will avoid a situation which escalates out of his control.

The Ukrainian crisis tests the value of an informal US protectorate. Taiwan and China are undoubtedly watching the situation closely. China, in fact, carried out another military demonstration against Taiwan in response to near by US-Japanese naval exercises.

Iran continues to make progress on its nuclear arms program. The US is presumably too preoccupied otherwise to be attending to this. We think, however, that Israel and Saudi Arabia are considerably more focused on the issue. North Korea has resumed its missile tests - a minor annoyance by a minor power.

Domestic Politics



The Justice Department has indicted 11 members of a militia for conspiracy to commit sedition. According to the indictment they began planning the seizure of Congress two days after the national election – a point at which none of the major networks had yet called a winner in the election. The Justice Department appears to be considering charges of election fraud against Republican party officials in seven states. Although Biden won all of these states, the Republican officials submitted false electoral ballots purporting to direct the electoral votes of their states to Trump.

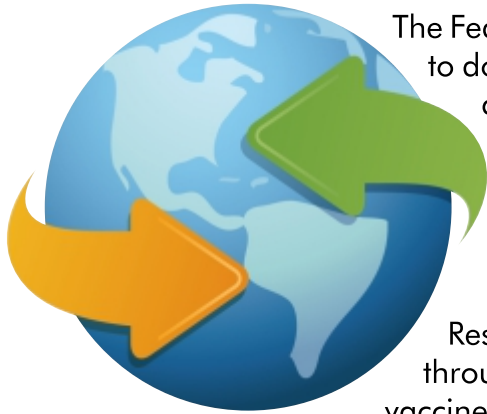
This scheme appears to be the brainchild of Rudy Giuliani and the Trump campaign. The House committee investigating the January 6 event is temporarily silent as it plows through cartons of White House documents which its subpoenas finally extracted from the National Archives.

At this point the legal peril to Trump is so extensive as to need a table to keep track of. It is hard to believe he will remain unindicted at year end. His risk of ultimately being jailed and/or significantly impoverished seems considerable. Nevertheless, his grip on the Republican party remains tight. Only Cheney and McConnell dare to publicly oppose him and much of the party competes to toady up to him. The PAC controlled by Trump disposes of twice the funds controlled by the Republican National committee.

Trump's Major Legal Perils			
Category	Potential Charge	Authority Handling	Stage
Criminal	Conspiracy to commit sedition	Department of Justice	field operatives indicted; link to WH not yet alleged
	Dereliction of duty in suppressing sedition	House Select Committee	fact gathering
	Inciting a riot	District of Columbia DA	appears quiescent
	Filing fraudulent electoral ballots	Department of Justice	believed to be under investigation
	Conspiracy to fix the Georgia election	Fulton County, Georgia DA	grand jury empanelled
	Scheme to evade payroll tax	Manhattan District Attorney	CFO of Trump Organization indicted
	Abuse of authority in re military aid to Ukraine	Department of Justice	no recent news
Civil	Embezzlement of Mary Trump's trust interest	New York State Court	initial stages
	Defamation of E Jean Carroll	Federal Appeals Court for DC	decision as to whether suit may proceed
	Income Tax Fraud	New York State Attorney General	enforcing subpoenas
	Bank Fraud	New York State Attorney General	enforcing subpoenas

Nevertheless Republicans are optimistic about regaining Congressional power in November 2022 and Presidential power in 2024. They have some reason for their optimism. Biden's efforts to restore a normal collegial political culture has hamstrung Democratic efforts to confront ruthless political aggression from Trump and the Republican party more generally. But we think Republican politicians are rash to ignore the public's increasing unhappiness with political infighting damaging the national wheel. We expect 2022 to be a bad election for incumbents and, in fact, the retirement rate of incumbents is running above the normal rate.

The Economy



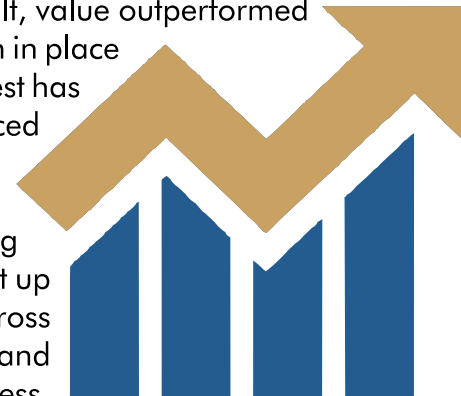
The Fed met and announced that in two months it thought it might get around to doing something about inflation – now running at 7% per annum (5.5% core inflation rate.) Companies have begun releasing fourth quarter results and the results are distinctly mixed. The Bank of America has predicted a slow down of first quarter GDP growth to 0-1% from the 2-3% previously expected. Covid is the cause of much of the mixed results and of the expected slow down.

Results offshore are mixed. China, which has kept Covid under control through a combination of strict social measures and limited efficacy vaccine, grew at a 4% rate. This rate, however, is a distinct slow down from the normal 6-8% growth rate. China's main difficulties are an over leveraged real estate sector and snarled supplied chains. Australia and Japan have been pretty successful in controlling Covid with strong social measures and partial deployment of high efficacy vaccines. Their economies appear only moderately impacted by the pandemic. Australia grew at 4% and Japan at 1.2% - normal results for each. Europe is gradually converging on requiring universal vaccination while its social measures are confused. Its economy grew at 4%, which is better than the long term norm. Brazil has seen a popular revolt against Bolsonaro's reckless Covid policies and this revolt is growing into a political rejection of his economic policies as well. The Brazilian economy however grew at a 4% rate. India continues to manage the pandemic pretty well and the economies performance was a sparkling 8.4% growth rate. Reflecting this strength, the Indian stock market turned in a nearly 30% return in 2021.

Financial Markets

The US stock market decided it was time to send Jeremy Grantham an early valentine as a reward for his life long devotion to studying value in the market. Grantham has built a strong reputation over the years, but his too early call of a market top in 2006 followed by a partial revocation in 2008 damaged his reputation and whipsawed some of his client's portfolios. Undaunted Grantham issued a warning about super bubbles in January and this time his timing was impeccable. Within two weeks the market was hit with severe volatility and sold off 8% from the all time high it had achieved at year end.

Since that sell off there has been a partial recovery. The US Large Cap has been the rising bell-weather and its 5.2% sell off is a modest break from trend. The growth stock portion of the large cap sold off 8.6% versus a decline of only 1.5% in the value portion. As a result, value outperformed growth by 7% for the month. This continues a trend which has actually been in place for six months. Basically as the growth sector has become fully priced interest has been rotating to the value sector. A decline in the market has hit fully priced growth stocks with declining momentum particularly hard. US mid/small caps followed the large caps downward. Developed international stocks also declined but somewhat less than US stocks. International emerging markets were relatively strong as these markets are less likely to get caught up in great power confrontations. The fixed income market has been falling across the board for six months. The last month continued the decline with short and midterm Treasuries representing relative strength and TIPS relative weakness.



In the commodity group real estate declined 8% - hit by rising interest rates and reduced economic growth prospects. The Euro continued on its declining trend but at a slower rate – apparently little effected by the threat of war in its backyard. Gold might have been expected to soar on rumors of war and the fact of inflation, but instead it was flat. Oil resumed the upward trend initiated by a recovering global economy and supercharged by the prospect of disruption in Russian gas supply to Europe. Overall the markets seems unimpressed by political risk and confident that inflation will be brought under control. The basically bullish stance thus remains intact albeit with sector rotation from growth to value continuing.

Recent Market Performance				
Category	Asset Class	6 month trend	3 month return	1 month return
Equity	US Large Cap	rising	-1.53%	-5.20%
	US Large Cap Growth	slowing rise	-4.38%	-8.61%
	US Large Cap Value	rising	1.45%	-1.46%
	Growth – Value	falling	-5.83%	-7.15%
	US Mid/Small Cap	flat	-7.78%	-5.65%
	Intl Developed	flat	-5.82%	-3.35%
	Intl Emerging	falling	0.16%	-0.12%
Fixed Income	3-7 Year Treasury	falling	-1.81%	-1.15%
	7-10 Year Treasury	falling	-1.95%	-1.42%
	TIPS	falling	-2.16%	-2.48%
	Muni	falling	-1.82%	-2.23%
	Investment Grade	falling	-2.44%	-1.50%
	Medium Grade	falling	-2.11%	-2.58%
Commodity	Preferred	falling	-4.43%	-4.04%
	REIT	flat	-2.03%	-8.28%
	Euro	falling	-2.83%	-1.26%
	Gold	flat/rising	0.63%	0.04%
	Oil	rising	4.65%	15.42%

Advice

Foolish politics, great power frictions and market volatility are among the constants of life. Long term investors should take note of them but not alter course because of them.

