

ARCHIMEDES IN THE BATHTUB

Will central banks' plunge into equity markets cause massive displacement?

By John Rubino

Toward the end of 2016, US Federal Reserve Chairwoman Janet Yellen began expressing a casual wish with potentially huge implications: She'd like the Fed to start buying equities. As she told a group of Kansas City bankers in September, "It could be useful to be able to intervene directly in assets where the prices have a more direct link to spending decisions."

For an institution that a decade ago was limited to setting overnight interest rates—and that carried a balance sheet valued in billions rather than trillions of dollars—buying common stocks might seem like an alarming example of mission creep with myriad unintended consequences. But the Fed, should it decide to take that step, would not be alone. Several central banks are already active stock market "investors," and others, including the European Central Bank (ECB), are being urged to consider it.

The Bank of Japan (BoJ), for example, has been battling deflation since the 1990s and, after vacuuming up every available government bond, recently began buying equity exchange-traded funds (ETFs). By year-end, it is forecast to be the largest shareholder in 55 major domestic firms.

Also, the Swiss National Bank (SNB), in an attempt to manage its too-popular currency, has become a major shareholder of Apple (15 million shares) and Microsoft (20 million shares), among many other global blue-chip stocks. The bank's stock portfolio grew by 41% over the 12 months ending June 2016 to a value of about \$127 billion, close to 20% of its total foreign currency reserves.

Why are these central banks behaving like hedge funds? Because "The current iteration of QE has reached its limit," says Joseph Gagnon, senior fellow at the Washington, DC-based Peterson Institute for International Economics. "[The BoJ and SNB] now own most of the available government bonds in their territories." Yet, their economies still require monetary stimulus, so those central banks are moving on to the next big, accessible asset class.

Now, a rising chorus of voices—including the Fed chair herself—is urging the world's two biggest central banks to follow suit. "You don't want to tie your hands when you don't know what you



Illustration by Robert Meganck

might need your hands for,” says Gagnon. “And, it’s possible that the most neutral monetary policy is not one in which a central bank only holds Treasury paper but one in which it holds a market-weighted basket of all securities—corporate bonds, REITS, equities, anything that trades on exchange.”

A FIRE IN NEED OF A SPARK

Will 2017 be the year in which the Fed and the ECB start buying equities? Probably not, says Nick Kounis, head of macro and financial markets research at Dutch bank ABN AMRO: “When equity valuations are depressed and markets are pricing in large systemic risks, central banks buying equities can have a significant impact.” But with share prices near their all-time highs in early 2017, “you’ll have a less significant impact and greater concerns about what impact you do have,” he says.

So, what would it take for the Fed and ECB to join the equity-buying party? The following three scenarios, all of which seem possible (and are perhaps even probable) before decade’s end, could create the right conditions:

1. ANOTHER RECESSION. The current global expansion began in 2009, which makes 2017 its ninth year. According to the National Bureau of Economic Research, the average expansion lasts just under six years. If history is a guide, this average suggests that the present expansion is likely to end fairly soon, to be followed by the usual equities bear market and related financial disruptions.

Qualitative versus Quantitative Easing

By acquiring equities, central banks are departing from business as usual in more ways than one. The current version of quantitative easing—that is, buying bonds from banks in return for capital infusions—is just about increasing the quantity of money in circulation,” says Patrick Artus, chief economist at French investment bank Natixis. “To achieve this, you can buy whatever you want, because you’re interested not in the nature of the assets but the money supply. You want to build bank reserves to give banks an incentive to lend more. Or you want to increase holdings of cash by insurance companies or pension funds so they finance more of the economy.”

Buying equities is *qualitative* easing, because it targets a specific type of asset with the goal of raising its market value. This higher value activates the wealth effect, through which owners of rising shares feel richer and choose to spend some of their gains, thus boosting retail sales, homebuilding, or business investment. An example of this dynamic in action, says Artus, is the US Federal Reserve buying mortgage-backed bonds and agency securities during the Great Recession. “The goal was to raise the prices of those bonds relative to Treasuries in order to restart mortgage lending.”

Equity buying can also be seen as a “direct transition mechanism,” says Michael Kretschmer, CFA, chief investment officer at Dutch investment firm Pelargos Capital. “When central banks buy assets from risk holders, the proceeds are more likely to be reinvested in risk assets, thus reducing the amount of available risk assets. As supply diminishes, prices increase.”

2. A BOND SHORTAGE. During the next downturn, the ECB and Fed will find that, since they already own such a large part of their countries’ sovereign debt, QE on the necessary scale might quickly soak up what’s left. In any event, “as central banks have recently discovered, adding reserves to commercial-bank balance sheets during a recession is not an efficient way to boost lending,” says Kounis.

3. THE ZERO BOUND. Pushing interest rates below their current historic-low levels will be either impossible or counterproductive, predicts Gagnon: “We’re not going to see 10-year bond yields go much below zero, because people will just hold cash rather than government bonds that yield a big negative number. That means monetary policy is constrained at the zero bound and [central banks] need other tools.” This constraint is especially true for Europe, where rates are already below zero in many cases. But, the US is not far behind.

The result? “In the next bear market, buying equities, whether we like the idea or not, will be part of the policy mix,” says Michael Kretschmer, CFA, chief investment officer at Dutch investment firm Pelargos Capital.

FEDERAL RESERVATIONS

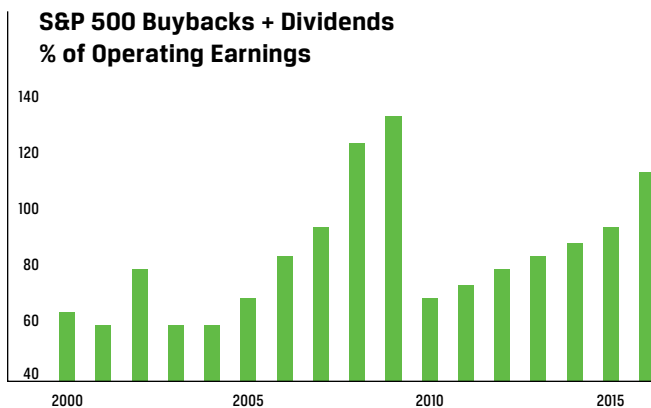
A set of circumstances in which the ECB and Fed are forced (or freed) to buy vast numbers of equities would represent a sea change in government policy. What would this shift mean for the economy, the financial markets, and the money managers who must navigate them?

Somewhat (but not drastically) higher stock prices. “Central banking policy is shifting from lender of last resort to buyer of last resort, which means the ‘Greenspan put’ has become a key part of monetary policy,” says Kretschmer. He envisions “a very favorable demand environment for listed equities” in which historical valuation measures such as P/E and dividend yield are less relevant than in the past.

But, at least some of this added demand is already priced in, says Patrick Artus, chief economist at French investment bank Natixis. “QE and very low interest rates have an indirect effect on equity prices [by making stocks more attractive relative to artificially depressed bond yields],” he says. “Another efficient way of raising equity prices is to weaken the currency. There’s a strong inverse correlation between, for instance, the yen and Nikkei and the euro and European stocks.” The ECB’s aggressive QE program, by contributing to the recent big drop in the euro’s value, has already boosted European equity prices.

Meanwhile, the developed world’s zero interest rate policy/negative interest rate policy (ZIRP/NIRP) has resulted in much lower borrowing costs for corporations across the quality spectrum, leading to a huge burst in corporate bond issuance. Most of the proceeds—especially in the US—have gone toward dividend increases and share repurchases, which have also supported share prices. Accordingly, as shown by the chart on page 59, buybacks and dividends have accounted for a rising share of operating earnings.

All of this means that central banks’ switch from bonds to equities is on balance positive for the latter, but only



Sources: S&P, Yardeni & Co.

modestly so, because QE and ZIRP are already very helpful.

Market distortions. If stock markets exist to efficiently allocate capital through price discovery, then how does equity-index buying by central banks affect this signaling mechanism? Put another way, if public money is flowing into broad market indexes without regard to the constituent companies' relative merits, how can investors and other capital allocators separate wheat from chaff?

The answer, says Kretschmer, is that they can't: "Price discovery is to capitalism what free speech is to democracy. Central banks buying equity ETFs indiscriminately rewards public companies regardless of corporate performance. Capital market participants would then need to question whether there is still truth in price."

A related problem with central-bank index buying is that it subsidizes size. Because ETFs tend to contain the shares of established firms, buying them with public funds raises their value relative to smaller, non-favored players. This competitive advantage might be used to consolidate industries, lobby for regulations that stifle pesky newcomers, and generally constrain market dynamism. The result, predicts Kretschmer, might be "greater concentration and less innovation going forward."

Are the Fed and ECB Allowed to Buy Equities?

Right now, it's unclear whether the current rules allow the Federal Reserve or the European Central Bank (ECB) to simply start buying equities. For the ECB, "The limitation is the degree of risk of assets it's buying," says Patrick Artus, chief economist at French investment bank Natixis. Investment-grade corporate bonds are acceptable under the current rules because "they don't present a very big risk. But equities represent too much risk, which would be passed to taxpayers."

The Fed, meanwhile, can and does buy relatively risky assets, such as agency bonds (it effectively nationalized the mortgage market in 2009), but it has so far refrained from buying equities. Whether this is the result of legal restrictions is a matter of some debate. As Greg Shill, a lawyer and fellow at NYU School of Law, said in a recent blog post:

"The Federal Reserve Act does not expressly authorize the Fed to buy equities. Yet the mere fact that a government agency

Moral hazard. Does public support for equity prices encourage investors to ignore risk because they assume central banks will protect them? The short answer is yes.

"Central banks are not constrained by balance sheets, so betting against them is a fool's game and investing along with them a rational decision," says Kretschmer. As a result, "follow the public money" has already replaced fundamental analysis in the minds of many bond analysts. With equities, he says, "it's possible that investors will be encouraged to front run central-bank buying programs. And, it's fair to assume that society will take on more risk than it would or could if left to the price-finding mechanism of the market."

Back-door industrial policy? If central banks become major shareholders in—and, therefore, owners of—large companies, is the result a form of industrial policy in which governments gain the power to direct private investment and strategic planning? (Imagine, for a moment, the reaction of President Trump to the discovery that the United States owns a controlling stake in GM and Ford.)

This scenario is not currently a problem but, human nature being what it is, could well become one in the future. It's easy to picture the ECB or Fed, for instance, refusing to buy shares in tobacco or fossil fuel companies or in firms that do business with Israel or Russia. Already, notes Kounis, "the BoJ has become a bit more directive as it tries to fashion ETF baskets containing companies with favored characteristics."

Risk of loss for taxpayers. It's one thing for a central bank to own bonds issued by its own and other governments, because those instruments are generally seen as risk free when held to maturity. Stocks, on the other hand, can fluctuate wildly and sometimes evaporate completely, potentially saddling the bank—and, by implication, taxpayers—with big losses.

But this fear is overblown, says Gagnon. "[The riskiness of equities] isn't revolutionary, because central banks could always lose on their foreign-exchange reserves. And with the Bank of Japan holding 10-year bonds with a zero coupon, the best they can make is zero, while they can [if forced to sell before maturity] potentially lose a lot of money."

lacks express statutory authorization to pursue a given policy does not necessarily render that policy illegal. Assuming no other provision of law forecloses that policy (and here, none does), it just means that to be legal, the Fed's action would have to find a footing on another source—statutory interpretation, case law, a regulation—rather than the text of the statute itself."

In any event, crisis begets flexibility, and if the need arises, it would be a huge surprise if either the Fed's or ECB's hands were tied when it comes to asset purchases. For a sense of how easily such rules are abandoned, consider the EU's deficit mandate, which limits member governments to no more than 3% of GDP. Since 2009, EU member states exceeded that ceiling 41% of the time, with no penalties being levied. Likewise, when push comes to shove in the next crisis, expect "whatever it takes" to be the order of the day.

“The beauty of equities,” asserts Gagnon, “is that you gain if you’re trying to reflate the economy and your policy succeeds. That’s going to kill the value of your bond portfolio, but it will boost the value of your equities. So, buying equities is more consistent with your goal.”

INVESTING IN AN INDEX-DRIVEN WORLD

If central banks choose to sell the mountain of financial instruments they’re accumulating, the markets will obviously feel it. Perhaps because of this potential effect, they’ve yet to try. Instead, “most central banks buy in bad times and hold in good times,” says Artus. “As a result, their balance sheets have only increased.”

Is there a point beyond which a central bank’s balance sheet simply can’t expand? Maybe not, says Artus. “Central banks are not normal investors like pension funds, where liabilities and assets have to match. We’re not on the gold standard anymore, so there is no requirement that the quantity of money is matched by assets a central bank is holding and where losses on an asset reduce the money supply.” Modern central banks can—and do—create new currency out of thin air and use it to buy assets, resulting in some eye-popping numbers. “The balance sheet of the BoJ now amounts to 90% of GDP, while the Fed’s is only around 25%.

So what is the limit? If there is one, it seems to be very far away,” says Artus.

For money managers, the real point of this discussion is, of course, how to play the entry of these new whales into the equities ecosystem. Is the situation simply “don’t fight the Fed” on steroids? A broader version of the Greenspan put? Or is it a fundamental shift in the market that will produce something new?

Time will tell. But one near-certainty is that when central banks buy equities, matching the market becomes easier and beating it becomes harder, as alpha-related signals are lost in the indexing noise. This trend is already in place, however, as the rising popularity of equity ETFs coincides with continued underperformance by hedge funds—which, as a result, suffered more than \$100 billion in withdrawals in 2016.

Also very likely is that predicting which central banks might support which equities will become an analytical specialty in the future. “One can’t abandon basic arithmetic,” says Kretschmer. “But, valuation needs to incorporate policy reaction under various scenarios and its likely feedback loops. In this market, understanding the second- and third-order effects of monetary policy is as important as researching individual companies.”

DISCIPLINARY NOTICES

SUMMARY SUSPENSIONS

On 30 August 2016, CFA Institute imposed a **Summary Suspension** on **Edwin K. Chin (New York)**, a lapsed charterholder member, automatically suspending his right to reactivate his membership and use the CFA designation. Because he did not request a review, the summary suspension became a **Revocation** on 28 September 2016.

On 16 August 2016, the US Securities and Exchange Commission (SEC) announced that it had barred Chin from the securities industry for misleading customers and causing them to pay higher prices for residential mortgage-backed securities (RMBS) from 2010 to 2012. The SEC stated that it found that Chin generated extra revenue for his firm by concealing the prices at which the firm had purchased RMBS and then reselling the RMBS at higher prices and keeping the difference. The SEC also stated that on some occasions, Chin misled buyers by suggesting to them that he was negotiating a transaction when he was actually just selling from his firm’s inventory.

On 30 August 2016, CFA Institute imposed a **Summary Suspension** on **Weidong Pu (Singapore)**, a charterholder member, automatically suspending his membership and right to use the CFA designation. Pu was suspended for his failure to cooperate with a Professional Conduct investigation of an industry-related matter. Because he did not request a review, the summary suspension became a **Revocation** on 28 September 2016.

On 26 February 2015, the Monetary Authority of Singapore (MAS) imposed a civil penalty against Pu for insider trading in the shares of Sinomem Technology Ltd., pursuant to section 218(2)(a) of the Securities and Futures Act (the Act). On 3 May 2016, Pu admitted to contravening the Act, agreed to pay a civil penalty and legal costs incurred by the MAS, and agreed to not be a company director or involved in the management of a company for a period of one year beginning 3 July 2016. Because of his failure to cooperate, Professional Conduct was unable to investigate the matter and determine whether Pu violated the Code and Standards of CFA Institute.

On 13 May 2016, CFA Institute imposed a **Summary Suspension** on **Donald L. Koch (St. Louis)**, a regular member, automatically suspending his membership. This suspension was later affirmed by a Summary Suspension Hearing Panel and became a **Revocation** on 10 October 2016.

Koch was the owner and principal of Koch Asset Management, LLC, an investment adviser. On 16 May 2014, the US Securities and Exchange Commission found that from September through December 2009, Koch violated the antifraud provisions of the federal securities laws by “marking the close,” submitting orders at the end of the trading day with the intent to manipulate the prices of three small, thinly traded bank stocks. As a result, the SEC permanently barred Koch from associating with, among others, any broker, dealer, or investment adviser, and imposed a \$75,000 fine. On 28 March 2016, the United States Supreme Court denied Koch’s request to review the decision of the United States Court of Appeals for the District of Columbia, which had reviewed and upheld the SEC’s bar.

PROHIBITION

Effective 11 October 2016, CFA Institute imposed a **Prohibition** from participation in the CFA Program on a **Level III Candidate**. CFA Institute found that the Candidate violated the Code of Ethics and Standards of Professional Conduct: I(C) – Misrepresentation (2014).

Specifically, the Candidate created a false employment verification letter and then submitted it to a bank as part of his mortgage loan application. The fraudulent letter was prepared on firm letterhead and contained inflated salary and bonus information. The Candidate also forged the signature of his managing director. The bank contacted the employer to confirm the letter’s accuracy, the falsification was then discovered, and the firm terminated the Candidate’s employment.

When first questioned by Professional Conduct, the Candidate insisted that he did not prepare the falsified employment verification letter. Instead, he claimed that he was the innocent victim of an Internet “scammer”

who had misappropriated his identity and then attempted to obtain a mortgage loan in his name. The Candidate also suggested that the real reason for his termination was that his employer had discovered that he was in the final round of interviews for a position with their main competitor. Later, the Candidate admitted to Professional Conduct that he had lied and that he did, in fact, prepare and submit the false letter to the bank.

TIMED SUSPENSIONS

Effective 18 October 2016, CFA Institute imposed a **Five-Year Suspension** of membership and the right to use the CFA designation on **Michael R. Wilt (Grafton, Wisconsin)**, a charterholder member. A hearing panel found that Wilt violated the Code of Ethics and Standards of Professional Conduct: I(C) – Misrepresentation (2005, 2010, and 2014) and Section 3.5(a)(i) of the Bylaws. This result was affirmed by an appeal panel.

The hearing panel found that over the course of nearly a decade, Wilt repeatedly provided false information in his annual Professional Conduct Statements. Namely, despite having been informed in 2006 by his former employer that he was the subject of a written customer complaint regarding his professional conduct, Wilt filed Professional Conduct Statements in 2007 and 2008 in which he falsely represented that he was not the subject of a written complaint.

In 2011, Wilt was named as a defendant in an arbitration claim by his former firm to recover money that he had borrowed. Despite having an obligation to disclose the matter to CFA Institute, Wilt represented in the Professional Conduct Statements that he filed in 2011 and 2012 that he was not the subject of an arbitration or other action in which his professional conduct was at issue. In doing so, Wilt affirmatively stated that his responses were “truthful, accurate, and complete.”

In July 2012, the Financial Industry Regulatory Association (FINRA) suspended Wilt’s association with any FINRA member firm for failing to pay the arbitration award to his former employer. As he had on four previous Professional Conduct Statements, Wilt failed to

A roadmap for equity analysts can thus be found in the bond markets, where central banks have dominated for the past half-decade, according to Kounis. “With European bond buying, you start by analyzing the criteria for purchases. With government bonds, it’s clearly based on the ‘capital key,’ which is a weighted measure of relative GDP.” Put simply, more bonds are purchased from the bigger markets.

Kounis calculates that if the ECB followed the same market-weighted approach with equities, “it would tend to favor the core country markets—France, the Netherlands, Germany, and Belgium—rather than the periphery, because the core countries have relatively larger equity markets.” But, it remains to be seen what other criteria the ECB will use. “Would some sectors or stocks be restricted or excluded for certain reasons?” he asks. “Is it only for companies based in that market, or is it also for companies that use that market to list stocks? A number of factors can affect what kind of stocks a central bank buys.”

“The secondary effects involve risk appetite,” says Kounis. For example, will this flood of newly created currency help peripheral markets with high debt-to-GDP ratios, and will this in turn increase demand for local equities?

Another way QE can work is through portfolio rebalancing effects, says Kounis. If the central bank buys safe assets

such as government bonds, it can push investors out of these into riskier assets, boosting the latter’s price as well. Thus, buying European equities might cause investors to move outside the Eurozone to, for instance, emerging markets.

BALANCING ACT

If central banks’ balance sheets have no obvious upper limit, does their asset buying ever have to end? And if not, have we entered a brave new world of ever-rising stock prices fueled by newly created currency?

The answer to the second question is no, says Artus, because central-bank balance sheets aren’t the only limiting factor. “If you’re, say, the Bank of Japan, you can peg long-term interest rates wherever you want, and there will never be a debt crisis.” The BoJ simply creates as many yen as needed to buy up whatever bonds are offered.

But the game will end if local savers lose confidence in the yen because of its ever-rising supply. “In that case, there would be an enormous capital outflow as the Japanese move to foreign currencies,” says Artus. “It will be like Venezuela over the past 10 years. You’ll end up swapping an economic crisis for a currency crisis.”

John Rubino, a former financial analyst, is a freelance writer and author of several books on investment topics.

make accurate disclosures in the Professional Conduct Statements that he filed with CFA Institute in 2013 and 2014. Instead, Wilt misrepresented that he had not been suspended from working or participating in the securities industry, and he misled CFA Institute by stating that his responses and all information provided by him on his Professional Conduct Statements were “truthful, accurate, and complete.”

Effective 11 October 2016, CFA Institute imposed a **One-Year Suspension** of membership and of the right to use the CFA designation on **Zhenyu Li (Ontario, Canada)**, a lapsed charterholder member. Professional Conduct found that Li violated the Code of Ethics and Standards of Professional Conduct: I(A) – Knowledge of the Law; I(D) – Misconduct; and II(B) – Market Manipulation (2010).

While Li was a proprietary trader at a bank in Canada, he was the subject of a disciplinary action by the Investment Industry Regulatory Organization of Canada (IIROC), which investigated and identified 20 instances between August 2012 and November 2012 where Li entered non-*bona fide*, pre-opening orders. This pattern of order entry, a practice known as “spoofing,” misrepresented the supply, demand, and/or price for the securities.

As part of the settlement with IIROC, Li admitted that he entered orders that he ought reasonably to have known would create, or could reasonably be expected to create, a false or misleading appearance of trading activity in, or interest in the purchase or sale of, certain securities or an artificial sale price for the securities. Li agreed to a \$10,000 fine, plus administrative costs, and a one-month suspension of access to IIROC-regulated marketplaces.

Effective 24 September 2016, CFA Institute imposed a **Two-Year Suspension** of membership and of the right to use the CFA designation on **Larry Keith Pitts (Indianapolis)**, a charterholder member. A Hearing Panel found that Pitts violated the Code of Ethics and

Standards of Professional Conduct: I(A) – Knowledge of the Law; I(C) – Misrepresentation; I(D) – Misconduct; and III(D) – Performance Presentation (2005 and 2010).

Pitts was and is CEO, portfolio manager, and sole owner of Trust & Investment Advisors, Inc. (“TIA”), a registered investment adviser based in Indianapolis, Indiana. During the relevant period, Pitts managed and supervised TIA’s staff and had primary responsibility for meetings with clients and prospective clients. He also was responsible for, and personally appeared on, a local public-access television show for TIA called *Investing Today*.

In May 2015, Pitts entered into a settlement agreement with the US Securities and Exchange Commission in which he agreed to remedial sanctions, monetary penalties, and a cease-and-desist order for misconduct that took place between 2005 and 2012. During that period, the SEC’s Office of Compliance Inspection and Examinations (OCIE) conducted three separate onsite examinations of TIA: the first in 2005, a second in 2007, and a third in 2011. These exams revealed repeated, unaddressed deficiencies in the areas of performance advertising and compliance generally. Pitts was heavily involved in all three of the OCIE examinations.

During OCIE’s 2005 exam, the staff discovered that TIA had failed to develop a compliance program and compliance manual, as required by Rule 206(4)-7 of the Advisers Act. TIA promised to remedy the deficiency. During OCIE’s 2007 exam of TIA, the staff discovered that notwithstanding the firm’s earlier promises to remedy its compliance deficiency, TIA still had not yet completed its compliance manual; TIA had not conducted an “annual compliance review”; and TIA’s designated chief compliance officer did not have appropriate knowledge of the Advisers Act, including being unaware of the requirement to conduct an annual review of TIA’s compliance program.

In response to the 2007 exam, TIA *again* assured OCIE that it would remedy its compliance deficiencies and engage a compliance consulting firm to complete

the development of the firm’s compliance manual. However, when OCIE returned for its 2011 exam, the staff found that TIA still had made no progress in resolving its compliance deficiencies, despite having had three additional years in which to do so.

In its 2005 and 2007 exams, OCIE also found several instances in which TIA provided misleading performance information in marketing materials: specifically, TIA’s performance presentations to clients included gross of fee performance returns over an extended period. Yet, the same presentations did not explain the impact that advisory fees could have on the value of a client’s portfolio. Following the 2007 exam, TIA represented to OCIE that it had corrected the problem. But when the staff returned for its 2011 exam, they found that the firm was still using misleading marketing materials with cumulative returns that did not account for the impact of advisory fees and did not include appropriate disclosures.

In its 2011 exam, OCIE also discovered that TIA had distributed misleading performance information in weekly summary marketing emails from at least 2009 through 2012. In particular, TIA distributed a table on a weekly basis to some of its clients and to its solicitors—individuals who are responsible for soliciting new investment advisory business—that compared percentage increases in the S&P 500 Index to percentage increases in TIA’s portfolios, yet the table materially overstated the performance of the TIA portfolios compared with the S&P 500 Index because only the former included the reinvestment of dividends.

RESIGNATIONS

Effective 15 September 2016, **Douglas C. Allan (Sylvan Lake, Alberta, Canada)**, a charterholder member, **Permanently Resigned** his membership in CFA Institute and any member societies and his right to use the CFA designation in the course of a Professional Conduct investigation.