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Rosy Economic Predictions for 2014, With Caveats

Many of the economic numbers surfacing during the weeks straddling New Year's Day have led to optimistic predictions. But you may want to keep a weather eye out for possible trouble ahead.

The Commerce Department said Jan. 10 that U.S. wholesale, durable and nondurable goods inventories rose a modest 0.5% in November to $516.4 billion and the inventory-to-sales ratio remained stable except for durable goods, elevated at 1.57.

During the same month wholesale sales increased by 1% and durable goods orders jumped 3.5%.

The manufacturing sector is optimistic about growth in 2014, an Institute for Supply Management survey found in December. Its Manufacturing Purchasing Managers Index rose to 55.0 last month, surpassing 54.7 in November and an initial December estimate of 54.4. A reading above 50 indicates expansion.

Factory activity in December stayed near a 2½-year high, with a boost in sales of cars and homes, and increasing demand for steel, furniture and other manufactured goods.

ISM says revenues will rise over 16 industries, such as textiles; apparel and leather; plastics and rubber; food and beverages; furniture; electrical equipment and appliances; chemical products; transportation equipment; paper products; computers and electronics; and fabricated metal products.

Expectations for 2014 are overwhelmingly positive, with 69% of survey respondents expect revenues to be greater in 2014 than in 2013. The purchasing and supply executives expect a 4.4% net increase in overall revenues for 2014, compared to a 4.6% increase reported for 2013 over 2012 revenues.

"Manufacturing purchasing and supply executives expect to see continued growth in 2014. They are optimistic about their overall business prospects for the first half of 2014, and are even more optimistic about the second half of 2014," said Bradley J. Holcomb, chair of the ISM Manufacturing Business Survey Committee.

Those surveyed by ISM predict that capital expenditures will increase by 8% in 2014 over 2013, compared to a 12.3% increase reported for 2013 over 2012. They also forecast that they will increase inventories by 0.9% to support their planned level of sales in 2014.

Missing the Silver Lining

Not all predictions are so positive. In December Grant Thornton's quarterly survey of 1,700 U.S. CFOS and other finance executives found that 60% of them believe the economy will remain the same or worsen during the next six months. The results followed what had been a slow rise of their

(Continued on next page)

confidence in the economy over the course of most of last year.

The booming stock market has helped investors and pension funds, but it also is exhibiting some all-too-familiar hallmarks of the tech bubble of the 1990s and the pre-2008 housing bubble for those of us old enough to remember them.

If the stock market had been infected with "irrational exuberance" before the Great Recession when it was below 14,000, what are we to make of a market that last year set a record number of new record highs in a not-so-great economy, that as of this writing is sitting well above 16,000 – and which values Twitter at $40 billion?

Housing sales had enjoyed increases earlier in 2013, but flattened in November (the most recent numbers available). Home prices, which rose 12% in 2013, are anticipated to grow at a pace of 5 to 5.5% this year, according to the National Association of Realtors.

The Commerce Department also reported that sales of newly built, single-family homes declined 2.1% in November, although sales of new homes were up substantially earlier in the year.

On January 7 the National Association of Home Builders that, based on current permits, prices and employment data, the nationwide average is running at 86% of normal economic and housing activity.

Other concerns include persisting chronic unemployment. The alarmingly high number of Americans who have left the workforce, once brushed under the rug by the news media is now a regular subject of public discussion and is being factored into Federal Reserve Board decisions.

Another cause of concern is the rising cost of health insurance due to Obamacare and its possible dampening effect on consumer spending.

Unmentioned in all of the coverage of the government healthcare website failure and millions seeing their coverage evaporate is that the economy is likely to be impacted by the reduced purchasing power of those who have seen their health insurance premiums skyrocket, whether it is provided by an employer or purchased individually.

For example, with a monthly premium increase of $1,000, an individual's purchasing power is reduced by $12,000 a year.

NRF Estimates Retail Imports Will Be Up 4.8% in January

Import volume at the nation's major retail container ports is expected to grow 4.8% in January over the same month last year, according to the monthly Global Port Tracker report from the National Retail Federation and Hackett Associates.

Estimates show 2013 will be up 2.8% over 2012, NRF reported on Jan. 10.

"Retailers are still assessing the holiday season, but they're also looking ahead to see what will happen in the new year," said Jonathan Gold, NRF Vice President for Supply Chain and Customs Policy. "Based on these early numbers, 2014 looks like it should be off to a good start."

U.S. ports followed by Global Port Tracker handled 1.37 million TEUs in November, the latest month for which after-the-fact numbers are available. That was down 4.3% from October as imports for the holiday season wound down, but up 6.5% from November 2012.

December was estimated at 1.35 million TEU, up 5% from 2012. If that estimate holds once final numbers are available, 2013 will have totaled 16.3 million TEU, up 2.8% over 2012's 15.8 billion TEU, NRF pointed out. That compares with 3.4% growth in 2012 over 2011.

The cargo numbers come as retailers wait for the final sales figures for 2013 holiday season, which NRF predicted would grow 3.9% to $602.1 billion.

August, September and October imports totaled 4.35 million TEU, up 4.3% over 2012, NRF said.

January 2014 is forecast at 1.37 million TEU, up 4.8% from January 2013; February at 1.18 million TEU, down 7.5% from last year; March at 1.32 million TEU, up 15.9%; April at 1.4 million TEU, up 7.7%; and May at 1.46 million TEU, up 4.6%.

"The new year looks to be stronger than the outgoing one, with better-than-expected GDP figures, lower unemployment rates and continued low inflation," Hackett Associates Founder Ben Hackett said.

"Expectations of a stronger dollar will also help to increase consumer confidence as import prices continue to fall," he predicted.

ALAN Expands Its Disaster Response Planning Efforts

Since its founding following Hurricane Katrina, the member companies of the American Logistics Aid Network have responded to meet the logistics needs of both government agencies and nongovernmental organizations when disasters strike.

ALAN members have donated their warehouse services, transportation and material handling equipment.

What you might not be aware of is that ALAN is just as committed to joining with other organizations in helping to plan for those needs before an event occurs. It has pursued these planning partnerships since ALAN was founded by Jock Menzies, the late president of ACWI member Terminal Corporation.

ALAN continues to work with National Voluntary Organizations Active in Disaster – including the American Red Cross, Feeding America and the Salvation Army – as well as state and federal emergency agencies, along with the Federal Emergency Management Agency.

In mid-December ALAN held an interactive exercise simulating the challenges of maintaining functioning supply networks during a disaster. Employing a "bring your own device" approach, participants pretended to be trucking customers and providers making supply chain decisions before, during, and after a regional disruptive event.

Participants came from FEMA, local public utilities companies and a range of logistics providers, and included *ACWI Advance* Editor David Sparkman

The real-time data collection showed how resource allocation decisions affect businesses and communities. Perhaps the most valuable outcome were the relationships forged during the exercise by participants who would need to work together during a future event. In this regard, facilitator Dr. Jamison Day quoted Dwight Eisenhower's remark that "Plans are nothing; planning is everything."

To learn how you can help, visit: www.alanaid.org.

IWLA Rail Council Builds On Progress Made in 2013

The more than 60 members of the International Warehouse Logistics Association's Rail Council entered 2014 buoyed by its progress in 2013.

Last year the IWLA Rail Council secured the services of Charles D. "Chip" Nottingham, a former chairman of the Surface Transportation Board and attorney with the firm of Husch Blackwell, to be IWLA's retained counsel for rail affairs.

Nottingham has been advising IWLA on the rail demurrage case that has been pending before the STB since 2012. The association has taken the position that warehouse operators should not be held liable for detention charges if the warehouse is not the consignee or a party to the freight contract.

Council Co-Chairman John Tighe, II, president of Tighe Logistics Group, said, "Nottingham's insight into the inner workings of the STB gives us a huge advantage on approaching issues."

The council also provided its support for the appointment of Jeanne Sebring, director of North American logistics for International Paper, to the STB'S Railroad-Shipper Transportation Advisory Council (See *ACWI Advance*, 11-15-13, Page 2).

The 15-member RSTAC represents large and small shippers and railroads. It provides regulatory, policy and legislative advice to the chairman of the STB, the U.S. Secretary of Transportation, Senate Commerce Committee and House Transportation & Infrastructure Committee.

Among the IWLA Rail Council members is ACWI President Paul Delp, President of Lansdale Warehouse Co., who also has served on the IWLA Board of Directors and is active in other groups involved in rail industry issues, including the National Industrial Transportation League.

IWLA Rail Council members also are active in rail-related activities organized by the Midwest Shippers Association, North American Rail Shippers and Pacific Northwest Association of Rail Shippers.

"The IWLA Rail Council has become recognized by the STB as a viable and respected industry group," Tighe said. "We plan to continue this pace and assist each other in resolving problems with track activation and service issues."

Employers in Colorado Can Test Workers for Marijuana

On January 1, the news media was filled with stories about state-licensed retail shops that began selling marijuana under Colorado's new law legalizing pot.

Over the past several years a number of states followed California's example of allowing sales of marijuana for people with medical conditions, a trend that continued last week when New York Gov. Andrew Cuomo moved to allow it in his state.

Several other states and the District of Columbia are tentatively feeling their way towards following Colorado's path.

How does this affect employers? In Colorado's case as in other states employers can continue to test their employees for marijuana and take disciplinary actions. We can only hope that as other states move towards legalization they at least follow the Centennial State's example in this area of the law.

The Colorado law reads: "Nothing in this section is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees."

Employers may continue to enforce their drug testing policies against employees and applicants who test positive for marijuana, to enforce policies prohibiting the possession or consumption of marijuana during working hours, and to discipline any employee whose job performance is impaired because of the use of marijuana.

In December 2013, the Colorado Court of Appeals reinforced employers' right to lawfully discharge employees who test positive for marijuana, even where the employee has a medical marijuana card and there is no evidence of "impairment" on the job.

"While medical (and recreational) marijuana use may be permitted under state law, it is still a Schedule I substance under federal law and, thus, unlawful under federal law," said attorney Roger S. Kaplan of the law firm of Jackson Lewis. "In other words, regardless of state law, employers may follow federal law in prohibiting employee drug use."

NLRB Drops Ambush Elections Court Case Defense, Will Revisit

The National Labor Relations Board has agreed to voluntarily dismiss its appeals of a D.C. Circuit Court ruling that overturned its ambush union election rules decision.

The ambush election decision, which has been held in abeyance due to court challenges soon after it was adopted in 2011 decision, was designed to make it easier for unions to win organizing votes by substantially reducing the amount of time employers had to mount defenses before the elections are held.

The board's voluntary dismissal of the court appeal effectively withdraws the election rules. The case was further complicated by an additional argument raised on appeal, that one of the two participating board members had been improperly recess-appointed by President Obama.

The Supreme Court is expected to deliver a ruling about the legitimacy of those recess appointments later this Spring.

Late last year the President was able to replace those questionable appointees with new ones who were confirmed by the Senate and thus their appointments cannot be challenged on that basis.

It appears the new board figured that with all these legal complications, it made more sense to abandon the ambush election appeal and start the rulemaking process over again in the near future.

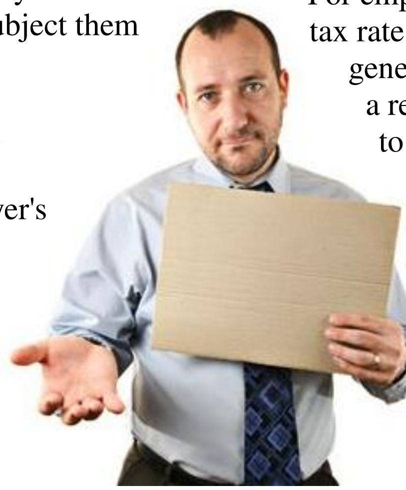
The current NLRB Chairman Mark Pearce earlier stated his support for taking this approach, and the voluntary dismissal of the appeal is seen as the first step in that direction.

Among other actions this year, the new board also is expected to require union access to employer-owned email systems to distribute union campaign materials, and make employers publicly report all information about third parties giving them advice during union elections, including attorneys.

Unemployment Law Hikes Penalties for Employers

Employers who routinely brush aside the unemployment claims they don't intend to contest may want to rethink that strategy in light of legislation that could subject them to added costs , the law firm of Smith, Gambrell & Russell warns.

New penalties for failing to provide a timely response to such claims may seriously affect employers' bottom lines and even subject them to criminal liability.



The 2011 Unemployment Insurance Integrity Act, which prohibits states from relieving charges to an employer's unemployment account if the state unemployment insurance (UI) agency determines that the payment was made because the employer failed to timely and adequately respond to the state agency's UI claim notice, and the employer exhibits a pattern of failing to respond.

The Act requires states to assess at least a 15% penalty of the amount of overpaid UI compensation to any individual who committed fraud.

All states were required to implement the Act by October 21, 2013, but many employers are just beginning to feel the effect of this legislation.

The Act is meant to remedy the relatively common practice of employers failing to respond to UI notices, accepting charges to their reserve accounts when a former employee applies for UI benefits.

Prior to the Act, when the employer did not provide thorough information to the agency in a timely manner, it became difficult for the agency to make an accurate determination of whether the employee was eligible to receive UI benefits.

According to one report from the U.S. Department of Labor, nearly $14 billion in unemployment overpayments were distributed in fiscal 2011 – which was about 11% of all unemployment benefits that were paid out.

While much of this overpayment can be attributed to fraudulent reporting by claimants and state agency errors, it is the employers who will suffer the brunt of these new restrictions and penalties.

Employers who do not adequately respond to a state agency UI Notice in a timely fashion will be charged for the benefits even if the claimant is eventually disqualified. The employer's UI account will continue to be charged until a decision is rendered on appeal.

For employers already paying a state's highest UI tax rate, a failure to respond to a notice in the past generally didn't result in a higher UI tax rate. As a result, employers had no incentive to respond to such notices where they were already paying the maximum rate and did not intend to contest the UI claim.

However, under the Act individual states can impose stricter penalties and standards. In Florida, for example, an employer may be denied relief from the charges after a single incident of an inadequate or untimely response is found to have occurred.

Thousands in Potential Fines

Other states imposed monetary fines and possible jail time for employers who refuse to comply with the state implementing legislation, in addition to precluding relief of the employer's unemployment account from benefit charges.

California legislation permits a fine ranging between two and 10 times the weekly benefit amount, to a maximum of $4,500, where an employer willfully makes a false statement or willfully fails to report a material fact concerning the employee's termination.

Smith, Gambrell & Russell attorneys advise employers to should familiarize themselves with their state laws implementing the Act, including any timing and penalty provisions, and apply procedures to deal with every unemployment claim, including those that they do not intend to contest.

The requirements also apply to employers' agents, including payroll services or unemployment cost management services. You should ensure these agencies are responding to the notices in an adequate and timely manner, the attorneys said.

If necessary, change release agreements to state you will respond promptly to any claim for UI benefits.