

# ELFA is Being Heard in Washington

*The highly successful Capitol Connections program proved that ELFA's message is reaching lawmakers and regulators.*

**By Bill Verhelle and David Fenig**

**O**n May 15 and 16, ELFA equipment leasing and finance professionals converged on Washington for the annual Capitol Connections program. The purpose of the Capitol Connections program is to educate members of Congress and select Administration officials on the equipment leasing and finance industry's overall economic contribution and its role as a major source of capital and investment in the U.S. In addition, the program is intended to positively influence federal policymakers who set the legislative and regulatory framework for the industry.

Building on changes to last year's programs, the 2007 agenda was designed as a two-day program, with one day devoted to meetings with key Executive Branch agencies and the other devoted exclusively to targeted meetings on Capitol Hill. The objective was to allow as many members as possible to attend an Executive Branch meeting as well as make visits to congressional offices. Capitol Connections is designed to be one in a

series of continuous grassroots activities throughout the year.

Like all ELFA events, Capitol Connections included plenty of serious networking opportunities. Tuesday evening, a group of members attended a reception for House Ways and Means Chairman Charles B. Rangel. Chairman Rangel discussed tax policy issues in general, with specific reference to the alternative minimum tax and retroactive tax legislation.

Back at the Fairmont, PayNet, Inc. hosted a networking reception for fifty attendees.

## **Tuesday May 15**

Prior to an aggressive calling schedule for Executive Branch agencies on May 15 and Hill meetings on May 16, equipment leasing and finance professionals gathered on Tuesday, May 15th at the Fairmont Hotel in Washington, D.C. for a policy and logistical briefing. David Fenig, ELFA's vice president for federal government relations and Kelli Jones Nienaber, ELFA's director of government relations provided members with an overview of legislative and regulatory issues affecting the leasing and finance industry as well as the key messages they should convey on behalf of the industry.

The important legislative issues for the 110th Congress included the industry's desire to maintain a "level playing field" with other financing alternatives, the specter of retroactive taxes, the repeal of the mid-quarter depreciation convention as well as an initiative to address the effect of JOBS Act in 2004 on single investor medical leases. In this regard, ELFA is

proposing a change in the applicable depreciation test and in so doing, reopening the door for tax-exempt institutions to have access to cost effective lease financing sources. For meetings with the financial services agencies and congressional committees, members were asked to focus on the Basel II capital accord and a pending rulemaking affecting small ticket leases.

Following the presentations, participants broke into Executive Branch “teams” for their upcoming Executive Branch meetings. This was particularly critical from a policy and logistical standpoint, since the targeted list of Executive Branch agencies was expanded considerably from last year.

**DOT**—The Department of Transportation meeting was held with officials of the Federal Transit Administration, the Federal Aviation Administration and the Federal Railroad Administration. The fifteen ELFA members in attendance discussed topics ranging from regulatory policy in the rail, aircraft and transit sectors including public private partnership in the transportation fields, infrastructure needs and the overall DOT constituency.

**SEC-Office of Chief Accountant**—This meeting focused primarily on the proposed change to the current lease accounting standard (FAS 13) and its impact on the small ticket marketplace. Several members asserted that unless a materiality test is incorporated in a new accounting rule, the required financial reporting and the cost of implementation for small businesses to comply could well

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*Often the most effective meetings at congressional offices are with legislative aides. Here, ELFA members met with Jeff Hammond, a legislative aide to Senator Chuck Schumer (D-NY).*

be onerous. ELFA members stressed that unless a suitable transition period were provided, the cost and time required for a systems re-configuration would be impractical.

**World Bank-International Financing Corporation (IFC)**—The strategic purpose of the World Bank/IFC meeting was to leverage

World Bank resources in increasing equipment leasing and finance investment in emerging markets. IFC officials stated that there is \$12 billion invested in emerging markets, with

approximately \$400 million specifically invested in some 20 leasing operations. IFC noted that they are currently focused on Eastern Europe and South America and are working with Bolivia and Nicaragua to create leasing laws. ELFA members discussed the Unidroit process, the development of a model leasing law and the challenges inherent in the current model.

**Department of Treasury**—Ten ELFA members, including several members of the ELFA Federal Tax

Committee, met with Eric Solomon, Assistant Secretary for Tax Policy, Michael Desmond, Deputy Assistant Secretary for Tax Policy and Bill Bowers of the Internal Revenue Service, to discuss a series of legislative and regulatory issues affecting the equipment leasing and finance industry. Topics included the ELFA's opposition to the retroactive Section 470 provision for cross border leases, its position on the codification of the economic substance doctrine, as well as the tax policy consideration inherent in the industry's public private partnership initiative. ELFA members also discussed comprehensive tax reform and its implications for capital formation, the impact of the JOBS Act on medical equipment leases to non-profit hospitals and the association's advocacy of the repeal of the mid-quarter depreciation convention. Finally, the meeting focused on several items of concern to the industry in the IRS guidance plan for FY 2008.

**Office of Comptroller of the Currency and the Federal Reserve Board**—The objective of meetings with the Office of Comptroller of the Currency and the Federal Reserve Board was to assure that in the Basel II Capital Accord Notice of Proposed Rulemaking, the risk weighting afforded small ticket retail lease transactions was in accord with risk weighting afforded wholesale lease transactions. Specifically, the ELFA's policy position is that retail lease finance transactions should be treated on a unified basis with no separate risk-weighting of the residual component, just as with wholesale leases.

## *The targeted list of Executive Branch agencies was expanded considerably from last year.*



*Members share a laugh with an aide to Senator Ken Salazar (D-CO).*

**U.S. Small Business Administration**—Fred Summers of Vision Financial discussed the importance of equipment leasing to small companies that rely heavily on this form of financing to grow their businesses. ELFA members also highlighted the challenges that may be faced by small businesses as a result of two future issues. First, the proposed FASB/IASB changes in lessee accounting for leases could increase the complexity of accounting for small businesses that rely on leasing to obtain capital equipment. Jim McGrane, CEO of US Express Leasing explained to Charles Maresca, the director of interagency affairs at the SBA, that a contemplated FASB/IASB exemption for the capital-

ization of smaller leases might allow smaller companies to avoid having to maintain both GAAP and tax accounting records regarding small lease transactions. The SBA expressed possible interest in supporting the ELFA in attempting to obtain a contemplated diminimus accounting exception.

Regarding the second issue, Valerie Pfeiffer of CIT explained that a proposed “retail” vs. “wholesale” lease distinction in the Notice of Proposed Rulemaking (NPR) regarding Basel II appeared to contemplate applying a 100 percent risk weight to the residual portion of a retail lease (retail being defined as leases with an equipment cost of less than \$1MM). Understand-

ing that this could increase the cost of borrowing to smaller companies without any corresponding regulatory benefit, the SBA expressed initial interest in supporting the ELFA in seeking minor revisions to the proposed future regulations.

## Wednesday May 16

On Wednesday May 16, ELFA held a group breakfast in the U.S. Capitol building. At this breakfast, four Members of Congress addressed the ELFA delegation at the invitation of ELFA President Ken Bentsen. Congressman Gene Green (D-TX) addressed the group on the legislative agenda for the House Energy and Commerce Committee and provided some useful insights to the energy sector. Congressman Joseph Crowley (D-NY) discussed the agenda of the tax writing House Ways and Means Committee and highlighted the importance of grassroots advocacy. Congressman Richard Neal (D-MA), who serves as chair of the Select Revenues Subcommittee of the House Ways and Means Committee, addressed tax policy issues. Finally, Congressman Roy Blunt (R-MO) who serves as Republican Whip provided a Republican perspective on the 110th Congress and stressed the importance of bipartisanship.

After breakfast, attendees dispersed on Capitol Hill to meet with key members of the House Ways and Means and Senate Finance Committees, as well as the Senate Banking and House Financial Service committees. In all, 75 ELFA members



*ELFA members Paul Menzel (left) and Kurt Glenn discuss equipment leasing's impact on the U.S. economy with Dan Maclean, aide to Representative Wally Herger (R-CA).*

held more than 30 meetings with legislators from both chambers. Plus, Bentsen, a former member of Congress, treated some attendees to an impromptu tour of the Capitol.

In light of the recent change in congressional control in January of 2007, this outreach program was well timed as all key committees have new leadership. Just as crucially, all key committees have new members who in many cases are unfamiliar with important issues affecting our industry. Many of the meetings were held with elected officials, including members of the Senate Finance and House Ways and Means committees, while other highly informative sessions were conducted with legislative directors, legislative assistants, tax directors and other staff members representing the Senator or Congressperson. The meetings were also designed to highlight the member company's economic contribution and employment presence in their congressional districts and states, and to focus on legislative

issues of concern to the industry.

These legislative issues are unlikely to be resolved in the short term, but ELFA members must establish and maintain a constructive dialogue with policymakers in Washington. Capitol Connections is a crucial ingredient in that effort. For more than five years, ELFA members lobbied the Congress on bankruptcy reform legislation. Finally in 2005, these efforts came to fruition as the Congress adopted the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (P.L. 109-8), which revised the bankruptcy treatment afforded equipment lessors. The bankruptcy measure is a prime example of what can be accomplished with an effective and consistent strategy supported by a strong grassroots program. A more recent example has been the successful effort in May of 2007 to get the House-Senate conference committee for the small business/minimum wage bill to drop the retroactive tax provision on cross border leases which had been adopted in the Senate earlier this year. The small business minimum wage measure (P.L. 110-28) was signed into law by the President on May 25th, without the onerous retroactive tax provision.

## Progress

In prior years, ELFA found that certain Executive Branch agencies and Members of Congress had little frame of reference and a low level of understanding when considering regulatory and legislative initiatives affecting the equipment leasing and finance industry. In 2007, however, Executive

Branch agencies and congressional offices had a much higher degree of understanding of equipment leasing and finance, and in many cases knew a great deal about the industry, its role in the economy in general and its economic contributions. Participants in Capitol Connections were energized not only by the process, but by the engaging discussions they had with members of Congress on legislative issues and Executive Branch officials on regulatory matters. ELFA will continue to follow up with these offices and agencies by providing background information and answering a multitude of questions. Additionally, Capitol Connections participants were encouraged to maintain a dialogue with their legislators and regulators so as to build on the successful contacts made during Capitol Connections throughout the year. In the future, Members of Congress and regulatory bodies will use ELFA members as a resource so that our voice is heard on a continuing basis versus just one time each year in May during Capitol Connections.

Capitol Connections 2007 was a significant success and will serve as a foundation for an improved Capitol Connections program in 2008 and beyond.

Please visit [advocacy.elfaonline.org](http://advocacy.elfaonline.org) for issue briefs and additional information on ELFA's grassroots program. 

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Bill Verhelle is CEO of First American Equipment Finance and chairman of the ELFA Government Affairs Council. David Fenig is ELFA vice president for federal government relations.



*Addressing Capitol Connections attendees, House Minority Whip Roy Blunt (R-MO) discusses the need for bipartisanship in Congress.*



*Representative Richard Neal (D-MA), chair of the Select Revenues Subcommittee of the House Ways and Means Committee, talks taxes.*