

EQUIPMENT

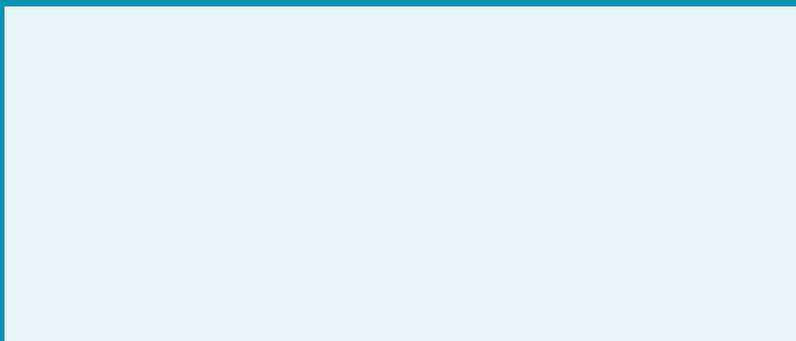
# Leasing & Finance

THE MAGAZINE FOR INDUSTRY EXECUTIVES

MARCH | APRIL 2019

## Funding's Fragile Balance

Thus far, economic growth has offset volatility in the equity markets. But so many things could change.



ELFA Women's Council aims to find the superpower in you

Risk Assessment: Credit and collections managers show vigilance

Executive Perspective: Leadership in the modern age

**ELFA**  
EQUIPMENT LEASING AND  
FINANCE ASSOCIATION

# The Leading **Asset Recovery, Inspection, and Remarketing Service**

---

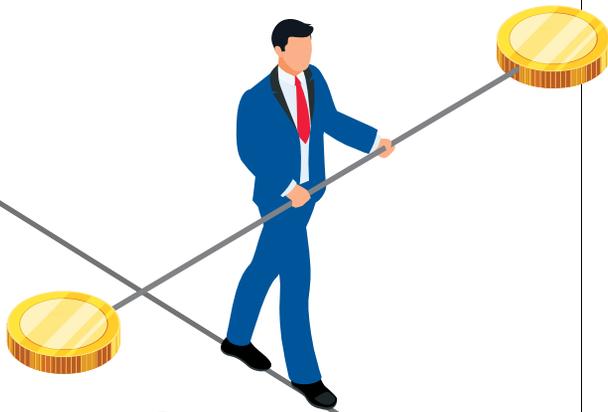
- 👁️ Restaurant Equipment
  - 👁️ Automotive Repair Equipment
  - 👁️ Boats (Under 27') and Recreational Watercraft
  - 👁️ Embroidery Equipment
  - 👁️ Fitness Equipment
  - 👁️ Forklifts
  - 👁️ Power Sports Equipment
  - 👁️ Motorhomes
  - 👁️ Warehouse Equipment
  - 👁️ Computers and Peripherals
  - 👁️ Construction Equipment
  - 👁️ Consumer Electronics
  - 👁️ Farm Equipment
  - 👁️ Furniture
  - 👁️ Laser Printers
  - 👁️ Medical Equipment
  - 👁️ 3D Printers and Commercial Printing Equipment
  - 👁️ Telecommunications Equipment
  - 👁️ Travel Trailers and Fifth Wheels
  - 👁️ Wide Format Printers
  - 👁️ Failed Franchises
- 

[www.assetrecoveryervices.com](http://www.assetrecoveryervices.com)

**888.570.1127**

# Contents

MARCH | APRIL 2019



**18**

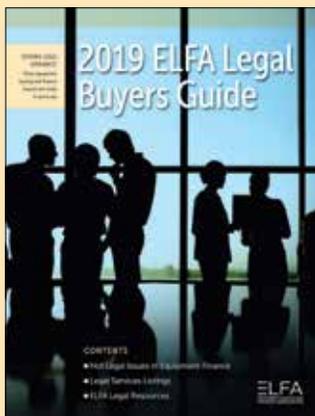
COVER STORY

## Funding's Fragile Balance

Thus far, economic growth has offset volatility in the equity markets. But so many things could change.

By Susan L. Hodges

## 39 Legal Buyers Guide



## FEATURES

### 22 Donning the Cape

The ELFA Women's Council aims to find the superpower in you.

By Susan L. Hodges

### 28 Risk Assessment

For credit and collections managers, vigilance on many fronts is all in a day's work.

By Stuart Papavassiliou

### 32 Advocating with One Voice

Member engagement is critical to ELFA's government relations strategy. Plus: Become an ELFA Advocacy Champion!

By Chelsea Neil

### 34 Equipment Outlook 2019

Construction is the big winner, ranking first for the sixth consecutive year.

# Contents

MARCH | APRIL 2019

## COLUMNS

### 5 From the President & CEO

A rich spring events season  
By Ralph Petta

### 36 Leasing Law

Leasing with Native American tribes  
By Dominic Liberatore

### 49 Financial Watch

ASC Topic 842 and lessor software systems  
By Jeff Lezinski and Scott Thacker

### 52 Around the States

Update on California Senate Bill 1235  
By Scott Riehl

### 56 Executive Perspective

Leadership in the modern age  
By Kimberly Adair



## DEPARTMENTS

### 6 ELFA News

A roundup of association events, resources and member news

### 12 Events

Spotlight on equipment management

### 14 Business Council Updates

5 minutes with the Financial Institutions Chair



### 16 Industry Dashboard

The latest ELFA and Foundation data

### 54 Foundation News

2019 Industry Future Council explores industry innovation  
by Anneliese DeDiemar

## ADVERTISER'S INDEX

ARS Recovery Services LLC .....	Cover 2
<a href="http://www.assetrecoveryservices.com">www.assetrecoveryservices.com</a>	
BMO Harris Bank .....	4
<a href="http://www.bmoharris.com/equipmentfinance">www.bmoharris.com/equipmentfinance</a>	
Great American Insurance Group .....	9
<a href="http://www.GAIG.com/EquipmentInsurance">www.GAIG.com/EquipmentInsurance</a>	
GreatAmerica Portfolio Services .....	7
<a href="http://www.greatamerica.com/portfolio">www.greatamerica.com/portfolio</a>	

LTi Technology Solutions .....	15
<a href="http://www.LTiSolutions.com">www.LTiSolutions.com</a>	
MB Financial Bank .....	13
<a href="http://www.mbfinancial.com">www.mbfinancial.com</a>	
Odessa Technologies, Inc. ....	Cover 4
<a href="http://www.odessainc.com">www.odessainc.com</a>	

For more information about advertising in Equipment Leasing & Finance magazine, please contact ELFA Advertising Representative Steve Wafalosky at [stevew@larichadv.com](mailto:stevew@larichadv.com) or 440.247.1060.

PUBLISHING DIRECTOR Ralph Petta  
MANAGING EDITOR Amy Vogt  
PRODUCTION DIRECTOR Sandra Winkler  
DIGITAL PRODUCER Shirley Bryant  
COPY EDITOR Kelly Saxton  
ART DIRECTION BonoTom Studio  
[www.bonotom.com](http://www.bonotom.com)  
ADVERTISING Steve Wafalosky  
[steve@larichadv.com](mailto:steve@larichadv.com)  
440-247-1060

*Equipment Leasing & Finance Magazine*, Vol 35, No 2 (ISSN# 008-058), is published bimonthly (Jan/Feb, Mar/Apr, May/Jun, Jul/Aug/Sep, Oct, Nov/Dec) by the Equipment Leasing and Finance Association, 1625 Eye St NW, Suite 850, Washington, DC 20006. POSTMASTER: Send address changes to Equipment Leasing & Finance Association, 1625 Eye Street NW, Suite 850, Washington, DC 20006. Periodicals postage paid at Washington, DC, and at additional mailing offices.

Statements of fact and opinion are the responsibility of the authors and do not imply an opinion on the part of the officers or members of ELFA. Contact us at [EL&F@elfaonline.org](mailto:EL&F@elfaonline.org).



© Copyright 2019 by the Equipment Leasing and Finance Association. Materials may not be reproduced without written permission.

A subscription for members is free and for nonmembers and libraries is \$200/year.

Printing by Sheridan Printing Co, Hanover, NH

Access our digital edition at [www.elfaonline.org/news/magazine](http://www.elfaonline.org/news/magazine)



[www.twitter.com/ELFAonline](http://www.twitter.com/ELFAonline)



[www.facebook.com/ELFApage](http://www.facebook.com/ELFApage)



[www.linkedin.com/groups?gid=89692](http://www.linkedin.com/groups?gid=89692)



[www.youtube.com/elfachannel](http://www.youtube.com/elfachannel)



[www.elfaonline.org/interactive-tools/email-discussions](http://www.elfaonline.org/interactive-tools/email-discussions)

## Join the Conversation

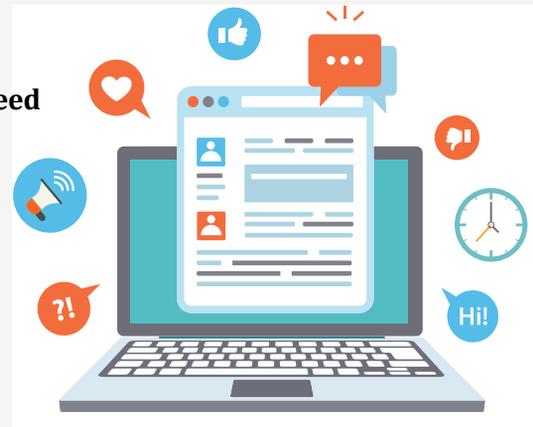
New online communities are designed to help members succeed

- ?! Do you have a burning business question that another ELFA member may be able to answer?
- ! Are you seeking best practices related to a particular issue at your organization?

Soon you will have a new way to tap into the collective knowledge of the ELFA membership.

ELFA's new online communities are bringing members together to interact, share information and engage. We've taken our old email listservs and upgraded them, giving you a new place online to stay connected 24/7. Watch your email for details about these new digital tools designed to help you and your business succeed!

**Network. Share ideas. Exchange best practices!**





Navigating  
for today and  
tomorrow.  
**We can help  
with that.**

**BMO**  **Harris Bank**

We're here to help.™

Every purchase you make ties into a bigger plan. Whether your equipment need is the result of expansion or part of a regular replacement schedule, our experienced equipment finance professionals are ready to provide the strategic advice you need. At BMO Harris Commercial Bank, we can help make your vision a reality.

[bmoharris.com/equipmentfinance](https://www.bmoharris.com/equipmentfinance)

Banking products and services subject to bank and credit approval. BMO Harris Commercial Bank is a trade name used by BMO Harris Bank N.A. Member FDIC

## A Rich Spring Events Season



**HERE AT ELFA HEADQUARTERS**, we're already hard at work preparing for the 2019 ELFA Annual Convention, which will be held in Washington, D.C. for the first time in many years. We hope you'll join us to experience the premier industry event of the year in the high-energy atmosphere of our nation's capital. The Convention is your opportunity to prepare for the next generation of equipment finance, hear diverse perspectives, grow your business, give back to the community and much more! Please watch the video below and save the date for this important event—we'll let you know when registration opens later this spring.

Closer at hand, we also hope to see you at our upcoming spring events. Springtime

is the perfect time to share ideas and best practices through participation in our conferences, educational programs and best practices roundtables. Our member planning committees and staff are preparing high-quality opportunities for you to network with industry leaders, anticipate industry trends and position your company for success in an ever-changing marketplace. Upcoming events include:

- **Women's Leadership Forum**, April 1-2 in Washington, D.C. The ELFA Women's Council will host this event focused on leadership development for women at all stages of an equipment finance career. Learn more about the initiatives of the Women's Council on p. 22.
- **Funding Conference**, April 9-11 in Chicago. Get a snapshot of the state of funding on p. 18 and get the complete picture at this event. Consider arriving early to attend the Best Practices Roundtables for bank, independent and captive and vendor finance executives on April 9—at a bundled discounted registration fee. Future leaders are encouraged to attend the Emerging Talent Networking Event on April 9.
- **Legal Forum**, April 28-30 in San Diego. Speaking of legal issues, don't miss our 2019 Legal Buyers Guide on p. 39.
- **Capitol Connections**, May 15 in Washington, D.C. See p. 32 for insights about the importance of attending our biggest advocacy event of the year.
- **Credit and Collections Management Conference**, June 3-5 in St. Petersburg, FL. Turn to p. 28 to see

what participants are saying about the state of credit and collections.

- **Tax Best Practices Roundtable**, June 11-12 in Denver. This event tackles everything tax pros need to know, from federal and state compliance and planning issues to new developments.

For a full listing of events, please visit [www.elfaonline.org/Events/](http://www.elfaonline.org/Events/). In addition to in-person events, we're also pleased to offer online courses through the ELFA Academy—learn more at [www.elfaonline.org/events/eLearning](http://www.elfaonline.org/events/eLearning).

Thank you as always for your support and participation. ☰

*Ralph*

**RALPH PETTA** is the President and CEO of the Equipment Leasing and Finance Association.

**58<sup>TH</sup> ELFA Annual Convention**  
October 27-29, 2019      Washington, DC

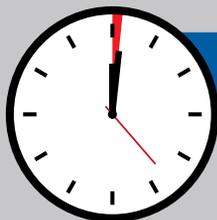
**Save the Date for the Annual Convention**  
See what's in store for you in your video invitation at  
[www.elfaonline.org/events/2019/ac](http://www.elfaonline.org/events/2019/ac).



ELFA 2018  
Communications  
Committee

## Your Guide to Getting Involved

What to get more involved in ELFA this year? We've updated our Governance and Committee Guide, highlighting various opportunities to volunteer with the association and give back to the industry. As a member-driven organization, we rely on your participation. View the guide at [www.elfaonline.org/about/governance/governance-and-committee-guide](http://www.elfaonline.org/about/governance/governance-and-committee-guide). Please don't hesitate to contact Director of Governance Ed Rosen ([erosen@elfaonline.org](mailto:erosen@elfaonline.org)) if you have any questions or you'd like to get involved.



### Membership Minute

#### INTERESTED IN LEARNING MORE ABOUT WHAT ELFA HAS TO OFFER?

Contact the ELFA Membership Department to schedule your conference call today. The call is designed to provide an overview of ELFA's resources for new members **or** serve as a refresher for existing members. The invitation is open to anyone in your organization and should last approximately 20 minutes. If you are interested in setting up a call between ELFA membership and your staff, please contact [membership@elfaonline.org](mailto:membership@elfaonline.org).

## Webinar Showcases Survey of Equipment Finance Activity

ELFA recently hosted a free webinar for members to showcase how equipment finance companies can use the Survey of Equipment Finance Activity (SEFA) to solve practical business problems and benchmark their businesses for success. The webinar included a demo of new SEFA digital resources, including:

- **MySEFA**, a personalized tool to track your operational and performance statistics and compare them against your peers
  - **Interactive SEFA Dashboard**, a powerful online dashboard that showcases executive summary data from a decade of SEFA reports
- The webinar also outlined the benefits that member



respondents receive, including a free copy of the SEFA report (a \$1,395 value). Learn more and listen to a recording of the webinar at [www.elfaonline.org/SEFA](http://www.elfaonline.org/SEFA).



## PROVIDING OUR CLIENTS WITH THE RIGHT TOOLS

- ▲ Third Party and Backup Servicing
- ▲ Dedicated Client-Centric Team
- ▲ Private Label Contract Service Provider
- ▲ Proven and Secure Platform

877.762.3808

[www.greatamerica.com/portfolio](http://www.greatamerica.com/portfolio)

HELPING YOU GET THERE. GREATAMERICA.

## Executive Roundtable Helps Executives Focus on What's Important Now

The Executive Roundtable brought top equipment finance executives to Naples, Florida, in mid-March to discuss the latest trends impacting the industry today, to strategize about the future and to create lasting business relationships. At the event, thought leaders shared their insights into the economy, trends in technology disruption, political developments and talent development and inclusion strategies for a rapidly changing workforce. Featured speakers included Marci Rossell, Former CNBC Chief Economist & Co-Host of *Squawk Box*; Jody Michael, Founder and CEO of Jody Michael Associates; and Caroline Turner, Principal at DifferenceWORKS, LLC.

## Funding Conference Set for April 9–11

The ELFA National Funding Conference is the most effective forum for connecting funding sources with some of the finest organizations in the leasing and finance industry looking to establish relationships to fulfill their funding needs. Scheduled for April 9-11 at the Swissotel Hotel in Chicago, this year promises to attract more funding source exhibitors than in previous years, reflecting the optimistic atmosphere surrounding the leasing and finance industry over the last several months. To learn more about the National Funding Conference and to register as a funding source exhibitor or attendee, please visit [www.elfaonline.org/events/2019/NFC/](http://www.elfaonline.org/events/2019/NFC/).



## Mark Your Calendar for the 2019 ELFA Legal Forum

The Legal Committee gathered at ELFA headquarters in January under the leadership of Mirna Cardona, Senior Counsel at Wells Fargo Equipment Finance. The group reviewed important committee and subcommittee activities for the year ahead and planned a packed agenda for the 2019 Legal Forum, April 28-30 at the Omni San Diego Hotel. When it comes to providing you with the timeliest information on legal issues impacting the equipment leasing and finance industry, there is no better place than the ELFA Legal Forum. Learn more and register at [www.elfaonline.org/events/](http://www.elfaonline.org/events/).



## Join the Conversation at the Best Practices Roundtables

The Bank, Independent and Captive and Vendor Finance Best Practices Roundtables will be held at the Swissôtel in Chicago from noon-4:30pm on April 9, immediately preceding the National Funding Conference. The roundtables are designed to bring senior executives together for information sharing and critical thinking about industry issues. Attendees will enjoy a joint luncheon and general session, followed by the individual roundtables. To register for a roundtable, go to [www.elfaonline.org/events](http://www.elfaonline.org/events). Bundled pricing is available for those who plan to attend both the roundtable and Funding Conference (a \$200 savings) at [www.elfaonline.org/events/2019/NFC/](http://www.elfaonline.org/events/2019/NFC/).

## ELFA Chairman Shares Career Lessons

Check out the Emerging Talent Advisory Council's latest "Ask a Leader" interview featuring ELFA Chairman Jud Snyder, President of BMO Equipment Finance at [www.elfaonline.org/emerging-talent/interviews](http://www.elfaonline.org/emerging-talent/interviews). Discover the most rewarding risk of Jud's career, his top three tips for those starting out in the industry and more.



## Calling All Future Leaders: Emerging Talent Networking Events

Here's your chance to hear from some of the industry's best, followed by an opportunity to network with them and your peers. If you're an ELFA member and will be in Chicago on April 9, we hope you'll join us at this event from 6-8:30pm! There is no cost to attend, but space is limited. To register, go to [www.elfaonline.org/events/2019/ETApr](http://www.elfaonline.org/events/2019/ETApr). Two more networking events will be held on July 18 in Washington, D.C. ([www.elfaonline.org/events/2019/ETJul](http://www.elfaonline.org/events/2019/ETJul)) and Sept. 17 in Philadelphia ([www.elfaonline.org/events/2019/ETSep](http://www.elfaonline.org/events/2019/ETSep)). For questions, contact Alexa Carnibella at [acarnibella@elfaonline.org](mailto:acarnibella@elfaonline.org).

### LEASE & FINANCE

## RiskProtection

Equipment Insurance Any Way, Any Time



## Hand Off Your Risk To Us

Protect Assets with Automated and Self-Serve Programs  
 Expedite Funding | Generate Revenue  
 Enhance Customer Service  
 Build Your Business

[GAIG.com/EquipmentInsurance](http://GAIG.com/EquipmentInsurance)  
**866-676-5677**  
[EquipmentSolutions@gaig.com](mailto:EquipmentSolutions@gaig.com)



Policies are underwritten by Great American Insurance Company, Great American Assurance Company, and Great American Spirit Insurance Company, authorized insurers in all 50 states and DC. The Great American Insurance Group eagle logo and the word marks Great American® and Great American Insurance Group® are registered service marks of Great American Insurance Company. ©2017 Great American Insurance Company. All rights reserved.

## Principles Workshop Off to a Strong Start

The first Principles of Leasing and Finance Workshop of 2019 will be held at the offices of BMO Harris Equipment Finance, April 24-26. Attendees will learn about the benefits of equipment finance, the types of lease and finance transactions, and fraud detection and prevention and receive an overview of lease accounting. Two additional workshops are scheduled for 2019: In Washington, D.C., June 17-19 and in Plano, Texas, Sept. 10-12. For more information and to register, go to [www.elfaonline.org/POL](http://www.elfaonline.org/POL).

## We Bring the Training to You

Join the growing number of ELFA member companies who bring ELFA training to them! Hosting a workshop at your own facility gives you the flexibility and convenience to address the specific learning needs of your employees, establish collective knowledge and a shared skill-set and achieve even your most challenging business goals. The Principles of Equipment Leasing and Finance Workshop can be delivered on-site and tailored to your organization's needs. To schedule in-house training, please contact Alexa Carnibella at [acarnibella@elfaonline.org](mailto:acarnibella@elfaonline.org).



## Nominations Open for Equipment Finance Hall of Fame

The Equipment Finance Hall of Fame annually recognizes individuals who have made unique, significant or lasting contributions to the industry and/or the association throughout their careers. Nominations for the 2019 Class of the Equipment Finance Hall of Fame are due April 1, 2019. Nominations will only be accepted via online submission at [www.elfaonline.org/hof](http://www.elfaonline.org/hof). Please contact Ed Rosen, Director of Governance, at [erosen@elfaonline.org](mailto:erosen@elfaonline.org) with any questions.

## Florida Welcomes Credit and Collections Execs

Start your summer off right in sunny Florida! Don't miss the fantastic and informative 2019 Credit & Collections Management Conference and Exhibition in St. Petersburg, Florida, June 3-5 at the Hilton St. Petersburg Bayfront. Learn more about the state of credit and collections in the feature story on p. 28 and get conference details [www.elfaonline.org/events/2019/CC/](http://www.elfaonline.org/events/2019/CC/).



## ELFA Forecasts Industry Trends

What are the top trends driving capital acquisition this year? Find out in ELFA's Top 10 Equipment Acquisition Trends for 2019. Designed to help businesses with their strategic equipment acquisition plans, you can find the trends list—along with an infographic and video summarizing the trends—on ELFA's Equipment Finance Advantage website for end-users at [www.EquipmentFinanceAdvantage.org/rsrscs/articles/10trends.cfm](http://www.EquipmentFinanceAdvantage.org/rsrscs/articles/10trends.cfm).



## Everything Tax Pros Need to Know: June 11–12 Roundtable

The Tax Best Practices Roundtable is a two-day forum offered exclusively to tax practitioners of ELFA member companies. The roundtable focuses on federal and state compliance and planning issues, recent developments and sharing of internal best

practices. This year's roundtable will be held at the offices of CoBank in Greenwood, Colorado (a Denver suburb) in the afternoon of June 11 and the morning of June 12. For more information and to register, go to [www.elfaonline.org/events/2019/TPR](http://www.elfaonline.org/events/2019/TPR).

# Make a Lasting Impact!



### *Guest Lecture Program*

Connect with the next generation workforce and sign-up to be a Guest Lecturer at your local university! Share your experience to attract new talent to the industry.



### *Internship Center*

Recruit the best via the Foundation's digital Internship Center! A one-stop resource for managing your intern search, the online Internship Center provides a platform for students and companies to make connections.



Educational sessions highlighted a variety of asset classes.

## Equipment Managers Assess the Outlook for Equipment Markets

**OVER 300 EQUIPMENT MANAGERS**, remarketers and appraisers attended the 31st Annual ELFA Equipment Management Conference in February in Carlsbad, California. This three-day event allowed attendees to evaluate current market conditions, portfolio quality and residual values for a variety of equipment segments, thanks to an extensive agenda prepared by the Equipment Management Planning Committee, Chaired by Kevin Sensenbrenner of Stonebriar Commercial Finance. This conference has become known for its content-rich sessions that provide comprehensive information on a variety of asset classes; multiple off-site equipment tours that allow attendees to see equipment in actual work settings; a first-class exhibition of equipment appraisers, remarketers and others; unmatched networking opportunities with peers in the industry; and, new this year, a partnership and special session with the Commercial Finance Association. ☰



Attendees networked with industry execs from around the nation.



Keynote speaker Rochelle Carrington delivered a well-received presentation on "Happiness Is a Behavior, Not a Mindset."



A total of 37 companies exhibited.

You know "last minute" is only exciting in sports.



**N**o one knows your business better than you. And what you also know is that you don't want surprises when it comes to financing. Our MB Equipment Finance and Lease Banking teams understand each deal is unique, which is why a promise made in the first meeting should always be what's delivered in the last.

MB Financial Bank



Member FDIC

## 5 Minutes with the Financial Institutions Chair



**KIRK PHILLIPS**  
Chair of the Financial Institutions BCSC

**WHAT'S HAPPENING** with financial institutions in the equipment finance space? *Equipment Leasing & Finance* magazine recently caught up with Kirk Phillips, Chair of the Financial Institutions Business Council Steering Committee (BCSC), to take the pulse of this sector. Phillips, who is President & CEO of Wintrust Commercial Finance, is currently serving his first year as Chair of the committee, which represents bank-related organizations and other financial institutions involved in single transactions over \$5 million.

### What is the Financial Institutions BCSC focused on this year?

For the upcoming Bank Roundtable on April 9 in Chicago, immediately preceding the Funding Conference, the Financial Institutions BCSC is exploring several timely topics to discuss, including the current economic environment and its impact on the industry, business email compromise and fraud prevention. In addition to our roundtable

discussion, the group will continue to build on the progress that has been made to engage early career professionals with the equipment financing industry by completing 12 Guest Lecture Programs at universities and colleges across the country and engaging our elected officials by completing at least two in-district visits with members of Congress.

### What do you like best about serving on a BCSC?

The Council is made up of a very talented and experienced group of individuals who represent a broad cross section of financial institutions that serve our industry. I enjoy working with these business leaders to expand the reach and value of ELFA and our industry. We learn from each other and many times we're able to work together on business opportunities.

### What's the last book you read?

*Mornings on Horseback* by David McCullough covering the childhood and early career of Theodore Roosevelt prior to his ascendancy to the President of the United States. ☰

**Join the Roundtables!**

The Captive and Vendor Finance, Financial Institutions and Independent Middle Market BCSCs are planning best practices roundtables, to be held April 9 in Chicago. See details at [www.elfaonline.org/events](http://www.elfaonline.org/events)

### About the BCSCs

The BCSCs represent ELFA's five key business segments: Captive and Vendor Finance, Financial Institutions, Independent Middle Market, Service Providers and Small Ticket. Learn more at [www.elfaonline.org/BCSCs](http://www.elfaonline.org/BCSCs). Interested in joining? Contact Ed Rosen at [erosen@elfaonline.org](mailto:erosen@elfaonline.org).

LEAS  TEAM

The  
SAME  
GREAT

People  
Values  
Service  
Vision  
Solution

With a **NEW** Look!



**LTI**

Technology  
Solutions

*formerly LeaseTeam, Inc.*

LTI's ASPIRE™, a comprehensive equipment finance platform that empowers you to effectively scale your business.

[www.LTiSolutions.com](http://www.LTiSolutions.com)

# ELFA INDUSTRY D

## Spotlight on Delinquencies

According to the Interactive SEFA Dashboard, delinquencies are slowly creeping up. While not as bad as 2008–09 levels, they have increased each year since 2014.

See details by year, type of organization and more at [www.elfaonline.org/interactiveSEFA](http://www.elfaonline.org/interactiveSEFA).



## MLFI

Monthly Leasing and Finance Index Products

### January MLFI Year-Over-Year



New Business Volume: up 4%



Aging of Receivables: down 10%



Charge-offs: virtually unchanged



Credit Approvals: down 1%



Employment: unchanged



## Tax-Oriented Leases on the Rise

New business volume for tax-oriented leases was up 12.3% in 2017 compared to 2016.

Source: 2018 Survey of Equipment Finance Activity

# ASHBOARD



## Independent Study

Regulation related to small-ticket transactions is expected to increase in the near future, and many expect the cost of regulation will rise. See details in the new report *Independents: Banking on the Non-Banks* at <http://bit.ly/ELFF2019Independents>

## Solar Trends

Costs for utility-scale solar have fallen by more than 80% in the last decade. Utility-scale solar is now the cheapest source of electricity in regions with strong solar irradiance, such as in California, Arizona and Nevada.

Source: *The Impact of New Energy Production Technologies on Equipment Finance*, <http://bit.ly/ELFF2019NewEnergy>



# FUNDING'S FRAGILE

Thus far,  
economic growth  
has offset volatility  
in the equity markets.  
But so many things  
could change.



# BALANCE



BY SUSAN L. HODGES

## GE HEALTHCARE EQUIPMENT FINANCE

Global Capital Markets Leader Bob Blee pauses a moment during our phone conversation and then lets out a small sigh. “I wish there was some news,” he says sympathetically. “Last year’s U.S. funding environment was very stable with aggressive pricing, flexible terms and conditions and an appetite for larger-client credit exposures, driven by strong liquidity in the equipment capital markets. We’re expecting more of the same here at GE Healthcare Equipment Finance in 2019, and we’re pricing accordingly.”

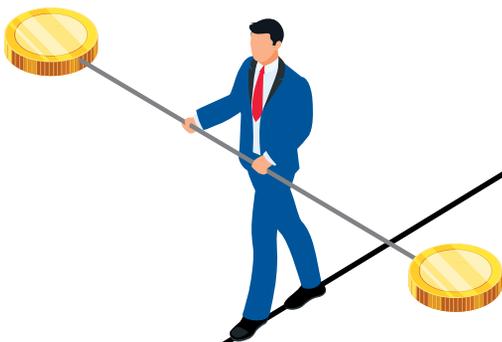
In the equipment-funding environment, no news is good news—at least for 2019. To use Blee’s words, companies had “terrific access to capital at attractive rates in 2018,” and although the U.S. economy is expected to grow more slowly this year than last, he thinks major changes in funding are unlikely. “There’s no question that there is uncertainty in the markets right now,” Blee qualifies. “But the economy still seems to be growing. There’s nothing I see in mid-January that leads me to think there will be a significant downturn in 2019.”

## Ifs and Buts

Not everyone is as sanguine. Lindsey McLorg, Director, Capital Markets, Structured Finance at Hitachi Capital America Corporation, calls last year’s funding atmosphere “unsettled,” and thinks the situation will be similar this year. Says McLorg, “Business managers hate uncertainty, and we’re in a political and economic environment where the only certainty is uncertainty.”

Amid trade tariffs and backlash and potential interruptions to supply chains, McLorg wonders how companies will approach their capex plans. “Even companies awash in cash may prefer to finance equipment purchases to preserve cash, given that the economy is likely to slow,” she says. “It is also possible that businesses might postpone capex spending until they have a clearer view of how the economy will progress.”

New developments that could upset the equilibrium seem to occur almost daily. “On one side, we’re expecting a healthy 4.1% expansion in equipment and software



investments for 2019," says Mike Clune, Director of Capital Markets at First American Equipment Finance, an RBC/City National Company. "On the other side, volatility in the stock market could constrain funding. I'm sure a lot of funding sources are watching this closely."

First American Equipment Finance is active on the buy side, building a portfolio "that will perform in any economic environment," Clune says. The company isn't looking to change its credit box based on speculation, "so it would take strong indicators and proof that a downturn is imminent before we'd revisit our credit matrix," he says.

Walter Stranzl, CFO of GSG Financial, believes several changes will occur in 2019 to moderate funding activity. "I think there will be more increases in interest rates and changes with respect to funding sources' appetites," he says. "There's a great deal of uncertainty in the market place, and I think most companies that fund will stay close to home, doing what they're best at, until the overall economic outlook changes."

### **Different Strategies, Similar Goals**

Customers Commercial Finance is doing just that. "We're sticking to our knitting," says Tom Pagano, Senior Vice President and Capital Markets Leader. "We're focusing in industries and equipment types where we have expertise. In fact, Customers Bank has increased our group's credit authority at local levels to take advantage of our subject-matter expertise."

Pagano thinks fear of a slowdown and/or recession could cause businesses to cut capex spending and banks to tighten their credit boxes. "But on a positive note," he says, "if credit hold positions decrease, we'll see an increase in buy-sell activity in the capital markets area."

At the same time, Pagano observes, sharp increases in LIBOR and Prime rates have raised the cost of funds on warehousing lines for independent equipment-finance companies. As a result, "Independents may choose to flip deals right away rather than fund them on warehousing lines and then sell," he posits.

Blee says the challenge for companies that fund is not to get wrapped up in the daily headlines. "Look at

the macro factors," he urges. Hitachi Capital America does that consistently. McLorg says the company has a mandate to grow—substantially—over the next six years.

She elaborates: "We and our sister company, Hitachi Capital Canada, represent only 10% of our global company, so we have big goals for growth and plans to get there. We provide financing for many types of equipment, from many manufacturers, and use our structuring expertise to deliver valued solutions for our clients. We're already financing software, and in addition to financing a wide range of commercial and industrial equipment, we've developed a large portfolio of energy-efficiency projects because globally, Hitachi is committed to supporting sustainable alternative energy solutions."

If banks retreat, McLorg says Hitachi Capital America can fill the void. "With our diversified strategy, we'll continue to monitor the market and hope it works its way through any turbulence with minimal impact to our customers," she says. "But we won't back off our growth objectives. We are enhancing our capabilities through operational excellence and we'll continue to consider a wide range of transactions."

At First American Equipment Finance, Clune eyes the company's position in two strong markets. "Our company was built on serving the education and healthcare markets, and both are still meaningful parts of our portfolio," he notes. "Both perform well during the economic cycle, and we take comfort from that."

### **Equipment Market Matters**

Solid markets notwithstanding, several industries that haven't fared well since the recession continue to be challenged, and funding professionals don't see a reprieve. "We've seen some credits in oil and gas, and the pricing pressures are tremendous on both the commodities themselves and the capacity, so that's rough," says Stranzl. He also thinks cutbacks will continue in the printing industry, and he worries about healthcare equipment. "Many hospitals' revenues are government-related, either Medicare or Medicaid," he says. "When you consider a hospital for financing, you have to look at how much indigent care they provide and how much Medicare they do and ask, can this hospital fail? Or would someone swoop in because it's a critical part of the community that no one would let fail?"

To answer such questions, Stranzl says GSG is spending more time up front in its due-diligence process for customers that aren't household names. "We're making sure as best we can that there's a

## 31<sup>st</sup> Annual National Funding Conference set for April 9-11

Learn more about the funding landscape at the ELFA National Funding Conference, the annual forum for connecting funding sources with leasing and finance industry organizations looking to establish relationships to fulfill their funding needs. See [www.elfaonline.org/events/2019/NFC/](http://www.elfaonline.org/events/2019/NFC/).

strong management team in place," he says. "If a customer has a bit of a story, we're also looking for how much detail we can get to ensure that the story is almost over and the company is coming back online."

At Customers Commercial Finance, Pagano ponders vulnerable markets and thinks of transportation and construction. Even though the bank approaches both only through capital markets, "Historically, both are leading economic indicators," he says. "With many banks heavily concentrated in these areas right now, any slowdown in the economy will impact these industries." Retail, in contrast, has everyone's sympathy.

One sector currently experiencing a boom is equipment rental. "We see a number of requests for financing in this area and these firms are growing like crazy," says Stranzl. The other side of the coin is that more rentals mean fewer leases and loans. "And yet, we find lenders generally are much more willing to finance a hard asset now than in prior years," he says. "They want an asset that retains some value, as opposed to managed service agreements and IT assets where the price falls every six months or so."

### Costs and Pricing

Meanwhile, the federal funds interest rate stands at 2.5% after four hikes in 2018, and the Federal Reserve has said to expect more increases this year. Blee says funding sources are "already anticipating hikes for 2019," and that he doesn't expect the situation to have a negative impact on overall funding capacity.

But Pagano worries. "With strong portfolio performance and low delinquency, there is irrational pricing in the market right now," he says. "Banks are not including risk in their pricing." He believes a slowing economy and weaker portfolio performance could prompt a return to risk-based pricing and more rational spreads.

McLorg sees some of the same inexplicable behavior. "For the most part, our industry is able to pass on interest-rate increases and/or tighter structures to our customers," she says. "At Hitachi, we try to maintain pricing discipline while emphasizing flexibility, responsiveness and less bureaucracy, which resonates with clients."

On a slightly more positive note, Clune sees companies' increased use of technology creating efficiencies in pockets of the market. "These efficiencies can help lessen expenses for lessors," he says. "They also help facilitate lending, especially

to small businesses, as many of their funding needs are now accommodated seamlessly by automatic or quick credit-decisioning. This value and convenience for the client can help ensure that proper pricing is achieved."

Stranzl doesn't worry much about the cost of funding, because he's skeptical that interest rates or trade tariffs will have big impacts. But he does think equipment finance companies are missing growth opportunities that could be accessed by doing two things, as he explains. "Since the recession, funding sources and banks particularly have been trying to reduce staff or keep it to a minimum, even though we've been in a strong environment," he says. "I think funders would do themselves a favor by increasing their credit team, whether credit analysts or asset managers, because originators want quick decisions so they can move on to other transactions. If someone told me that their company was increasing their credit team or asset management group by 10% next year, I believe they'd see an immediate jump in business."

Stranzl also thinks funding sources should consider broadening their offerings and expanding their credit matrixes slightly. "If you can diversify your product offerings, you can work with your trusted long-term customers and partners who have a solid track record you can rely on," he says. And by expanding their credit matrix carefully, Stranzl continues, companies could increase their yield. "If you're an A player, you could adjust your matrix to accept a little bit less," he says, adding, "We know our delinquent defaults are much lower than in other areas of the finance world, and the strength of our industry has been validated many times."

Clune seconds that. "I think no matter what happens this year, there are a lot of advantages to being in equipment finance and funding sources will respond," he says. "Ultimately, I expect the funding environment to be appropriate to the economic situation, and if there's any type of constraint from current sources, I expect others will jump in."

Whether any of those others will be market newcomers remains to be seen. But one thing is sure: established equipment finance companies that fund have been here before. And if the past is prologue, the weight of experience will help keep them in balance. ☰

---

**SUSAN HODGES** writes about equipment finance and other business topics from her office in Wilmette, Ill.

### Looking for a Funding Source?

In addition to attending the National Funding Conference, check out ELFA's online Funding-Source Database. Search by type of company, types of lease structures, funding programs, equipment types and/or credit criteria: <https://apps.elfaonline.org/Directories/FundSource/>.



# Donning the

# Cape



## *The ELFA Women's Council aims to find the superpower in you*

By Susan L. Hodges

**DR. TANYA MENON IS AN EXPERT ON NEGOTIATION.** Talk to her for 30 seconds and you'll find yourself as fired up about it as she is. "When you think about it, *life* is a series of negotiations, one after another," says Menon, Associate Professor at Fisher College of Business, The Ohio State University; author of a recent book on management; and deliverer of a TED talk named one of the most popular of 2018. "Conversations with your team at work about the tasks you'll take on, as well as discussions with your spouse about how you'll divide aspects of childcare, are negotiations," she says. "If we don't negotiate well or at all, the effect is cumulative—and can have a major impact on our quality of life."

Rochelle Carrington is a sales and leadership authority. She teaches people how to build and maintain their personal brands. "All of us are inundated with commercial branding, but personal branding is something most of us don't think about," says the President and CEO of Bulletproof Management, Inc. "As a result, our personal brands are usually created by default." Personal brands "are what people say about you when you leave the room," Carrington explains. "If your brand isn't a true reflection of yourself, people will decide for themselves who you are and what you stand for—and you might not like it."

Both Menon and Carrington will speak at the 2019 ELFA Women's Leadership Forum, April 1–2 in Washington, D.C. This popular event—now in its second year—will focus on leadership development for women at all stages of an equipment finance career. The theme, "Find Your Superpower," celebrates the idea that there is a superhero inside all of us—we just need the courage and skills to put on the cape. Despite doubling in size over the 2018 gathering, the Forum sold out well before its occurrence.

**“We hope to provide an entrée to women who haven’t yet engaged with ELFA or thought about equipment finance as a career, as well as to those who have more experience and want to continue to advance.”**

—Lori Frasier, Women’s Council Chair



“But fear not,” says Lori Frasier, Chair of the ELFA Women’s Council and Senior Vice President, Strategy and Performance Management at Key Equipment Finance. “We are thrilled by the response we’ve had to this year’s Leadership Forum—and if you didn’t have a chance to register before it sold out, don’t worry! The enthusiasm for this event is more evidence that there’s a great deal of pent-up demand for leadership development opportunities for women in our industry. More events are already in the works, and we are discussing how we can provide additional resources and opportunities to help meet this demand.”

### **Filling a Growing Need**

Indeed, the Women’s Leadership Forum is just one event, albeit the largest thus far, sponsored by the Women’s Council. But its popularity exposes an enormous hunger for professional development, networking and support on the part of industry women, and a challenge for the Council to respond quickly and in substantive ways.

Began in May 2017, the Women’s Council is a 19-member steering committee created by ELFA’s Board of Directors. Its mission is to help achieve gender balance in leadership across all levels of ELFA and the equipment finance industry. As Frasier said rather famously at the start, “Having an inclusive and diverse industry overall is our long-term vision. We hope not to need this Council five to 10 years from now.”

Today the Council leads ELFA toward its vision by focusing on what Frasier calls The Four A’s:

- Access
- Awareness

- Advocacy and
- Action.

Frasier says improved access to leadership is the overarching goal. “Historically, Association leadership has been dominated by white males, so we’re working to create a new set of access points that will result in a more balanced picture that better reflects the markets our companies serve,” she says.

Increased awareness that gender-balanced leadership creates better business results is one access point. Research from multiple sources, including Gallup, McKinsey & Company, Catalyst and MSCI, show that gender diversity, combined with an inclusive culture, have positive impacts on productivity, employee retention and profitability.

Kris Snow, President of Cisco Capital at Cisco Systems Capital Corporation and an ELFA Board Member who will be speaking at the Women’s Leadership Forum, discusses the value of diversity and inclusion overall, and their role in the work of the Council. “Diversity enables different points of view, which spark innovation, support enhanced performance and deliver competitive advantage,” she says. “ELFA is committed to supporting and accelerating women, as well as other underrepresented groups, into positions of leadership within the Association and, most importantly, in the industry. The Women’s Council acknowledges the importance of inclusion by providing a focused and dedicated framework to educate and empower women.”



**“ELFA is committed to supporting and accelerating women, as well as other underrepresented groups, into positions of leadership within the Association and, most importantly, in the industry.”**

—Kris Snow, ELFA Board Member

# Grow Your Network

If you didn't have a chance to register for the 2019 Women's Leadership Forum before it sold out, there are other Women's Council events you might consider attending in 2019. Women's Council Receptions will be held at the following conferences this year:

- Funding Conference, April 9–11
- Legal Forum, April 28–30
- Credit and Collections Conference, June 3–5
- Operations & Technology and Lease and Finance Accounting Conferences, Sept. 16–18
- Annual Convention, Oct. 27–29

See details at [www.elfaonline.org/events](http://www.elfaonline.org/events). In addition, this year the Council will be adding opportunities for networking through social media—stay tuned for details.

## Opening Additional Doors

Advocacy of women as leaders in the Association and industry creates further access, Frasier says. Valerie Hayes Jester became ELFA's first woman Chair in 2007. Today women occupy six seats on the Association's Board of Directors and two are in line to become Chair: Martha Ahlers in 2020 and Kris Snow in 2022. Says Frasier, "We want everyone to feel that our association's organization and leadership positions are accessible to them."

Jud Snyder, President of BMO Harris Equipment Finance Company and Chairman of ELFA, believes the Women's Council's agenda for enhanced accessibility to leadership couldn't come at a better time, since both the Association and equipment finance industry are eager for more professionals who'll step up to lead or play contributing roles. "The best way to ensure our industry and our member companies are inclusive is to engage with everyone, soliciting viewpoints from across the spectrum," he says.

Snyder also advocates supporting the Council by getting involved. "Attending a Women's Council event is a chance to interact with peers from other companies, share best practices and challenges, and have an honest discussion around building a career in finance,"



**"The best way to ensure our industry and our member companies are inclusive is to engage with everyone, soliciting viewpoints from across the spectrum."**

—Jud Snyder, ELFA Chairman

he says. "Men as well as women have a vested interest in making our industry as strong and successful as possible. This is a shared conversation about our mutual success."

Last but hardly least, the Council is taking action to create more access through programming, communications and more opportunities for leadership development. "Last year we held the first Women's Leadership Forum and contributed to the ELFA Annual Convention to spread the word about the work we were doing," says Frasier. "This year we're adding opportunities for networking through social media. We're also working on a mentoring program that may be introduced later this year, or possibly next year. We won't roll it out until we're sure we've got it right, but this is an area of focus this year."

**“As our industry works to promote more women into senior leadership positions, men would particularly benefit from the focus on diverse perspectives, as well as the unique opportunity to network with leaders who will be a strong presence in the future leadership of our industry.”**



—Kevin Sensenbrenner, Women’s Council Member

Overall, Frasier says, the Women’s Council is building a structure to appeal to and support women at all levels. “We hope to provide an entrée to women who haven’t yet engaged with ELFA or thought about equipment finance as a career, as well as to those who have more experience and want to continue to advance,” she says. “We want to offer events and services that will benefit women at every step in their careers.”

The Council will continue to sponsor and host Women’s Council receptions at ELFA events. In addition to a reception and a breakout session at the Annual Convention in October, the Council sponsors receptions at the Funding Conference and the Legal Forum and in April, the Credit and Collections Conference in June, and the Operations & Technology and Lease and Finance Accounting Conferences in September. What’s more, the Council is working to attract more men to its events. Says Frasier, “We’d love to have more of our male allies join us at our gatherings, which predominantly feature women at all levels. It’s all about women and men learning together.”

### **Another Point of View**

Kevin Sensenbrenner is one such ally. He is a member of the Women’s Council who attended last

year’s Women’s Leadership Forum and will make the trip again this year. “The atmosphere was highly charged and great for building relationships and making new connections,” says Sensenbrenner, Senior Managing Director and Head of Asset Management at Stonebriar Commercial Finance. “The broad mix of businesses and professionals represented facilitated good conversations and provided diverse perspectives around what leadership looks

like, the art of persuasion and networking strategies.”

Sensenbrenner believes in personal branding, so he is especially looking forward to Rochelle Carrington’s Forum presentation on this topic. “I’ve put a lot of work into my own brand, and I think it’s been very helpful to my career,” he says. “In the future, I hope we’ll have more opportunities to learn Rochelle’s insights on personal-branding characteristics and use her strategies to further develop and reinvent our brands as our career objectives evolve.”

He encourages men to attend Women’s Council events. “As our industry works to promote more women into senior leadership positions, men would particularly benefit from the focus on diverse perspectives, as well as the unique opportunity to network with leaders who will be a strong presence in the future leadership of our industry,” he says.

Sensenbrenner makes a salient point. Women can gain confidence and leadership skills until hell freezes over, but without the understanding and support of their male colleagues, their progress again would be limited.

### **Crucial Skills**

Besides, notes Frasier in a nod to both sexes learning together, there are skills that both women and men need, but which are vital to women’s professional development. She cites negotiating and personal branding as examples. “Research shows that women are less likely than men to ask for what they want,” she observes. “Studies also tell us that women see themselves as weaker negotiators than men, and that people generally don’t see women as powerful negotiators. We think this plays a part in the pay gap between women and men. That’s why it’s such an important topic.”

Developing and maintaining a personal brand, on the other hand, helps women leverage what is unique about

The logo features the word "Women" in a large, bold, black font, with a colorful circular graphic of four interlocking shapes (red, yellow, green, blue) behind the letter "o". Below "Women" is the word "Inclusion" in a similar bold, black font. To the left of "Inclusion" is the acronym "ELFA" in a smaller, blue font. To the right of "Inclusion" is a large, red number "4". Below the logo, the text reads: "In conjunction with Women’s Leadership Forum, the Women’s Council will be launching a new LinkedIn Group. Watch for details, coming soon!"

# 2019 ELFA Women's Council

If you are interested in getting involved with the work of the Women's Council, please email Amy Vogt at [avogt@elfaonline.org](mailto:avogt@elfaonline.org).

## **Lori Frasier—Committee Chair**

SVP, Strategy and Performance Management, Key Equipment Finance

## **Deborah Baker—Chair-Elect**

*Chair, Annual Convention  
Women's Council Reception  
Planning Subcommittee*  
Head of Worldwide Leasing & Financing, HP Inc.

## **Cynthia Caine**

SVP, Diversified Programs and Tech Leader, Wells Fargo Equipment Finance

## **Kathleen Canum**

Vice President, Administration, Canon Financial Services, Inc.

## **James Cress**

Vice President & General Manager, Stryker Flex Financial

## **Jennifer Fanz**

*Chair, Women's Leadership  
Forum Planning Subcommittee  
Chair, Annual Convention  
Session Proposal Subcommittee*  
Country Sales Manager, US Healthcare, DLL

## **Valerie Gerard**

Senior Managing Director & Practice Group Leader - Strategy & Competitive Alignment, The Alta Group LLC

## **Jaimie Haver**

SVP Operations Manager, Hanmi Bank

## **Kristie Kosobuski**

Senior Director Product Management, International Decision Systems

## **Marjorie F. Krumholz**

Partner, Thompson Coburn LLP

## **Shari Lipski**

Principal, ECS Financial Services, Inc.

## **Sherry Lowe Johnson**

Director, Senior Counsel, Volvo Financial Services

## **Amy Nelson—Board Liaison**

President, Global Healthcare & Clean Technology, DLL

## **Melinda Petrowske**

Senior Credit Officer, Farm Credit Leasing Services Corporation

## **Rhonda SanFilipo**

*Chair, Outreach/Social Media  
Engagement Subcommittee*  
Sales Executive, Ivory Consulting Corporation

## **Kevin Sensenbrenner**

SVP/Senior Managing Director, Head of Asset Management, Stonebriar Commercial Finance

## **Danielle Waterworth**

Director, Asset Remarketing & Leasing, CNH Industrial Capital LLC

## **Jenny Wood**

SVP Client Services, Orion First Financial, LLC

## **Carlie Yeandle**

*Chair, Explore Creation  
of Mentoring Program/  
Opportunities Subcommittee*  
Vice President, BMO Harris Equipment Finance Company

themselves and create a personal mission statement to drive their success both in and out of the office. "It's a particular issue for women because there are so many negative stereotypes," says Carrington. "A woman who's strong and knows what she wants is often seen as pushy and demanding. A woman who takes charge might be seen in a way that doesn't fit social norms." Creating a personal brand involves "determining the core characteristics and values that you want to project to others," Carrington suggests. Part of personal branding involves figuring out the actions you need to take daily, weekly and monthly to demonstrate your personal brand and communicate it to others, she adds, "because we all know actions speak louder than words."

If you're still on the fence about attending or sending employees to Women's Council events, consider this

reflection from Snow: "Investing in employee education and development is a foundational tenet for talent growth within organizations. Sponsoring one or more employees to attend the 2019 Women's Leadership Forum provides opportunities to enhance industry knowledge, enable career progression and heighten awareness of the business values of diversity and inclusion."

If that isn't enough, think of the opportunities to meet new colleagues and update your perspectives—about your association, your industry and yourself. And why not? Says Frasier, "It's all part of finding your superpower and putting on the cape." ☰

---

**SUSAN HODGES** writes about equipment finance and other business topics from her office in Wilmette, Ill.

# Risk Assessment

**For credit and collections managers, vigilance on many fronts is all in a day's work**

By Stuart Papavassiliou

**T**O MARK THE UPCOMING CREDIT & COLLECTIONS MANAGEMENT CONFERENCE, June 3–5 in St. Petersburg, Florida, *Equipment Leasing & Finance* reached out to a group of seasoned credit risk professionals to size up the current state of affairs and get their thoughts as to what the future holds for 2019 and beyond. Some of the prominent issues from 2018, like compliance, have become a function of doing business as usual, while new concerns have emerged. Key Equipment Finance's Sarah Palmer, Marlin Business Services' Lou Maslowe, Volvo Financial Services' (VFS) Nicholas Jones and Wintrust Specialty Finance's Chris Maudlin spoke to an array of issues, including the need to combat the intensifying threat of fraud.

As for the current state of affairs, the general consensus is positive. Maslowe sums it up, "I would say that overall credit performance is in a good place as delinquencies and credit losses remain at very acceptable levels." As a captive, VFS' Jones reports that credit and collections are actually very stable and performing at high levels. "That's a good message to be able to deliver right now," he adds.

For Palmer, the question that remains is not *if* the cycle will turn, but *when* it will turn. She says, "The slow growth in the economy has been continuing for a

long time, and today we're wondering when the other shoe is going to drop."

Maudlin concurs. "We've been asking that question for a couple of years now. Given how long this cycle has lasted, we've seen a shift on the collections side. We're asking ourselves, 'Do we have the right staffing and systems in place?' We're not sure when it's going to hit, but we're working hard to make sure we're prepared for it."

Palmer notes some concerns on the horizon. She states, "Growing political risks, trade friction with China and increased debt costs in the form of higher



interest rates are concerns for many credit professionals. These things add uncertainty because of the downstream effect they can have on credit quality.” At the level of industry trends, Palmer notes the following: “It’s worth mentioning that we experience continued pressure for more relaxed underwriting and looser documentation, and this is happening amid increased competition.”

So, what’s changed in the last year? Jones says, “Although we’re doing well, we’re keeping an eye on regional and global macroeconomics for potential changes in each market. With the portfolio stability we’ve experienced, we’re primarily focusing on raising our already high customer satisfaction levels by continuing to train and develop our employees. Our intention is to build an even stronger customer focus mindset through cross-training programs, particularly for early career professionals. We’ve always had a focus there, but we’ve been ramping up those efforts even more.”

**We are looking into more ways we can use technology to identify and combat fraud.**

—Sarah Palmer, Key Equipment Finance



**Expectations for 2019 and Beyond**

As they look to 2019, there are few expectations for significant shifts in the near future. Palmer states, “As far as portfolio performance goes, we don’t see anything directionally that is raising a red flag. My expectation is this will stay more or less the same as long as people in our industry maintain discipline and diversity in managing their portfolios.”

Maslowe agrees. “We’re cautiously optimistic about a continued healthy economic environment in 2019, which is key for us to continue to achieve our 20% annual growth objective.” Despite some economic headwinds—namely economists’ predictions for a downturn in 2020—Maslowe points to the fact

that overall business optimism indices remain at near-record highs.

Maudlin adds, "I don't think what you're seeing with markets and the turmoil in Washington, D.C., is playing out in the same way on Main Street. I expect to see some deterioration in portfolios, although nothing at catastrophic levels. However, when you compare it with what we've been used to, it's going to be a bit of a wake-up call for some institutions."

Jones sees things similarly. He notes, "If we experience a macroeconomic change, I expect



**[W]e're prepared for any movement in the credit cycle whether it's an upturn or a downturn.**

—Nicholas Jones, Volvo Financial Services

the collections environment will become more demanding as time goes on. But overall, our current expectation is that we will continue to experience competitiveness within a stable environment."

He further notes, "In the transportation industry, there has been a backlog of new equipment orders, and it's a bit too early to tell if that will level off as the year progresses. We will also have to wait and see how that will affect secondary market prices and used equipment values."

With the overall sentiment being one of steadiness and stability, credit managers are still keeping an eye on emerging trends that pose future risks. Palmer says prudent credit managers may want to ask themselves the following: how well diversified are their portfolios and how prepared are they for any kind of slowdown? Moreover, what kind of threat will higher interest rates impose on consumers, and what will be the outcome?

Still, she says, skilled credit professionals can turn those challenges into opportunities with enough foresight. "If your portfolio is performing well, you might have the available capital and the ability to take market share in the event of a downturn while your competitors are struggling with other issues."

Maslowe also focuses on the opportunities. "From a risk perspective," he states, "a key challenge is always balancing growth with portfolio quality. An example of a key opportunity is leveraging the increasing amount of data available through third parties, whether it's social media or credit data sources. We're looking to incorporate additional data into our models, and to increase the use of risk-based pricing and behavioral scoring."

Maudlin offers, "From a day to day standpoint, I

continue to see credit teams being asked to do more with less—specifically, to make decisions with less information. I think it has a lot to do with heightened competition and the prevalence of alternative lending sources."

Jones notes, "Even though the market has been stable for several years, we recognize it's important not to become complacent. As such, we're prepared for any movement in the credit cycle whether it's an upturn or a downturn. As a captive, we are focused on Volvo Group customers, and we need to be there for them in good times and in more challenging times."

From Maudlin's perspective, bank-affiliated equipment finance companies are charged with finding ways to compete effectively with the independents while incorporating regulatory effectively and compliance requirements. He says, "Regtech was a term we were using at last year's ELFA Credit and Collection Conference where we

tried to tackle integrating all the different regulations and compliance requirements into a more streamlined process. The aim was to manage all of the pain on our side while the customer never feels it. I think this is a key challenge and the folks who are able to accomplish this will differentiate themselves from the rest of the pack."

As for the overall impact of compliance and regulatory matters, this panel has little to say beyond the fact that it's a reality that's here to stay. Palmer states, "It's become a cliché, but it is what it is. There was

**I expect to see some deterioration in portfolios... when you compare it with what we've been used to, it's going to be a bit of a wake-up call for some institutions.**

—Chris Maudlin, Wintrust Specialty Finance



some speculation that regulations would become more relaxed, but I've not experienced that. In the end, there is still a lot of time and effort, not to mention money, that is spent to make sure we're compliant."

Maslowe notes, "Over the past couple of years, things on the regulatory front have been more or less stable. The most significant regulatory issue getting

our attention right now is CECL. With the Jan. 1, 2020 implementation deadline looming, it is one of our top priorities to make sure our CECL allowance methodology meets requirements.”

### **Beware the Bad Guys ... A Lurking Concern**

While delinquencies have remained at historically low levels and compliance matters stabilized, Maslowe is quick to point out an important shift in 2018 and going into 2019—fraud. He says, “This is the biggest change that stands out for me. In fact, fraud risk mitigation will be a session topic at the upcoming ELFA Credit & Collections Conference in June. Some of this has to do with the digitalization of our business with more applications coming in through online portals. The bad guys are learning new tricks, and we’re focused on combatting those tricks with tools like e-mail and IP address fraud risk assessment, as well as bank account payee validation to make sure lease proceeds are making it to the intended recipients.”

And to be sure, this is not solely a Marlin phenomenon, but one that has an impact industry-wide. Palmer states, “In terms of what’s in the forefront of my mind, we are looking into more ways we can use technology to identify and combat fraud. We are in an environment in which the bad guys are committing fraud in various ways—by hacking into systems and perpetrating corporate and personal identity theft. These days, not only do we have to be on top of the compliance and regulatory issue and expert at managing our portfolios, but also aware of a third arm of risk—combatting fraud.”

### **Behold the Brighter Side: Innovation**

When it comes to new processes and procedures, all agree as to the importance of leveraging technology to simplify and enhance their customers’ experience as well as to improve efficiency and mitigate risk. Still, each of their institutions approach the issues at hand somewhat uniquely.

At Key Equipment Finance, Palmer notes, “Our quantitative analytics group is growing, and we are looking to reduce the time spent processing credit decisions. In addition, we’re looking at ways to improve our customers’ experience through the use of technology by offering self-serve options for their leases and loans. As an industry, if we’re going to compete with Fintech and other alternative loan sources, we need to offer more digital-friendly options.”

At Volvo Financial Services, one solution lies in collaboration. Jones explains, “Last October, we launched

**We’re looking to incorporate additional data into our models, and to increase the use of risk-based pricing and behavioral scoring.**

—Lou Maslowe, Marlin Business Services



our ‘iLabX by Volvo Financial Services’ program, which provides entrepreneurial companies in Fintech and other fields with the opportunity to collaborate with VFS. We had more than 140 applicants apply for the program in 2018. A select group of those applicants met with us in January to present new ideas and ways of working in conjunction with VFS to enhance our customers’ experience as well as to drive business performance through digital transformation.”

For Maudlin and his colleagues at Wintrust Specialty Finance, the emphasis is on finding ways to leverage technology to be less intrusive, such as finding third-party data sources that are both trustworthy and accurate. He states, “These third-party data sources can play an important role in order to mitigate risk and to meet our day-to-day demands of doing business.”

Maslowe shares that Marlin has been at work on enhancing its capital markets function. He says, “This allows us to optimize the asset mix that we keep on our balance sheet. For example, we syndicate low-yielding business that’s at the top of the credit spectrum that fits better on a bigger bank’s balance sheet. Conversely, we have a syndication arrangement with a hedge fund to which we sell high-yielding business at the bottom end of the credit box, which is potentially too volatile for our balance sheet. This way we can satisfy all the financing needs for our dealer and vendor partners by approving applications throughout the credit spectrum.”

From fostering innovation to stay atop emerging credit risks and compliance and regulatory matters in a competitive environment, to optimizing efficiency and preparing for a downturn, there’s much to manage. For today’s credit managers, it’s all in a day’s work. ☰

---

**STUART PAPAVALASSILOU** is a Philadelphia-based freelance writer with extensive experience in commercial finance topics.

**Don’t miss the 2019 Credit & Collections Management Conference, June 3–5 at the Hilton St. Petersburg Bayfront in St. Petersburg, Florida. For details visit [www.elfaonline.org/events](http://www.elfaonline.org/events).**

# ADVOCATING WITH ONE VOICE

**ELFA IS THE PLATFORM** for the equipment finance industry to advocate for public policy issues at the federal level. This platform effectively takes the interest of more than 575 member companies and creates one voice that strengthens our impact on policy issues.

At Capitol Connections, May 15 in Washington, D.C., members will advocate on behalf of the industry. Capitol Connections is just one component of the association's government relations strategy. This strategy is a three-legged stool with the legs of that stool being direct advocacy, grassroots mobilization and political involvement. By merging all three into our government relations strategy, we create a united voice.

## Direct advocacy

Direct Advocacy, often called lobbying, is the expression of our First Amendment rights to petition our government. ELFA's direct advocacy falls into two broad categories, education and advocacy.

Elected officials come from a wide variety of backgrounds, and because of that, they do not always know the subtle details essential to operating an equipment finance company. A large portion of ELFA's direct advocacy efforts focus on education about the industry, because if elected and appointed officials

## Member engagement is critical to ELFA's government relations strategy

By Chelsea Neil

Once an issue with current policy or proposed legislation is identified, ELFA staff, often in coordination with member company volunteers, engage directly with Members of Congress and their staffs in order to educate them about the issue. Once that base level of education is achieved, we are then able to advocate for the path that will lead to best results for the equipment leasing and finance industry, and accordingly, the U.S. economy.

## Grassroots mobilization

Lobbying by ELFA staff is not always enough to convince government officials that a policy is right or wrong for the industry. It takes a local voice, or industry expert, to relay the message. This is where ELFA's grassroots network comes into play to create the next leg on our stool. ELFA's grassroots programs are geared towards bringing the voice of our industry to elected officials, giving firsthand accounts to policymakers on matters that affect the everyday lives of member companies. Sharing your voice, inviting elected officials to meet with your employees who work in their districts, and partnering with other industry companies increases the volume and helps us stand out.

## Political involvement

Political involvement is knowing which candidates understand and support the industry and then voting for those candidates. Civic engagement can go further than just voting. Running a campaign takes volunteers. Perhaps a candidate in your area

don't understand how equipment finance benefits the economy, they are unlikely to support changes that would benefit our industry.

When determining whether or not to advocate on any given matter, ELFA legislative staff engage with ELFA members to determine how current policy is working for the equipment leasing and finance industry. Additionally, ELFA staff work with member companies to review proposed laws and rules.



The graphic features a blue background with a white outline of the U.S. Capitol dome at the top center. Below the dome is the text "CAPITOL CONNECTIONS" in white. Underneath, three white boxes with blue text indicate the event schedule: "MARCH 11 REGISTRATION BEGINS", "APRIL 12 REGISTRATION CLOSES", and "MAY 15 EVENT DATE". At the bottom, a white box contains the text: "View your video invitation and sign up for Capitol Connections by April 12 at [www.elfaonline.org/events/2019/CHD](http://www.elfaonline.org/events/2019/CHD)."

needs someone to help introduce him or her to other community members. Alternatively, the candidate may need help walking your neighborhood and meeting your neighbors. These activities can help push an industry candidate into an elected position and make the candidate recognize you as a valuable resource to them when they need to know how a policy will affect the local economy.

Just like growing a successful business takes capital, running a campaign takes funding to pay staff, run political advertisements and travel around the district. To help create that stronger, united voice, ELFA formed its political action committee, LeasePAC, to collect voluntary contributions from hundreds of employees at ELFA member companies and pool those funds to make contributions to candidates who share our values. The LeasePAC committee is composed of employees from ELFA companies and oversees all LeasePAC activities. To find out more about LeasePAC, please visit the LeasePAC website at [www.elfaonline.org/advocacy/leasepac](http://www.elfaonline.org/advocacy/leasepac).

## How to Get Involved

Sign up for Capitol Connections by April 12 at [www.elfaonline.org/events](http://www.elfaonline.org/events).

Alternatively, you can reach out to ELFA Federal Government Relations staff to start planning to host a legislator at your office. Developing relationships now with those who make policy decisions helps us to be a stronger voice when we need to find advocates to hear our side in the debate.

It is critical that we engage those who represent us, so our policy issues are known and acted on. An informed and engaged membership is the core of ELFA and its government relations strategy. ELFA works to provide a variety of resources to our members to keep you current on policy issues and events. We need you to carry the message on critical issues to policymakers at the federal and state levels. Together we make a difference. 

For more information, contact **CHELSEA NEIL**, ELFA Director of Federal Government Relations, at [cneil@elfaonline.org](mailto:cneil@elfaonline.org).



# Become an ELFA Advocacy Champion!

ELFA is excited to announce the expansion of its federal advocacy programming this year. **Advocacy Champions** is a new competition between ELFA's Business Council Steering Committees (BCSCs) that encourages members to actively participate in the association's advocacy initiatives. ELFA members will earn points for their BCSC with each activity they participate in.

This year's program is designed to encourage engagement with policy makers at the federal level. BCSCs will get points when their members participate in Capitol Connections, or when one of their member companies meets with their Members of Congress in their hometown.

The results of this year's program will be announced during ELFA's Annual Convention in October 2019, and the BCSC with the most points will win! The winning BCSC will not only receive bragging rights for the year, but also will have their BCSC's name engraved on a trophy, which will be awarded annually and will surely become as coveted as Lord Stanley's Cup!

Now is the perfect time to start. Register for Capitol Connections by Friday, April 12. Reach out to the ELFA Federal Government Relations staff to start the process of scheduling an in-district site visit.

For more information about the Advocacy Champions program, visit ELFA's Federal Advocacy website: [www.elfaonline.org/advocacy/federal-advocacy](http://www.elfaonline.org/advocacy/federal-advocacy) or contact Chelsea Neil at [CNeil@elfaonline.org](mailto:CNeil@elfaonline.org).

# 2019 Equipment Outlook

**WHAT ARE THE HOTTEST EQUIPMENT SECTORS IN 2019?** The answer is construction, trucks/trailers, machine tools, medical and hi-tech/computer equipment, according to a new survey of ELFA member asset managers and consultants. "What's Hot/What's Not: Equipment Market Forecast 2019" reveals industry perceptions of 15 equipment markets based on a survey of ELFA members. The following are the top equipment types from the survey:

## 1. CONSTRUCTION—

Construction was the big winner of this year's survey, ranking first for the sixth consecutive year. It also ranked number one in largest increase in residual value sentiment. The outlook for construction remains good, based on pent-up demand for housing and commercial structures, as well as civil projects. An infrastructure bill, if passed, would be a huge plus to this already hot segment.

## 2. TRUCKS/TRAILERS—

Trucks/Trailers finished in second place for the second year in a row. In 2018, year-over-year new Class 8 truck sales increased sharply by over 30 percent due to strong global trade and cargo demand, although the driver shortage is a limiting factor. This sector has greatly benefited from a strong economy, low interest rates and increased consumer confidence.

**3. MACHINE TOOLS—**The third-place ranking for machine tools is believed to be linked to demand from the strong transportation and allied industries. Based on preliminary data, primary market sales for metal cutting equipment rose by over 12 percent in 2018. However, this positive trend is not expected to continue at high levels through 2019, due to softening economic conditions.



## 4. MEDICAL

**EQUIPMENT—**This industry still suffers from confusion regarding the future of healthcare finance with changes to the Affordable Care Act, and its effect on hospitals and clinics. The industry has a preference for leased equipment, which continues unabated, driven by demographics linked to the increasing healthcare needs of the baby-boom generation.

## 5. HI-TECH/

**COMPUTERS—**This industry continues to operate on very low margins but has a vast secondary

market. In 2018 global PC shipments actually decreased 1.3 percent. Based on preliminary data, global server shipments grew more than 15 percent in 2018, and revenues grew more than 30 percent, with growth expected to continue into 2019, spurred primarily by an ongoing enterprise refresh cycle and continued demand from cloud service providers.

Download your free copy of "What's Hot/What's Not: Equipment Market Forecast 2019," authored by Carl Chrappa of The Alta Group, at [www.elfaonline.org/data/market-trends](http://www.elfaonline.org/data/market-trends). ☰

# 31st Annual ELFA National Funding Conference

April 9-11, 2019  
Swissôtel • Chicago, IL



To register as a funding source exhibitor or as an attendee go to: [www.elfaonline.org/events/2019/NFC/](http://www.elfaonline.org/events/2019/NFC/) or contact Lisa Ramirez at 202-238-3414 or [lr Ramirez@elfaonline.org](mailto:lr Ramirez@elfaonline.org).

## ATTENDEES:

There is no better place to reconnect with funding sources you know and make contact with new funding sources who want your business.

## FUNDING SOURCES:

We have once again made it easier and more affordable to be a Funding Source Exhibitor:

- Spacious Exhibit Hall
- Modern open floor plan to accommodate more face-to-face meetings
- Cost to be a Funding Source Exhibitor very attractive
- "Suite on the Floor" still large and very private
- Continued flexibility in scheduling appointments for more effective networking

## Funding Source Exhibitors as of February 19, 2019

36th Street Capital  
ATEL Capital Group  
AvTech Capital, LLC  
Banc of America Leasing  
Baystone Government Finance/KS State Bank  
BB&T Commercial Equipment Capital Corp.  
BB&T Equipment Finance  
BMO Harris Equipment Finance Company  
Boston Financial & Equity Corporation  
Brean Capital, LLC  
Bridge Funding Group, Inc.  
Capital Guidance  
CapitalSource, Inc.  
CapX Partners  
Channel Partners Capital  
CIT  
Citizens Asset Finance, Inc.  
Crestmark Vendor Finance, A division of MetaBank  
Customers Commercial Finance, LLC  
ECS Financial Services, Inc.  
ENGS Commercial Finance Co.  
Equipment Leasing Group of America, LLC

First American Equipment Finance, an RBC / City National Company  
First Bank of Highland Park  
First Eagle Bank  
Flagstar Bank  
Flushing Bank  
Fuyo General Lease (USA) Inc.  
GE Capital Markets Group  
Hanmi Bank  
Hitachi Capital America Corp.  
Huntington Equipment Finance  
IBERIA Corporate Asset Finance, Inc.  
Innovation Finance USA LLC  
J.P. Morgan Equipment Finance  
Key Equipment Finance  
LEAF Commercial Capital Inc.  
MB Equipment Finance  
MB Financial Bank  
MB Financial Bank - Paying Agent  
Mitsubishi UFJ Lease & Finance (U.S.A.) Inc.  
Nations Equipment Finance, LLC  
NFS Leasing, Inc.  
Peapack Capital Corporation

People's Capital and Leasing Corp.  
PNC Equipment Finance, LLC  
Prime Alliance Bank  
Santander Bank Equipment Finance  
SCG Capital Corporation  
Securcor Financial Group  
Signature Financial  
Societe Generale Equipment Finance  
Sterling National Bank Equipment Finance Division  
Stonebriar Commercial Finance  
Sumitomo Mitsui Finance & Leasing Co., Ltd.  
SunTrust Equipment Finance & Leasing Corp.  
TCF Equipment Finance, a division of TCF National Bank  
TIAA Commercial Finance, Inc.  
Tokyo Century (USA) Inc.  
U.S. Bank Equipment Finance  
Verdant Commercial Capital LLC  
VFI Corporate Finance  
Wells Fargo Equipment Finance  
Wintrust Commercial Finance  
Wintrust Specialty Finance

**31 YEARS HELPING THE INDUSTRY MEET ITS FUNDING NEEDS**



EQUIPMENT LEASING AND FINANCE ASSOCIATION  
*Equipping Business for Success*

# Leasing With Native American Tribes

**PROVIDING EQUIPMENT LEASE FINANCING** to Native American Tribes raises some unique concerns. This remains true notwithstanding the increased level of commercial activities taking place on tribal grounds in the past two decades, including the number of casinos, hotels and other businesses constructed on tribal properties. This article will explore some of the key issues to consider and some practical documentation drafting suggestions.

Absent an enforceable waiver, a lessor needs to understand that Native American Tribes have sovereign immunity from suits to enforce equipment leases or recover the underlying equipment, whether brought in a federal, state or tribal court. Further there are many variations in tribal law. Therefore, providing lease financing to Native American Tribes inherently involves increased risk. Unfortunately, simply having a successful track record with a given Native American Tribe does not mean that all the issues have been properly addressed. As lessors know from the larger context of equipment finance generally, the underlying weaknesses in documentation or processes often do not appear unless and until the deal goes sideways. At that point, it is usually too late to fix the problem. This observation is especially true in the context of leasing to Native American Tribes. The only way to ensure that a lease and waiver of sovereign immunity are enforceable is to thoroughly review the applicable tribal constitution, organizational documents and local procedures. For most equipment lessors in a fast-paced environment, this is often not feasible. Instead, many lessors rely on many of the below approaches. Just remember that there is risk in doing so.

## Tribal Resolution

Applicable tribal law will typically require some form of tribal council resolution to explicitly authorize the lease and waiver of sovereign immunity. Different tribes have different requirements for who must authorize the waiver and who must sign same. The exact requirements will vary among Native American Tribes. Absent researching such requirements, many lessors instead opt to use a generic template resolution (i.e., a one-size-fits-all approach). If this is the approach a lessor chooses, some of the key components to include in a template resolution include provisions expressly authorizing: (i) the lease, (ii) the waiver

of the tribe's inherent sovereign immunity (many tribes will require that this be limited to the extent necessary to make the lease enforceable) and (iii) a specified person or designated title holder to sign the lease and the waiver of sovereign immunity. A good practice is for the resolution to also recite that the council approving the resolution is the duly governing body of the tribe.

## Waiver of Sovereign Immunity

Because many lessors do not perceive it to be commercially practical to conduct the requisite local research, in addition to employing a template form of resolution, many lessors also employ a template form of sovereign immunity waiver. This is not necessarily a bad approach but of course does not ensure that all requirements have been met for an effective waiver. If the waiver is not effective, a lessor will not be able to bring a suit to enforce its lease or to get access to its equipment. That said, template forms of waivers are viewed by many lessors as a practical solution to be used, especially in a volume driven, small ticket environment.

Some of the key components to include in a waiver are provisions expressly agreeing:

- i. to waive the tribe's sovereign immunity (again, it is generally advisable to provide that the waiver is limited to the extent necessary to make the lease enforceable);
- ii. to submit any dispute between the lessor and the tribe to the jurisdiction of the state court of a given state rather than a tribal court. Ideally, the state court where the lessor is located should be used. Agreeing to submit to a state court and not a tribal court is important for a number of reasons, even if the tribal court is staffed with former federal or state judges and/or has adopted a given state's procedural rules. These reasons include the ability

# 58<sup>TH</sup> ELFA Annual Convention

October 27-29, 2019

Washington, DC



***Reserve These Dates For the Largest, Most Important Annual Gathering of Equipment Leasing and Finance Professionals***

**ELFA**

EQUIPMENT LEASING AND FINANCE ASSOCIATION  
*Equipping Business for Success*

to appeal state court judgments and a possible perception of greater objectivity by state judges. Note that many lessors would ultimately be amenable to using the state court in the state where the tribe is located. Often this is more palatable to Native American Tribes than using the lessor's home state court;

- iii. that the lease and the waiver will be interpreted and enforced in accordance with the lessor's state laws and not tribal law. This is important even if a tribe has incorporated the law of such state into its own code. State laws change over time and the tribal law may or may not keep pace with same. Further even seemingly minor tribal variations may result in an unpredictable or adverse result for a lessor. As noted in the above state jurisdiction discussion, many lessors would ultimately be amenable to using the state law in the state where the tribe is located;
- iv. that the tribe waives any requirements of exhaustion of any required tribal remedies and that the tribe agrees not to present any affirmative defenses based on any alleged failure of the lessor to exhaust such remedies; and
- v. not to take (or attempt to take) any action to amend or revoke the waiver of sovereign immunity given how critical such waiver is for the enforceability of the transaction.

Many equipment lessors have been providing equipment financing to their long-standing Native American Tribal clients for many years without researching tribal requirements and have not faced any payment issues whatsoever. Other lessors are reluctant to offer financing to Native American Tribes in the first place because of unfamiliarity with tribal requirements. This niche can clearly be an added value that lessors can bring to their vendors and also their direct end-users. The best approach is for a lessor to fully understand the requirements in its geographic footprint by either conducting its own research or consulting a local expert. This should include a review of any special requirements that may arise regarding the leasing of gambling equipment, if applicable. Admittedly, this is easier and less expensive the smaller the number of states in which a lessor operates. If local expertise is not obtained, a lessor runs the risk of not being able to enforce its lease and potentially not being able to recover its equipment if the deal goes bad. In any event, when preparing forms of Native American Tribal resolutions and sovereign immunity waiver, and again subject to specific tribal requirements, at the very least, a lessor should consider including the above provisions. ☰



**DOMINIC A. LIBERATORE** is Deputy General Counsel for DLL, a global provider of leasing and business finance solutions, including vendor finance. He is a past Chairman of the ELFA Legal Committee.



*Searching for equipment finance positions and professionals?*

# ELFA Career Center

*Find a Job.  
Fill a Position.  
It's that Easy.*

**Visit us today to post your job or resume!  
Careers.elfaonline.org**



**SEEKING LEGAL  
GUIDANCE?**

These equipment  
leasing and finance  
lawyers are ready  
to serve you

# 2019 ELFA Legal Buyers Guide

## CONTENTS

- Hot Legal Issues in Equipment Finance
- Legal Services Listings
- ELFA Legal Resources

# Hot Legal Issues in

**What are the latest developments and trends in the law affecting equipment finance? Here's a list of some of the top legal issues facing ELFA members:**

## **Syndications and Capital Markets: Recent Highlights**

Equipment financing providers and investors continue to rely upon syndications and capital markets transactions to create liquidity, facilitate capital equipment acquisitions and offer investment opportunities. The ELFA Legal Committee has formed a Capital Markets Legal Subcommittee to track issues relating to syndications and capital markets transactions. This group is monitoring a range of topics, including fiscal agency matters, insurance and risk allocations and protections. Get an overview of the legal issues this group is tracking in the March/April 2018 Leasing Law column by Edward K. Gross and Erich P. Dylus.

## **Federal Court in New York Enforces "Floating" Forum Selection Clause**

Forum selection clauses are favored by most courts in most jurisdictions as a contractual mechanism to provide certainty with respect to where a litigation may be commenced in the event of a dispute between the contracting parties. However, not all forum selection clauses are created equal. One type of forum selection clause that has not been universally enforced is the so-called "floating" forum selection clause. Nevertheless, floating forum selection clauses are widely used in the equipment leasing and financing industry and courts have recognized that the clauses serve a valid business purpose by making agreements more readily assignable, which results in lower pricing to customers. Recently, the enforceability of a floating forum selection clause under both New York and federal law was addressed by a federal judge in the Southern District of New York. Learn more about the case in the May/June 2018 Leasing Law column by Marc Hamroff, Esq., and Robert Tils, Esq.

## **Prepare for Unpaid Repairs**

How can a repair or storage provider claim a lien that trumps your first priority security or ownership interest? It can happen. Every state has special statutes that allow providers of equipment repairs or storage to claim a lien on the repaired or stored equipment. Some of those states allow that lien to be a first priority lien, superior to the rights of the equipment owner and the rights of any security interest holder, including otherwise super priority purchase money security interests. Understanding the applicable law can help you if one of these claims lands on your desk. Appreciation for how courts construe repair lien statutes can help you, too: While some courts recognize lender paths to defeat repair company lien priority in equipment, courts generally apply repair lien statutes with a preference towards the repair company. Learn more about your option to prepare for the unpaid equipment repair in the July/August/September 2018 Leasing Law column by John L. Brown and John Hughes.

## **In the Penalty Box: Default Interest**

It used to be axiomatic. The borrower and its lender would enter into a loan agreement or a finance lease and agree that, upon an event of default or even a delinquent payment, interest would be charged on that payment (or upon the entire contract balance, if the event of default was followed by an acceleration of the contract balance) at a noticeably higher rate. The purpose of the enhanced interest rate was to motivate the obligor to pay on time and avoid any serious breach of its other obligations. Not anymore. A 2018 federal bankruptcy court decision, *in re: Altadena Lincoln Crossing LLC*, has declared that the increased rate of interest that the lender and the borrower had agreed to, both in the original loan agreement and subsequent forbearance documents, constituted an unenforceable penalty under California law. Learn how lenders and finance lessors can cope with this judicial decision in the October 2018 Leasing Law column by Stephen T. Whelan.

# Equipment Finance

## **Additional Risk in Financing Usage-Based Transactions Subject to Non-Appropriation**

Banks and commercial finance companies active in the equipment finance industry routinely extend financing to state and local governmental entities (SLGs) that use tax generated, governmental funds for lease payments. The November/December 2018 Leasing Law column by Amanda Cook and Andrew K. Alper discusses a unique issue and an additional credit risk related to usage-based leases and loans, more particularly in transactions with SLGs when such entities must obtain various approvals to appropriate funds necessary to fulfill their obligations under a lease or loan. The lender should be keenly aware of all risks when it negotiates the pricing and documents the transaction in order to avoid the risk of losing money in the transaction.

## **Equipment Finance: Understanding Licensing Obligations**

Commercial equipment lessors and finance companies face a web of state and federal laws applicable to various aspects of their business activities. In particular, determining whether a company requires a license can be tricky given the various statutory triggers and permutations of licensable activities varying across state laws. In an effort to help companies better understand the implications of state licensing laws, the January/February 2019 Leasing Law column by Kathryn L. Ryan, Moorari K. Shah and Frida Alim provides an overview of licensing considerations and trends in state enforcement activity with respect to equipment finance.

Note: Access the articles referenced here at [www.elfaonline.org/Magazine-Archive](http://www.elfaonline.org/Magazine-Archive)

# ELFA Legal Resources

**Are you looking for information about legal issues pertaining to the equipment leasing and finance business? Visit our Legal Issues page at [www.elfaonline.org/industry-topics/legal-resources](http://www.elfaonline.org/industry-topics/legal-resources). Don't miss these resources:**

**2019 LEGAL FORUM**—The premier event for attorneys serving the equipment finance industry, April 28-30 in San Diego.

**STATE TAX MANUAL**—Reference guide designed to aid equipment finance companies in tax compliance and planning. Provides state-by-state analysis of sales and property taxes.

**STATE LAW COMPENDIUM**—50-state guide to compliance with selected state statutes and regulations

**WHAT'S NEW IN THE LAW**—Summary of recent case law impacting the leasing and finance industry.

**LEGAL TALK**—An e-mail discussion group focused on legal subjects.

**LEGAL COMMITTEE**—A member and staff resource on legal issues impacting the leasing and finance industry. For more information, contact Ed Rosen at [erosen@elfaonline.org](mailto:erosen@elfaonline.org).

# Legal Services Listings

The listings in this directory are paid listings.  
Information was provided by each law firm.



This symbol indicates the firm is an ELFA member

---

## Bernstein-Burkley, P.C.

707 Grant Street, Suite 2200, Pittsburgh, PA 15219

### Robert S. Bernstein, Co-Managing Partner

phone: 412.456.8100

fax: 412.456.8135

email: rbernstein@bernsteinlaw.com

www.bernsteinlaw.com



Leasing is a specialized, technical and very important part of Bernstein-Burkley's practice. We represent small-, middle- and large-ticket equipment lessors in the enforcement of their leases. Whether in state or federal court, our firm is well-qualified to represent the interests of equipment lessors and others in the leasing industry. Managing Partner, Robert S. Bernstein, created and founded the first national network of attorneys with proven expertise in lease enforcement, LEAN (Lease Enforcement Attorney Network).

around the world, financial institutions, lenders, insurance companies, cooperatives and entities of all sizes and all industries. We regularly provide guidance on leasing and financing, vendor programs and syndications, and securitizations in respect of all asset classes and artificial intelligence, as well as in default scenarios.

---

## Chapman and Cutler LLP

111 West Monroe Street, Chicago, IL 60603

### Melanie J. Gnazzo, Partner

phone: 415.278.9020

fax: 415.541.0506

email: mgnazzo@chapman.com

### Thomas F. Howard

phone: 312.845.3812

fax: 312.516.1812

email: howard@chapman.com

www.chapman.com



With more than 240 attorneys, Chapman represents equipment finance companies and funding sources in a variety of transactions, including asset-based loans, conduit warehousing and term securitizations. We represent finance and bank leasing companies in individual equipment finance transactions, portfolio acquisitions and dispositions and other strategic transactions, and provide regulatory, tax and commercial law advice. We also represent clients in distressed and troubled equipment finance transactions, including in litigation and bankruptcy matters.

---

## Borden, Ladner, Gervais LLP

1000 De La Gauchetière Street West, Suite 900, Montreal, QC Canada H3B 5H4

### Benjamin David Goss, Partner

phone: 514.954.2635

fax: 514.954.1905

email: bgross@blg.com

[Add ELFA member logo]



BLG is the oldest and largest law firm in Canada, a recognized leader offering expertise in most practices across its offices in Vancouver, Calgary, Toronto, Ottawa and Montreal. We are primary counsel and partner to law firms

---

## Chiesa Shahinian & Giantomasi PC

One Boland Drive, West Orange, NJ 07052  
Eleven Times Square, 31st Floor, New York, NY 10036

**Frank Peretore, Member**  
**and Robert L. Hornby, Member**

phone: 973.530.2058 / 973.530.2032  
fax: 973.530.2258 / 973.530.2232  
email: fperetore@csglaw.com; rhornby@csglaw.com  
www.csglaw.com

 Chiesa Shahinian & Giantomasi PC is a full-service law firm with extensive equipment leasing and financing experience from the transactional stage through the workout, litigation, repossession, bankruptcy and foreclosure stages. Frank and Robert are at the forefront of the important legal issues and industry trends, regularly speaking at ELFA and NEFA and recently co-authoring the practical guide "Secured Transactions for the Practitioner" to help secured parties navigate the legal perils surrounding personal property liens.

---

## Emanuel & Zwiebel, PLLC

7900 Peters Road, Building B, Suite 100, Plantation, Florida 33324

**Ronald M. Emanuel, Esquire**  
**and Eric B. Zwiebel, Esquire**

phone: 954.472.7500  
email: ron.emanuel@emzwlw.com; eric.zwiebel@emzwlw.com

 Emanuel & Zwiebel, PLLC is a Florida law firm which focuses on representing commercial lenders and financial institutions throughout the State of Florida, specializing in equipment finance litigation, creditor's rights, bankruptcy, appeals and judgment collections. With our vast experience, we make it a point to provide all of our clients with personalized, attentive and cost-effective services. Cases are handled on an hourly, contingency or flat fee basis.

---

## Farleigh Wada Witt

121 S.W. Morrison Street, Suite 600, Portland, OR 97204

**Mark R. Wada, Attorney; Michelle M. Bertolino,**  
**Attorney; Trish A. Walsh, Attorney**

phone: 503.228.6044  
fax: 503.228.1741  
email: mwada@fwwlaw.com; mbertolino@fwwlaw.com; twalsh@fwwlaw.com  
www.fwwlaw.com



Founded in 1981 with a goal of providing financial service companies with experienced counsel in all facets of their business, we regularly represent equipment leasing companies and commercial lenders in lease and loan documentation, real estate financings, workout negotiations, portfolio acquisitions, collections, litigation and bankruptcy matters. We offer our leasing and lending clients practical legal solutions to protect them from operational, compliance and legal risks and defend their collateral while maximizing recovery.

---

## Ferns, Adams & Associates

2815 Mitchell Drive, Suite 210, Walnut Creek, CA 94598-1623

**Laurel Adams**

phone: 925.927.3401  
fax: 925.927.3419  
email: ladams@fernslaw.com  
www.fernslaw.com



FERNS, ADAMS & ASSOCIATES is a California law firm representing numerous banks, commercial financial companies, credit unions and leasing (both auto and equipment) companies, in all aspects of a creditors' rights such as: collections, replevin actions, defense litigation, bankruptcy litigation and documentation review. The principals of Ferns, Adams & Associates have been involved in the equipment leasing industry for over 36 years and have been very active in both the ELFA and NEFA. We have appeared in most every state and federal court in California and are very aggressive in our approach to litigation and collections in general.

---

## Foster & Wolkind, P.C.

80 Fifth Avenue, Suite 1401, New York, NY 10011-8002

**Peter B. Foster, Esq.; Bryan E. Wolkind, Esq.**

phone: 212.691.2313  
fax: 212.691.2459  
email: pfoster@foster-wolkind.com; bwolkind@foster-wolkind.com  
www.foster-wolkind.com



Foster & Wolkind, P.C. is a New York law firm offering a broad range of legal services. We vigilantly represent and advise financial institutions of all sizes throughout New York State and specialize in equipment finance litigation and creditors' rights. For more than 20 years, we have maintained a culture of providing personalized, attentive and cost-effective services. Contact us to learn more about how we can work together.

---

## Frandzel Robins Bloom & Csato, L.C.

1000 Wilshire Boulevard 19th Floor, Los Angeles, California 90017

### Andrew K. Alper, Vice President and Shareholder

phone: 323.852.1000

fax: 323.651.2577

email: aalper@frandzel.com

www.frandzel.com



Frandzel Robins Bloom & Csato, L.C. (the "Firm") has 26 lawyers who specialize in all aspects of lending, equipment leasing, factoring and service the financial services industry. The Firm represents its clients in litigation, bankruptcy, transactional matters from the complicated to the simple lease or loan, operational matters and essentially all aspects of the financial services industry except for tax. Andrew K. Alper has been recognized as one of the most influential persons in the equipment leasing industry by The Leasing News. The Firm is a member of the major leasing and lending associations. Mr. Alper has written and given seminars for ELFA, NEFA (and its predecessor entities UAEL, WAEL and EAEL), NAELB, the Los Angeles County Bar Association, and has taught the Certified Lease Professionals courses. The Firm is well equipped to handle almost all of your financing and leasing needs.

---

## Glass & Goldberg, A Law Corporation

22917 Burbank Blvd. Woodland Hills, CA 91367-4203

### Marshall F. Goldberg, Managing Partner

phone: 818.888.2220

fax: 818.888.2229

email: mgoldberg@glassgoldberg.com

www.glassgoldberg.com



Glass & Goldberg has served the equipment leasing and financial industries for over 37 years and is the recipient of the Excellence in Leasing Award presented by the ELFA Legal Committee. Showcased in Forbes Magazine as the exclusive Southern California choice for outstanding law firm in the areas of Bankruptcy, Property, Commercial and Creditor/Debtor

Rights law and selected for inclusion in "Super Lawyer" Magazine for the past 9 consecutive years, we are familiar with your issues, proficient in the law and prepared to handle your matters throughout the State of California.

---

## Hemar, Rousso & Heald, LLP

15910 Ventura Boulevard, 12th Floor, Encino, CA 91436

### Daniel A. Heald, Jennifer Crastz and Martina Rider Porter

phone: 818.501.3800

fax: 818.501.2985

email: dheald@hrhlaw.com

www.hemar-rousso.com



Hemar, Rousso & Heald, LLP is a Los Angeles-based law firm specializing in equipment leasing, commercial law, creditors' rights and bankruptcy. For more than 35 years, we have served the equipment leasing and financial industry with distinction in such areas as pre-judgment writs, recovery of collateral, workouts, receiverships, bankruptcy litigation and judgment enforcement. We handle cases throughout California diligently, aggressively and with an eye toward cost-effectiveness.

---

## Jaffe Raitt Heuer & Weiss, P.C.

27777 Franklin Road, Suite 2500, Southfield, MI 48034

### Jay L. Welford, Partner

phone: 248.351.3000

fax: 248.351.3082

email: jwelford@jaffelaw.com

www.jaffelaw.com



Jaffe Raitt Heuer & Weiss is a Michigan based, full-service, 110-plus attorney corporate law firm. Jaffe has an experienced leasing and finance law team, providing "cradle to grave" services to our clients on lease and loan matters, including origination, enforcement, litigation, collection, insolvency, receivership and bankruptcy assistance. Jaffe also provides corporate law support to our leasing and finance clients, including such matters as choice of structure, tax, financings, merger, disposition, employment, acquisition and regulatory support.

---

## Kessler Collins, PC

2100 Ross Avenue, Suite 750, Dallas, TX 75201

### Daniel P. Callahan and Howard C. Rubin

phone: 214.379.0722

fax: 214.373.4714

email: [dpc@kesslercollins.com](mailto:dpc@kesslercollins.com) and [hbrubin@kesslercollins.com](mailto:hbrubin@kesslercollins.com)

Website: [www.kesslercollins.com](http://www.kesslercollins.com)



You work hard to finance and lease the equipment that drives economic growth. You build relationships that depend on trust. When that trust is violated, you need to take action. When your customers file bankruptcy or try to avoid their obligations in Texas, we can help. We know the legal and economic landscape of Texas, whether it be industrial or agricultural and we can handle the job efficiently. Visit [www.kesslercollins.com](http://www.kesslercollins.com) or call Dan Callahan or Howard Rubin at 214-379-0722.

---

## Lam Lyn & Philip PC

6213 Skyline Drive, Suite 2100, Houston, Texas 77057

### Kurt L. Lyn and Joni M. Fraser

phone: 713.981.0900

fax: 713.772.7085

email: [klyn@lppc-law.com](mailto:klyn@lppc-law.com); [jfraser@lppc-law.com](mailto:jfraser@lppc-law.com)

[www.lppc-law.com](http://www.lppc-law.com)



Lam Lyn & Philip PC is a Texas-based law firm that for over 25 years has provided a full spectrum of commercial litigation services for its clients, which include banks, equipment finance companies and technology companies. The services provided include: demand letters, workout and restructuring negotiations, prejudgment remedies (sequestration, replevin and garnishments), litigation, and post judgment enforcement actions.

---

## Marks & Associates, P.C.

P.O. Box 11386, Birmingham, AL 35202

### Barry S. Marks

phone: 205.251.8303

fax: 205.251.8305

email: [Barry@LeaseLawyer.com](mailto:Barry@LeaseLawyer.com)

[www.LeaseLawyer.com](http://www.LeaseLawyer.com)



We offer banks, leasing companies, captives, originators, funding sources and other lessors and lenders prompt, service-oriented representation based on over

40 years of experience in financing nearly every type of equipment. Our nationwide practice covers all types of equipment finance as well as asset-based and other loan transactions. Visit [www.Leaselawyer.com](http://www.Leaselawyer.com) for a firm description and copies of our informative newsletter.

---

## Messerli Kramer

100 South Fifth Street, Suite 1400, Minneapolis, Minnesota 55402

### Joshua A. Hasko, Joseph W. Lawver

phone: 612.672.3600

fax: 612.672.3777

email: [jhasko@messerlikramer.com](mailto:jhasko@messerlikramer.com); [jlawver@messerlikramer.com](mailto:jlawver@messerlikramer.com)

[www.messerlikramer.com](http://www.messerlikramer.com)



Messerli Kramer is a well-established full-service law firm based in Minneapolis. Our Equipment Leasing & Creditors' Remedies team has extensive experience in all aspects of equipment leasing and finance; secured transactions; asset-based lending; and banking and finance litigation. We routinely handle lease and loan negotiation; documentation and enforcement matters; inventory/dealership financing; replevins; collections and judgment enforcement; business and fraud litigation; portfolio acquisitions; bankruptcies and workouts; receiverships; and appeals throughout the Midwest and across the country.

---

## Moritt Hock & Hamroff LLP

400 Garden City Plaza, Garden City, NY 11530

### Marc L. Hamroff, Managing Partner

phone: 516.873.2000

fax: 516.873.2010

email: [mhamroff@moritthock.com](mailto:mhamroff@moritthock.com)

[www.moritthock.com](http://www.moritthock.com)



Moritt Hock & Hamroff LLP is a full-service, AV-rated commercial firm with 19 areas of practice and 70+ attorneys based in New York with offices on Long Island and in Manhattan. We have attained a national reputation over the past 35 years, representing members of the equipment leasing and finance industry including asset-based lenders, finance and leasing companies, banks and independent companies of varying size and specialty. Some of the largest, most well-known companies in the industry rely on us for services that include drafting, negotiation and structuring of loan and lease agreements, creating and documenting specialized programs, transactions and portfolio sales, capital markets, formation, purchase and sale of leasing companies, as well as workouts, litigation, creditors' rights and bankruptcy representation.

---

## Nutter McClennen & Fish LLP

155 Seaport Boulevard, Boston, MA 02210

Philip R. Rosenblatt, Partner and Co-Chair,  
Commercial Finance Practice Group;  
Stephen J. Patterson, Partner

phone: 617.439.2806  
fax: 617.310.9806  
email: [prosenblatt@nutter.com](mailto:prosenblatt@nutter.com)  
[www.nutter.com](http://www.nutter.com)



Nutter is a full-service, Boston-based law firm. Our commercial finance team represents equipment lessors and lenders in syndication and origination transactions involving all types of equipment and other capital assets. In the last five years, we have advised clients on more than 500 transactions having an aggregate deal value exceeding \$5 billion. Nutter is recognized by clients for technical sophistication, deep knowledge of market conditions and deal structures, client responsiveness and practical business judgment.

---

## Platzer, Swergold, Levine, Goldberg, Katz & Jaslow, LLP

475 Park Ave. South, 18th Floor, New York, NY 10016

Howard M. Jaslow, Esq.

phone: 212.593.3000  
fax: 212.400.8983  
email: [hjaslow@platzerlaw.com](mailto:hjaslow@platzerlaw.com)  
[www.platzerlaw.com](http://www.platzerlaw.com)



Platzer, Swergold et al., is a full-service New York City-based law firm. With roots that go back more than 50 years, the Firm has built a reputation for excellence in practice areas which include equipment finance, commercial finance, real estate lending, purchase and sale transactions of real estate and business assets, commercial litigation, corporate law, corporate restructuring and insolvency, debtor and creditors' rights, secured transactions and related legal matters.

---

## Ray Quinney & Nebeker P.C.

36 South State Street, Suite 1400, Salt Lake City, UT 84111

Ellen J. Toscano and Stephen C. Tingey

phone: 801.323.3376 or 801.323.3360  
fax: 801.532.1500  
email: [etoscano@rqn.com](mailto:etoscano@rqn.com); [stingey@rqn.com](mailto:stingey@rqn.com)  
[www.rqn.com](http://www.rqn.com)



Formed in 1940, Ray Quinney & Nebeker is Utah's top financial institutions law firm. For many decades, we have represented leasing companies, banks and other commercial lenders in documenting lease and loan transactions and handling real estate financings, workouts, collections, litigation and bankruptcy matters. We also have many years of experience in specialized areas, such as aircraft transactions, regulatory compliance and entity formation. Our objective is to make meaningful contributions to our clients' success.

---

## Robbins, Salomon & Patt, Ltd.

180 North LaSalle Street, Suite 3300, Chicago, IL 60601

Vincent T. Borst

phone: 312.456.0182  
fax: 312.782.6690  
email: [VBorst@rsplaw.com](mailto:VBorst@rsplaw.com)  
[www.rsplaw.com](http://www.rsplaw.com)



Robbins, Salomon & Patt, Ltd. is a full-service business law firm. We represent equipment lessors, banks and other financial institutions in lease and loan documentation, litigation, workouts and restructurings. We represent our clients in commercial litigation, in state and federal courts, at the trial and appellate levels, on a national basis. We also represent our creditor clients in bankruptcy court matters on a routine basis. Innovation, efficiency and attention to detail are RSP's hallmarks.

---

## Stinson Leonard Street

50 South Sixth Street, Suite 2600, Minneapolis MN 55402

### Benjamin J. Court

phone: 612.335.1500

fax: 612.335.1657

email: ben.court@stinson.com

www.stinson.com



Stinson Leonard Street LLP attorneys leverage deep legal knowledge and experience to deliver sophisticated corporate, litigation, financing, tax and bankruptcy solutions to equipment lessors and numerous financial institutions nationwide. We have significant experience documenting lease and loan transactions for independent, captive and bank-affiliated finance companies and routinely enforce the rights of lessors and secured creditors. We blend a collaborative environment, innovative project management and excellent service to deliver value and a distinctive experience. Locations: MN, MO, ND, TX, CO, NY, NE, AZ, DC and KS

---

## Thompson Coburn LLP

1909 K Street, NW, Suite 600, Washington, DC 20006

### Marjorie Krumholz

phone: 202.585.6913

email: mkrumholz@thompsoncoburn.com

### Ruthanne Hammett

phone: 314.552.6155

email: rhammett@thompsoncoburn.com

www.thompsoncoburn.com



Thompson Coburn attorneys understand the complexities of equipment leasing and finance and help clients find effective and creative solutions to their challenges. From structuring, negotiating and documenting deals to handling tax issues, closings, workouts, litigation and bankruptcy, we provide a full spectrum of services. We represent lenders and lessors in various industries, including motor vehicle, industrial, commercial and manufacturing equipment. We also have a niche practice in transportation with a nationally recognized maritime practice.

---

## Womble Bond Dickinson (US) LLP

100 Light Street, 26th Floor, Baltimore, MD 21202

### Merrick Benn, Partner

and Shari Bacsardi, Partner

phone: 410.545.5822 / 410.545.5872

email: merrick.benn@wbd-us.com; shari.bacsardi@wbd-us.com

www.womblebonddickinson.com



Womble Bond Dickinson is a transatlantic law firm with 27 UK and US office locations. Our equipment finance team has extensive experience in complex financial transactions representing lenders and lessors in all aspects of equipment finance, with emphasis on transportation assets and renewable energy transactions. Our lawyers manage deals across the country, working closely with financial institutions and law firms in New York, Chicago, Washington, D.C., Baltimore, Boston, San Francisco and other cities nationwide.

---

## Wright Law Group, PLLC

Locations: California and Texas

### Matthew Wright, Managing Partner

phone: 1.855.REPLEVIN (737.5384)

email: mtw@replevin.com

replevin.com



Wright Law Group, PLLC is a boutique law firm specializing in collateral recovery, deficiency balance suits, and creditor's rights in bankruptcy. As highly focused practitioners of loan/lease enforcement law, our attorneys are experts in the field. Core business propositions include reasonable flat fees for routine work, fast turnaround of assignments, and a focus on resolving cases quickly and efficiently. Offices in California and Texas allow us to cover all counties and all federal districts in each state.



APRIL 28-30, 2019 • OMNI SAN DIEGO HOTEL • SAN DIEGO, CA

***Providing Legal Direction and Valuable Counsel for over 50 Years***

The PREMIER EVENT for attorneys serving the equipment leasing and finance industry.  
 The best place to OBTAIN UPDATES ON LEGAL ISSUES that impact your company.  
 UNMATCHED NETWORKING OPPORTUNITIES with your peers in the industry.

**Highlights at the 2019 Legal Forum:**

- Roundtable discussions on the following key issues: air, rail, marine; motor vehicle; fiscal agency; inside and outside counsel; enforcement war stories; syndication; hot topics; fraud; UCC basics; UCC advanced; novel contract structures and managed services; leasing for litigators; tax Issues; and cybersecurity.
- Concurrent sessions on such topics as: intro to leasing; diversity; warehouse lending; intro to state usury licensing; emerging asset classes; legal update transactional; legal update litigation; legal update bankruptcy; blockchain; privacy; and cross-border finances.
- General Sessions on the always popular Legal Update and Ethics.

**Sponsorship Opportunities**

Contact Steve Wafalosky at 440-247-1060 or [steve@larichadv.com](mailto:steve@larichadv.com) if you are interested in sponsoring any of the conference events.

Complete conference details and registration information can be found here:  
[www.elfaonline.org/events/2019/LF/](http://www.elfaonline.org/events/2019/LF/)

*Conference Qualifies for CLE Credits*



EQUIPMENT LEASING AND FINANCE ASSOCIATION  
*Equipping Business for Success*

# ASC Topic 842 and Lessor Software Systems

## Perspectives from the equipment finance software providers

**WHILE MANY LESSEES** were, or are about to be, required to procure new software systems or tools in order to comply with the new lease accounting standard ASC Topic 842 (the Standard), lessors were left wondering how their current software accounting applications would manage the comparatively smaller changes required on their side of the equation. Even though lessor accounting is substantially unchanged—using the same lease type classification names and general lease accounting methodology as set forth in ASC Topic 840—there are still key accounting changes and disclosure requirements that lessors must adopt. These changes, which could involve coding changes depending upon the level of configurability in the software application, include, but are not limited to, the recognition of selling profit arising from a direct financing lease, initial direct cost definition and recognition, allocation of consideration and non-lease components in a lease contract and sale leaseback accounting. The purpose of this article is to provide anecdotal viewpoints from the providers of the lessor accounting software systems used in the equipment finance industry about their experiences with conforming their software to the new Standard.

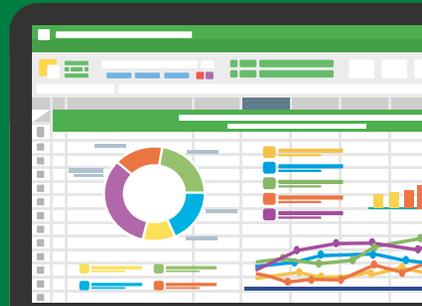
### Timing of the Standard

As stipulated in the Standard, the effective date of compliance for public companies is for fiscal years beginning after Dec. 15, 2018. Privately held companies may delay compliance until the end of their fiscal year 2020. Based on an anecdotal review of the major lessor systems used by equipment finance lessors in the United States, *most software vendors released modifications to their applications well in advance of calendar year end 2018* to give lessors adequate time to test and implement the software modifications. However, as one vendor commented, “This became somewhat tricky because some of our customers are non-adopters in 2019; therefore, our release process had to accommodate both customers who required accounting under the new Standard as well as others who are still applying ASC 840.” Another vendor said they solved this not-so-insignificant problem by “adding an enterprise switch—either Topic 842 accounting is On or Off.”

### Clarity of the Standard

Anyone who has been involved in a software implementation that included modifications to the generic software will tell you that a comprehensive and clearly written requirement document is the crucial first step in delivering a high-quality, compliant system. When ASC

**A recurring theme emerged: While many elements of the Standard were detailed and extremely clear, others were vague, leaving them open to various interpretations.**



Topic 842 was published, lessors were presented with their “requirements document.” To determine whether software providers found this “requirements document” effective, the authors of this article asked several to opine on the clarity of the Standard and the ease of turning it into a software requirement document. A recurring theme emerged: While many elements of the Standard were detailed and extremely clear, others were vague, leaving them open to various interpretations. Some of these open elements have been settled in subsequent updates from the FASB, but the treatment of too many others will not be settled until debated by accountants and auditors in practice, which could lead to additional software modifications during the next few years. One vendor commented, “While this more judgmental approach may be preferred by the

accountants, it will most likely require multiple coding enhancements and lessor implementations, costing both of us extra time and money.”

### Software Modification Approach

“How about I rotate the tires and check the brakes for you while I have your car up on the lift?” How many times have you heard that during an oil change? That’s because in most cases it makes economic sense to add incremental work to an existing job since the sunk cost of getting “that car up on the lift” has already been incurred. Similarly, several software service providers had to “lift the car up” to make changes to their core systems for the Standard, and they took the opportunity to release additional technical and functional enhancements to their applications. Most were able to fit all of these updates into a scheduled quarterly or annual release, albeit a release that demanded “closer attention,” as one service provider noted.

### Software Modification Challenges

Implementing regulatory modifications to a software solution carries with it a number of challenges including a finite deadline, new business requirements that have yet to be put into practice requiring multiple judgements, consultations with accounting experts, and difficulty in prioritizing resources for non-revenue producing modifications, among others. Based upon the authors’ conversations with software vendors, the consistent theme was that “the modifications necessitated by the Standard were not easy.” This is evidenced in thoughts from three of the equipment finance software providers:

*“The most challenging aspect was simply getting our arms around what we needed to do. We did this by working with our customers to come to a common understanding of lessor requirements under the standard, identifying which requirements should be addressed by our system—judgement calls are harder to “systematize”—and determining the broad architectural changes needed to handle them. This was a time-consuming and laborious process but something that we felt was a necessary pre-condition to successfully adapting to the standard. We released our modified software in 2018 and so far our customers are happy with it.”*

*“ASC Topic 842 required changes to our user interface, calculations and reports, and these affected many areas of our complex software application. Maintaining the integrity of our existing features while adding the new functionality*

*was challenging. We spent almost two years perfecting our solution and were glad to release it prior to year-end 2018.”*

*“We have a large and diverse set of customers that utilize our full lifecycle solution across a wide range of use cases in support of their business objectives. The most challenging aspect of implementation was in providing a comprehensive solution across these use cases, which also minimized disruption to our customers’ current business practices. In working in close partnership with our customers, across their business, accounting, and technology teams, we were able to provide solutions aligned with customers’ business processes.”*

### What is on the Horizon?

Fortunately, most software vendors believe their already released solutions are compliant and effective. Some software applications were sufficiently configurable enough such that no coding enhancements were necessary. However, as one software vendor commented, “We may need to make additional software modifications as lessor practitioners and auditors continue to fine-tune our collective understanding and interpretation of the Standard and the FASB issues additional clarifications and/or changes.”

Another software vendor commented: “Right now, we have only one specific open item related to ASC Topic 842, which will be addressed in our upcoming 2019 release. However, we do expect that we and/or our customers are likely to identify modest enhancements which will require additional modifications.” ☰



**JEFF LEZINSKI** serves as SVP of Solutions Architecture for Odessa Technologies, where he is responsible for ongoing management and regulatory

compliance of Odessa’s core product, LeaseWave.

**SCOTT THACKER**, CPA, CLFP, is CEO of Ivory Consulting Corporation, Vice Chairman of the Board of Trustees of the Equipment Leasing & Finance Foundation and a former member of the ELFA’s Board of Directors. Both authors are members of the ELFA’s Financial Accounting Committee.

### Related Resource

For more on the new standard (ASC 842), see “The Silver Lining of Lease Accounting: What Organizations Should Know About the New Standard” at [www.elfaonline.org/leaseaccountingtools](http://www.elfaonline.org/leaseaccountingtools).

# Capitol Connections: *Strong United Voice!*



**May 15, 2019**

**Washington Court Hotel  
Washington, D.C.**

ELFA's annual Capitol Connections program brings ELFA members to Washington, D.C. to educate government officials on how laws and regulations affect their business. Member participation in the political process is critical to present a united voice for the equipment leasing and finance industry.

This **ONE DAY** program includes:

- Advocacy training for ELFA members
- Briefing on the latest public policy developments
- Meetings on Capitol Hill and with select federal agencies
- LeasePAC Event\*
- Free for ELFA members to attend

Visit the ELFA website for event details and online registration  
[www.elfaonline.org/events/2019/CHD/](http://www.elfaonline.org/events/2019/CHD/)

To research ELFA public policy issues, please visit the ELFA Federal Advocacy information center at [www.elfaonline.org/advocacy/federal-advocacy](http://www.elfaonline.org/advocacy/federal-advocacy). To find out more about participating in ELFA's grassroots program, please contact Chelsea Neil at [cneil@elfaonline.org](mailto:cneil@elfaonline.org).

\*LeasePAC is the only political action committee dedicated to supporting candidates running for federal office that support the interest of the equipment leasing and finance industry. To find out more about LeasePAC, please visit the LeasePAC website at <https://www.elfaonline.org/advocacy/leasepac> (Member Login required) or contact Chelsea Neil at 202-238-3421 or [cneil@elfaonline.org](mailto:cneil@elfaonline.org).



EQUIPMENT LEASING AND FINANCE ASSOCIATION  
*Equipping Business for Success*

# Around the States

## Update on California Senate Bill 1235

**ON JAN. 21**, ELFA submitted comments regarding California Senate Bill 1235 to the California Department of Business Oversight (DBO) as invited by the Commissioner. Even though ELFA won hard-fought exemptions within this legislation, the comments filed seek to provide clarity and our ongoing industry guidance. The comments were created by an ELFA workgroup over a four-month period and can be seen by going to: <http://bit.ly/2DhoGxy>.

### **SB 1235 Compliance Delayed While the DBO Solicits Comments**

An important reminder to all ELFA members: As we alerted you earlier this year, ELFA has been informed by the DBO that compliance with SB 1235 will not be required through 2019 while the DBO receives comments, drafts regulations and promulgates rules, and compliance will then only be required after final regulations become effective.

The DBO follows a comprehensive set of requirements that include pre-text and post-text comment periods, and when complete, the formal text will be submitted to the Office of Administrative Law for their approval. The legislation will not become effective until the quarter following their approval.

## State Legislatures in Session (as of Feb. 27)

- 45 states are currently in regular session
- 5 states are pre-filing (AL, FL, LA, NV, OK)

With 45 states currently in session, your team at ELFA is working to review and where needed to address all legislation filed that impacts our interests. ELFA's efforts are focused on identifying any and all measures that would wrongly infringe on the operations of ELFA members in the commercial sector, addressing those bills that require our attention and conversely promoting legislation that addresses industry needs. Of the 180,000 expected state legislative bills filed across the 50 states in 2019, ELFA estimates there will be in excess of 2,000 bills introduced this year that may impact our members' interests.

## Background

California Senate Bill 1235 requires consumer-like disclosures to be made on certain commercial finance products under \$500,000, including small business loans and merchant cash advances, and leases with nominal purchase options, among other things. It does not cover true leases.

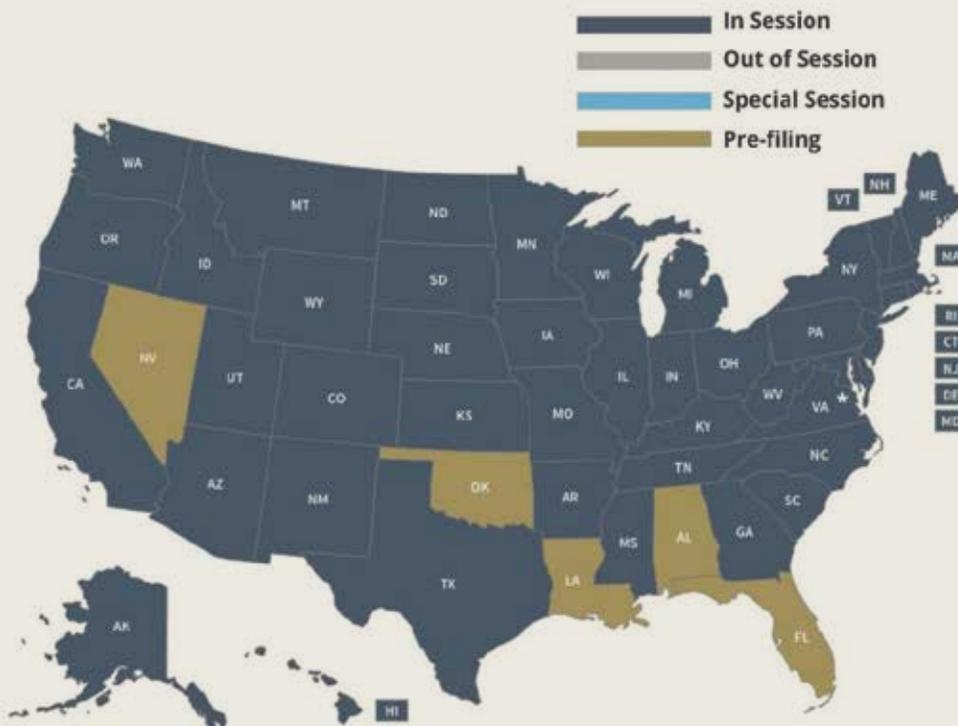
The new law requires that the following be included in qualifying commercial loans (including leases with nominal purchase options):

1. The total amount of funds provided.
2. The total dollar cost of the financing.
3. The term or estimated term.
4. The method, frequency and amount of payments.
5. A description of prepayment policies.
6. The total cost of the financing expressed as an annualized rate. ☰



For more information, please contact ELFA Vice President of State Government Relations **SCOTT RIEHL** at [sriehl@elfaonline.org](mailto:sriehl@elfaonline.org).

ELFA sends out email updates on state legislative and regulatory activity as it occurs. You can receive this information by sending complete contact information to ELFA Vice President, State Government Relations at [sriehl@elfaonline.org](mailto:sriehl@elfaonline.org).



# 2019 Industry Future Council Explores Industry Innovation

This past February in Washington, D.C., members of the Equipment Leasing & Finance Foundation's Industry Future Council (IFC) focused their conversation on navigating the ever-evolving changes within the equipment finance industry. Facilitated by JP Nicols, an expert on innovation, strategy and leadership in financial services, the 2019 IFC convening explored trends, challenges and opportunities that leaders should consider to shape the future of equipment finance.



Sponsored by PayNet, Inc. and IDS, the Industry Future Council Report outlines key takeaways from the two-day convening comprised of a cross-section of selected equipment finance industry executives.

Themes from the 2019 Industry Future Council include:

- Going beyond educating today's leaders on critical issues as Fintech becomes an increasingly important part of the industry landscape
- Exploring emerging opportunities and threats for a comprehensive outlook on the industry
- Providing industry leaders with the tools to adopt new business strategies to stay ahead of the curve.

The complete 2019 Industry Future Council Report is now available. Visit the Foundation's website at [www.LeaseFoundation.org](http://www.LeaseFoundation.org) to access this free planning tool.

## Prepare Now for Next Semester

Recruit the best with the Foundation's one-stop digital Internship Center! The Internship Center provides a platform for students in search of internships and companies with opportunities to connect. If you are an equipment finance company that offers internships, post your opportunities today at <http://bit.ly/ELFFInternship>.

You can also pay it forward and sign up to be a Guest Lecturer to share your own experiences with the next generation. The Foundation provides a ready-made, fully-customizable presentation developed by industry experts to introduce students to the industry. Access the dynamic, refreshed slide deck comprised with new industry data at <http://bit.ly/ELFFGuestLecture>.



## Save the Date for Second Annual Day of Giving Campaign

On Tuesday, June 4, the Equipment Leasing & Finance Foundation's second annual Day of Giving will commence! As we celebrate the Foundation's 30th Anniversary throughout 2019, we look forward to attracting new donors to achieve our greatest year of support for the Foundation yet. Help us reach our goal of 30 donors and \$10,000!



Contributing to the Foundation is a strategic investment as donors gain insightful business knowledge by having access to the latest industry data before it is made available to the public. Mark your calendar to join industry professionals

in making a 100% tax-deductible gift June 4 online! Learn more at <http://bit.ly/ELFFDayofGiving>. [E](#)



**ANNELIESE DEDIEMAR** is the Equipment Leasing & Finance Foundation's Director of Marketing and Communications.



Think, act, and  
empower like a leader!

# Emergence2019

**July 17-18, 2019 • Offices of ELFA • Washington, DC**

*Brought to you by the Emerging Talent Advisory Council (ETAC), Emergence2019 is a leadership program for emerging talent from ELFA member companies.*

## Who Should Attend?

This event is open to ELFA members who did not attend Emergence2018. Attendees should be those who have the ability and desire to lead, grow and make a positive impact on others. These are individuals considered to be high-potential future leaders in their respective organizations and in the industry.



**Registration will open on April 15th.**

For questions, contact:  
Alexa Carnibella, Director of Professional  
Development, (202) 238-3416  
[acarnibella@elfaonline.org](mailto:acarnibella@elfaonline.org).

Interested in sponsoring Emergence2019?  
Contact Steve Wafalosky at (440) 247-1060  
[steve@larichadv.com](mailto:steve@larichadv.com).



EQUIPMENT LEASING AND FINANCE ASSOCIATION  
*Equipping Business for Success*

# Leadership in the Modern Age

## Women Leaders in the Workplace

We often ask, “What does it take to be a good leader?” Is it the most assertive and gregarious person or the reserved and thoughtful individual? In our society, conventional wisdom dictates that extroverts make the best leaders, yet a growing body of evidence suggests that introverts can make better leaders in many scenarios. Regardless of the personality traits, good leadership is not defined by gender.

For women, navigating the business world can be an especially challenging process, whether they are extroverted or introverted. By nature, women are viewed as nurturing and supportive. Conversely, men are traditionally seen as aggressive and bold. Since these more assertive traits are most often favored in leadership roles, potential leaders with a more thoughtful and reserved style are often missed.

A decade ago, the Bureau of Labor Statistics showed that women and men attained a bachelor’s degree at virtually the same rates. Today, women account for more than 56 percent of students represented on nationwide university campuses. However, just 16 percent of women are in leadership roles and are 18 percent less likely to be promoted than men. The historical imbalance and gender bias against women in the workplace are painfully clear.

There are many capable women who are often overlooked for leadership roles. While overlooking women simply because they are women is ethically and legally out of bounds and introverts of both genders face similar challenges, women who are not assertive by nature can be particularly challenged. This is especially true when working with male counterparts with



traditionally favored assertive styles. But to succeed in the competitive marketplace, organizations must create an environment that values the skills and ideas of all workers and address the inherent bias towards assertive personalities that can impact women disproportionately.

## Integrating Skill in the Workplace

Most industries, including equipment finance, are male dominated. With rapidly changing demographics and men now representing the minority in university attendance, businesses need to do more to support and advance this changing demographic—for their own benefit. If they don’t act now, the prospects to attract and retain highly-skilled talent will be limited. While more women should be in leadership roles across the board, diversity for the sake of diversity is unproductive. Individuals of all stripes should be promoted and placed into leadership roles for the skills and ability they bring to the table.

Our CEO is an ardent supporter of a

diverse and strong workforce and has built a culture that favors talent and ability over any other perceived factors or biases. This “start at the top” culture of inclusion and advancement at Amur Equipment Finance has benefited us in many ways. Our home office in Grand Island is largely made up of talented women, and we have women in strategic leadership roles throughout the company, including our CFO, VP of Human Resources and VP of Marketing, among others.

There are three things you can easily do now to encourage a diverse workforce and improve your business’s bottom line.

- 1. Actively recruit women and other minority groups.** Based on clearly changing demographics, these individuals will be your company’s next leaders.
- 2. Promote leadership skills building—** not only for women, but for all employees and personality types.
- 3. Set up a mentor program.** This item is dear to my heart. As one of the first individuals in our company to receive the equipment finance industry’s Certified Lease & Finance Professional (CLFP) designation, I have since worked tirelessly to encourage employee participation in the program. This past year, 16 additional Amur Equipment Finance employees received their CLFP designation—the majority of them women.

By having a supportive and purposefully designed structure in place, you will be able to organically build a diverse company and attain all the benefits that come with a diverse workforce. ☰

---

**KIMBERLY ADAIR** is Vice President, Business Intelligence and Internal Controls at Amur Equipment Finance.

# Best Practices Roundtables

Problem Solve • Share Best Practices • Network



**April 9, 2019**  
**Swissôtel Chicago**  
**Chicago, IL**

**Bank Best Practices Roundtable**  
**Captive and Vendor Finance Best Practices Roundtable**  
**Independent Best Practices Roundtable**

Designed to bring senior executives together for information sharing and critical thinking about the issues they are facing as leaders of their organizations.

These programs will be held at the Swissôtel Hotel, Chicago, IL, immediately preceding the ELFA National Funding Conference.

To register, go to: [www.elfaonline.org/Events/Calendar/](http://www.elfaonline.org/Events/Calendar/)

For more information, please contact Alexa Carnibella at [acarnibella@elfaonline.org](mailto:acarnibella@elfaonline.org)

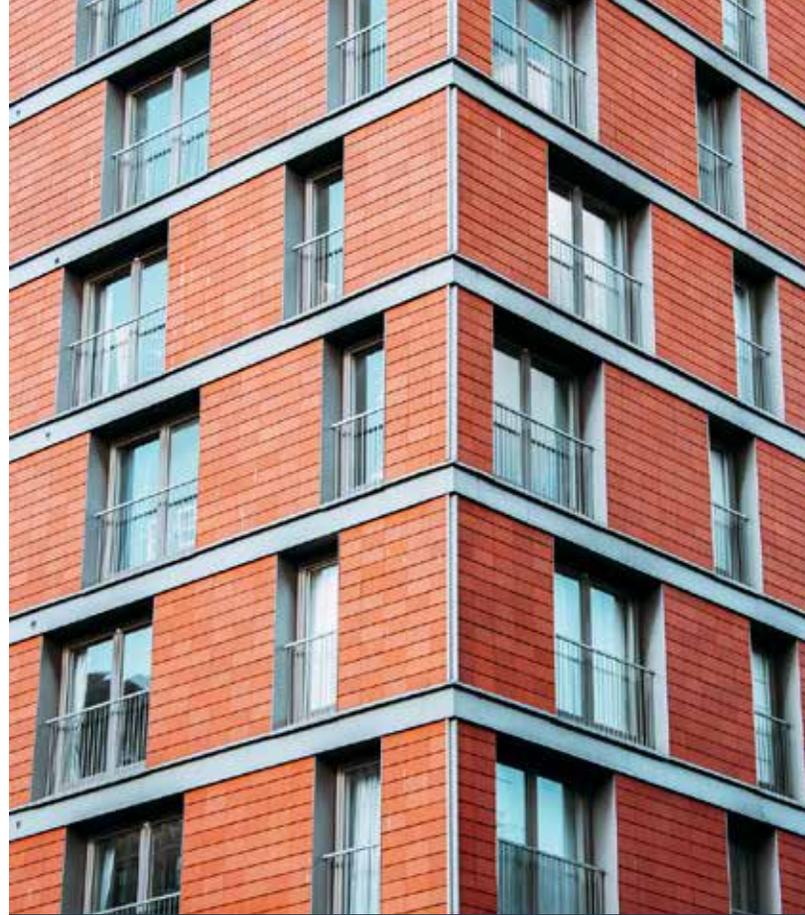
**Back by  
Popular Demand!**  
ELFA Members: Get a \$200  
discount when you register for  
both National Funding  
Conference and a  
roundtable.



EQUIPMENT LEASING AND FINANCE ASSOCIATION  
*Equipping Business for Success*



The product.



The platform.

**The Odessa platform isn't one thing,  
it's everything.**

A lease management product is critical, but it isn't enough. The Odessa platform brings system configuration, app development and test automation into one seamless platform. Eliminate workarounds by unifying IT and business. Work smarter, scale faster. Building your business your way? In leasing, that means everything.

**odessa**

[odessainc.com](http://odessainc.com)