EQUIPMENT
Leasing&Finance
THE MAGAZINE FOR INDUSTRY EXECUTIVES
MARCH | APRIL 2022

FUNDING'S FROTH FACTOR

6 Steps to Blaze New Trails in Your Career

2022 Equipment Outlook

Takeaways from the Monthly Leasing & Finance Index

Making an Impact: ELFA Government Relations

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EQUIPMENT Leasing & Finance
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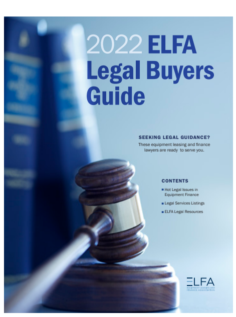

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EQUIPMENT Leasing & Finance
THE MAGAZINE FOR INDUSTRY EXECUTIVES

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Equipment Leasing & Finance Magazine, Vol 38, 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.

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By Ralph Petta

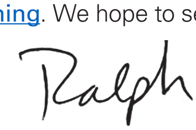
Investing in You

SPRING EVENT SEASON IS IN FULL SWING AT ELFA, and we're rolling out an expanded lineup of learning and networking opportunities for you. Now more than ever, your association is dedicated to providing you with business and professional development throughout your career to position you and your business for success in an ever-changing marketplace. Whether you're an equipment finance veteran or new to our great industry—or somewhere in between—I encourage you to check out our calendar of upcoming events. Many are in-person, providing a welcome opportunity to reconnect face-to-face after two long years of the pandemic. Highlights include:

- **Women's Leadership Forum**, April 11-12 in Chicago. 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 in our feature story "6 Steps to Blaze New Trails in Your Career" on p. 22.
- **Funding Conference**, April 12-14 in Chicago. Get a snapshot of the state of funding in our cover story on p. 16 and get the complete picture at this event. Consider arriving early to attend the **Best Practices Roundtables** for bank, independent, captive and vendor finance and (new this year) small-ticket executives on April 12—at a bundled discounted registration fee.

  While you're in Chicago, don't miss our first-ever **People Power Networking Event** on April 12, combining the efforts of the Emerging Talent Advisory Council, Equality Committee and Women's Council. This event is part of ELFA's commitment to supporting diversity, equity and inclusion across our association and industry. If you're looking for tips to integrate DEI into your business strategy for heightened competitive advantage, read Melissa Donaldson's Executive Perspective column on p. 52.
- **Legal Forum**, May 1-3 in Washington, D.C. Speaking of legal issues, don't miss our 2022 Legal Buyers Guide on p. 35.
- **Innovation Roundtable**, May 19. For the first time we are hosting four highly interactive, virtual discussions about technology and innovation, hosted by ELFA's Technology Innovation Working Group and facilitated by Deb Reuben of TomorrowZone.
- **Capitol Connections**, May 25 in Washington, D.C. Read "Making an Impact" on p. 30 for insights about the importance of attending our biggest advocacy event of the year.
- **Credit and Collections Management Conference**, June 6-8 in San Antonio, Texas. Watch for the next issue of this magazine, when we'll take a deep dive into the state of credit and collections.

For a full listing of events, please visit www.elfaonline.org/Events/. In addition to in-person events, we're also pleased to offer new Wednesday Webinars as well as online courses through the ELFA Academy—learn more at www.elfaonline.org/events/eLearning. We hope to see you this spring! ☰



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

Have You Visited the Knowledge Hub?
Learn about *the* source for business intelligence on the equipment finance industry at www.elfaonline.org/KnowledgeHub.

Equipment Management Conference Returns In-Person

OVER 250 equipment managers, remarketers and appraisers attended the ELFA Equipment Management Conference in February at the Westin La Paloma Resort & Spa in Tucson, Arizona. The conference featured content-rich sessions on a variety of asset classes; a first-class exhibition of equipment appraisers, remarketers and others; and unmatched networking opportunities with peers in the industry.

Emerging Talent Advisory Council Announces 2022 Lineup of Events

THE EMERGING TALENT ADVISORY COUNCIL (ETAC) has planned four events designed specifically for emerging talent in the equipment finance industry, with more to be announced.

- People Power Networking Event - April 12 at the Palmer House Hilton in Chicago
- Emergence2022 – July 14 at Key Equipment Finance in Superior, CO. Emergence is a one-day leadership program designed to empower attendees with the leadership skills necessary to excel in the equipment finance industry. *Sponsored by Key Equipment Finance.*
- July Emerging Talent Networking Event – July 14 in Superior, CO.
- September Emerging Talent Networking Event – Sept. 12 at the Sheraton New Orleans Hotel in New Orleans.

For questions, contact Alexa Carnibella at acarnibella@elfaonline.org.

Emergence2022

Participate in the SEFA Survey to Receive Your Free Report

ALL ELFA REGULAR MEMBERS are encouraged to complete the 2022 Survey of Equipment Finance Activity questionnaire at www.elfaonline.org/sefa. Respondents receive a complimentary copy of the SEFA and Small-Ticket SEFA reports (a $1,495 value), the most comprehensive source of data on the equipment finance industry. You'll also receive a personalized MySEFA interactive tool, which lets you track your company's operational and performance statistics and compare them against your peers. The SEFA is part of the ELFA Knowledge Hub, *the* source for business intelligence on the equipment finance industry.

Membership Minute

IF YOUR COMPANY IS AN ELFA MEMBER, you may create a member profile from the ELFA website at www.elfaonline.org and gain access to valuable, members-only resources. To learn more about ELFA's members-only resources, contact Julie Benson, VP of Membership Marketing, at jbenson@elfaonline.org.

The Winners Circle Grows

CONGRATS TO BRIAN LITTLE of V3 Distribution on winning ELFA's Q4 mobile app contest! Brian joined ELFA members in posting his favorite holiday food on the "engage wall" of the ELFA Engage app. He won an Amazon gift card and ELFA swag––and became a member of the growing #ELFAmugclub! Join the fun today: Download the app and join our current contest at www.elfaonline.org/app.

Join the Mobile App Challenge!

TEST YOUR UNDERSTANDING of the Knowledge Hub for your chance to win! Every three weeks during Q2, ELFA will be posting one Knowledge Hub trivia question to the ELFA Engage app to test how well you know the association. If you participate by answering just one of the four ELFA trivia questions in the app, you will be entered to win a **$25 Amazon Prime gift card** and **ELFA Swag**! #ELFAMugClub. Learn more at www.elfaonline.org/app.

Roundtable Explores "War on Talent"

THE EXECUTIVE ROUNDTABLE will bring top equipment finance executives to Amelia Island, Florida, March 13-15, to discuss the latest trends impacting the equipment finance industry today, to strategize about the future and to create lasting business relationships. At the event, attendees will learn trends impacting the talent space, and how organizations may need to adjust their approach to attracting and retaining top talent. Featured speakers include Lindsey Pollack, multigenerational workplace expert and *New York Times* best-selling author of *Recalculating: Navigate Your Career Through the Changing World of Work*; John E. Silvia, Ph.D., CEO and Founder, Dynamic Economic Strategy, Managing Director and Chief Economist for Wells Fargo, Retired; and Johnny C. Taylor, President and Chief Executive Officer of the Society for Human Resource Management. See details at www.elfaonline.org/events.

Date Change for Investors Conference

THE IMN/ELFA Investors Conference on Equipment Finance is now scheduled for **March 30** at The Union League Club in New York City. This one-day event focuses on educating investors and equipment finance companies about the latest industry trends and developments. Now in its 21st year, the return to in-person for this esteemed series promises another program packed with engaging, timely content, as well as ample opportunity for critical business development and networking. For sponsorship opportunities, contact Chris Arnold at carnold@imn.org or (212) 901-0544. For more information, visit www.imn.org/equipment.

Women's Leadership Forum Scheduled for April 11-12

REGISTER TODAY for the 2022 ELFA Women's Leadership Forum, April 11-12 at the Palmer House Hilton in Chicago. This special event, presented by the ELFA Women's Council, will focus on leadership development for women at all stages of an equipment finance career. You'll leave the Forum with valuable insights and powerful tools to enhance your career. This event is open to anyone who would like to attend, from emerging talent to seasoned leaders. We encourage you to register today along with members of your team who are interested in participating. For complete details, including the schedule, online registration and hotel information, please go to: www.elfaonline.org/events/2022/WLF.

Join the Conversation at Best Practices Roundtables on April 12

LEARN AND NETWORK AT THE Bank, Captive and Vendor Finance, Independent and Small Ticket Best Practices Roundtables at the Palmer House Hilton in Chicago from noon-4:30pm on April 12, immediately preceding the ELFA National Funding Conference. The roundtables are designed to get groups of like-minded executives together to discuss trends affecting business entities, market segments or areas of responsibility. Attendees will enjoy a joint luncheon and general session, followed by the individual roundtables.

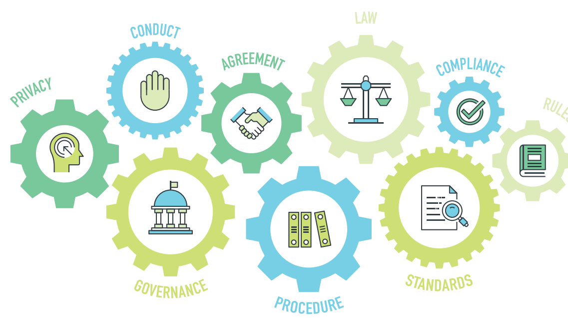
ELFA is offering bundled pricing for those who wish to attend both the roundtable and the Funding Conference (a $200 savings!). To register for the roundtable only, go to the Events section of www.elfaonline.org and the roundtable you would like to attend. To register for both Funding and a roundtable, you must register via the Funding Conference at www.elfaonline.org/events/2022/NFC/.

Funding Conference Set for April 12-14

THE ELFA NATIONAL FUNDING CONFERENCE is the most effective forum for connecting funding sources with some of the finest organizations in the equipment finance industry looking to establish relationships to fulfill their funding needs. The 2022 National Funding Conference, scheduled April 12-14 at the Hilton Palmer House in Chicago, 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 go here: www.elfaonline.org/events/2022/NFC/.

Legal Forum Planned for DC

PLANS ARE UNDER WAY for the annual ELFA Legal Forum, scheduled May 1-3 at the Omni Shoreham Hotel in Washington, D.C. 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. Watch for more information about registering for this once-a-year event at www.elfaonline.org/events.



Principles Workshop Off to a Strong Start

THE PRINCIPLES OF EQUIPMENT LEASING AND FINANCE WORKSHOP has been educating newly-hired personnel in the essentials of the business for more than two decades. ELFA will host the workshop at the association's offices in Washington, D.C., on April 27-29 and Sept. 21-23. Your people are your best asset—give them the skills and knowledge they need to compete effectively in the marketplace. See details at www.elfaonline.org/POL.

We Bring the Training to You

Join the growing number of ELFA member companies who bring ELFA training to their offices! 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.

Everything Tax Pros Need to Know: June 22 in Chicago

THE TAX BEST PRACTICES ROUNDTABLE is a one-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 Akerman LLP in Chicago. For more information and to register, go to www.elfaonline.org/events.

Roundtables Explore Innovation

SAVE THE DATE for Innovation Roundtables organized by the ELFA Technology Innovation Working Group and Deb Reuben of TomorrowZone on May 19, Aug. 4 and Nov. 10. The Innovation Roundtables are designed for all equipment finance professionals. If you're interested in accessing cutting-edge knowledge, engaging diverse voices in the industry innovation discussion, and building your action plan, these events are for you! You'll have the opportunity to connect with other senior leaders from ELFA's Technology Innovation Working Group in a facilitated discussion on the people, process, and technology sides of innovating in this new world. Watch for details and register at www.elfaonline.org/events.

EQUIPMENT FINANCE HALL OF FAME

ELFA EQUIPMENT LEASING AND FINANCE ASSOCIATION

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. A candidate is eligible for consideration to the Hall of Fame after three years separation from active, full-time dedicated employment. The deadline for nominations to the 2022 Class of the Equipment Finance Hall of Fame is April 1. Learn about the nomination criteria and eligibility requirements and access the online nomination form at www.elfaonline.org/hof. Please contact Ed Rosen at erosen@elfaonline.org if you have any questions.

5 Minutes with the Bank Chair

SEAN SVOBODA, National Sales Manager at Farm Credit Leasing

WHAT'S HAPPENING in the bank sector of the equipment finance space? *Equipment Leasing & Finance* magazine caught up with Sean Svoboda, Chair of the Bank Business Council Steering Committee (BCSC), to take the pulse of this sector. Svoboda, National Sales Manager at Farm Credit Leasing, is currently serving his first year as Chair of the committee, which represents bank-owned and bank-related organizations that use internal funding, including bank departments, divisions and affiliates, as well as divisions and subsidiaries of bank holding companies.

What issues is the Bank BCSC focused on this year?

We are continuing to see the COVID-19 pandemic cause uncertainty in the equipment finance industry. In-office requirements vs working remote, traveling to see customers vs utilizing technology, and trying to grow our business with supply chain challenges are questions on everyone's mind today. Not only do these items impact our business, they impact how we find, attract and retain talent. People are the most important asset for our businesses and in today's labor market, competition for talent is everywhere. We will be spending time at our upcoming Bank Best Practices Roundtable in April discussing this important topic and sharing ideas. We are also looking to the future on ways we can bring awareness of the equipment finance industry to those who will soon be beginning their careers. One way to do this is the Guest Lecture Program utilizing the tools available from Equipment Leasing & Finance Foundation to spread the message on college campuses.

How did you get involved with the BCSC? Would you recommend it to others?

My involvement with ELFA goes back many years to attending National Funding Conferences as a Relationship Manager on the buy side of Capital Markets. That experience early in my career allowed me to gain an appreciation for ELFA and what the association does for our industry. As my career progressed, I felt it was important to contribute more, which led me to join the BCSC. Being part of the BCSC has allowed me to have a voice for our member organizations on issues that impact equipment finance. I would strongly recommend others consider joining the BCSC. ☰

About the BCSCs

The BCSCs represent ELFA's five key business segments: Bank, Captive and Vendor Finance, Independent, Service Providers and Small Ticket. Learn more at www.elfaonline.org/BCSCs. Interested in joining? Contact Ed Rosen at erosen@elfaonline.org.

Join the Roundtables!

The Bank, Captive and Vendor Finance, Independent and Small Ticket BCSCs are planning best practices roundtables, to be held April 12 in Chicago. See details at www.elfaonline.org/events.

The event you can't afford to miss…*or it will COST you!*

Tax Best Practices Roundtable

June 22, 2022 • Offices of Akerman LLP • Chicago, IL

Sponsored by

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Program Highlights:

- Get an update on tax issues affecting you: Federal and State Income Tax, Sales & Use Tax and Personal Property Tax Administration
- Share Industry Best Practices with Your Colleagues

Who should attend?

Tax practitioners and other professionals that hold a position in tax, planning, research, business unit support or any other position responsible for corporate tax functions. This roundtable is open to ELFA members only.

To register, go to: **https://www.elfaonline.org/events/2022/TPR**

For questions, please contact: Alexa Carnibella at 202-238-3416 or *acarnibella@elfaonline.org*

ELFA EQUIPMENT LEASING AND FINANCE ASSOCIATION
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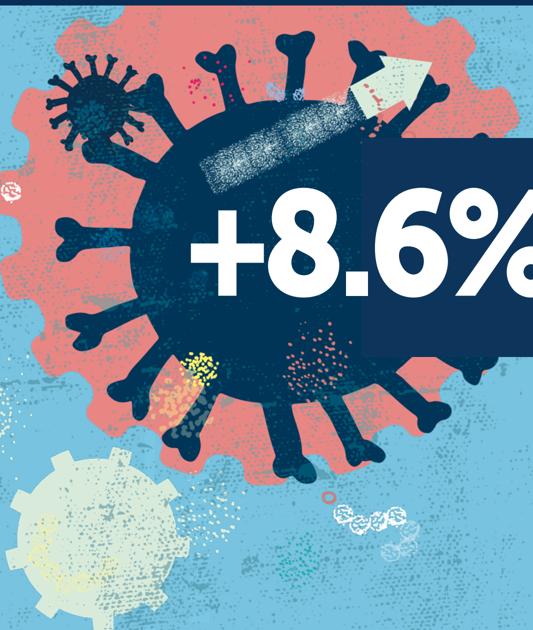
INDUSTRY



+8.6%

That's the overall increase in year-over-year New Business Volume in 2021, according to the December Monthly Leasing and Finance Index. This was an improvement over 2020, when New Business Volume fell 5.8% as the pandemic surged.

Truck Data Mixed in 2021

In 2020, year-over-year new class 8 truck sales plunged by about 30%. However, new class 8 sales increased 16% in 2021.

Orders for new trailers increased by 48% in 2020, then fell by 17% in 2021 due to "supply chain and staffing issues."

Source: What's Hot/What's Not? Equipment Market Forecast 2022, https://www.elfaonline.org/knowledge-hub/most-popular

Knowledge Hub

For more information, visit ELFA's Knowledge Hub, the one-stop source for business intelligence on the equipment finance industry, at www.elfaonline.org/KnowledgeHub.

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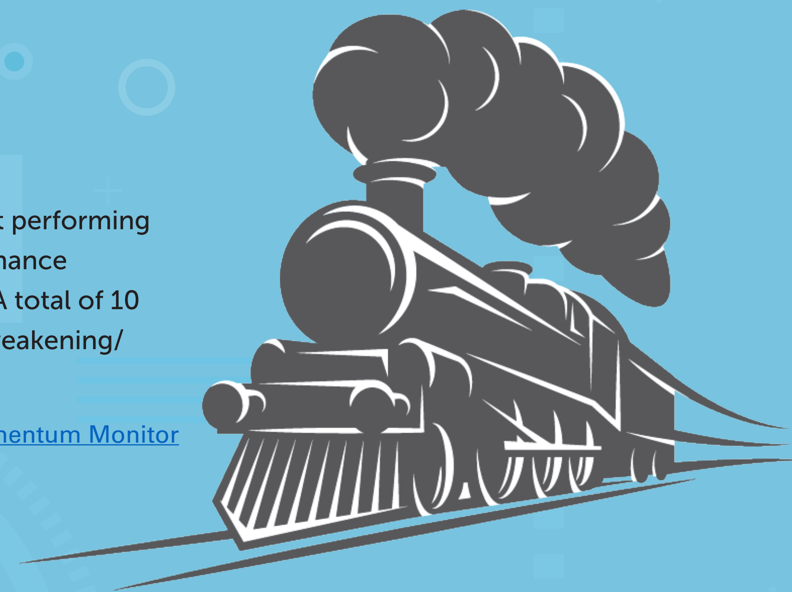

Chugging Along

Railroad and Mining & Oilfield were February's best performing verticals, according to the Equipment Leasing & Finance Foundation's February 2022 Momentum Monitor. A total of 10 of the 12 verticals are peaking/slowing, with two weakening/struggling.

Source: [Equipment Leasing & Finance Foundation Momentum Monitor]

A Global Opportunity

Global ESG or Environmental, Social, and Governance Assets under management are expected to exceed $50 trillion and represent over one third of the projected $140 trillion total assets by 2025. These ESG Assets under management present a great opportunity for our industry.

Source: [The ESG Imperative: Understanding the Opportunities for the Equipment Leasing and Finance Industry]

Funding's

Froth Factor

New investors, tools and markets: Funding '22 is astir with action.

By Susan L. Hodges

START WITH ONE LARGE, WELL-PERFORMING MARKET. Add a profusion of investors oozing liquidity, and mix in a shortage of available transactions. Sprinkle in a pinch of new technology and then season with supply-chain disruptions, the prospect of monetary tightening, and an overdue capex expansion. Whip it all together, and you have the frothiest funding environment since before The Great Recession.

As a lead in to the 2022 ELFA National Funding Conference, we spoke with experts about the funding landscape and what's in store for the year ahead.

Tom Forbes, Executive Vice President of Wintrust Commercial Finance, elaborates on the current market: "Excess capital has been chasing fewer deals since about 2017, when returns began to fall relative to the risks incurred. Although many larger institutions sold out of their portfolios to lighten their balance sheets during the early phase of the COVID pandemic in the second quarter of 2020, those same institutions adopted a book-and-hold strategy for 2021—again making deals scarce even as liquidity remained exceedingly strong."

Because the investment-grade space is now hyper-competitive, Forbes says a growing number of institutions are expanding their credit box to meet volume targets. The results: wafer-thin margins and growth challenges amid swirls of change and activity—and that's just the beginning.

Furies Beneath the Foam

Sera Oliver, Director of Capital Markets at Key Equipment Finance, also reports the market robust with lenders flush with liquidity and cash on the balance sheet. "We definitely have money to deploy and we're finding that a lot of investors do, too," she says, and then adds this footnote: "We're also seeing that many investors' budgets are higher this year than last, and this drives even further competition."

Leif Grundahl, Senior Vice President of Syndications at Wells Fargo Equipment Finance, sees credit requirements loosening as deal-hungry institutions begin looking to the single-B credit space for transactions. "Due to the oversaturated market for better credits profiles, there's an increased demand for larger single-B-rated credits with institutions focused on higher returns," he says.

Adding spice to the brew is the prospect of rising interest rates. Despite the Federal Reserve Bank's announcement in late January that it would leave the federal funds rate at 0 to 0.25%, the Fed has said it plans to raise rates up to three times this year. Meanwhile, the agency is reducing its bond purchases to reduce liquidity and could stop them completely sometime in March.

Robert Moskovitz, CFO at Verdant Commercial Capital LLC, says leasing rates typically move directionally with the market, but that can take a while to happen. "There can be short-term squeezes," he observes. "Your cost of funding goes up, so you naturally try to increase your lease rates, but you also have to stay competitive. It's a balancing act."

Oliver agrees. "Rising rates mean our cost of funds will increase, and that increase will flow through to customers in the rates we'll have to charge," she says.

"We want to be poised to seize opportunity, and there are momentary niches of real opportunity now."

—Robert Moskovitz
Verdant Commercial Capital LLC

"From our perspective, remaining diligent with regard to pricing will be key this year, because when it's this competitive and companies are trying to bring in deals, they have a tendency to lower their rates. Especially on the longer tenured deals, we want to stay diligent to meet our targeted levels."

"We were able to maintain pricing discipline and still hit our target for 2021," notes Forbes. "[But] there is an abundance of transactions in the market that have been completed recently where the return doesn't reward the risk. As inflation continues and the economy softens, this will have a negative impact on the profitability of many industry participants, particularly for those who don't match-fund."

Then there's the industry's shift away from using LIBOR as a pricing index. The former standard interest-rate benchmark was scuttled by regulators after scandals involving manipulation or attempted manipulation of the reference. Says Grundahl, "Over the years, many equipment finance companies have indexed over LIBOR swap rates. But now that it's going away, some have already transitioned to indexing over the SOFR swap, and I would expect to see more make the change over the course of 2022."

SOFR is the Secure Overnight Funding Rate produced by the Federal Reserve Bank of New York and based on transaction data, not estimates. Other indexes in play are the Ameribor (American Interbank Offered Rate) and the Bloomberg Short-Term Bank Yield Index, or BSBY. But Forbes says the decision to switch to SOFR or another pricing index is no easy task. "We're learning that the credit spreads in these benchmarks differ from institution to institution, so it becomes an apples-to-oranges discussion," he explains. "You have to be able to ask the right questions."

Market Moves

Despite the changes brewing, experts who spoke for this story expect funding availability to remain steady and demand to increase. Moskovitz predicts growing demand for funding in trucking, logistics and construction as new infrastructure projects launch. Verdant Commercial Capital finances heavy equipment nationwide via relationships it has with capital equipment manufacturers, distributors and dealers, and Moskovitz says the marketplace has been growing over the past year. "There's always competition; that doesn't change," he says. "But we want to be poised to seize opportunity, and there are momentary niches of real opportunity now. To take advantage, we're in the process of adding to our capital and expanding our lines of credit at attractive rates. Because our assets perform, the Verdant story has been well received by investors and banks."

Forbes expects an increase in financing opportunities for manufacturing facilities and equipment as manufacturing comes back to the U.S. "Austin and Frisco, Texas are attracting a ton of transplants, and Atlanta, Charlotte and the Research Triangle are attracting new and more manufacturing," he says. Example: Texas Instruments has announced plans to build a $30-billion semi-conductor plant in Texas that will employ up to 3,000 people.

Further, he thinks financing for the fossil fuel industry will remain scarce as institutions maintain a wait-and-see approach, given the current administration's focus on green energy. "Conversely, renewables energy financing is likely to increase, particularly with the restoration of full tax credits for this space coupled with direct pay, rather than tax equity offsets," he adds.

"Renewables energy financing is likely to increase, particularly with the restoration of full tax credits for this space..."

—Tom Forbes
Wintrust Commercial Finance

"Our industry is so relationship-driven, and the Funding Conference provides a great venue to connect with peers as well as institutional customers."

—Leif Grundahl
Wells Fargo Equipment Finance

Oliver says that's already happening, partly due to rising interest in ESG investing. "We're finding new investors who want to buy into the green markets, so we're syndicating our clean-energy transactions to them," she says. Since 2015, Oliver says, Key Equipment Finance has invested over $300 million in fuel cell technology with one developer and is now actively in the market syndicating such opportunities to other investors. Fuel cells convert natural gas to energy without a combustion process, significantly reducing a company's carbon footprint.

Oliver expects no weakening in availability either. "Although oil-and-gas and mining remain lackluster, the technology and transportation markets continue to show strength, and in the municipal space, towns are in a very strong position," she says. Whether municipalities opt to finance remains to be seen, however. "Some of our municipal customers are delaying financing now that rates have begun to rise. And because they have strong balance-sheet positions, they may choose to avoid financing altogether," she explains. Nonetheless, she expects new investors and developing markets to help balance any negatives.

Valerie Gerard, Co-CEO of The Alta Group LLC, is also watching sustainable finance with interest. "Renewable energy has been around for 15 years, and in some ways is the original green asset class," she says. "Today, institutional investors are incorporating ESG standards into their investment criteria as they expand their socially responsible investing opportunities to include ownership and management of green assets."

The result is a large class of investors who want to invest in green assets—and demand is stronger than supply. "This represents a huge opportunity for our industry as a potential new pool of capital looks for established green assets," Gerard asserts. "Equipment finance and leasing as an industry has a strong track record, not only for financing established classes of green assets, but also in refurbishing and redeploying equipment, which leans into ESG-friendly circular economy models."

As an example, Gerard cites Dallas-based Trinity Rail Group LLC, which recently completed a securitization of rail-car transactions qualifying as a green bond. "Rail cars have lower carbon emissions than over-the-road trucks, so this meets a lot of green criteria for ESG investors," she explains. "If other equipment finance companies haven't thought about it, they need to consider what the assets they're financing in their portfolios are eligible for that could qualify as green or ESG financing. The ability to qualify as green bonds will bring new investors, new sources of capital, and for some smaller companies, a possible narrowing of their cost of funds."

Study Says...

Gerard should know: she's a researcher on the steering committee for a study on industry funding, securitization and syndication options being conducted by The Alta Group for the Equipment Leasing & Finance Foundation. To be released in April, the study will provide an industry overview of funding options and clear guidance around best practices. These tools are designed for companies financing transactions of any size to apply in creating the optimal funding program for their situation.

"When the pandemic hit, the capital markets were shaken, and we wanted to understand the funding implications for our industry," Gerard says. "We went

"There are strong balance-sheet positions and funding is robust, but customers are dealing with labor shortages, supply chain issues and Omicron."

—Sera Oliver
Key Equipment Finance

out early and surveyed CFOs, treasurers and syndicators to ask how the pandemic had changed the ability to secure funding, and we found that transparency was fundamental to returning their borrowing ability to normal. CFOs and treasurers learned from the 2008-2009 recession that tracking their portfolio more closely and having more frequent and open conversations with their lenders avoided later, potentially damaging knee-jerk reactions by lenders."

"Post-pandemic conditions are pointing to a huge surge of equipment financing needs."

—Valerie Gerard
The Alta Group LLC

Gerard says funding strategies will evolve to incorporate more transparent real-time portfolio reporting with lenders going forward, but she adds this note: "I can tell you: Coming out of the global lockdown, funding availability was not a major issue for anyone we interviewed."

What's Next

Given the abundance of factors at work this year, story sources hesitate to say much about 2022 as a whole. "Currently, institutions are willing to take less margin in order to help grow their portfolios, so we're essentially back to pre-COVID interest rates now," says Grundahl. "And while we probably won't see significant changes in the first six months, impending monetary changes could certainly impact that in the second half."

"COVID-19 is still here with the Omicron surge, so we'll have to see how the year goes," adds Oliver. "There are strong balance-sheet positions and funding is robust, but customers are dealing with labor shortages, supply chain issues and Omicron. We'll see where the intersection of these headwinds and tailwinds takes us."

Moskovitz is a bit more optimistic. "At Verdant, we've seen no pull-back to obtaining funding; we're fortunate to have many avenues for additional capital, should we need it. With interest rates still as low as they are, customers continue to use financing. When rates go up, rates to our customers will go up as well." But he adds a caveat: "Our portfolio did well throughout COVID. But now that we're on the backside, capital equipment demand is very strong, and our origination growth is starting to be impacted by supply chain issues. Many of our equipment vendor partners have extended delivery schedules due to logistics problems and part shortages."

To compound the problem, Gerard says the U.S. capital expenditure cycle is at an expansionary point. "We were poised to enter this cycle just as COVID-19 set in, and now, as supply chain delays ease and inflation remains in check, many analysts expect corporate capex spending to climb, aided in part by the infrastructure bill," she says, and then adds a suggestion: "As customers gear up to finance more equipment, their treasury departments may want to think about how to flex up their funding programs to accommodate potentially huge demands for equipment."

This could mean talking with your company's current bank group about increasing the size of your facility, or adding new capital sources. Concludes Gerard, "Post-pandemic conditions are pointing to a huge surge of equipment financing needs, so companies need to ensure that they have the funding capacity in place to support those levels of originations."

Clearly, it's time to stop and smell the coffee.

SUSAN HODGES writes about equipment finance from her office in Albuquerque, New Mexico.

Connect the Dots in Chicago!

For the first time since 2019, funding specialists will meet in person to exchange information, compare experiences and discuss current issues at ELFA's 33rd Annual National Funding Conference this spring. To be held April 12-14 at The Palmer House Hilton in Chicago, the event is expected to attract a larger-than-usual audience.

"Our industry is so relationship-driven, and the Funding Conference provides a great venue to connect with peers as well as institutional customers," says Leif Grundahl of Wells Fargo Equipment Finance. "The conference is also a good opportunity to get a pulse on the industry, and for first-time attendees particularly, it's an excellent forum for meeting new funding sources and customers. I feel sure we'll see pent-up demand this year for meeting in person."

For the schedule, session details and a list of attending funding sources, visit www.elfaonline.org/events/2022/NFC/. Register now to save your spot!

Emergence2022

Think, act and empower like a leader!

July 14, 2022

Offices of Key Equipment Finance
Superior, CO

What Is Emergence?

Now in its 4th year, Emergence is a one-day leadership program for emerging talent in the equipment finance industry.

Why Should I Send My Emerging Leaders to Emergence?

Emergence is a leadership program **designed specifically for emerging talent in the equipment finance industry**. Sessions, discussions, activities and take-aways empower attendees with the leadership skills necessary to excel in equipment finance.

Plus, your employees are your greatest assets – provide them with the leadership skills they need to help your company continue to thrive. Investing in your rising leaders shows them that you value their contribution and future within your organization.

Who Should Attend?

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 the industry.

Registration Fee

The registration fee is $500. Space is limited to 85 and 3 attendees per company. Attendees of Emergence are welcome to attend the Emerging Talent Networking Event the evening of July 14th.

Questions?

Contact Alexa Carnibella at acarnibella@elfaonline.org
or go to: www.elfaonline.org/events

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Equipping Business for Success

6 Steps to Blaze New Trails in Your Career

NO ONE HAS BEEN UNTOUCHED BY THE PANDEMIC that began roughly two years ago. The way we work has changed and the way we do business has, too. To help you navigate this new world in the year ahead, the ELFA Women's Council has unveiled plans for the 2022 Women's Leadership Forum in Chicago on April 11-12. The Council promises that the Forum will be an event to remember.

"This is going to be an event filled with connection, learning, laughter, comradery and some surprises," says Women's Council Chair Jen Fanz, Sr. Manager, Finance Organization Development at Intuitive Surgical Inc. "I promise you that you'll leave feeling like this is just what you needed to get going on your journey."

With a dynamic lineup of speakers, timely topics and abundant opportunities for networking and reconnecting with colleagues—all focused on the theme "Blazing New Trails"—Fanz says that attendees can expect action-oriented takeaways that will have immediate relevance.

"You'll walk away with tips and advice you can apply to your career in our 'new normal,' all designed to help you blaze new trails in your own career," she says.

"Part of your career success hinges, in some part, on having good, positive, robust and productive relationships with those who have power over your career."

Mary Abbajay
Women's Leadership Forum Speaker

Here are six strategies for success in the year ahead that will be addressed at the 2022 Women's Leadership Forum.

1 Manage Up

Whether we like it or not, our bosses have enormous influence over our ability to succeed, thrive and advance in our organizations, in our careers and in our own leadership journey. Establishing strong, productive working relationships with those above us is a critical skill—whether we report to a supervisor or a board of directors.

"On a very basic level, managing up is about understanding and improving your relationship with your boss," says Melissa Kopit, Associate at Vedder Price P.C., a Washington, D.C., law firm. "Everyone is a human being with their own personality quirks, preferences and communication styles. And it's important to acknowledge what those are, so that you know how to work with your boss and peers to build your strongest and most effective team."

In a keynote at the Women's Leadership Forum led by Mary Abbajay, President of management consulting

By Gwen Moran

"[At the Women's Leadership Forum] you'll walk away with tips and advice you can apply to your career in our 'new normal.'"

Jennifer Fanz
Intuitive Surgical Inc.
ELFA Women's Council Chair

firm Careerstone Group and author of *Managing Up: How to Move Up, Win at Work, and Succeed with Any Type of Boss*, attendees will learn key components of this practice. Managing up requires a variety of skills, such as recognizing personality differences, understanding preferred work and communication styles, and managing relationships in all types of work environments. Becoming adept at these practices can help you improve your bonds with managers and colleagues while taking ownership of your own success.

"Part of your career success hinges, in some part, on having good, positive, robust and productive relationships with those who have power over your career," Abbajay says. "It's really up to every one of us to actually do what we can—consciously and deliberately—to make those relationships work because we can't change other people. But we can take control of our own actions and experience."

2 Ditch Perfectionism

It's no secret that women continue to be underrepresented in leadership roles. While there are numerous outside forces that play a part in limiting leadership growth, one obstacle to success for many high-achieving women is perfectionism.

At the Women's Leadership Forum, keynote speaker Elise R. Holtzman, JD, PCC, President of coaching and training firm The Lawyer's Edge, will share strategies for leaving perfectionism behind while learning how to embrace opportunities to grow your skills and leadership abilities.

Holtzman says she sees many women who are held back by perfectionism. "They're incredibly bright. They're working really hard. They're doing great things. They're serving their clients. And there's something that is getting in their way," she says. Part of the issue is the way women have often been socialized

"I'll be working with participants to help them identify the skill sets that they'll need to achieve what they want next."

Elise R. Holtzman, JD, PCC
Women's Leadership
Forum Speaker

to not take risks. Her session, "Imperfect, Impactful Leadership," is designed to help women accept once and for all that we are all flawed and that they don't need to be "perfect" to be exceptional, she says.

Catherine Roddick, a member of the Forum Planning Subcommittee and Regional Vice President of Farm Credit Leasing in Rocklin, California, agrees. "So many times, women pass up opportunities because we're 'not ready yet,'" Roddick says. In fact, her own approach changed when she sat next to a successful colleague who was a man. She listened to him during the course of the day and realized that she had the same skills. "I walked into his office one day and said, 'You just know how to play the game.' He said, 'Yeah, absolutely.' That's when it clicked for me: imperfect leadership is being willing to lead even when you're not 100%."

"Once you get into that leadership role, you have to be willing to experiment and make mistakes."

Catherine Roddick
Farm Credit Leasing

3 Cultivate New Skills

High achievers are continually evolving. Growth, both personal and professional, requires anticipating the skills and strengths you're going to need and developing them. But how do you cultivate the foundational skills, behaviors, attitudes and beliefs you'll need—especially when they may be radically different from those you have now and there's so much pressure to keep doing what has been working for you? In a hands-on breakout session at the Women's Leadership Forum, "What Got You Here Won't Take You There," Holtzman will discuss why this is important and how to do it.

"We'll be taking time to truly think about what got us to the place where we are. And I'll be working with participants to help them identify the skill sets that they'll need to achieve what they want next," she says. When you're going for a leadership role, you need to focus your energy on the areas that matter to the organization, and that may require thinking more strategically.

"Once you get into that leadership role, you have to be willing to experiment and make mistakes. You can't always play nice, and you won't always know what you're doing," Roddick says. The key is to accept stretch roles to disrupt the status quo and help you develop the skills you need to succeed.

4 Conquer Imposter Syndrome

Feelings of inadequacy or self-doubt—also known as "imposter syndrome"—are often a challenge for women executives. In fact, a 2020 survey released by KMPG found that three out of four executive women have experienced this phenomenon. At the Women's Leadership Forum, Neonu Jewell, JD, MBA, MDiv., co-founder of Christmas Jewell Consulting, a Washington, D.C. workplace culture consulting firm, will tackle the issue head-on and share strategies for shedding those feeling of not belonging.

"Self-doubt and second-guessing oneself can stifle success through, for example, hesitance to speak up, reluctance to take on new professional roles, and not fully communicating your achievements in reviews or with managers," Jewell says. "This session will give women the tools they need to advocate for themselves."

Imposter syndrome can be particularly insidious because it may hold women back from taking on leadership roles, Kopit adds. "It can be a barrier to your success. You may not speak up in a conversation or contribute in ways you know you can," she says. "You're not reaching your full potential if you have something valuable to contribute, and you're not doing so." She adds that it's important to note that men experience imposter syndrome, too. So, learning to manage the issue can make you a better leader and mentor for others who doubt themselves. "When you can help your team members do that, you're actually getting full value and contributions from your team," she says.

"Self-doubt and second-guessing oneself can stifle success."

Neonu Jewell, JD, MBA, MDiv.
Women's Leadership Forum Speaker

5 Get a Mentor

Mentoring can also be an essential part of being successful in any field. Mentoring is critically important now, especially in a tight labor market with myriad opportunities. Making the next move can seem daunting. But a mentor can help you sort through distractions and help you decide how to best grow in your career, Fanz says.

"The purpose of a mentor is to help you see the greatness that you don't know is inside you. A mentor can provide guidance and give you the confidence to show the world what you can do," Fanz says.

The ELFA Women's Council plans to launch the second year of its mentoring program at the Women's Leadership Forum. Attendees will be eligible to participate in the one-year program as mentors or mentees. Participants will have a chance to meet at the Forum and then participate in a kickoff call in May. The kickoff call will cover how mentors and protégés can make the most of their relationship so it's valuable for both.

"You're not reaching your full potential if you have something valuable to contribute, and you're not doing so."

Melissa Kopit
Vedder Price P.C.

6 Grow Your Network

In addition to a rich slate of sessions that will give attendees valuable and applicable tools and resources, the Women's Leadership Forum will provide another benefit that is especially important now: connection. The overall tenor of the event is welcoming, and the agenda is designed to allow attendees time to network in ways that are most comfortable for them, Fanz says.

Attendees can choose to participate in a facilitated session that will allow them to interact with other members or circulate during the event's networking lunch or cocktail hour. For those who prefer networking in more intimate settings with small groups, a "dine around" is also planned. Attendees can sign up to join a group of eight or so other women for a meal at a Chicago restaurant.

"You can find ways to build your network and connect with other women in the field in the way that is best for you and with which you're most comfortable," Fanz says. She says there will also be a few other surprises, like an optional working breakfast and a morning event that's just for fun.

While the pandemic has created a change in how we work and connect. Fanz says the Forum will be an opportunity for members to meet up in-person again and strengthen those career-building lessons and bonds.

"We've all been missing personal connection. This is a time for members to connect with other successful women in the field while they learn skills and techniques that can be invaluable in their careers," Fanz says. "Members who attend are going to walk away feeling like this is exactly what they needed now and for what's next."

To view the full agenda and registration information for the Women's Leadership Forum, visit www.elfaonline.org/events/2022/WLF. ☰

GWEN MORAN is a New Jersey-based freelance business and finance writer.

2022 Equipment Outlook

By Carl C. Chrappa

WHAT ARE THE HOTTEST EQUIPMENT SECTORS IN 2022? Construction, trucks/trailers, medical equipment, machine tools and hi-tech/computers are the five top-ranked, according to a new survey of ELFA member asset managers and consultants. "What's Hot/What's Not: Equipment Market Forecast 2022" reveals industry perceptions of 15 equipment markets based on the ELFA member survey. The following examines the top equipment types:

#1 Construction

Construction was the big winner of this year's survey, ranking first for the ninth consecutive year. It also ranked number one for the largest increase in residual value sentiment. The outlook for construction remains excellent, based on pent-up demand for housing, and commercial and civil projects. The infrastructure bill will be an added plus to this already hot segment.

#2 Trucks/Trailers

Trucks/Trailers finished in second place for the second year in a row. This sector also logged the second-highest net residual value preference increase. New class 8 sales, even though constrained, increased a solid 16 percent in 2021. The outlook for this sector is excellent, as the effects of the pandemic weaken and the economy stabilizes. However, this segment is believed to be the target of a host of new regulations brought about by the administration, and also subject to chip and parts supply problems that limit output.

#3 Medical

This sector still suffers from confusion regarding the future of healthcare finance with changes to the Affordable Care Act, and its effect on hospitals and clinics, further complicated by changing requirements and guidelines related to COVID-19. The industry has a preference for leased equipment, which continues unabated, driven by demographics linked to the increasing health care needs of the baby-boom generation. U.S. healthcare spending rose a solid 5 percent in 2021 accounting for 19.7 percent of GDP.

#4 Machine Tools

Machine tools finished in fourth place, a ranking believed to be linked to demand from the contract machining and allied industries. It should be noted that a falloff in automobile manufacturing during 2020 caused by the effects of the pandemic greatly influenced this market through lockdowns and chip and parts shortages. However, orders increased sharply in 2021 by around 50 percent year over year.

#5 Hi-Tech/Computers

This sector continues to operate on very low margins but has a vast secondary market. In 2020, global sales sharply increased by 13.8 percent and increased another 14.8 percent in 2021 due to the high number of work-at-home employees. Used prices for newer PCs increased by around 10 percent in 2021 and remain high compared with 2019.

Read about all 15 equipment markets by downloading the full report from the ELFA website.

CARL C. CHRAPPA is Senior Managing Director - Asset Management Practice Leader of The Alta Group, LLC.

Download your free copy of "What's Hot/ What's Not: Equipment Market Forecast 2022," authored by Carl Chrappa of The Alta Group, at www.elfaonline.org/knowledge-hub/most-popular. The report is part of ELFA's Knowledge Hub, *the* source for equipment finance business intelligence.

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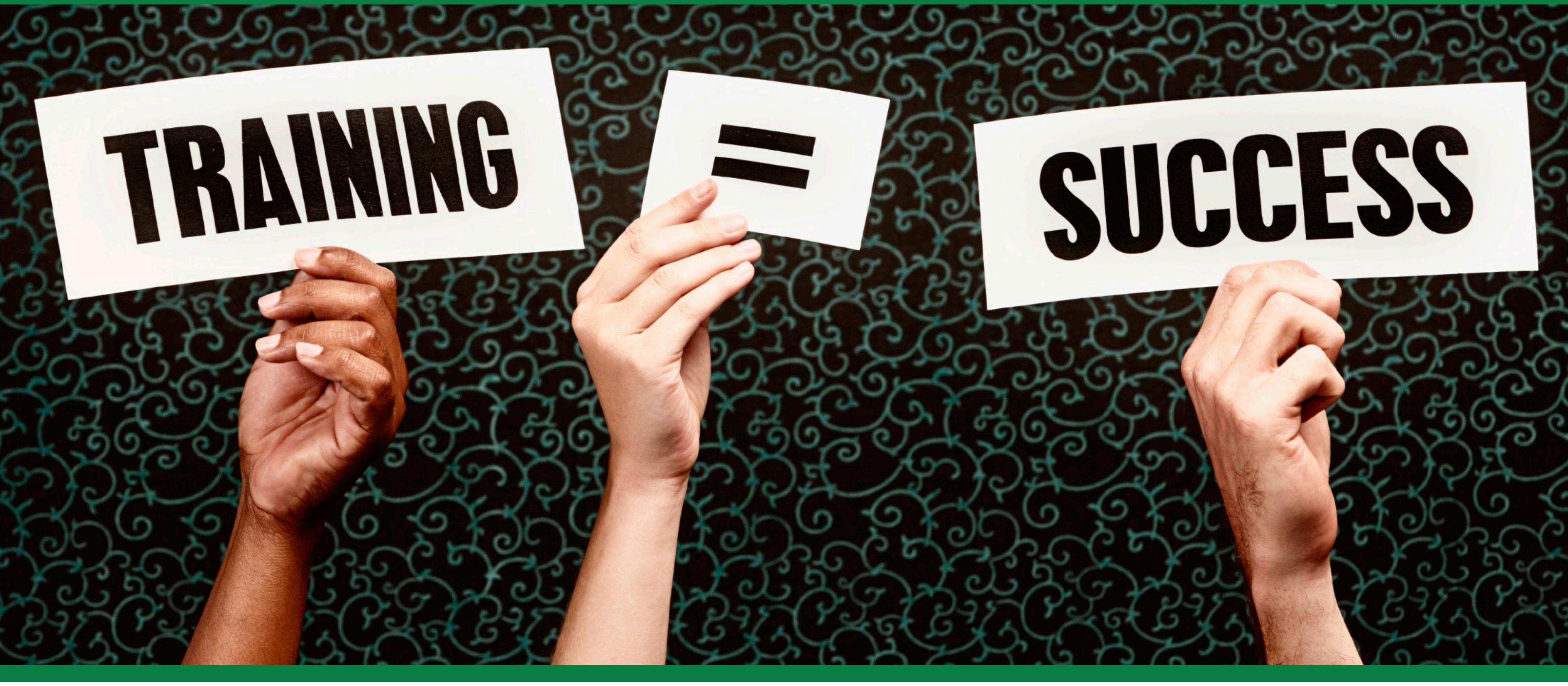

2022 Principles of Equipment Leasing and Finance Workshops

2022 Dates and Locations:

April 27-29
September 21-23

Both workshops will be held at ELFA HQ in Washington, DC.

To view the complete brochure and to register for these workshops, go to the Events and Training section of ELFA online: www.elfaonline.org/POL.

For questions, contact:
Alexa Carnibella
acarnibella@elfaonline.org
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6 Key Takeaways: Monthly Leasing & Finance Index

By Diane Johnson

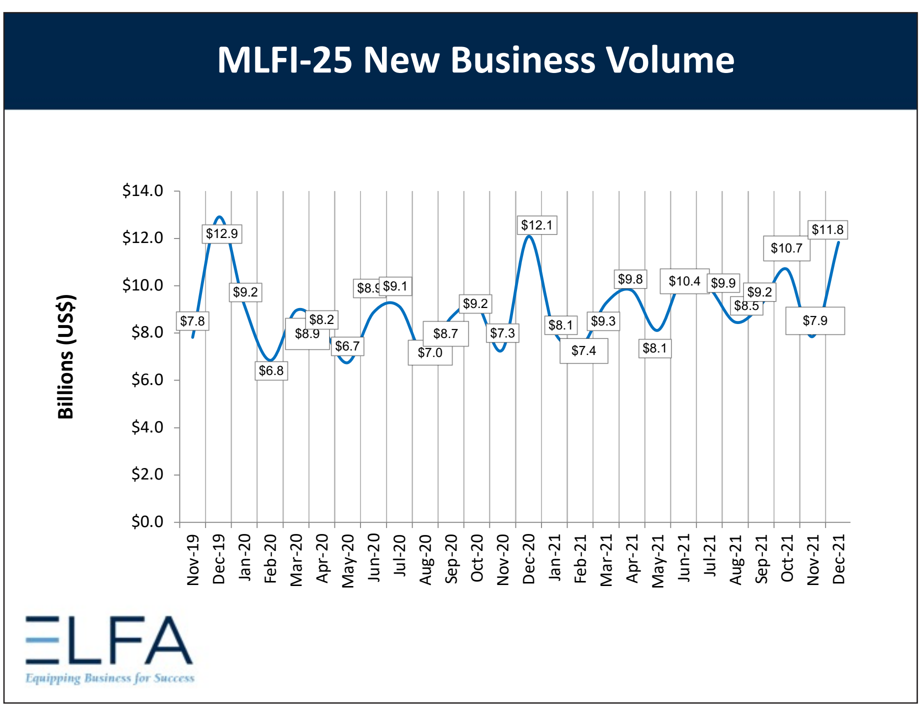
ACCESS TO CRITICAL BUSINESS INTELLIGENCE is a key benefit of membership in ELFA, and one of the association's most popular data resources was the subject of a recent webinar, "2021 MLFI Survey Summary: Leveraging Data to Improve Performance." Panelists Ralph Petta, President and CEO, ELFA; Richard Barry, President, Merchants Bank Equipment Finance; and Bill Choi, VP, Research & Industry Services, ELFA, provided key findings of the Monthly Leasing and Finance Index (MLFI-25) for 2021, historical trends and ways organizations can benefit from using the data.

"The MLFI-25 is a great example of the association's survey-based research, which relies on the input of ELFA members," Petta said. "Member feedback enables benchmarking and predictive, actionable decision-making for businesses in a variety of areas." The following are among the highlights from the discussion.

1. **The MLFI-25 enables performance benchmarking.** The same 25 ELFA member companies representing a cross section of the equipment finance industry are surveyed each month to provide a snapshot of the general direction of five key metrics: new business volume, accounts receivable, average losses (charge-offs), credit approvals and change in headcount. Through this collection of metrics, organizations can benchmark their operations and gauge their performance against industry peers. The MLFI-25 is also used in capital markets and funding source presentations, and widely reported in key business media as an indicator of capital expenditures (capex) in the U.S. It's a barometer of the health of the equipment finance sector and the extent of equipment demand in a given month.
2. **The MLFI-25 mimics the economy's performance.** If the economy is doing well, so are equipment finance companies. During the height of the pandemic in 2020, new business volume was down about 6 percent. In 2021, NBV was up almost 9 percent over the previous year. Historically, the index has had some minor declines, but was hit the hardest during the Great Recession when NBV declined over 30 percent. Further emphasizing the economic significance of the MLFI, Choi said, "The MLFI is released the day before the durable goods report each month. Our analysis has shown a strong correlation between the two."

3. **2021 MLFI-25 metrics were positive overall.** Captives and independents performed well with positive growth in new business volume in all four quarters. Banks comprise the biggest segment of the MLFI-25 and in Q1 2021, they showed negative YOY quarterly growth, but remained in positive territory for the rest of the year. Receivables declined in December due mostly to the bank sector, while independents performed as well or better than the banks or financial institutions. Charge-offs are at their lowest levels in decades, and down 40 percent from two years earlier pre-pandemic. Credit approvals remain steady and have reached their highest level in three years. Year-over-year change in total number of employees has been significantly impacted by a reduction in one MLFI-25 reporting company's workforce. However, examining the data with that company's headcount removed shows the employment situation returned to positive growth territory in October 2021.
4. **Equipment finance companies navigated well through the pandemic.** The MLFI-25 has been compiled since 2005, and historical MLFI data show the industry impact of recessions and a number of economic cycles. Comparing the effects of the Great Recession with the pandemic, MLFI-25 data show that equipment finance companies were better able to cope with the potential crisis of COVID. Today receivables are at normal levels and charge-offs are at record lows. Barry said, "Our experience at Merchants and among my industry colleagues mirrored that of the MLFI. Things became acute in early 2020, and the vast majority of the industry worked very closely with our customers going to deferrals, interest-only or principle-only payments, or whatever we could do to support them through the rough times. As we've worked through that we've seen some real stabilization which reflects what the MLFI data show."
5. **December is traditionally the highest new business volume month.** While December consistently has the highest level of new business volume each year due to the big end-of-year push of financial institutions, end-of-quarter new business volume is also usually higher than other months. Those with vendor partnerships serving as de facto finance arms, and vendors trying to meet quarterly and annual goals will put promotions in place using equipment finance companies to drive increased volume and activity. Many customers delve into tax planning more at the end of the summer/early fall and may determine tax and accounting benefits of securing additional equipment prior to year-end and taking the depreciation.
6. **MLFI data is segmented for small ticket and financial institutions.** The Small Ticket MLFI is a subset of the MLFI-25 companies whose total volume is comprised of 80 percent or more of small-ticket transactions. The Financial Institutions MLFI collects data from additional smaller banks not reporting in the MLFI-25, which is why the number of participating companies listed each month often exceeds 25.

"Membership in ELFA bestows on each individual and member company access to a variety of resources and business intelligence," Petta said. "I encourage members to become aware of the information available like the MLFI-25 that is designed to help you perform better and operate your business more successfully."



Learn More

A recording of the Jan. 26 webinar and the webinar slides are available at www.elfaonline.org/webinars.

The MLFI-25 is available at ELFA's Knowledge Hub, *the* source for business intelligence on the equipment finance industry, at www.elfaonline.org/KnowledgeHub ☰

DIANE JOHNSON is a Senior Consultant at Four Leaf Public Relations LLC and has been working with the equipment finance sector since 2002.

Making an Impact

ELFA IS THE EQUIPMENT FINANCE INDUSTRY PLATFORM to advocate on public policy issues. This platform combines all 575 member companies' interests to create one industry voice that increases our impact on pressing public policy issues.

Capitol Connections 2022 is scheduled to be in-person on Wednesday, May 25, in Washington, DC. We are thrilled that ELFA members will be able to once again gather in our nation's capital to advocate on behalf of the equipment finance industry. This year will definitely be different due to the ongoing pandemic and the fluid security status of the Capitol Complex, but ELFA is working to make sure that participants are still able to have that memorable "DC experience." Registration for Capitol Connections will open soon at www.elfaonline.org/events. We will be announcing issue briefing dates and other related programming in the coming months.

Capitol Connections is just one part of the association's government relations strategy. This strategy is a three-legged stool of direct advocacy, grassroots mobilization and political involvement. By merging the three into our government relations strategy, we create a united voice for our industry.

Direct Advocacy

Direct advocacy is often called lobbying, which is an expression of our right to "petition the government," as stated in the First Amendment of the United States Constitution. ELFA's direct advocacy falls into two categories: education and advocacy.

Elected officials come from diverse backgrounds that directly reflect the diversity of our country, and because of that, they do not always know the subtle details of every industry. As a result, most of ELFA's direct advocacy efforts focus on education about the industry. If elected and appointed officials don't understand the role the equipment finance industry plays in the U.S. economy, they are less likely to take actions that support our industry.

When ELFA's advocacy team is determining whether or not to advocate for any given matter, they first turn to the ELFA membership. ELFA members provide invaluable insight that helps to determine how current policy is working for the equipment finance industry. Additionally, ELFA staff work with member companies to review proposals, laws, regulations and rules.

Once a policy issue has been identified, ELFA staff, often in coordination with member company volunteers, engage directly with Members of Congress and their staff to educate them about the issue. Once that base level of education is achieved, ELFA can advocate for the path that will lead to the best result for the equipment finance industry.

Grassroots Mobilizations

Lobbying by the ELFA staff is not always enough to convince

Member Engagement is Critical to ELFA's Government Relations Strategy

By Chelsea Neil

government officials that a policy is the correct one to pursue. It takes a local voice or industry expert to relay the message. This is where ELFA's grassroots network comes into play. ELFA's grassroots program brings industry voices to elected officials by giving a firsthand account of how policies affect the day-to-day of member companies. Sharing your voice with elected officials by inviting them to meet with your employees who work in their districts increases the volume and helps us stand out.

Political Involvement

Political involvement is knowing which candidates understand and support the industry and helping them get reelected. Civic engagement goes beyond just voting. It can be volunteering on a campaign or assisting a candidate in your area by introducing them to community members. These activities can propel a candidate into elected office and make them recognize you as a valuable resource when they need to know how a proposed policy will impact the local economy.

Just like growing a business takes capital, so does running a campaign. A political campaign takes funding to pay staff, run political advertisements and travel around the district. To help create a united voice, ELFA has its own political action committee, LeasePAC, to collect voluntary contributions from hundreds of employees at ELFA member companies and pool those funds to contribute to candidates. LeasePAC is guided by the LeasePAC committee, which is composed of employees from ELFA member companies and oversees all PAC activities. To learn more, visit the LeasePAC website at www.elfaonline.org/leasepac.

Engaging with those who represent us is important, so our policy priorities are known and acted on. Your participation is critical to helping ELFA deliver the equipment finance message to policymakers. With that in mind, if you would like to build a relationship with your Member of Congress in advance of Capitol Connections, please reach out to ELFA's federal advocacy team.

For more information, please contact **CHELSEA NEIL,** Director, Federal Government Relations for ELFA, at cneil@elfaonline.org.

Capitol Connections
One Industry One Voice

Learn more about 2022 Capitol Connections
www.elfaonline.org/events

By Stephen T. Whelan

Moon Shot!

Factors to Consider When Structuring a True Sale

WHETHER in sales, syndications or securitization of equipment leases and loans, it is important—and often essential—that the assets be transferred from the seller to the buyer in a so-called "true sale." That colloquialism is shorthand for the legal conclusion that, if the seller were to become insolvent and seek protection under applicable bankruptcy law, then the seller would not be able to claim any legal or equitable interest in the sold assets.

Why Care?

If the insolvent seller were able to recharacterize a sale as a disguised loan, in which the purported buyer in essence made a loan to the purported seller, then the sold property would only constitute collateral for that loan, and several bad outcomes would arise. First, the buyer might have to disgorge its ownership of the assets, if the seller were to file a reclamation petition in the bankruptcy proceedings. Second, the automatic stay under the Bankruptcy Code would prevent the buyer from attempting to recover its "loan" amount from the insolvent seller or by disposing of the "collateral." Third, if the buyer had not filed a financing statement to perfect its (recharacterized) security interest in the sold assets, then it would be treated as an unsecured creditor in the seller's reorganization proceedings. In that case, the buyer would likely receive pennies on the dollar when the seller's plan of reorganization was approved. Fourth, even if the buyer had perfected its security interest, if the fair market value of the sold assets was less than the buyer's claim against the seller, then the buyer would have a secured claim—but only to the extent of the fair market value of the sold assets.

What's a True Sale?

Bankruptcy Code section 541 provides that when a person or entity files a petition for relief under the Code, an "estate" is created, consisting of "all legal or equitable interests of the [company] in property as of the commencement of the case." The effect of this provision is to motivate the debtor to marshal as many assets as possible to pay its debts and other claims. Debtors (and creditors' committees) use every device available, under the Bankruptcy Code or otherwise, to claw back payments and other assets that the debtor previously transferred to third parties but which by statute or case law entitle the debtor to reclaim ownership for the benefit of the estate and its claimants.

Preferential transfers or fraudulent conveyances are two familiar devices, but recharacterizations of sales is another one. If the economic substance of a sale reveals that its purpose and effect are more akin to a loan by the purported buyer to the purported seller, then the purportedly sold assets instead will constitute collateral for that loan, will be owned by the seller, and will be "property of the estate" of that bankrupt seller—with all the implications described in the preceding section.

How Do You Structure a True Sale?

Accomplishing a "True Sale" requires the transaction and its documents to contain objective statements of the parties' intent, legal characteristics of a sale, and an economic substance that transfers to the purported buyer the economic risks and benefits of ownership of the sold property. If the buyer has recourse against the seller for any decline in value of the sold property, then that substance of the transaction is consistent with a secured loan. If the seller has the right to repurchase the sold assets or the right to receive proceeds of the sold property above a specified amount, then the economic substance also is indicative of a secured loan. Sometimes well-meaning parties will include provisions in sale documents that are intended to protect the buyer, but that backfire and result in the buyer's holding the legal equivalent of an exploding cigar.

Shoot the Moon

One of those instances was spotlighted in a September 2021 decision by a bankruptcy court in the District of Montana: *In re Shoot the Moon, LLC*. A financier, CapCall, LLC ("CapCall"), entered into a Merchant Agreement with various restaurants controlled by Shoot the Moon, LLC ("STM"), under which CapCall purchased a portion of all future receivables from those restaurants. When all STM entities entered reorganization proceedings, CapCall argued that it was entitled to all outstanding receivables from the restaurants. The resolution depended on whether the CapCall transaction was a true sale of the receivables or a secured loan.

The Merchant Agreement did not contain some of the bad elements mentioned above; there was no seller right to repurchase the sold receivables and no buyer right to adjust its payment to the seller, to reflect disappointing recoveries from the receivables. However, the court was able to list several damaging facts: CapCall retained full recourse against the seller; CapCall filed a financing statement against each seller covering not only the sold receivables, but also "all assets of the Debtor"; the principal owner of STM delivered his broad personal guaranty; STM had the ongoing obligation to deliver its periodic financial statements to CapCall; and CapCall had the right to accelerate payment, by the STM restaurant, of the "full uncollected Purchased Amounts." The court correctly concluded that the "collective effect weighs heavily in favor of characterizing the transactions as loans."

However, the decision also mentioned factors that should not be taken at face value. The court noted that the STM entities "commingled funds from the [sold accounts] with other funds…used to operate the restaurants," whereas traditional true sale analysis only permits sold receivables to be remitted to the seller's general lockbox so long as the sold receivables are promptly identified and sent to a collection account established for the benefit of the receivables purchaser.

The court also criticized that the seller restaurants collateralized the sold receivables with their inventory, equipment and other assets. Yes, this collateral made the sale appear like a collateralized loan. However, if a lessee were to grant to its lessor certain collateral for its rent obligations, and the lessor were to sell the receivables and related collateral to a financier, then the existence of the collateral should not undermine true sale of the rentals.

Despite these diversions, the court's decision is correct. At a minimum, people structuring a true sale should avoid the factors described above that resulted in recharacterization of the sold receivables as a loan. ☰

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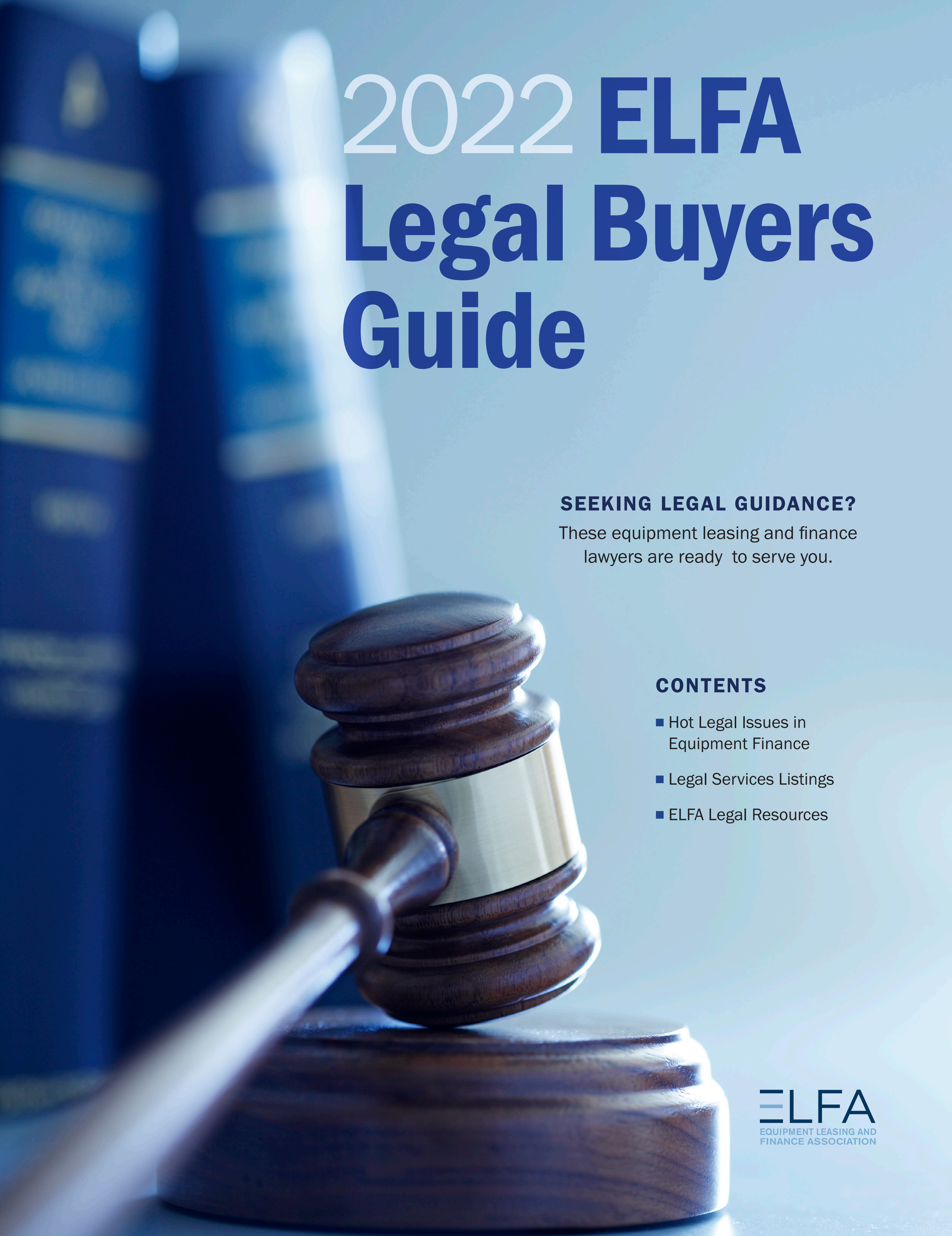

2022 ELFA Legal Buyers Guide

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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:

Regulation of Commercial Finance Ramps Up

Commercial finance companies have faced a patchwork of state laws governing their business, and scrutiny of their activities appears to be on the upswing. In the May/June 2021 Leasing Law column, Moorari K. Shah and Doris Yuen outline new requirements consumer-style disclosures in the states, which may signal broader interest nationwide in regulation of commercial finance.

Municipal Leasing 101: A Primer on the Basics

In the July/August/September 2021 Leasing Law column, Dominic A. Liberatore and Alyse White Hayes discuss some key takeaways for leasing to state and local governmental entities. While there is no "one size fits all" for the 50 states, they identify some common muni leasing issues, including basics of non-appropriation, indemnification, limits on remedies, taxes and tax exemption status, governing law and jurisdiction, and apparent authority.

Corporate Diversity and Inclusion Efforts Grow with Data Transparency

Litigation is being leveraged to increase public companies' commitments to diversity, disclose their diversity data and make significant financial investments in diversity initiatives. In the October 2021 Leasing Law column, Julia Gavrilov forecasts that while data-driven metrics measuring corporate diversity and inclusion efforts are largely playing out in publicly traded companies, in due course, this required level of transparency will permeate every organization, including privately held companies and nonprofits, and will become the gold standard in establishing how clients, investors and society alike will perceive any organization.

Hidden Liability

As states try and fill the gap between revenue and expenses, many are looking to unclaimed property. As probable holders of unclaimed property, ELFA members should be aware of these laws and their related liability issues, advises Scott Kearns in the November/December 2021 Leasing Law column. Careful holders would be well advised to review their compliance policies and procedures and to assess the exposures associated with unclaimed property.

Key Considerations When Valuing Equipment in Bankruptcy

A lessee's bankruptcy filing can create uncertainty and risk for even the most experienced equipment lessor with secured party rights under equipment finance agreements. Apart from repayment risk, a lessor's contractual and state law remedies are indefinitely stayed while the value of the lessor's collateral hangs in the balance. The Bankruptcy Code provides secured creditors with a variety of remedies, but the ability to successfully exercise such remedies will necessarily turn on the value of the secured creditor's interest in the collateral. Read more in the January/February 2022 Leasing Law column by Theresa A. Driscoll, Esq.

Equipment Finance

Bundle Up!

In recent years, lessees have been pressing for equipment leases to include both software used, and services to be provided, in connection with the equipment. The 2001 amendments to Article 9 of the Uniform Commercial Code expanded the definition of chattel paper to include not only leases and security interests in specific goods, but also security interests, leases and licenses of "software used in the goods." In the March/April 2021 Leasing Law column, Stephen T. Whelan writes that consideration is underway whether to define chattel paper to include transactions involving both software and services, as well as equipment.

Legal Services Listings

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

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Foster & Wolkind, P.C. is a New York law firm offering a broad range of legal services to the financial services community. 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 25 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.

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Glass & Goldberg has served the equipment leasing and financial industries for over 40 years and is the recipient of the Ed Groobert 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 12 consecutive years, we are familiar with your issues, proficient in the law and prepared to handle your matters throughout the State of California.

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Hemar, Rousso & Heald, LLP is a Los Angeles-based law firm specializing in equipment leasing, commercial law, creditors' rights and bankruptcy. For more than 40 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.

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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.

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By Matthew Hurley and Kyle Elken

ASC 842 Effective for Private Companies – Now What?

Setting the stage

On Nov. 11, 2021, the Financial Accounting Standards Board ("FASB") met, discussed and unanimously voted against an additional deferral of the effective date of Accounting Standards Codification Topic 842, Leases ("ASC 842") for private companies. The standard was effective for nonpublic business entities for periods beginning after Dec. 15, 2021. This means that the effective date of ASC 842 for calendar year-end companies was Jan. 1, 2022 of this year.

For those private companies that are embarking on their implementation efforts, there is still time. The first reporting requirements will be for the annual period in the year of adoption, with interim reporting requirements required the following year.

This article highlights five lessons learned from the implementation efforts of those companies that that have already adopted ASC 842.

Lesson 1: Finding leases is not a straightforward process.

Completeness of the lease population is key to a successful implementation. Many companies have found this exercise complex as leases may have been tracked and maintained in disparate spreadsheets or databases and managed by different individuals. Further, some arrangements that met the definition of a lease–for example, certain technology agreements–may not have previously been accounted for as such. This added considerable time and judgment to identify embedded leases.

Leading practices to identify leases include surveying key stakeholders, assessing areas of risk to identify where leases may exist, examining contracts including service-oriented contracts that may contain leased assets, and reviewing expense activity and vendor spend. It is important to establish processes and procedures to not only identify the complete population of leases for transition, but to subsequently identify new leases as they are executed post adoption.

Lesson 2: Identifying, abstracting and maintaining the required data may be challenging.

A company's lease population may include complex provisions, have numerous amendments or be written in a foreign language. Additionally, since lease agreements do not contain all of the data necessary to comply with ASC 842, certain key assumptions may require management judgment and estimates.

Developing a comprehensive plan to identify, collect, organize and maintain the data necessary to meet the ASC 842 presentation and disclosure requirements is critical. This plan should include leveraging technology in combination with suitably trained and skilled individuals and performing data quality checks and controls

Lesson 3: Systems and processes may need more attention than expected and desired.

Much more information than anticipated was needed to meet the recognition, presentation and disclosure requirements. While some companies may have had systems in place to account for leases where they are a lessor, many have found it beneficial to implement a new lease accounting solution where they are a lessee. The implementation of a technology solution often took longer than expected as the technology frequently needed customization to meet specific financial and management reporting needs, and the necessary testing often expanded the implementation timeline.

Enhancing existing processes and implementing technology solutions within a company's environment requires time and proper planning, with the focus on determining the business requirements, identifying how to best integrate the changes into the company's IT environment, testing the accuracy of the technology and training end users.

Lesson 4: Applying the new accounting requirements may be complex.

The ASC 842 requirements depend on various assumptions and judgments, introducing a level of complexity in the areas of financial reporting. Companies found that not only was it important to understand the transition guidance and related expedients, it was also important that they know how to apply the overall accounting model to new arrangements. Some of the more challenging areas in the accounting itself have been (1) evaluating the lease identification criteria, (2) establishing the incremental borrowing rate, (3) determining the lease term, (4) evaluating lease classification, (5) measuring a lease on the basis of these key assumptions, and (6) complying with the new presentation and disclosure requirements.

To address these complexities, it is vital that stakeholders are educated on the ASC 842 accounting requirements to provide for a successful implementation. Similarly, it is important to develop and document company-wide accounting policies for the relevant types of transactions under ASC 842. Finally, it is important to establish repeatable processes for determining the key assumptions and related management estimates as this will simplify compliance and provide audit evidence that supports the appropriateness of the amounts recognized in the financial statements.

Lesson 5: Enterprise-wide stakeholder engagement is a key to success.

Implementation of ASC 842 is not an accounting-only endeavor. Including other departments such as legal, information technology, operations, accounting policy, controllership, procurement, treasury and tax in the ASC 842 adoption efforts is critical to a successful implementation. This not only allows for efficient implementation planning and execution, but also to helped identify opportunities for ancillary benefits.

It is important to develop a robust implementation plan that will be executed by a cross-functional team that will address the key attributes and requirements of ASC 842. A prevailing practice has been establishing a robust implementation roadmap detailing the adoption-related tasks across all affected functions. The implementation plan should be socialized with all relevant stakeholders, with changes and updates to the plan communicated with regular cadence.

Bottom line

ASC 842 became effective for private calendar year-end companies on Jan. 1, 2022. It is important for key stakeholders that are involved in the implementation of the ASC 842 requirements to develop an implementation plan that includes the appropriate individuals throughout the company. It is similarly important to educate individuals throughout the company on what it means to be a lease under ASC 842 as well as the accounting and financial reporting implications of such conclusions. ☰


MATTHEW HURLEY is Senior Manager, Deloitte Risk & Financial Advisory, at Deloitte & Touche LLP. **KYLE ELKEN** is Controller at DLL Financial Services and a member of the ELFA Financial Accounting Committee.

FASB lessor-related standard setting activity...

Lessor's Accounting for Certain Leases With Variable Lease Payments (ASU 2021-05)

Before the issuance of ASU 2021-05, sales-type leases or direct financing leases with significant variable payments may have resulted in a day 1 loss on the arrangement even if the overall economics of the arrangement were expected to be profitable.

The amendments to ASC 842 require a lessor to classify a lease with variable lease payments that do not depend on an index or rate as an **operating lease** at lease commencement if both of the following conditions are met:

1. The lease would have been classified as a sales-type lease or direct financing lease in accordance with the classification criteria in ASC 842-10-25-2 and 25-3, respectively.
2. The lessor would have recognized a selling loss at lease commencement

When applying the guidance in ASC 842-10-25-3A, the lessor would continue to account for the underlying asset as an owned asset.

Lessor Presentation of Certain Costs (ASU 2018-20)

A lessor may incur various costs in its role as a lessor or as owner of the underlying asset (e.g., property and other taxes, insurance). The incomes statement presentation depends on whether the lessee or the lessor pays the relevant third party for the cost:

- If the lessee is required to remit payment to the third party, the lessor presents the cost and the lessee's payment to the third party on a net basis.
- If the lessor remits payment to the third party, it presents the cost and the lessee's variable payments on a gross basis.

Under ASU 2018-20, lessors can also elect, as an accounting policy, to exclude from revenue and expenses sales taxes and other similar taxes assessed by a governmental authority and collected by the lessor from a lessee. This is an entity-wide accounting policy election.

By Andy Fishburn

ELFA Responds to Section 1071 Proposal

ON JAN. 4, ELFA submitted our comments to the CFPB regarding their proposal to implement Section 1071 of Dodd Frank. Once implemented, Section 1071 will require covered financial institutions to report certain information to the CFPB for their small business credit applicants. The information required is extensive and includes demographics of the ownership of the applicant company, and detailed information about the terms offered (or not offered) in response to the application.

ELFA began our comments by crediting the work the CFPB has done exempting leases, which utilizes UCC Article 2A to differentiate between leases and loans. We also supported the efforts the CFPB made at balancing the costs and benefits of making Section 1071 information available to the public.

The rest of the comments focused on the significant concerns with major portions of the proposed rule. We made sure to reiterate the benefit that ELFA continues to see in setting up a portal structure whereby small businesses could report their demographic information directly to the CFPB. However, since the CFPB has shown little indication that they are moving in this direction (even though multiple trade associations are now endorsing this type of solution) we focused the bulk of our comments on the following areas:

ELFA's comments include significant concerns about the proposed rule.

- Compliance Deadline
- 1071 Information Collection Timing
- Collection on Customers Who Opt Out
- Ethnicity Surmising
- Exemption for Small Institutions
- Anti-Competitive Issues
- Support for Trade Credit Exemption

The implementation timeframe for this rule is dependent upon the timing of the issuance of the final rule. The proposal is that it become effective six months after publishing, with enforcement beginning 18 months after the rule goes final. Many in the financial services world are pushing for a longer implementation time period, especially because the CFPB has not yet provided the industry with the technical specifications on how to report the 1071 data. ELFA has heard that it is very important to the Administration that this be implemented sooner rather than later, so implementation timeframes that are much longer than those in the proposal are unlikely.

Additionally, since ELFA has submitted our comments, the Small Business Administration's (SBA) Office of Advocacy published their comments that they submitted to the CFPB. Notably, the SBA's comments echoed many of those comments ELFA made. It will be interesting to see how the CFPB handles those comments from a fellow government agency.

In the coming years ELFA members are going to have to deal with training requirements for staff that participate in the origination process. This could range from training staff how to deal with the ethnicity surmising requirements, to training sales representatives on what is and what isn't an application for credit. While the final parameters of the rule are still up in the air, it may be worth looking at the training landscape now to identify a provider that might be able to meet your needs. Additionally, if you run a vendor program, you may need to make significant changes to your vendor agreements to ensure that the vendor is capturing the information at the application stage. Of course, the software changes that will be necessary to implement this new process are dramatic as well and may require additional modules to be developed or implemented.

Stay tuned to this space and our other communications channels for further developments in this arena—it's likely to be a busy one in the coming months. ELFA's full comments can be read on the federal advocacy section of the ELFA website at www.elfaonline.org/advocacy/federal-advocacy. If you would like to discuss these issues further, please contact Andy Fishburn, ELFA's Vice President of Federal Government Relations, at afishburn@elfaonline.org. ☰

For more information, contact **ANDY FISHBURN**, ELFA Vice President of Federal Government Relations, at afishburn@elfaonline.org.

Capitol Connections
One Industry One Voice

May 25, 2022
Hyatt Regency Washington
Capitol Hill • Washington, DC

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/2022/CHD/

To research ELFA public policy issues, please visit the ELFA Federal Advocacy information center at **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*.

*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 **www.elfaonline.org/advocacy/leasepac** (Member Login required) or contact Chelsea Neil at 202-238-3421 or *cneil@elfaonline.org*.

By Scott Riehl

States Propose New Financial Disclosure Requirements

ELFA HAS BEEN FIGHTING to exclude the equipment finance industry from onerous commercial disclosure requirements that have been introduced in a number of states. In our last column, we discussed new laws in California and New York. In this issue, we look at new legislation proposed in Missouri and Mississippi. Please share your assessments of these bills to ELFA Vice President, State Government Relations, Scott Riehl.

Missouri Commercial Financing Disclosure Legislation

Missouri Senate Bill 963, a pre-filed bill known as the Commercial Financing Disclosure Law, would mandate disclosure of specific information relating to certain commercial financing if the provider transacts more than five commercial financings in any calendar year. "Provider" also includes those entering into a written agreement with a depository institution to arrange for the extension of commercial financing by the depository institution to a business via an online lending platform administered by the provider.

The fact that a provider extends a specific offer for a commercial financing product on behalf of a depository institution shall not be construed to mean that the provider engaged in or originated the lending or financing. A provider shall disclose the following with each commercial financing product: the total amount of funds provided; total of funds disbursed if less than the total of funds provided, as a result of any fees deducted or withheld and any payment to a third party; total paid to the provider; total dollar cost derived by subtracting the total of funds provided from the total of payments including any fees or charges deducted; manner, frequency, and amount of each payment; statement of any costs or discounts associated with prepayment; and whether the provider will pay compensation directly to a broker.

Exemptions found in Section 4 include depository institutions; providers regulated under the federal Farm Credit Act; motor vehicle dealers or an affiliate; providers licensed as a money transmitter by Missouri, or any other state, district, territory, or commonwealth; and providers with no more than five commercial financings per year. Senate Bill 963 does not create a private right of action against any person or other entity based upon compliance or noncompliance. Authority to enforce compliance is vested exclusively in the attorney general.

The sponsor is Senator Justin Brown (R-Rolla). His committee assignments include Insurance and Banking and Appropriations. Senator Brown has worked as a commercial loan officer, specializing in agricultural financing, while owning and operating a family farm. He currently farms more than 2,200 acres, primarily raising corn and soybeans but also maintains a cow-calf operation.

ELFA received early warning and went to work immediately, reaching out to leadership and working closely with the sponsor and interested parties to secure and expand upon industry exemptions to this legislation.

Mississippi Commercial Financing Disclosure Law

Mississippi Senate Bill 2699, titled the Commercial Financing Disclosure Law, was introduced by Sen. Jeremy England (R-Vancleave) who is Vice Chairman of the Senate Judiciary Committee – Division B, member of the Senate Finance Committee, Senate Economic & Workforce Development and other committees.

The bill defines "commercial financing product" as meaning any commercial loan, accounts receivable purchase transaction, commercial open-end credit plan or each to the extent the transaction is a business purpose transaction and declares that a provider that consummates more than five (5) commercial financing products to a business in any calendar year must disclose the following:

- Total funds provided to the business labeled as "total amount of funds provided"
- Total amount of funds disbursed, if less than the total amount of funds provided, as a result of any fees deducted or withheld as well as any amount paid to a third party and labeled "total amount of funds disbursed"
- Total amount paid to the provider labeled "total of payments"
- Total dollar cost of the commercial financing, derived by subtracting the total amount of funds provided from the total of payments including any fees or charges and labeled as "total amount of funds provided" and further labeled "total dollar cost of financing"
- The manner, frequency and amount of each payment labeled "payments"
- If payments vary, the manner, frequency and estimated amount of the initial payment labeled "estimated payments" and methodology for calculating any variable payment and when payments may vary
- A statement of any costs or discounts associated with prepayment including contractual rights of the parties labeled "prepayment"; and
- A statement of whether the provider will pay compensation directly to a broker and the amount of compensation.

SB 2699 also asserts "nothing in this act is intended to, or does, create a private right of action against any person or other entity based upon compliance or noncompliance with its provisions."Further information on this legislation features exemptions, which are:

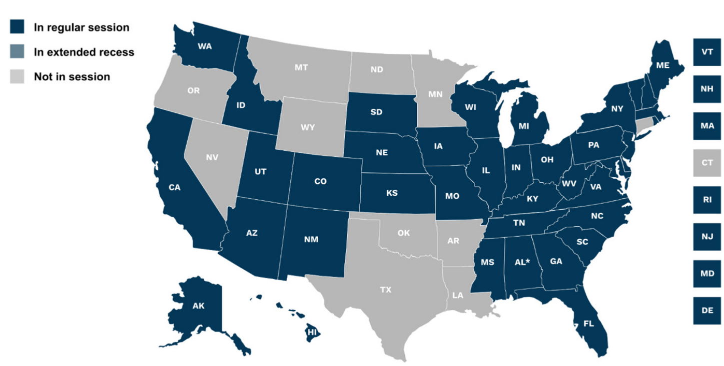
a) A provider that is a depository institution.
b) A provider that is a lender regulated under the federal Farm Credit Act (12 USC Section 2001 et seq.).
c) A commercial financing product secured by real property.
d) A commercial financing product in which the recipient is a motor vehicle dealer or an affiliate of such a dealer, or a vehicle rental company, or an affiliate of such a company, pursuant to a commercial loan or commercial open-end credit plan of at least Fifty Thousand Dollars ($50,000.00).
e) A provider that is licensed as a money transmitter in accordance with a license, certificate, or charter issued by this state, or any other state, district, territory, or commonwealth of the United States.
f) A provider that consummates no more than five (5) commercial financing products in this state in a twelve-month period.

Here again, ELFA was provided early warning and immediately reached out to leadership and began efforts to secure and build upon industry exemptions achieved in California and New York. ☰

For more information, please contact ELFA Vice President of State Government Relations **SCOTT RIEHL** at sriehl@elfaonline.org.

States Legislatures in Session

- 39 state legislatures in regular session
- 1 state in special session (AL)
- 11 states not in session



*Note that AL is in both regular and special session simultaneously.

By Charlie Visconage

Foundation News Roundup

THE FOUNDATION IS WORKING FOR YOU AND YOUR INDUSTRY, now more than ever in 2022. By making use of the Foundation's free resources, you can expand your personal career growth, enhance your industry knowledge and apply forward-looking research to the health of your organization.

FOUNDATION STUDIES AND REPORTS

The ESG Imperative

ESG, or Environmental, Social and Governance, is just about everywhere in our industry. Through a variety of free, donor-funded Foundation resources, you can learn about ESG's impact on the future of the equipment finance industry and use these resources to further your organization and your career. Dive deep into ESG policies and their impact on business in the Foundation's study. Read the companion piece to this study in the winter edition of the *Journal of Equipment Lease Financing*, featuring an article about five key steps that organizations can take to position themselves for ESG success. Or listen to ESG experts Patricia Voorhees of the Alta Group and Razi Amin of Aspen Capital on the Foundation Podcast.

- Read the report
- Read the JELF article
- Listen to the Foundation podcast

Best Practices in Equipment Finance Funding, Securitization & Syndication for Today and Tomorrow

Lenders, this study is for you. Need help financing a transaction of any size and executing it to your advantage? Read on and you'll find an industry overview of Funding, Securitization & Syndication options to help position your transactions for success. In a post-pandemic environment, these financial tools will be as important as ever, and Lenders' funding and syndication strategies will need to evolve with the environment of what's available, and what is expected. Coming soon.

Debt Prioritization in Equipment Financing at Small and Medium-Size Businesses Part II: Effects of Lender Characteristics

In the follow-up to the Fall JELF article, Lamont K. Black and William R. Keaton continue their study assessment of debt prioritization on the equipment finance industry (Read Part 1 here). Using data provided by Equifax on 35,000 small and medium-size businesses engaged in equipment finance during 2005-2019, this article explores how firms prioritize their payments to different lenders and lessors when they get into financial trouble and cannot make all the payments. Armed with the information in this article, lenders and lessors can make better decisions when forecasting losses on existing credits and deciding which new credits to extend as the economy recovers from COVID-19. Read the article.

ACADEMIC PROGRAMS

Foundation Scholarship Program

Do you have an intern who's currently enrolled in a college or university in need of financial assistance towards their degree? Look no further. The Foundation's annual academic scholarships are open for applications now through the deadline, May 20, 2022. This year up to five scholarships of $5,000 each will be awarded to selected students at an accredited educational institution. Learn more and share the scholarship with any students interested in joining our dynamic industry at https://www.leasefoundation.org/academic-programs/home/scholarship-program/.

Guest Lecture Program

Share your passion for your industry with the next generation! Use the Foundation's ready-made presentation template to introduce students to the equipment finance industry. The Guest Lecture Program helps industry leaders increase awareness of equipment leasing and finance and attract new talent to the industry. Sign up today at https://www.leasefoundation.org/academic-programs/guest-lecture-program-2/.

Jeff Elliott, President at Huntington Equipment Finance, delivers a Guest Lecture at Miami University, Oxford, Ohio.

GIVING

Save the Date – 2022 Day of Giving

The Foundation's 2022 Day of Giving is Tuesday, June 7, 2022. Join your peers in supporting the Foundation with a tax-deductible donation on June 7 or anytime at https://www.leasefoundation.org/giving/online/. ☰

CHARLIE VISCONAGE is Director of Marketing, Communications and Development for the Equipment Leasing & Finance Foundation.

By Melissa Donaldson

Integrating Your DEI Strategy Is Key to Competitive Advantage

DURING 16 YEARS OF CORPORATE DIVERSITY AND INCLUSION PRACTICES, I have witnessed the "diversity conversation" evolve from valuing diversity, to managing inclusion, to now diversity, equity and inclusion (DEI). Directly connecting DEI to core business operations somewhat lagged the evolution. These three tips can help any company effectively integrate DEI into the business strategy for heightened competitive advantage.

Tip #1: Words matter. Be clear about terms.

Confusion regarding DEI is unproductive and should be avoided. Unnecessary jargon can cloud the issue so be vigilant. Constitute a common language that stakeholders can reasonably understand and internalize. I KISS (keep it simple sister!) these terms frequently. Diversity describes dimensions of identity that differentiates stakeholder groups. It can be visible or invisible. Categorizing a person as diverse is a misnomer. Our individual complexity makes us all diverse. Inclusion leverages diversity to drive results. Equity is an outcome achieved from fair treatment that levels the playing field for diversity to participate according to individual need. These terms are interconnected, distinct and non-interchangeable as demonstrated in the following tips.

A diverse and engaged workforce is a wellspring of innovation.

Tip #2 Understand the as-is and to-be conditions.

Clarify company motives for pursuing the DEI investment. Focus on market share, brand reputation, employee engagement and retention among other factors. In other words, should the DEI implementation go flawlessly, what will be reduced, increased, eliminated or improved as a result? An honest organizational self-examination is critical and should not be conducted in a vacuum. Stakeholder insights are invaluable to integrating DEI sustainably into the business strategy. Confirm key performance indicators to be monitored and reported regularly. Secure the resources needed to work toward the future state and enroll executive champions before any tactical execution. When organizational conditions shift, reassess and recalibrate the DEI strategy accordingly. Keeping lockstep with changing business needs is paramount to overall effectiveness and increases buy-in from leaders, customers and shareholders. Understandably, some people will find DEI painful, while others will welcome it with open arms. Feedback is data for continuous improvement.

Tip #3: A diverse and engaged workforce is your superpower.

Everyone has a role in advancing DEI, just as everyone has a role in driving company success. Leaders manage company policies that shape workplace culture. Employee productivity is driven by engagement, defined as the emotional attachment to their manager and employer. An imbalance on either side will negatively impact operational performance. Cultivating an inclusive culture built on trust, open communication and mutually adaptive behaviors is a shared responsibility. Embrace the vast experiences, expertise and unique perspectives inherent in a diverse workforce. Consider that minority-owned and women-owned businesses are growing rapidly and in need of financial services. According to the 2020 Annual Business Survey, approximately 18.7% of U.S. businesses were minority-owned, 5.7% veteran-owned, and 20.9% women-owned. Catalyst reported the combined buying power of underrepresented groups—women, Blacks, Latinos, Asians, LGBTQ and millennials—tops $6 trillion dollars. Major motivation for integrating DEI with core business strategy. Assisting underrepresented and underserved stakeholders achieve financial equity through niche solutions is fertile territory. Make inclusive recruiting central to your mission, then assemble diverse teams to address the unmet needs of an increasingly complex marketplace. A diverse and engaged workforce is a wellspring of innovation and a company's competitive asset. Superpower personified.

Integrating DEI into the business strategy is not easy, but possible and well worth the investment. It must be a top-down edict, not a human resources program. Inclusion drives business. Increased market share is fair game for those companies that care enough to try harder. ☰

MELISSA DONALDSON is SVP and Chief Diversity Officer, Wintrust Financial Corporation.

EXECUTIVE PERSPECTIVE

By Steve Nelson

Finding the Balance: Technology and the Human Touch

MANY INDUSTRIES use artificial intelligence and chatbots to offer advice to customers or answer questions. While these tools are helpful, they can quickly become frustrating for customer needs that are not routine. How many times have you had to say "representative" or push zero only to be disappointed in the outcome?

The pandemic has accelerated the adoption of artificial intelligence, robotic process automation and self-service capabilities as clients and businesses adapt to this new way of life that relies less on face-to-face interaction. However, while these technologies are valuable tools, we cannot lose sight of the value of the human touch and its importance to our clients and our industry.

So, how can we strike this delicate balance between adopting technologies that replace human interactions and providing the human touch that clients desire?

The pandemic has accelerated the adoption of artificial intelligence, robotic process automation and self-service capabilities.

I believe that technology is the enabler, but the human touch is a significant differentiator in retaining and acquiring clients. Our clients still want to experience that human connection with their equipment finance experts while leveraging best-in-class technologies and services. That human interaction is augmented by enabling technologies such as artificial intelligence and robotic process automation, which, in turn, foster an improved employee and customer experience. Artificial intelligence and robotic process automation remove non-value add work from our employees' "to do" lists, which is reinvested in providing the human touch to meet our clients' needs and provide stronger customer and employee satisfaction.

For instance, TD Equipment Finance has recently seen stronger adoption of e-signature capabilities. While this certainly helps to speed up the process in a more remote and distant working environment, consummating the signature electronically isn't the differentiator for our clients. For many of our clients, there are internal process steps leading up to the signature that can be automated in the e-signature workflow, which improves the overall signing experience. The human touch is needed to build out customized process workflows based on knowledge of the client's business. This requires a combination of both e-signature technology and deep knowledge of the business that comes from cultivating relationships with our clients.

If we return to the example of the chatbot and the frustration that ensues, the human touch is what can turn a bad experience into a good one—by offering the ability to transfer the customer from a chatbot to a live agent via the medium (chat, phone, video call) of the customer's choice. To be successful, the live agent that engages the customer must be provided with the relevant information to ensure the first human interaction with the client is an informed one, where the live agent can answer questions in real-time that the chatbot was not able to address. This requires the implementation of technology to augment, not replace, human interaction and where finding the balance between the technology and the human touch is so important.

We will continue to see major innovations in the equipment finance industry as leaders implement new technologies and services. Companies implementing technology and automation that augments the value of their employees' work while maintaining the human touch with their clients will provide the most positive client experience and differentiate themselves in the industry.

If you are interested in discussing this topic further, please feel free to email me at steven.nelson2@td.com. I look forward to the conversation. ☰

STEVE NELSON is SVP and Director of Operations for TD Equipment Finance, Inc., where he is responsible for managing all of the operations for the business. Steve has served in this role since 2014.