OCTOBER 2019

EQUIPMENT Leasing & Finance

THE MAGAZINE FOR INDUSTRY EXECUTIVES

NEW & IMPROVED

Innovating the Customer Experience

Growth streak holds mixed messages

Key trends in rapidly changing healthcare sector

ANNUAL CONVENTION PREVIEW

ELFA
EQUIPMENT LEASING AND FINANCE ASSOCIATION

EQUIPMENT Leasing & Finance

THE MAGAZINE FOR INDUSTRY EXECUTIVES

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Leasing & Finance
THE MAGAZINE FOR INDUSTRY EXECUTIVES

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By Ralph Petta

Focus on the Customer

WHAT DOES "CUSTOMER EXPERIENCE" MEAN TO YOU? Amid shifting customer expectations and a rapidly changing technology landscape, what are you doing to ensure that doing business with your firm is a positive experience? According to our cover story, addressing this issue is essential—and we can't start soon enough. Get pointers from members of ELFA's new Technology Innovation Work Group and others starting on page 24.

The ELFA Board of Directors established the **Technology Innovation Work Group** to explore various tech-related initiatives and assess their impact on the broader equipment finance industry. This group is charged with monitoring and analyzing various digital strategies and techniques—from blockchain to AI to machine learning to autonomous devices—and communicating to ELFA members how these initiatives can help their organizations better serve their customers and bring about operational efficiencies.

The Work Group is rolling out some exciting programs, including a new **Technology Innovation Leadership Series** of one-day events for senior ELFA members to go deep in conversation with industry peers on specific tech innovation challenges. The first event was held in August and focused on the customer experience. Some 40 member executives convened to exchange ideas and gain a new perspective on how the industry is tackling this topic. Watch for upcoming events at *www.elfaonline.org/events*.

We'll be exploring more tech innovation themes—and a host of other hot topics—at the **58th ELFA Annual Convention** in Washington, D.C. With the convention only a few weeks away, many of you are already reviewing the attendee list, planning your networking and business meetings and consulting the agenda to decide which sessions to attend. Get an overview of all the Convention activities on page 7.

Celebrating an Outstanding Volunteer

Speaking of innovation, we extend congratulations to an extraordinary member who will be recognized at the ELFA Annual Convention. Lori Frasier will receive the 2019 Michael J. Fleming Distinguished Service Award. Lori has been the driving force behind the creation and growth of the ELFA Women's Council and Women's Leadership Forum—see details on page 17. We couldn't be an effective organization without the efforts of volunteer members like Lori.

Thank you as always for your continued support and participation. ☰

Ralph

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

We'll be exploring a host of hot topics at the **58th ELFA Annual Convention** in Washington, D.C. See page 7 for a preview.

ELFA EQUIPMENT LEASING AND FINANCE ASSOCIATION

58TH Annual Convention

October 27-29, 2019

Marriott Marquis Washington, DC

PROGRAM HIGHLIGHTS

Why Attend?

If you're in the equipment finance industry, you can't afford to miss the **58th ELFA Annual Convention**. This event is the largest and most important annual gathering of leaders in the $1 trillion equipment finance industry, and this year we are taking this vital force in the economy to our nation's capital, Washington, DC!

The vision for the future remains bright, with many equipment finance professionals able to point to real opportunities in a variety of sectors. Come to the ELFA Annual Convention to exchange ideas and share best practices for innovating, winning business and leading in an age of rapid change. We'll also focus on how to prepare for the next generation of equipment finance, from delivering value to customers, to leveraging new technology, to entering new markets. This is the premiere venue to discuss the leading trends, issues and solutions in the equipment finance industry.

When you attend 58th ELFA Annual Convention, you invest in the success of your business, your staff, your industry and your career. You'll enjoy unparalleled networking opportunities, high-quality educational sessions, a great lineup of keynote speakers and a first-rate exhibit.

Check out the Convention website for the latest detailed information at

www.elfaonline.org/events/2019/AC/

Location

The 58th ELFA Annual Convention is being held at the Marriott Marquis Washington, DC. Situated in the beating heart of the nation's capital, the Marriott Marquis Washington, DC is a new, monumental, flagship hotel where business meets pleasure. Find your passion amid celebrated attractions, including Penn Quarter, Chinatown, the National Mall monuments, the Smithsonian Museums and the Walter E. Washington Convention Center.

Become a sponsor!

The 58th ELFA Annual Convention provides unmatched opportunities to get noticed, especially through a variety of sponsorship opportunities.

To become a sponsor, contact Steve Wafalosky at stevew@larichadv.com or 440-247-1060.

SCHEDULE OF EVENTS

SUNDAY, OCTOBER 27

9:00 am – Noon
Jim McGrane Charity Bike Ride and Monument Tour
(pre-registration required, limited to 60 attendees)

10:15 am – 2:15 pm
Odyssey Brunch Cruise and Tour with Docent
(pre-registration required, limited to 150 attendees)

LeasePAC EQUIPMENT LEASING AND FINANCE ASSOCIATION Donors are eligible for a free or discounted pass.

10:00 am – 8:00 pm
Convention Registration

2:00 – 4:00 pm
Community Service Project–Community Lodgings
COMMUNITY LODGINGS
(on property)
(pre-registration required, limited to 100 attendees)

2:00 – 5:00 pm
Exhibitor Set Up

4:30 – 5:30 pm
New Members & Leadership Reception

5:00 – 6:00 pm
Women's Council Reception

6:00 – 8:30 pm
Welcome Reception
Exhibits Open

MONDAY, OCTOBER 28

7:00 am – 4:30 pm
Registration Open

7:00 am – 4:00 pm
Exhibits Open

7:00 – 8:15 am
Group Breakfast

8:30 – 10:00 am
General Session

MICHAEL BESCHLOSS
Nation's Leading Presidential Historian and Best-Selling Author

10:00 – Noon
Coffee Break in Exhibit area

10:30 – Noon
Concurrent Breakout Sessions

- Mindset Shift: Looking at Technology & Innovation Through a New Lens
  Sponsored By: *ELFA TECHNOLOGY INNOVATION WORKGROUP*
- Getting into the Weeds – Opportunities & Risks in Cannabis Finance
- Hiring the Best.... Putting Your Gut to the Test
  Sponsored By: *ELFA WOMEN'S COUNCIL*
- Got Illicit Funds? Fraud in the e-World

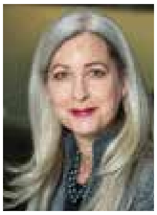
11:00 am – 4:00 pm
Spouse/Companion Event

America's First Home–Mount Vernon Tour and Luncheon

WASHINGTON, DC

12:15 – 2:00 pm
Equipment Leasing & Finance Foundation Luncheon

CELEBRATING 30 YEARS 1989-2019 EQUIPMENT LEASING & FINANCE FOUNDATION Your Eye on the Future



MARCI ROSSELL
Former CNBC Chief Economist and Co-Host of SQUAWK BOX

2:00 – 4:00 pm
Coffee Break in Exhibit area

2:30 – 4:00 pm
Concurrent Breakout Sessions

- Merger-Up and Other Restructures: Lessons Learned and Successful Outcomes
- Diversity and Inclusion from the Inside Out: A Conversation About Us
  Sponsored By: ELFA DIVERSITY & INCLUSION COMMITTEE
- E-Docs: How to Stop Using Pens
- The Art & Science of the Customer Experience

4:30 – 5:30 pm
International Reception

Evening Free for Private Entertaining and Company-Sponsored Receptions

TUESDAY, OCTOBER 29

7:00 am – 3:00 pm
Registration Open

7:00 am – 3:00 pm
Exhibits Open

7:00 – 8:15 am
Group Breakfast

8:30 – 10:30 am
General Session

JAKE TAPPER
Award-Winning Journalist; Anchor and Chief Washington Correspondent, CNN

10:30 – Noon
Coffee Break in Exhibit area

11:00 am – 12:30 pm
Breakout Sessions

- Optimizing Managed Solutions and Other Vendor Programs in Periods of Rapid Transformation
- Candid Conversations: Emerging Talent Success Stories
  Sponsored By: ELFA EMERGING TALENT ADVISORY COUNCIL
- Economic Waves: Preparing for What Comes Next
- Modernization & Innovation: Leading with Technology Excellence
  Sponsored By: ELFA OPERATIONS & TECHNOLOGY EXCELLENCE AWARD

WASHINGTON, DC

11:00 am – 4:00 pm
Spouse/Companion Event

A Rare Glimpse—Private U.S. Capitol Tour and Luncheon

12:45 – 2:30 pm
NEW! Community Luncheon for All Attendees

MARK SCHARENBROICH
Author of Nice Bike and Leadership Expert

2:30 – 3:00 pm
Coffee Break in Exhibit area

3:00 – 4:30 pm
Concurrent Breakout Sessions

- Today's Regulatory Environment – Are You in the Know?
- From Tech Innovation to Competitive Advantage: A Four Step Approach
- Get Social: Leveraging Today's Communication Tools
  Sponsored By: ELFA COMMUNICATIONS COMMITTEE
- Sustainability in the Energy & Technology Space

6:30 – 9:30 pm
Closing Reception & Dinner at the Smithsonian National Museum of American History

Registered attendees only.

IMPORTANT DEADLINE DATE

Friday, October 11, 2019

Deadline for online registrations. After this date registrations can be made on-site.
Please note: There are no refunds of registration fees after this date.

Exhibit Hours

Sunday, October 27
6:00 p.m. – 8:30 p.m.

Monday, October 28
7:00 a.m. – 4:00 p.m.

Tuesday, October 29
7:00 a.m. – 3:00 p.m.

KEYNOTE SPEAKERS

MICHAEL BESCHLOSS

Nation's Leading Presidential Historian and Best-Selling Author

The widely praised author of nine books, Michael Beschloss has been called "the nation's leading Presidential historian" by *Newsweek*. He uses history to help us understand our own time and find perspective and nuance in current events. He also has the largest Twitter following of any historian on earth, and he appears on *TIME*'s list of the world's top Twitter feeds. He speaks with eloquence about not only the presidency, but about the men who sat in the Oval Office in times of tumult and change. His history lessons come alive with humanity and enthusiasm, and his lectures are riveting windows into the mind of the most powerful official in the world. By looking at presidents past, Beschloss helps predict the future of presidential politics and the impact of elections. In presentations filled with anecdotes, humor and stories almost too good to be true, Beschloss gives context to the crucial events of our time. Trained at the Harvard Business School in leadership studies, he offers a look at the leadership that has affected the course of our nation, describing the leadership skills essential to almost every kind of success.

MARCI ROSSELL

Former CNBC Chief Economist and Co-Host of SQUAWK BOX

Marci Rossell electrifies audiences nationwide, speaking on the nexus of economics, politics, culture and the media. Her animated style was honed when she served as the popular, lively Chief Economist for CNBC in the months immediately following September 11th. She takes complex economic issues, often dull in the buttoned-down business press, and makes them relevant to people's lives, families and careers. Prior to her career in broadcast journalism, Rossell served as Corporate Economist and Investment Spokesperson for OppenheimerFunds, one of the nation's largest mutual fund companies. Before moving to Wall Street, she was an expert witness for Deloitte and Touche in court cases involving economic issues. She began her career as an economist with the Federal Reserve Bank of Dallas.

MARK SCHARENBROICH

Author of Nice Bike and Leadership Expert

Mark Scharenbroich's comedy path started when he founded a comedy troupe called Mom's Apple Pie that performed at high schools and colleges. When the group disbanded he went solo, combining his comedy with leadership training and messages about making connections. He and his wife, Susan, founded Scharenbroich and Associates, a motivational speaking and leadership training video production company. Mark quickly became known as a leading connections expert in developing leaders and transforming the culture of an organization. He is an award-winning keynote speaker, winner of an Emmy Award as writer/producer for an ABC TV special, and recipient of several international film awards. He is the author of the award-winning book *Nice Bike: Making Meaningful Connections on the Road of Life*.

JAKE TAPPER

Award-Winning Journalist; Anchor and Chief Washington Correspondent, CNN

Jake Tapper is a hugely influential and award-winning American journalist who currently serves as Chief Washington Correspondent for CNN and the anchor of the network's weekday television news show "The Lead with Jake Tapper" and Sunday morning affairs program "State of the Union." Tapper has been recognized for being a fair and balanced commentator and critic whose unbiased reporting makes him—as media power rankings site Mediate put it—an "equal opportunity skeptic—confronting Democratic politicians just as toughly as he would Republican ones." According to *The New York Times*, Tapper's "The Lead" proved that "it's possible to create an afternoon news show that is intelligent, non-ideological and not horribly boring." He comments on daily news, elections and popular culture items and brings an unabashedly honest, smart and to-the-point reporting style to presentations and panels that breaks down tough issues. Likeable, consistent and up-to-the-minute, Tapper's no-spin commentary makes you think while keeping you entertained.

SPOUSE/COMPANION PROGRAM

WASHINGTON, DC is a fun destination and ELFA has planned some terrific activities for spouses and companions. We encourage you to bring your family this year.

A spouse or companion attending any portion of the convention or social function must be registered and pay the appropriate spouse/ companion fee. If he or she is employed in the equipment finance industry, the full member attendee registration fee is due.

For your enjoyment during the ELFA Annual Convention, we are offering different packages for spouse/companion attendees. Choose the package that fits into your plans.

Package #1

Full Spouse/Companion Convention Registration

Spouses and companions who register for the full convention package are entitled to attend all social activities, including the Sunday Welcome Reception, the Tuesday night Closing Party, special spouse and companion activities on Monday and Tuesday, and breakfast each morning.

Package #2

Evening Events Only

This package includes the Sunday Welcome Reception and the Tuesday Night Closing Party only.

Package #3

Spouse/Companion Day Activities Only

This package includes the special events planned specifically for spouses and companions on Monday and Tuesday. Descriptions of each of these special events follow.

America's First Home– Mount Vernon Tour and Luncheon

Monday, October 28
11:00 a.m. – 4:00 p.m.

Attendees will take a private tour of Mount Vernon Estate, home of the first U.S. President George Washington. Situated on a grassy, shaded slope overlooking the Potomac River, Mount Vernon is a place all Americans should visit in their lifetime. The estate, gardens and farm totaled some 8,000 acres in the 18th century, and today 500 acres of this historic property have been painstakingly preserved along the banks of the Potomac River. Within its boundaries are an exceptional collection of historical treasures, stories and exhibits that are not to be missed. *Luncheon will be served on property at Mount Vernon.*

A Rare Glimpse–Private U.S. Capitol Tour and Luncheon

Tuesday, October 29
11:00 a.m. – 4:00 p.m.

On this city's most prominent hill lies Washington's revered institution, the U.S. Capitol. You will be offered a rare glimpse of the Capitol on a private tour. Your tour will take you through this magnificent building where the laws of the land are still being created in its chambers.

Escorted by a former member of Congress along with professional U.S. Capitol Historic Society docents, you will visit the Rotunda, where heads of state and our country's honored have laid in repose, and Statuary Hall, where Congress was originally held and where traditionally the Presidential Inaugural Luncheon is hosted. If Congress is not in session, you will be invited by the Sergeant of Arms in the House of Representatives or Senate chambers to stand on the floor where your representatives' votes are cast. If you've ever watched C-Span, you'll be impressed by the stateliness of these rooms in person. Exploring the many nooks and crannies located in the Capitol, you will be privy to the anecdotes and fables from the past as shared by your escorts. Luncheon will be served at a nearby Capitol Hill restaurant.

On the registration form, select the package or packages that best fit your plans, and include the appropriate fees with your convention registration.

Thank you...

...To All Our Convention Sponsors *(as of September 1, 2019)*

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Thank You To All Our Exhibitors! *(as of September 1, 2019)*

Alfa Financial Software Inc
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BigIron Auctions
Bluechip Asset Management LLC
Cloud Lending, a Q2 Company
CODIX
Constellation Financing Systems
Copernicus-USA, LLC
Cortera
CSC
DAT
Dominion Leasing Software LLC
ECS Financial Services, Inc.
EDA by Randall-Reilly
Equipment Leasing and Finance Association
Equipment Leasing & Finance Foundation
Fifth Third Bank
FIS
FleetEvaluator
Garnet Capital Advisors, LLC
Great American Insurance
IDS
Ivory Consulting Corporation
JDR Solutions, Inc.
LeasePAC
Linedata Lending and Leasing
LTi Technology Solutions
Monitor / monitordaily.com
NETSOL Technologies Americas, Inc.
Odessa
Orion First Financial, LLC
PayNet, Inc.
Sopra Banking Software
Specialty Equipment Insurance Services
Wolters Kluwer

To become a sponsor for either the convention or the community service projects, contact Steve Wafalosky at stevew@larichadv.com or (440) 247-1060.

ELFA NEWS

Now Available: New Interactive SEFA Dashboard

THE INTERACTIVE SEFA DASHBOARD has been updated for 2019 and is full of cutting-edge industry data. This free tool—which is only available to ELFA members—allows you to quickly and easily connect to a decade of critical statistics from the Survey of Equipment Finance Activity. In just a few clicks, you can segment the data by year, type of organization, market segment, size of organization and business model. It's easy to select categories, add filters and drill down into specific information.

- Benchmark your company against others in the industry.
- Find your own insights and identify trends.
- Uncover new business opportunities and more.

Visit the Dashboard at *www.elfaonline.org/InteractiveSEFA*.

Tech Innovation Winners Announced

AT THE OPERATIONS & TECHNOLOGY CONFERENCE in Chicago in September, the 2019 Operations and Technology Excellence Award was presented to two member companies. Cisco Systems Capital Corporation was recognized for Project Excellence and John Deere Financial was recognized for Excellence in Innovation

- Cisco Systems Capital Corporation was recognized for designing and implementing a single credit platform that enables sales. The company retired its former credit systems and replaced them with a consolidated platform to drive continued innovation and maintain best-of-breed credit practices. The new system accelerates credit decisioning, serves as a sole credit portal and upholds credit policy. The result is improved work flow, a simplified and more efficient credit approval process and reduced operating expenses.

- John Deere Financial was recognized for developing an automated equipment inventory system. Using telematics technology, the new system enables the geo-location of equipment to verify its presence at dealerships. The new system, currently in trial stages, connects data from disparate platforms and offers a simple dashboard that makes it easy to verify the presence of hundreds of high-value assets at dealerships at any given time and identify inventory discrepancies. Moving from manual inventory inspection to automated inspection has the potential to streamline the inventory inspection process, increasing efficiencies and reducing costs.

Jennifer Martin, VP, Leasing and Vendor Program Support at Key Equipment Finance and Subcommittee Chair for the award, noted that a record number of submissions were received this year. Learn more at *www.elfaonline.org/about/awards/OTE*.

Frasier to Receive Distinguished Service Award

ELFA HAS SELECTED LORI FRASIER to receive the 2019 Michael J. Fleming Distinguished Service Award. The award honors individuals who have made significant contributions to the association and the equipment finance industry. Frasier will be formally recognized during a ceremony at the 58th ELFA Annual Convention in Washington, D.C., in October.

Frasier is recognized as the driving force behind the creation and growth of the ELFA Women's Council. Under Frasier's leadership, the Council has developed a number of successful initiatives to increase the engagement of women across the association.

The Council launched the ELFA Women's Leadership Forum, a popular annual event focused on leadership development for women at all stages of an equipment finance career. At the ELFA Annual Convention, the Council has presented well-received breakout sessions on gender-balanced leadership and expanded participation in the Women's Council Reception. In addition, the Council launched the ELFA Women4Inclusion LinkedIn group, an online network that brings industry professionals together in support of gender-balanced leadership and inclusion.

The mission of the ELFA Women's Council is to lead the evolution of ELFA into a more accessible, inclusive organization that reflects the diversity of the membership and the markets they serve. The Council is committed to providing more access and inclusiveness to women at all stages in their equipment finance careers by focusing on awareness, advocacy and action.

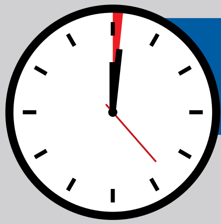
Dues Renewal Season Is Around the Corner!

KEY DATES TO REMEMBER....

NOV. 1, 2019—
2020 dues invoices mailed to Key Contacts

DEC. 31, 2019—
Deadline to pay 2020 dues

THROUGHOUT 2020—
Take advantage of ELFA's many benefits!



Membership Minute

Tweet your excitement about the 2019 ELFA Annual Convention! Engage with industry professionals and send one or more tweets using the hashtag #ELFAConvention between Sept. 1 and Oct. 30, and you will be entered into a drawing to win a sought-after ELFA mug and a $25 Amazon gift card. Learn more and see sample tweets at *https://apps.elfaonline.org/events/2019/ac/socmed.cfm*. Contact Amy Vogt at avogt@elfaonline.org with questions.

2019 Principles Workshops Finish Strong

THE LAST of the 2019 Principles of Leasing and Finance Workshops was held Sept. 10-12, hosted by Stonebriar Commercial Finance in Plano, Texas. More than 20 attendees learned the benefits of equipment finance, the types of lease and finance transactions, fraud detection and prevention, and an overview of lease accounting. The next workshop will be held in Chicago in April 2020. Keep an eye out for more information. For questions, contact Alexa Carnibella at acarnibella@elfaonline.org

Have You Visited the ELFA Career Center Lately? Save 15%

IF YOU'RE A JOB SEEKER, visit the ELFA Career Center today to search and apply for jobs in your field and enjoy free and confidential resume posting.

If you're an employer, this is a great time to post your employment openings.

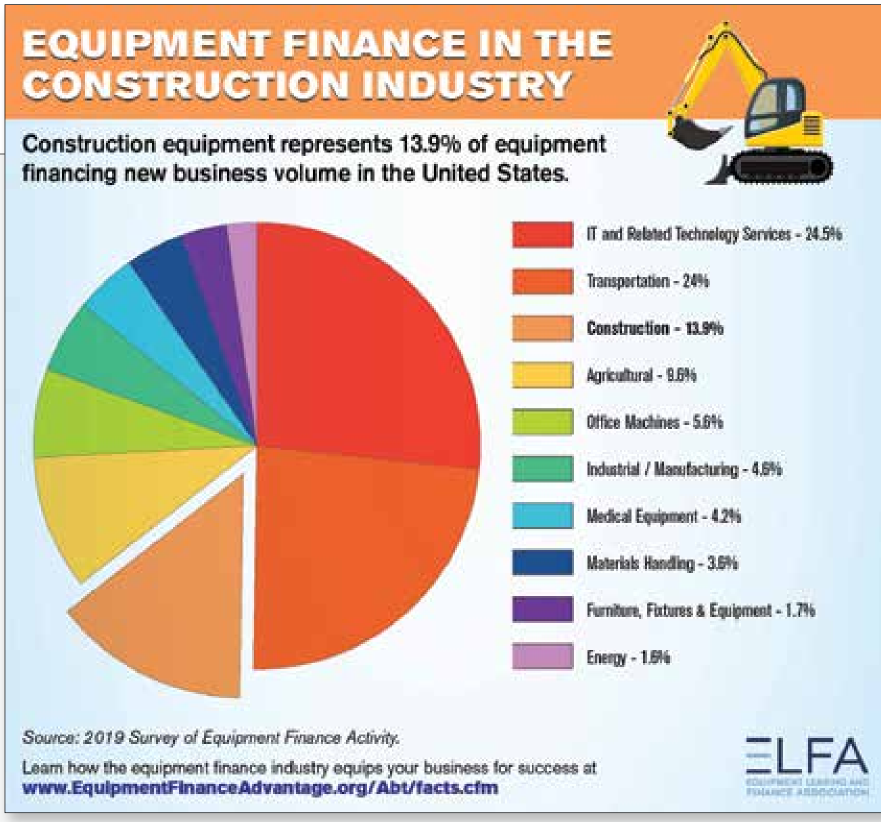
Save 15% when you post a 30- or 60-day posting using code Fall2019.

Learn more at *careers.elfaonline.org*.

Career Resources for Emerging Talent

THE EMERGING TALENT Advisory Council is pleased to introduce a new Career Development section of ELFA's Emerging Talent webpage. Visit the page today at *www.elfaonline.org/emerging-talent-careers* to access:

- **Ask a Leader Interview Series** – Conversations with established leaders with a diverse range of backgrounds and experience in equipment finance.
- **Career Mapping Series** – Tips for setting goals and priorities to determine your career roadmap as well as discuss your future with leadership.
- **Industry Forecast: Cloudy, with a Chance of Millennials** – Highlights from a panel discussion on attracting and retaining emerging talent.



Fact Sheets Highlight Vertical Markets

EVER WONDER HOW PREVALENT equipment financing is in a particular industry? As part of ELFA's campaign to promote equipment finance, the association has released a series of fact sheets that reveal equipment finance statistics and facts for 10 industries. View more on the association's end-user website, *www.equipmentfinanceadvantage.org/Abt/facts.cfm*.

5 Minutes with the Service Provider Chair

DEBBIE DEVASSY BABU
Chair, Service Providers BCSC

WHAT'S HAPPENING in the service provider sector of the equipment finance space? *Equipment Leasing & Finance* magazine recently talked to Debbie Devassy Babu, Chair of the Service Providers Business Council Steering Committee (BCSC), to take the pulse of this sector. Deb, Shareholder at Askounis & Darcy PC, is currently serving her first year as Chair of the Committee, which is composed of a diverse mix of industry specialists who provide a variety of services to the members of the other four Business Councils.

From your perspective, what hot topics is the service provider sector focused on this year?

The Service Providers BCSC has focused on ELFA membership recruitment for new companies, and I'm pleased to report that we successfully recruited a number of new members. We also assisted ELFA in its advocacy efforts by participating in Capitol Connections in Washington, D.C., in May. Through the Guest Lecture Program, the Service Providers BCSC continues to promote the equipment leasing and finance business to younger folks who may be unaware of our industry. Finally, we're planning a regional networking event for the Summer of 2020.

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

I became a member of the Service Providers BCSC in 2015, after other members of my law firm served on the Committee and told me how much they enjoyed the experience. I would highly recommend the Service Providers BCSC to others—it's a great way to contribute to ELFA and also have your voice be heard in the industry. Serving on the Committee also has provided me a unique opportunity to meet and work closely with a variety of different service providers who support the industry.

What is the last book you read?

Taking care of my little kids doesn't allow me a lot of time for personal reading, but I've just picked up *Sharp Objects* by Gillian Flynn. Fingers crossed that I can actually finish it! ☰

Don't miss the **community luncheon** at the ELFA Annual Convention on Tuesday, Oct. 29. This will be a chance to celebrate the work of the Business Councils. Learn more at *www.elfaonline.org/events/2019/AC/*.

About the BCSCs

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


Longstanding leadership
Client-focused since 1973
For over four decades, manufacturers, resellers, corporations and government entities have turned to Key for proven solutions to finance their equipment. Our model for success is simple … we deliver what they need to succeed:
• Innovative strategies that reflect current trends
• Long-term growth and profitability planning
• Nimble service and execution at every turn
• Steadfast commitment in all economic climates
For more information about our industry expertise and customer knowledge, visit keyequipmentfinance.com
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ELFA

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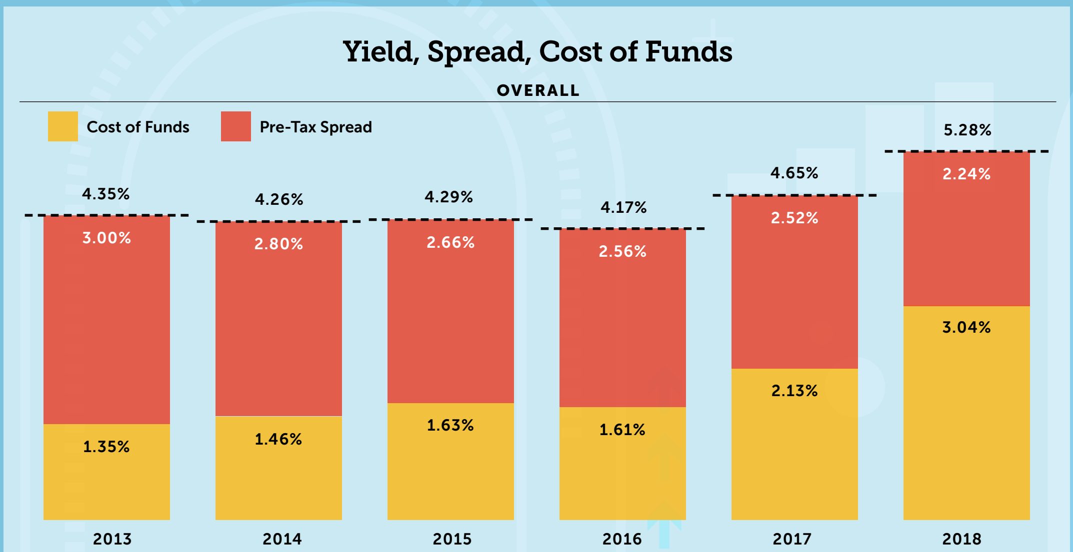


Dashed black line above bars represents the Pre-Tax Yield

Margin compression is real!

According to the SEFA Interactive Dashboard, pre-tax spreads continue to decline. Check out the free dashboard at *www.elfaonline.org/ interactivesefa*

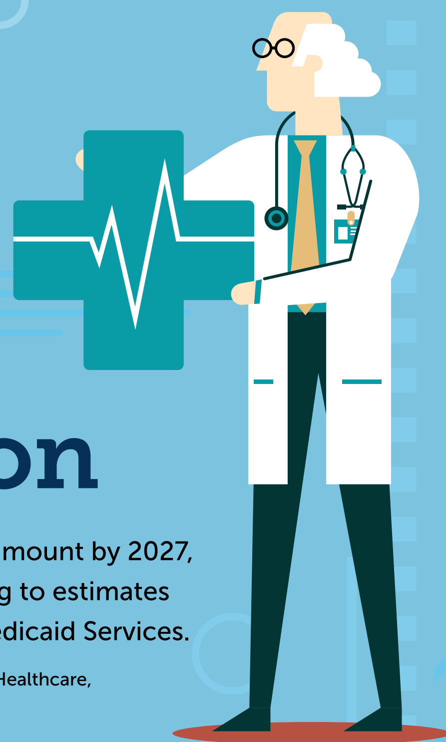
What drives incentives?

The top metrics used to determine incentives for executive leaders at equipment finance companies with annual volume (new origination) under $250 million are:

- Profitability: 89%
- Managerial Effectiveness: 67%
- Professional & Staff Development: 55%
- Development of Market & Client: 55%
- Portfolio Growth: 53%
- Revenues: 44%

Learn more in the newly released Small & Medium Enterprise Compensation Survey at *www.elfaonline.org/ data/market-trends.*

ASHBOARD



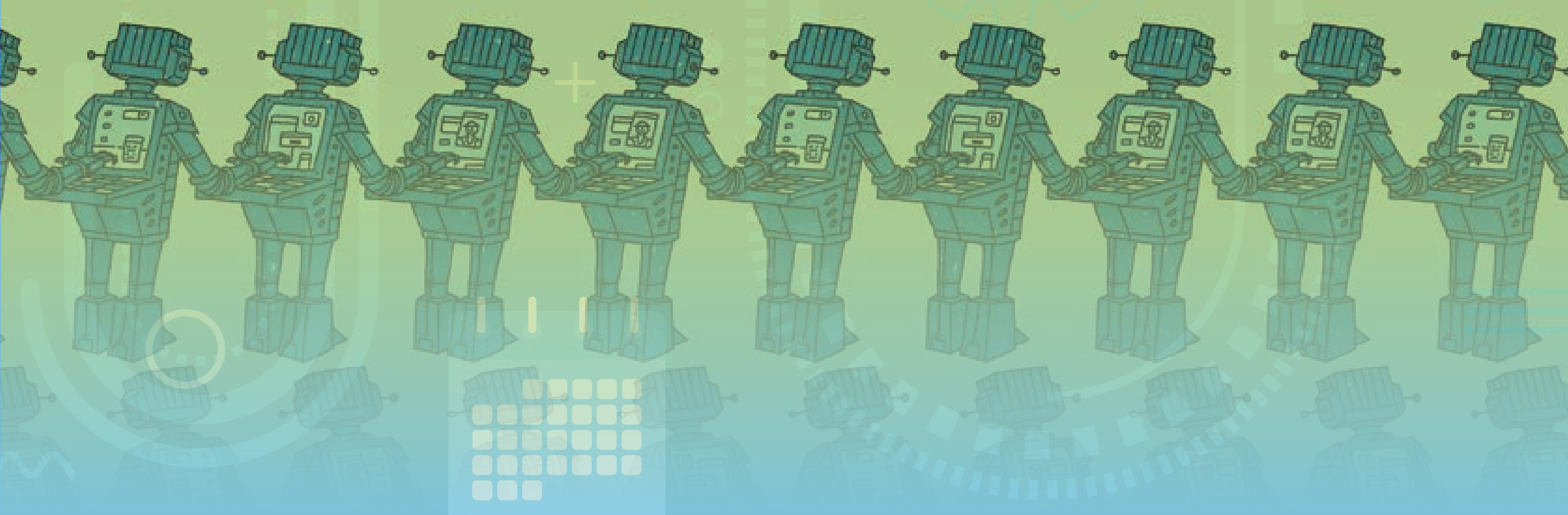
$6 trillion

Healthcare spending will reach this amount by 2027, growing faster than GDP, according to estimates from the Centers for Medicare & Medicaid Services.

Source: Vertical Market Outlook Series: Healthcare, *http://bit.ly/ELFFHealthcare*

300%

That's the jump expected in the number of industrial robots sold in the United States in less than a decade, according to the recent article in the *Journal of Equipment Lease Financing,* "Financing Robotics: Scoping the Opportunity."



IMAGES: ISTOCK

If you're not continually reinventing customer service, you might already be behind

New & Improved

Innovating the Customer Experience

BY SUSAN L. HODGES

IF YOU COULD LOOK TO A SINGLE SOURCE to monitor new technologies, determine which are most relevant to your business and then provide opportunities to learn about them and discuss application, you'd be ecstatic, wouldn't you?

Well start grinning, because ELFA's new Technology Innovation Work Group is designed to do just that. Members have already put together a one-day forum for senior executives of ELFA companies, and more opportunities to engage are in the works.

Expanding the View

Deb Reuben, President of Reuben Creative, LLC, and Chair of the Work Group, talks about the group's mission: "Often leaders are so committed to the day-to-day running of their companies that they have little time to think about what's happening outside their walls. We're creating a window for them to look outside and acquire information that helps them make better decisions. By monitoring technology trends inside and outside the equipment finance industry, we're creating opportunities for leaders to come together, learn from each other and contemplate what these trends mean for our companies and for our future."

Tawnya Stone, Vice President of Strategic Technology at GreatAmerica Financial Services and a member of the Work Group, embraces the concept because she thinks the industry's perception of the customer experience is

> "We're creating opportunities for leaders to come together, learn from each other and contemplate what [technology] trends mean for our companies and for our future."
>
> **Deb Reuben, Chair, ELFA Technology Innovation Work Group**

> "You can now buy an entire wardrobe of clothing from Amazon, take seven days to examine it and then send any or all of it back. So why wouldn't I want to do that with the laptops I buy for my firm or the trucks I buy for my fleet?"
>
> Candace Reinhart, CoreTech Leasing

outdated. "Many of us still believe business buyers are not as demanding as consumer buyers," she says. "But research shows that the opposite is true, that B2B customers actually have higher expectations than B2C customers."

Moreover, says Stone, when customers were asked if they would switch companies to obtain a better service experience, most said yes. "People in our industry don't realize this," she says. "A lot of us think B2B customers are more sensitive to price than service, but research conducted by Salesforce shows that 74% of business buyers would pay more for a great experience. So it's not about cost, it's about providing value."

Retail's Influence

Candace Reinhart, Senior Vice President, Operations & Syndications, at CoreTech Leasing, Inc., says the overall consumer experience has changed so much in the last five years that it's not surprising greater expectations are spilling over to the business arena. "What

New Tech Resources

- **TECHNOLOGY INNOVATION LEADERSHIP SERIES:** ELFA has launched a series of one-day events for senior ELFA members to go deep in conversation with industry peers in specific technology innovation challenges. The first event was held in August and focused on the customer experience. Watch for upcoming events at *www.elfaonline.org/events*.
- **GOING DIGITAL:** This study, coming soon from the Equipment Leasing & Finance Foundation, will examine the current state and future trends of digital banking in the equipment finance industry. Learn more at *www.LeaseFoundation.org*.

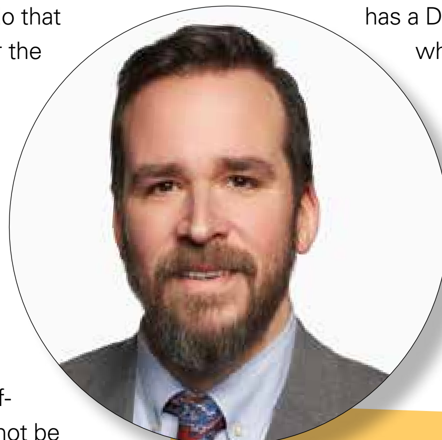
we're seeing now at CoreTech Leasing is customers wanting to treat each asset individually," she says as an example. "Historically, a lease is all or nothing—you either lease the equipment and turn it all in, or purchase all of it—and there are good reasons for this: you don't want customers to cherry-pick. But you can now buy an entire wardrobe of clothing from Amazon take seven days to examine it, and then send any or all of it back. So why wouldn't I want to do that with the laptops I buy for my firm or the trucks I buy for my fleet?"

Reinhart believes equipment finance leaders no longer have the luxury of continuing to do something a certain way because they always have. "Companies successful in becoming digitally aware have taken those words out of their vocabularies," she says. "They now ask what they can do differently. The thing in question may not be broken; it's just no longer effective. We have to be nimble—willing to change and ready to accept the new."

Farewell to the Familiar

TCF Capital Solutions began doing exactly that two years ago. "We had a set of monolithic platforms that limited our ability to configure around them and required us to engage vendors for any new development," says Matt Dorison, Senior Vice President, Technology. With little control over the software, end product or delivery times, the company couldn't quickly respond to changing customer expectations. "And knowing what we did about evolving expectations, we thought our ability to interact with customers would become a differentiator," he says. "Assuming disruption is coming to us, we need to build out capabilities that are more flexible and reusable—a departure from monolithic platforms and vendor-provided solutions."

To innovate, the company brought in Java engineers and switched to an Agile approach to build new platforms, create new capabilities and automate more functionality and monitoring. "We also looked at other teams in the bank doing open-source development and leveraged the same technology they were using," Dorison says, adding, "We knew we had to change our world."



TCF Capital Solutions will continue to work on these initiatives as long as they deliver value. "But now we're doing our own development and can change much faster to meet customer expectations, whatever they may be," Dorison says. And every employee is accountable—not just IT. But since each function and area can have a different idea of what constitutes a customer, internal or external, the company now has a Director of Customer Experience who's responsible for the overall customer experience, and a Product Manager responsible for the digital customer experience.

As long as one-on-one relationships with customers are important, the company will also continue providing a team of experts in the field, including sales representatives and regional vice presidents. "But if in the future people can be anywhere at all and create the lease they need, our world will change again," says Dorison. "And companies that think their customer experience is just fine may be unable to compete."

"Assuming disruption is coming to us, we need to build out capabilities that are more flexible and reusable—a departure from monolithic platforms and vendor-provided solutions."

Matt Dorison, TCF Capital Solutions

Weighing Relevance

Perhaps. But Charles Anderson, CEO of the transaction platform Currency and a member of ELFA's Technology Innovation Work Group, says customer experience innovation is not for everyone. "Banks almost don't have the luxury to think about it because regulators require them to be compliant, and customer experience and compliance rarely mesh," he says. Consequently, Anderson believes every equipment finance company must determine whether innovating the customer experience is relevant to its situation and goals.

Besides, the profitability-as-first-priority principle is ingrained in many leaders and tough to override. "In the

> "Awareness of the customer experience should be baked into everything we do."
>
> **Tawnya Stone, GreatAmerica Financial Services**

'80s and '90s, business schools taught that the objective was to maximize profit in every transaction. I think that's how most companies still operate," says Anderson. After all, he posits, "If something is working and generating profit, would you be willing to optimize for customer experience at the cost of your job? Until your answer is yes, you're not going to do it—and why would you? It's a huge risk, and leaders at some organizations will tell you they're not even empowered to think about this."

But where there's a will there's very often a way, with technology serving as the front or back door. "We can't escape technology today; it's how we get things done," says Reuben. "But innovating the customer experience is not about going out and buying software as much as it is about preparing your organization for a radically different way of operating. We need to understand our customers now—what are they trying to get done, what does that mean to us, and how might we as a company change our processes and digital capabilities so we can meet those needs and solve customer problems in a better way? This is all about helping customers achieve their goals."

Stone agrees and says the first steps to innovating "CX," or Customer Experience, are like those in addiction-recovery programs: becoming aware and admitting you have a problem. "Awareness of the customer experience should be baked into everything we do," she says. "Every group in the company should know its customer, the customer's needs and their expectations. Then they have to talk with the customer to find ways to meet those needs as well as their own, because good partnerships are mutually beneficial."

An example: GreatAmerica Financial Services collects payments for its customers, who are vendors, dealers and manufacturers, and then posts the payments back into customers' accounting systems. "It's easy for us to do and saves customers from having to send out their own invoices," says Stone. "We've been doing it for several years now and our customers love it."

"It Happened to Us"

Stories like the one from Stone excite members of the Technology Innovation Work Group and exemplify the sharing that goes on at Group gatherings. "Agile thinking and processes are moving companies toward more communication," says Reinhart. "We're talking more to the customer and learning more about what they want, what they need or the pain they feel. Then we're taking that dialogue and putting it into internal action. In addition, we're moving the dialogue to the industry level through

> "A new school of thought says that if you optimize for the customer experience rather than for profit per transaction, you'll end up generating more profit overall...."
>
> **Charles Anderson, Currency**

ELFA's new Work Group. The timing of this technology innovation initiative couldn't be better."

Not only do customer and company stories illustrate what's possible in CX; Anderson says they can also shed light on the evolutionary shift occurring in business models used by cutting-edge companies. "A new school of thought says that if you optimize for the customer experience rather than for profit per transaction, you'll end up generating more profit overall at a critical scale, but probably less per transaction," he explains.

Leaders at Currency adopted this thinking two years ago to maximize and optimize for the customer experience. "We knowingly wanted to make less revenue per transaction with the goal of optimizing the customer experience and reaching critical mass," Anderson says. "We defined success as building a business essential for our market, our customers and our partners. Working backward from that goal, we identified our core purpose as unlocking opportunity for our customers, partners and employees. Doing this would result in building a critical operation that could do business at a scale that would unlock greater opportunity for all parties."

Translation: If customers weren't willing to take advantage of the opportunity and pay enough for Currency's services, it would mean the company hadn't done a good job of creating value. Viewing the situation this way forced company leaders to ask if they'd done enough to motivate Currency's 200 employees to continually maximize the customer experience. The answer was painful. "First, I took a deep breath," says Anderson. "Then I had lots of conversations, and there was quite a bit of turnover. A lot of people wanted to maximize profit per transaction."

Anderson reframed the conversation, talked to employees again and gave them time to think about the new model and ask questions. He then established incentives, along with authority and responsibility, for each employee to create value for the customer.

Today, 100% of Currency's business is recurring and integrated revenue. Turnover is near zero, customer ratings are stellar and revenues are up 47% year over year. "It's great," says Anderson. "I know it's a scary way to approach the market, because you don't know what will happen. But I believe doing business this way is more fulfilling and rewarding, and more profitable for everyone involved."

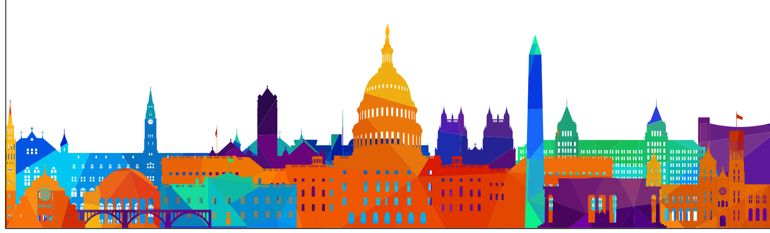
He admits the process will never be finished. "Customer expectations are always rising, so you must constantly stay out in front of what your customers desire and expect," he says. Do customers really know what they want? Anderson doesn't think so. "If you're hungry, you might desire not to be hungry, but you might want a hamburger instead of a salad," he says. "We must always work backward from what they desire to what they actually need."

Anderson and others innovating the customer experience say there's no single correct way to do it. "This is a realm where no one knows everything," says Reuben. "But being together creates opportunities for sharing ideas and best practices, and there's an increased desire to do that. There's a growing desire for a more interactive way of learning and getting your head around these topics, and that's what we're working to provide."

True, not every company can opt for innovation. As Anderson says, "It's a luxury, and sometimes you can't have it." But to equipment finance companies able to innovate the customer experience but not yet motivated to do so, Reinhart says this: "If you think your customer experience is fine the way it is, you're going to get passed by. Ask yourself if 'just fine' is good enough for you, personally. Do you pick a restaurant that's rated 'Fine' on Yelp? If you're like me when looking to engage a service, you pick one that's extraordinary. Organizations that are extraordinary empower every employee at every level to engage with the customer and feel comfortable and confident that they can make the customer experience even better. That's what we're talking about. That's what we're trying to do." ☰

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

Don't miss the session **"Mindset Shift: Looking at Technology & Innovation Through a New Lens,"** sponsored by the ELFA Technology Innovation Workgroup at the 2019 ELFA Annual Convention. Learn more at *www.elfaonline.org/events/2019/AC/*.



Reading the Tea Leaves

The longest U.S. growth streak holds mixed messages for ELFA members

By Gwen Moran

IF EVER there was a Teflon economy, the current cycle has certainly exemplified it until now. In July 2019, the National Bureau of Economic Research reported that the latest economic expansion, which began in June 2009, is the longest in U.S. history, breaking the previous 120-month record, which ran from March 1991 to March 2001. The prevailing attitude among ELFA members is still optimism—but coupled with a wary eye toward the horizon and the mixed indicators that keep appearing.

"There's still demand out there," says Kirk Phillips, Chair of the Financial Institutions Business Council Steering Committee and President & CEO of Wintrust Commercial Finance in Frisco, Texas. "And there are some clouds on the horizon that are giving people pause."

Those mixed feelings were reflected in the association's quarterly Beige Book, which compiles survey data from four of ELFA's Business Council Steering Committees (BCSCs)—captive and vendor finance firms, financial institutions, independent middle market companies and small ticket firms. Growth was a consistent theme in each sector, but a variety of macroeconomic and domestic concerns have members actively monitoring their business levels, delinquencies and the financial news to try to keep ahead of an economic cycle that isn't acting in typical fashion.

"How U.S. trade policy shakes out with our trading partners, predominantly China, is having a huge impact on our clients and what businesses are doing."

Kirk Phillips, Chair, Financial Institutions BCSC

Each of the four BCSC Chairs reviewed the latest Beige Book data from the second quarter of 2019. They shared feedback from their sectors, as well as their own insights, about current business conditions and market factors that are affecting ELFA members.

ISTOCK/ PROCURATOR

Don't miss the latest data:

- ELFA's Monthly Leasing & Finance Index and Quarterly Beige Book at *www.elfaonline.org/data/MLFI*
- The Foundation's monthly Momentum Monitor, Monthly Confidence Index and quarterly Economic Outlook Report at *www.LeaseFoundation.org*

Low-Cost Money and Steady Demand Keep Growth Going

While the majority of respondents in each sector saw spreads tighten or stay the same, there were pockets that reported seeing spreads widen, including 36% of Captive & Vendor Finance BCSC members and 29% of Financial Institution BCSC members. While that seems like a bright spot, it's likely because of the affordable cost of money right now, says Brian Eschmann, Chair of the Independent Middle Market BCSC and President of Trans Lease, Inc. in Denver, Colorado.

"The recent drop in interest rates may have contributed to the ability of some lenders to widen spreads as their cost of funds have dropped more quickly than the marketplace's expectation for lower rates."

Brian Eschmann, Chair, Independent Middle Market BCSC

"The recent drop in interest rates may have contributed to the ability of some lenders to widen spreads as their cost of funds have dropped more quickly than the marketplace's expectation for lower rates," he says. If this is correct, improvements in spreads may be temporary.

But robust competition and steady demand is still keeping most members' spreads compressed. Just 13% of Small Ticket BCSC members and 23% of Independent Middle Market BCSC members saw increased spreads.

Trade Conflicts and Other Issues Take a Toll

While the declining cost of funds has benefitted some members, issues on the global stage loom large. "Our trade issues with China and Mexico present a unique economic concern. This is causing a level of uncertainty with our partners as it is not within their scope of control," says Shannon Stangl, Small Ticket BCSC Chair and Country Sales Manager at Wayne, Pennsylvania-based DLL. As financial solutions providers, ELFA members must be ready to adapt and help the companies and customers they serve find solutions when tariffs affect their businesses.

Trade issues are also a concern for members in the financial institutions sector. "How U.S. trade policy shakes out with our trading partners, predominantly China, is having a huge impact on our clients and what businesses are doing," Phillips says. "If that's not resolved thoughtfully and soon, then that could be one of those things that certainly tips our economy into a negative trend."

Eschmann points to laments from trucking companies that have voiced concerns about softness and dropping rates. "With order boards out so far on Class 8 trucks, it doesn't take a lot for those things to reverse in a hurry. The large fleets start canceling orders and it ripples down. Anything that would reduce overall consumer demand would likely have a profound effect on most transportation-related segments," he says.

And while most sectors don't seem concerned about changes to accounting standards and their impact on customers, Stangl cautions that members must be prepared. "New lease accounting standards will bring significant change. It is our responsibility to understand how it will affect our partners so we can work to find mutually beneficial solutions," she says.

"New lease accounting standards will bring significant change."

Shannon Stangl Chair, Small Ticket BCSC

Delinquencies Are Getting Attention

In the period after the economic downturn, credit standards were buttoned-up and portfolio quality reached record highs. In more recent quarters, delinquencies and charge-offs have ticked up. While they're still near historic lows, members are watching them closely, looking for signs of risk before they become problematic.

"The overall credit environment remains relatively stable," says Troy Graziani, Chair of the Captive and Vendor Finance BCSC and Director of Corporate Operations and Business Intelligence at Toyota Industries Commercial Finance, Inc. in Dallas, Texas. "We continue to monitor high-risk areas with continuing threats of market contraction on the horizon."

Stangl agrees that it's not yet time for concern. "We are seeing increases in charge-offs, while delinquencies continue to be relatively flat," she says.

Hot Opportunities? Depends on Whom You Ask

If there's one constant among ELFA members, it's that their "hot markets" are very diverse. In some sectors, industries made both "best-performing" and "worst-performing" lists (e.g., mining and oil/gas extraction and truck transportation among Independent Middle Market BCSC members). However, construction and industrial/manufacturing made "best performing" lists in all sectors.

"Currently we see the oil/gas extraction segment performing, but we are particularly conservative in our underwriting and types of equipment we finance in this space," Eschmann says. "I would also say that lenders may rate the segment as underperforming due to its overall volatility and previous losses incurred in this space."

Part of the challenge in measuring top performers is that members are often specialized and apply different strategies. For example, Stangl's DLL focuses on medical equipment and technology as key markets, she says. Graziani says his company has sustained strong new business volume through strategic alliances. "While the overall market starts to plateau, we've been able to increase share through strong collaboration with our OEM partners and several unique program and promotional offerings," he says.

Another common theme among members was looking toward the future, especially using and doing business in the technology space. In fact, the

"The overall credit environment remains relatively stable. We continue to monitor high-risk areas with continuing threats of market contraction on the horizon."

Troy Graziani, Chair, Captive and Vendor Finance BCSC

technology sector represents a "massive opportunity" as traditional computer use declines and mobile devices increase.

"Phones and tablets are a keystone in how businesses function. With so much being available through mobile applications, with no sign of slowing down, we see that not only as an opportunity but the future of our business," says Stangl. "In addition to tech, there is opportunity in usage-based financing across various sectors, from agriculture to construction to medical equipment. Many organizations are wrestling with how new equipment advances and digitization can and should be integrated."

Graziani agrees. "Technology continues to play an ever-expanding role in the equipment finance space, from e-contracts to artificial intelligence to cryptocurrencies. Having clarity on customer expectations and properly forecasting future needs is paramount to ensure resources are focused in the highest value add areas," he says.

As members look toward the future with a mix of emotions, they continue to make plans and seize opportunities. Headcounts are increasing and feelings are more positive than negative, the Chairs agree. However, many are watching closely for signs of a slowdown and preparing to weather economic storms if they arrive.

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

Don't miss the session **"Economic Waves: Preparing for What Comes Next"** at the 2019 ELFA Annual Convention. Learn more at *www.elfaonline.org/events/2019/AC/*.

Spotlight on HEALTHCARE

New Foundation study identifies key trends in a rapidly changing sector

By Anneliese DeDiemar

COST AND TECHNOLOGY are two key themes underlying virtually every trend and issue impacting one of the most significant drivers of the U.S. economy—the healthcare industry—according to a new report, **Vertical Market Outlook Series: Healthcare**, released by the Equipment Leasing & Finance Foundation.

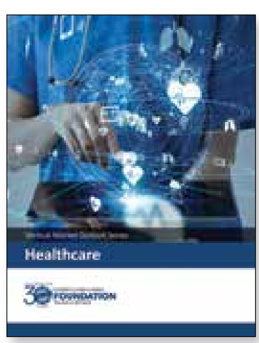
The healthcare industry is changing rapidly in ways both large and small, and there's little indication that the rate of change will slow in the near term.

Healthcare providers are moving away from traditional inpatient facilities, the Foundation report notes, instead investing in outpatient clinics, same-day surgery centers, free-standing emergency rooms and micro-hospitals, which offer just a few beds for overnight stays. Moving even further from the traditional healthcare setting, providers are setting up programs and using digital technology to keep tabs on patients 24/7 in their own homes.

Health systems continue to invest in digital technologies to support their efforts to move toward patient-centered care and develop smart health technologies that can increase access and affordability, improve quality and lower costs. Investment in technologies like blockchain, artificial intelligence, virtual/augmented reality and predictive analytics will help transform healthcare.

ISTOCK/ IPOPBA

The Foundation report provides an outlook on the healthcare sector in the United States, demographic and spending trends, and key developments impacting this sector over the next one to two years. It is the third release of the Foundation's forward-looking Vertical Market Outlook Series, designed to help readers recognize and understand opportunities and challenges that may affect their businesses.



The report, commissioned by the Foundation and prepared by Engine Group, finds that growth in the healthcare industry shows little sign of slowing. It includes data from a variety of sources, including the Centers for Medicare & Medicaid Services, which reports that within the next decade U.S. healthcare spending is expected to reach $6 trillion and comprise more than 19% of gross domestic product. The report examines a wide range of issues, including:

- Growing costs associated with caring for a rapidly aging population;
- New technology required to meet an increasing labor shortage; and
- Evolving government regulation.

The complete report is now available for free download. Visit *www.leasefoundation.org* to access this free planning tool.

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

By Stephen T. Whelan

Republic Airways: Crash Landing for SLV Damages

AS ARLENE GELMAN AND EDDIE GROSS HAVE SO ABLY DISCUSSED in the Spring 2019 issue of the *Journal of Equipment Lease Financing*, Valentine's Day 2019 was a massacre for equipment lessors that have utilized the stipulated loss value (SLV) table to establish liquidated damages for an event of default under a true lease. The U.S. Bankruptcy Court for the Southern District of New York, in a published decision, *In re Republic Airways Holdings Inc.*, 2019 WL 630336, ruled that use of the SLV to establish liquidated damages "violate public policy and constitute unenforceable penalties in violation of" UCC section 2A-504.

The judge dealt another body blow to the equipment finance industry by ruling that the parent guaranty—even though it contained a hell or high water clause—was not enforceable against the guarantor, because it would have required the guarantor to be responsible for the very damages the court had just ruled were an unenforceable penalty.

This article will not repeat the cogent arguments in the *JELF* article. And you probably are asking yourself, "Do I really need to read another article about *Republic Airways?*" The answer is yes. As the EMT technicians say to a bleeding victim, "Stay with me!" Because the decision, flawed as it was, *inadvertently may have reached the correct result* in that fact-intensive case.

Some Background

The decision arose from rejection of seven aircraft leases by the bankrupt airline and the lessee's challenge to the lessor's claim for damages. The lessor used the agreed-upon SLV amount in submitting its claim. The lessee countered that the proper measure of damages was the present value of the rent for the remaining lease term. To hold otherwise, the lessee argued, would make the lessee responsible for the difference between the residual value and the actual value when the planes were returned.

And the court agreed. The court compared the SLV to the rent during the final month of the lease term, and found that the former was roughly 50 times the latter and hence constituted an unenforceable penalty.

SHUTTERSTOCK / PHIVE

The judge erroneously cited UCC section 2A-532 to the effect that a lessor's damages may include impairment of the residual value only if *caused* by the default of the lessee.

The judge also dismissed the lessor's claim that the high SLV reflected a bargained-for allocation of risk to the lessee. The lessor argued that it had contracted to receive a 4% annual rate of return on its investment in the lease and the equipment, but that argument boomeranged (as we will see later).

A Flawed Decision

The *Republic Airways* decision can be criticized on several grounds. First, its refusal to enforce the guaranty is contrary to a long line of federal and New York decisions that have applied New York law to enforce unconditional guaranties. Second, it failed to recognize that the leases gave the lessee credit for the fair market value of the aircraft upon return. Third, the court calculated the lessor's damages *at the time when the lessee rejected the lease*, ignoring UCC section 2A-504, which provides that damages "may be liquidated in the lease agreement *but only at an amount or by a formula that is reasonable in light of the then [i.e., at the outset of the lease term] anticipated harm caused by the default*" (emphasis added).

The Official Comment to section 2A-504 also observes that "stipulated damage schedules are also common [but] will be [enforceable] in the context of each case by applying a standard of reasonableness *in light of the harm anticipated when the formula was agreed to*" (emphasis added).

A fourth error in the decision of the Bankruptcy Court was its misinterpretation of UCC section 2A-532 ("the lessor may recover…for any loss of or damage to the lessor's residual interest in the goods *caused by the default of the lessee*") (emphasis added). The lessor properly argued that its premature need to remarket the aircraft—at a time when aircraft values were depressed—was "caused by" the lessee's default. The court simply dismissed this compelling argument in a conclusory footnote.

But there was another argument that the court overlooked. Notwithstanding the parties' agreement that "the Amended Leases are 'true leases' governed by Article 2A of the New York Uniform Commercial Code" (opinion, footnote 6), *the leases may not have been true leases and hence Article 2A may not have been the applicable law.*

Say What?

Roughly 12 years after the leases commenced, the opinion relates that the parties restructured the original leases, reducing the basic rent but leaving the SLVs "always equal to the amount that provides Lessor with a four percent return on the Aircraft purchase." The SLVs were "identical to those in the Original Leases—notwithstanding…the reduction in the residual value of the Aircraft" since the Original Leases were entered into. A leopard cannot change its spots, but the restructuring may have boomeranged, causing a change from a true lease to a lease intended for security.

None of this is to suggest that SLVs high enough to ensure a percentage return on the lessor's investment necessarily will destroy true lease treatment.

But commentators have written that a rent structure that recovers the lessor's entire investment is consistent with a loan rather than a lease. And under Revenue Ruling 55-540, the Internal Revenue Service announced that, if the "rental" payments materially exceed the current fair rental value, it "may be indicative that the payments include an element other than compensation for the use of the property." So the "overlooked argument" postulated above may not be so far-fetched.

And what if the court had ruled that the agreements were not true leases? In that event, the lessor's damages would have been evaluated under principles applicable to secured loans where the borrower is in bankruptcy proceedings and the fair market value of the "collateral" is less than the outstanding "debt." Because the aircraft had been returned to the "secured lender" (thereby satisfying the secured portion of the claim), the remaining "principal" of the "loan" (after deducting the fair market value of the aircraft "collateral") would have been a general unsecured claim, satisfied (once the Plan of Reorganization had been confirmed) along with all other unsecured creditors, from the entire pool of cash remaining after all higher priority claims had been satisfied. In contrast, damages in a true lease typically would consist of return of the leased equipment (UCC 2A-532) plus the PV of the remaining rent, minus the PV of either the "market rent" (where the goods are located) or the rent under a "substantially similar" re-lease for the remaining lease term.[1] *So arguably the decision reached the correct result, even if its reasoning was flawed.*

Now What?

First, lessors should create a default value formula, comprised of 1) the PV of the remaining rent, 2) enforcement, remarketing and restoration costs, and 3) damages from premature termination. Those damages consist of a) the agreed-upon residual value of the equipment during each monthly rent period minus b) the fair market rental value of the equipment under UCC Sections 2A-527 and -528. The lessee would acknowledge that the monthly rentals were established upon the lessor's reliance that the lessee would perform its obligations and that if an EOD occurred prior to the lease expiration date, then the lessor would suffer additional harm (arising from the lessee's default) from having to remarket the equipment earlier than the bargained-for expiration date. This element must provide that the premature termination damages element essentially would be zero if an EOD occurs during the final month of the lease term.

Second, the hell or high water clause in the lease should refer expressly to premature termination damages and require the lessee to acknowledge that, at the time that the lease was entered into, the premature termination damages formula is a reasonable means of calculating the lessor's damages caused by the lessee's default, and hence premature remarketing of the leased goods.

Finally, any guaranty of the lease not only should contain the usual hell or high water and waiver of defenses clauses, but also acknowledge that the premature termination damages formula is a reasonable means of calculating the lessor's damages caused by the lessee's default.

The *Republic Airways* decision may have signaled the death knell for use of SLV as liquidated damages in a default context. But it provided a road map for lessors to construct an enforceable EOD damages formula—if lessors are careful to preserve that the lease is a true lease. ☰

STEPHEN T. WHELAN is a Partner in the New York office of law firm Blank Rome LLP and a former member of the ELFA Board of Directors (2013–2016). He can be reached at swhelan@blankrome.com.

[1] UCC 2A-527, -528. The opinion does not disclose whether Republic asserted either subtraction from the PV of its remaining rent.

By Kyle Elken and Charlie Shannon

Considerations for Implementing Current Expected Credit Losses

This article focuses on accounting for Allowance for Credit Losses (ACL) under the Current Expected Credit Losses (CECL) Standard (ASC Topic 326), including the recent FASB developments as well as considerations for implementing the standard.

Recent Developments

Most organizations have commenced with their implementation initiatives for the Financial Accounting Standards Board (FASB) Accounting Standard Update (ASU) 2016-13, *Financial Instruments – Credit Losses*, which changes the way organizations account for credit losses. Currently, an incurred loss approach is used under ASC 450 which requires lenders to reserve for losses that are probable and reasonably estimable, whereas CECL requires a forward-looking approach that encompasses the entire remaining lifetime of every asset that could experience a credit loss. With an effective date as early as Jan. 1, 2020 for large public companies, the looming deadline has proven to be more challenging than many initially believed. Based on feedback provided to the FASB, preparers identified numerous challenges in implementing the requirements of the ASU, with the vast majority of them citing aggregating and properly analyzing data as primary concerns.

Key Provision of Proposed ASU

On Aug. 15, 2019, the FASB issued a proposed ASU that defers the effective dates of the CECL ASU for SEC filers that are smaller reporting companies (SRCs), non-SEC filers, and all other companies (see figure below).

The dates and provisions described above are subject to change pending the FASB's finalization of the proposed ASU. A company's determination about whether it is a SRC would be based on its most recent filing status prior to the date the proposed ASU becomes final.

Although a potential deferral may relieve some of the immediate time pressure, it should not be viewed as an opportunity to postpone the work as lenders will need to undertake robust implementation efforts to comply with the CECL ASU. Rather, smaller SEC and private companies can view the deferral as an opportunity to learn from the knowledge and experience gained from implementation issues encountered by

Company Type	Current Effective Date for Calendar Year-End Companies	Proposed Effective Date for Calendar Year-End Companies
SEC filers that are not smaller reporting companies	Jan. 1, 2020	Jan. 1, 2020
SEC filers that are smaller reporting companies	Jan. 1, 2020	Jan. 1, 2023
Public business entities that are not SEC filers	Jan. 1, 2021	Jan. 1, 2023
All other companies, including not-for-profit companies and employee benefit plans	Jan. 1, 2022	Jan. 1, 2023

larger public companies, as well as closely monitor interpretations and implementation of practices. A brief overview of the CECL ASU follows.

Scope

The CECL ASU applies to lenders with financial assets, leases, and loans not reported at fair-value (see figure opposite page).

Measurement

The CECL ASU does not prescribe specific methodologies, but lenders are expected to measure allowances based on historical loss experience adjusted for differences in loan attributes. Credit losses should be measured first on a collective basis for financial assets with shared risk characteristics, and then on an individual asset basis for assets without shared risk characteristics. The estimates of expected credit losses should consider all information relevant to assessing collectability of cash flows including internal and external information relating to past events, as well as current economic conditions along with reasonable and supportable forecasts. Other considerations include:

- The treatment of expected prepayments as well as open loan commitments
- Only contractual term is considered, unless a troubled debt restructuring is reasonably expected
- Beyond a reasonable and supportable forecast period (e.g., 5 years), revert to historical experience

Data and Modeling

Lenders that have started the implementation process point to the need for significant data mining and the retention of historical credit quality. Data is the real driver; the more that is available, the better the options are for selecting the various models available under CECL. Additionally, more robust data improves the quality of the output. Data governance is also critical for ensuring quality, reliability and consistency. There are a number of models available for implementing CECL, including:

- **Loss-Rate** – a simpler model based on a historical rate of loss and utilized by lenders with less complex portfolios (e.g., community financial institutions)
- **Vintage Analysis** – essentially a variant of the loss-rate model, where loans are grouped by similar risk profiles and origination period and utilized by lenders with smaller ticket homogeneous pools
- **Discounted Cash Flow (DCF)** – a scenario-based loan-level model that is utilized by lenders with larger ticket shorter duration loans
- **Probability of Default (PD) / Loss Given Default (LGD)** – a scenario-based loan-level model where two estimates are made for each pool of loans: the PD—the likelihood that a default event will occur to an asset/pool—and the LGD—the magnitude of a loss given a default

Key considerations for implementation include: having a clear plan, involving the correct personnel, making timely and well-considered decisions regarding leveraging existing systems or acquiring new ones, and documenting company efforts along the way.

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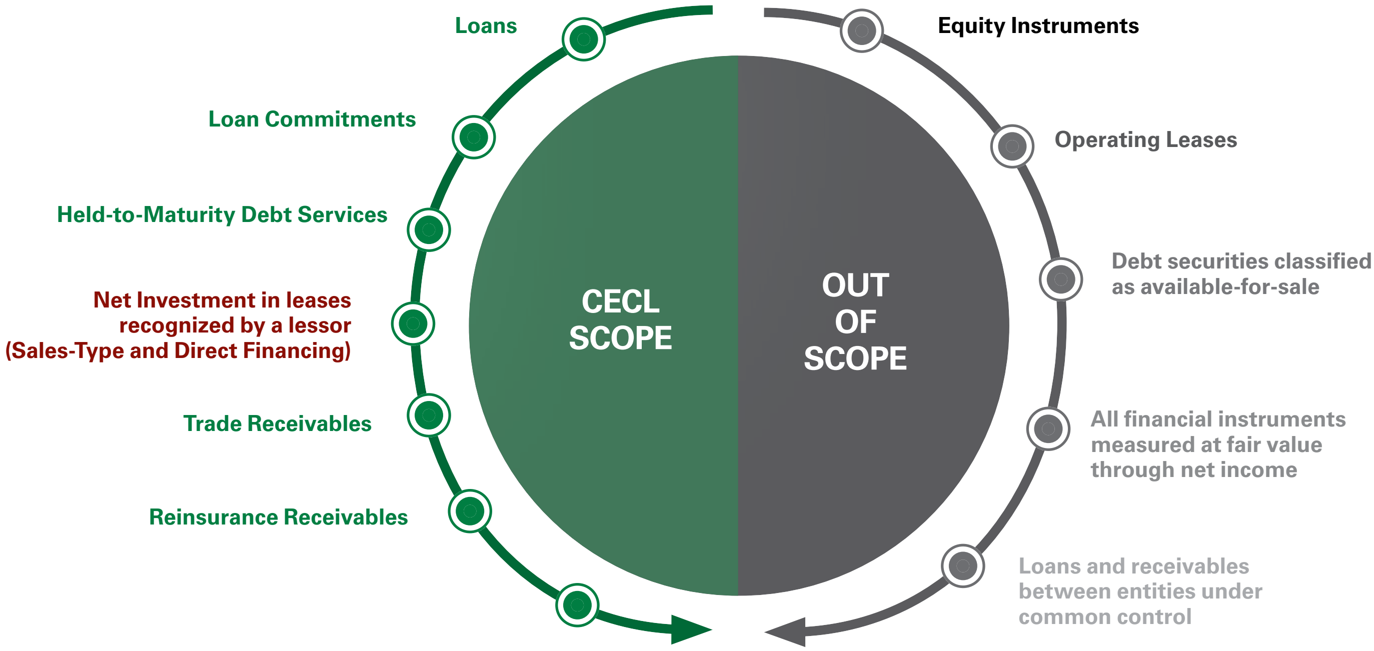


While there are benefits, challenges and limitations with each of the models, the key is the documentation underlying the model inputs, calculations, forecast assumptions, scenarios, etc., including the organization's reasoning for why the chosen model best represents the risk of its portfolio.

For vendor finance lenders with more significant and complex portfolios that have the necessary data and analytical power to execute, the PD/LGD model is the preferred model due to the utilization of loan-level data, along with the PD and LGD estimates which allow for more granular analysis. The formula for the PD/LGD model can be expressed as Estimated Credit Loss *(ECL) = PD x LGD x EAD* (Exposure at Default).

Lenders will also need to undertake extensive efforts to validate their CECL models, including:

- Properly challenging the model, including back-testing following the model risk governance framework
- Validating each component within the model (e.g., PDs, LGDs, prepayments, etc.), including third party models

A recent Moss Adams CECL survey of financial institutions indicates that lenders believe the most difficult part of their implementation will be developing the loan loss models and related loan loss methodology, followed closely by the challenges in developing reasonable and supportable forecasts.

Implementation Considerations

The impact of the CECL ASU will be recognized on day one as a retroactive adjustment to capital, based on the anticipated effective dates noted above, with quarterly adjustments to the forecast thereafter for every open exposure. Key considerations for implementation include: having a clear plan, involving the correct personnel, making timely and well-considered decisions regarding leveraging existing systems or acquiring new ones, and documenting company efforts along the way. The recent survey noted above determined that roughly 57% of lenders expect their existing allowance for credit losses to increase between 0–50% upon implementation, with another 13% expecting increases of over 50%. Based on those survey results, it appears that the impact to reserves will be significant for most lenders and a timely, and well executed implementation effort that provides for successfully managing the impact is well merited. In light of the recent development, smaller SEC and private company preparers should continue to work on their CECL implementation efforts and engage in discussions with their external auditors to obtain insight into the large public company implementation interpretations and best practices. ☰


KYLE ELKEN (far left) is U.S. Controller at DLL. **CHARLIE SHANNON** is Partner at Moss Adams LLP. Both are members of the ELFA Financial Accounting Committee.

By Andy Fishburn

Section 1071 Moves to the Regulatory Agenda

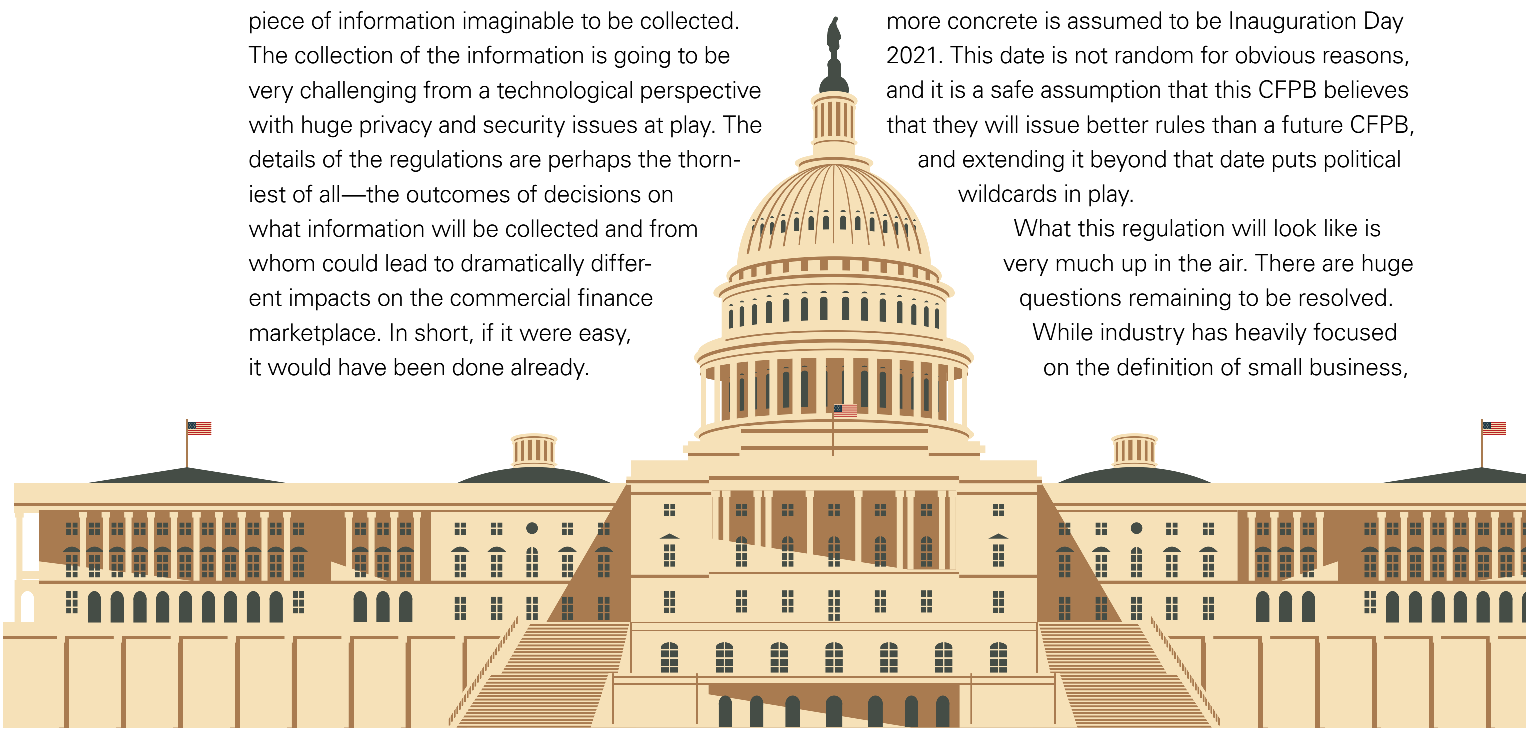
SINCE DODD-FRANK WAS ENACTED more than nine years ago, Section 1071 has loomed over the commercial finance industry like a dark cloud threatening to produce rain. In the initial years after passage of the measure—which would require the Consumer Financial Protection Bureau to collect and report certain small business lending data—the fledgling CFPB was concentrating on getting its feet on the ground and working on their highest-priority regulatory projects. After that initial stage, the CFPB stated that they would work on Home Mortgage Disclosure Act regulations, and then use that experience to inform their work on Section 1071. In 2017 a burst of activity led to the issuance of a Request for Information, which gave little insight into the regulatory approach that the CFPB would take. When Richard Cordray left the CFPB in 2017, Section 1071 was one of the few items left undone, and really not even started, during his tenure.

Throughout all of this, one thing remained true: a major part of the reason Section 1071 has never been put into force is because it has the potential to be extremely disruptive to commercial finance and it is an extremely difficult regulatory project from all perspectives. Most commercial lenders will want a limited rule (or for the rule to magically go away) but consumer groups want every piece of information imaginable to be collected. The collection of the information is going to be very challenging from a technological perspective with huge privacy and security issues at play. The details of the regulations are perhaps the thorniest of all—the outcomes of decisions on what information will be collected and from whom could lead to dramatically different impacts on the commercial finance marketplace. In short, if it were easy, it would have been done already.

There are huge questions remaining to be resolved

It is with this history behind us that the CFPB, now led by an appointee of President Trump, Kathy Kraninger, has placed Section 1071 on its Regulatory Agenda, with some sort of action, albeit initial action, expected in January of 2020. Earlier this year, ELFA representatives met with senior officials at the CFPB who indicated that they intend to issue regulations. The timeframe for something more concrete is assumed to be Inauguration Day 2021. This date is not random for obvious reasons, and it is a safe assumption that this CFPB believes that they will issue better rules than a future CFPB, and extending it beyond that date puts political wildcards in play.

What this regulation will look like is very much up in the air. There are huge questions remaining to be resolved. While industry has heavily focused on the definition of small business,



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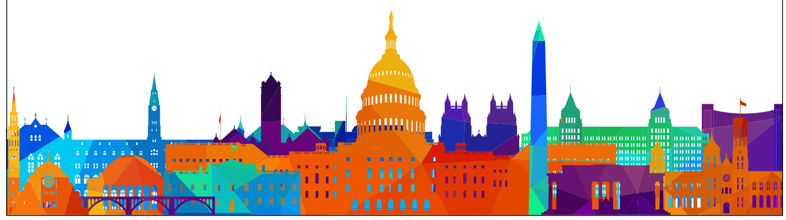
that is one of the easier issues to resolve. The issues of how the information will be collected, what types of companies might be exempted from collection (e.g., publicly traded companies) and whether certain transaction types will be exempted are but the beginning of the list of difficult unresolved issues.

What is known is that, a year-and-a-half from now, it is likely that the broad contours of how Section 1071 will be in force will be clear. While the regulation may not be final by January of 2021, and the compliance deadlines may provide some relief, in the scope of Section 1071 history, this is right around the corner.

ELFA will remain engaged with the CFPB throughout this process to ensure that the CFPB is cognizant of the impacts different regulatory approaches would have on our industry. In the meantime, however, ELFA companies should be examining their origination processes to see how they would incorporate collecting this information. Stay tuned for future updates on this topic in this space, the ELFA Washington Report e-newsletter and other ELFA communication channels. ☰

For more on what's happening in Washington, don't miss **CNN Correspondent Jake Tapper's keynote address** at the 2019 ELFA Annual Convention. Learn more at *www.elfaonline.org/events/2019/AC/*.



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

By Scott Riehl

Draft Regulations Released for SB 1235

ON JULY 26, 2019, the California Department of Business Oversight announced their completed review of initial comments and produced draft regulations as required by SB 1235. The DBO invited all parties to submit second comments addressing their draft regulations and sample disclosures. ELFA's initial guidance and comments were filed on Jan. 21, 2019. Working closely with our ELFA California DBO Member Workgroup, ELFA submitted our second and most recent comments on Sept. 9. Those comments can be found on the ELFA website at *http://bit.ly/2IPGB9D*. Please see the DBO announcement below, along with a summary of CA SB 1235 and ELFA's protective actions on behalf of the industry.

The July 26 DBO announcement read as follows:

> ***California Department of Business Oversight Second Invitation for Comments: Commercial Financing Disclosures***
>
> *In 2018, the State of California passed SB 1235, a bill that requires providers of commercial financing to disclose certain information to the businesses seeking financing. The bill requires the Department of Business Oversight (Department) to adopt regulations governing such disclosures.*
>
> *On December 4, 2018, the Department invited the public to comment on the substance and form of the disclosures required by SB 1235. The Department has carefully reviewed the comments received from stakeholders and drafted regulations that may be proposed for adoption through the rulemaking process.*
>
> *At this time, the Department is requesting public comment on the draft regulations and sample disclosures. The deadline to submit comments is September 9, 2019.*

Background

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

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

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

ELFA Submits Comments to the DBO Regarding California SB 1235

On Jan. 21, 2019, ELFA, as invited by the Commissioner, submitted comments regarding SB 1235 to the California DBO. Even though ELFA won hard-fought exemptions within this legislation, the comments filed sought to provide clarity and our ongoing industry guidance. ELFA's 14 pages of comments were created by an ELFA workgroup over a four-month period.

SB 1235 Compliance Delayed While the DBO Solicits Comments

We alerted members via our monthly State Legislature Report that ELFA was informed by the DBO that compliance with SB 1235 would not be required through 2019. The DBO follows a comprehensive set of requirements that include pre-text and post-text comment periods, and when complete, the formal text will be submitted to the Office of Administrative Law for their approval. The legislation will not become effective until the quarter following their approval.

ELFA estimates the effective date will not come before mid-2020 at the earliest. ELFA will alert membership when the effective date is confirmed and will work with the DBO to make sure time is allotted prior to any effective date for industry to put in place systems to assist compliance. ☰

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

By Anneliese DeDiemar

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

New Data-Driven Report Coming Soon

THE HIGHLY-ANTICIPATED 2019 Equipment Leasing & Finance Industry Horizon Report will be available in late October—for FREE—to help you in your strategic planning. In addition to summarizing key industry performance data, this year's version includes new Recession Monitor graphics and invaluable end-user survey results. It also places more emphasis on forward-looking economic and industry insights—including near-term and medium-term economic risks.

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By Fred Clough

Leading with Knowledge

ORGANIZATIONAL SUCCESS REQUIRES AN ACTIVE APPROACH TO SHARING KNOWLEDGE. But gaps can exist in companies between those who have knowledge and those who would benefit from more knowledge. Consider the equipment finance industry. We have industry veterans as well as a younger workforce. Is there a system in place at your company for veterans to share "hard-won experience" with others? The company that ignores this puts itself in severe jeopardy.

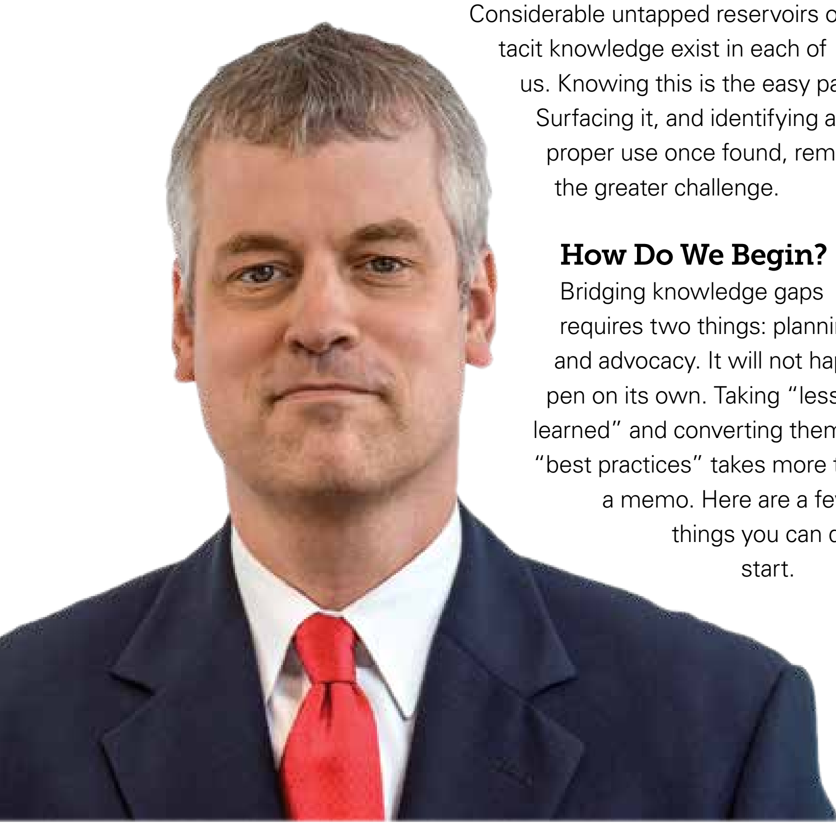
Two Classes of Knowledge

Two classes of knowledge exist: tacit and explicit. Tacit represents unwritten knowledge, including our emotions, experiences and intuition. Explicit knowledge is anything written down or expressed in a tangible form.

While knowledge is essentially "Information + Action," it's easier to consider it as a timeline that begins with raw data. Once filtered and evaluated, the data have the potential to become information. If the information is tied to a future action, it transforms into knowledge.

Who Has It?

Considerable untapped reservoirs of tacit knowledge exist in each of us. Knowing this is the easy part. Surfacing it, and identifying a proper use once found, remains the greater challenge.



How Do We Begin?

Bridging knowledge gaps requires two things: planning and advocacy. It will not happen on its own. Taking "lessons learned" and converting them to "best practices" takes more than a memo. Here are a few things you can do to start.

1. Success in anything begins at the personal level. Get smart about who has knowledge in your company and how it might be shared.
2. Succession planning, and not only at the executive level, is often overlooked. If quality talent can't see advancement opportunity, they may seek employment elsewhere. These situations can represent critical knowledge losses in any company. Don't ignore it.
3. Deloitte's "2018 Global Human Capital Trends" report advises: "[Have employees…] work with other teams. Remove or reduce boundary, function and silo thinking." This allows the development of a skill psychologist Howard Gardner calls "searchlight intelligence." This is a learned ability to scan an environment to find connections, even if none seem to exist. As leaders, it is up to us to create these workflow paths to the right resources. There is no better way to develop problem-solving, cognitive and social skills. By doing so, we equip individuals to better handle a world that's hard to predict.

Managing context, not content, is the future. This is an important distinction. We don't need more, but we need to do more with what we have. If you want to lead with knowledge, knowing isn't enough. The critical step of transforming information requires advocacy. It is not enough to understand and not communicate. Nor is it wise to communicate without understanding. Maintaining relevance today requires both.

Don't have the answers you want? Start by asking more questions. ☰

FRED CLOUGH is a Senior Vice President and Chief Credit Officer of Customers Commercial Finance, LLC, located in Portsmouth, New Hampshire.