

EQUIPMENT

# Leasing & Finance

NOVEMBER | DECEMBER 2021

THE MAGAZINE FOR INDUSTRY EXECUTIVES

Meet the New

# ELFA

## MEMBERS

Equipment Finance Puts the Kids to Work

Highlights from the 60th Annual Convention

Preparing for the Future of Equipment Finance



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Overland Park, KS 66210  
+1 402 493 3445

### UNITED KINGDOM EUROPEAN OFFICE

400 Thames Valley Park Drive  
Reading Berkshire RG6 1PT  
+44 118 965 3551

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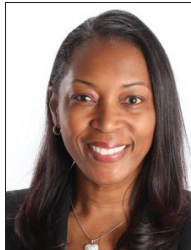
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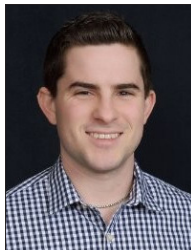
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PUBLISHING DIRECTOR Ralph Petta  
 MANAGING EDITOR Amy Vogt  
 DESIGN & WEB PRODUCER Sandra Winkler  
 DIGITAL PRODUCER Shirley Bryant  
 ADVERTISING Steve Wafalosky  
 stevew@larichadv.com  
 440-247-1060

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## Your Source for Data

It's the largest and most important source of information on the equipment finance industry.

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### MySEFA

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## Going the Extra Mile



**AT THE START OF 2021**, it was hard to predict what the year would bring. One big question at ELFA headquarters was whether the association would attract and retain member companies in the face of a worldwide pandemic.

As 2021 draws to a close, we're pleased to share that this has been a strong year for membership. A total of 53 companies joined the association and 91% of existing members renewed their memberships. During these unprecedented times, it's gratifying that so many companies are recognizing the ELFA value

proposition.

Our cover story, "Meet the New ELFA Members," introduces you to some of the newest members of our association community. Get to know this impressive group on p. 16 and don't miss "Eight Ideas to Maximize Your ELFA Membership"—you may discover a tip or two for getting the most out of your involvement with the association.

It was wonderful to see so many new and veteran members at our 60<sup>TH</sup> Annual Convention in San Antonio. See highlights on p. 30. Special congratulations to John Deane, who was inducted into the Equipment Finance Hall of Fame (see p. 8).

While 2021 was ELFA's 60th anniversary, a number of member companies celebrated milestone membership anniversaries this year. One company marking 45 years as an ELFA member, CIT Group, reflects on this achievement in "Financing Success" on p. 10. Mike Jones, President of Business Capital, says, "Overall, there's really no substitute for the resources that ELFA provides for the entire equipment finance industry and that explains why we've been a member for nearly half a century and expect to continue that relationship for many years to come." We thank CIT Group and all member companies for your incredible support and

participation over the years, especially throughout the pandemic.

As I said at the Annual Convention, our volunteer members have gone the extra mile to stay engaged and motivated—even when you couldn't get together in person—from participating on critical advocacy initiatives to serving on committees and working groups.

I'm especially proud of my colleagues on the ELFA staff for all they have accomplished over the past 19 months. They juggled personal and professional obligations and challenges as they worked fervently to re-tool the association's offerings.

Finally, I would like to recognize outgoing Chair Kris Snow, the Board of Directors and all of our member volunteers for a successful year. The ELFA team and I look forward to working with 2022 Chair Mike DiCecco and all of you in the year ahead. ☰

*Ralph*

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



Watch Ralph's President's Report from the ELFA Annual Convention at <http://apps.elfaonline.org/events/2021/ac/video.cfm>



**Michael DiCecco, 2022 ELFA Board Chair**

## 2022 Dues Renewal Season is Here!

**IT'S THAT TIME OF YEAR AGAIN** and the dues renewal campaign has begun. Renewal invoices for the 2022 membership year were **emailed** to the key contacts of all ELFA member companies on Nov. 15, 2021. Hard copy invoices will no longer be mailed. Timely payment of your 2022 membership dues will ensure uninterrupted access to indispensable benefits, such as federal and state advocacy updates, targeted industry research, discounted fees for ELFA events and much more. Please contact ELFA Membership at [membership@elfaonline.org](mailto:membership@elfaonline.org) if you have any questions. Thank you for your continued support!

### Key Dates to Remember...

**Nov. 15, 2021** – 2022 dues invoices **emailed** to Key Contacts

**Dec. 31, 2021** – Deadline to pay 2022 dues

**Throughout 2022** – Take advantage of ELFA's many benefits! Contact [membership@elfaonline.org](mailto:membership@elfaonline.org) to learn more about the resources available to all ELFA members.

## 2022 ELFA Leadership

**FOLLOWING THE 2021 ELECTION**, ELFA Officers and Directors for 2022 are as follows:

### OFFICERS

**Michael DiCecco**, Executive Managing Director of Huntington Asset Finance (*Chair*)

**Kristine A. Snow**, President, Cisco Systems Capital Corporation (*Immediate Past Chair*)

**Robert Neagle**, President and CEO of Finova Capital, LLC (*Chair-Elect*)

**Robert Boyer**, President, First Commonwealth Equipment Finance (*Vice Chair*)

**James Cress**, Vice President & General Manager, Stryker, Flex Financial (*Vice Chair*)

**Daniel Krajewski**, President & CEO, Sertant Capital, LLC (*Treasurer*)

**Ralph Petta**, ELFA (*President/CEO*)

**Paul Stilp**, ELFA (*Secretary*)

### DIRECTORS

**Deborah Baker**, Head of Worldwide Leasing and Financing, HP Inc.

**Jon Biorkman**, President, Healthcare Financial Services, GE Healthcare

**Kathleen Canum**, Vice President, Administration, Canon Financial Services, Inc.

**Maureen Carr**, Managing Director, Pacific Western Bank

**Debra Devassy Babu**, Shareholder, Darcy & Devassy PC

**Mark Duncan**, EVP and Chief Operating Officer, Mitsubishi HC Capital America

**David Farrell**, Managing Director - Head of Capital Markets, Bank of America Global Leasing

**Nathan Gibbons**, COO, QuickFi by Innovation Finance USA LLC

**R.J. Grimshaw**, President & CEO, UniFi Equipment Finance

**Amy Gross**, EVP, Key Government Finance, Key Equipment Finance

**Eric Gross**, Chief Operating Officer, Dext Capital

**Kirk Phillips**, President & CEO, Wintrust Commercial Finance

**Ricardo A. Rios**, President & CEO, Commercial Equipment Finance, Inc.

**Barry Ripes**, SVP, Financial Services Leader, Equifax

**Michael Romanowski**, President, Farm Credit Leasing

**Thomas Rutherford**, President, Crestmark Equipment Finance, a division of MetaBank

**David Verkinderen**, SVP, Office Equipment & Manufacturing Vendor Services, U.S. Bank Equipment Finance

**Robert Wax**, Co-President, Kingsbury Wax Bova, LLC

**Bruce Winter**, President, FSG Capital, Inc.





The ELFA staff paused for a photo at association headquarters in Washington, DC in September.

## Webinar Highlights State Financial Disclosure

**ELFA WILL HOST** an important member-wide State Disclosure Webinar to review California and New York disclosure requirements and strategies for compliance on Wednesday, Dec. 15 at 1pm EST. See details and register at [www.elfaonline.org/events](http://www.elfaonline.org/events).

## Save the Date: 2022 ELFA Events



**TAKE ADVANTAGE** of a wealth of learning and networking opportunities available to you and your staff as part of your ELFA membership. See the 2022 Event Calendar in this magazine and visit [www.elfaonline.org/events](http://www.elfaonline.org/events).



## Women's Council Plans Ahead

**THE ELFA WOMEN'S COUNCIL** held a strategic planning meeting in San Antonio following the Annual Convention. Attendees discussed a robust set of initiatives for the year ahead. Save the date: The 2022 Women's Leadership Forum will take place in-person on April 11-12 in Chicago.

## Deane Enters Hall of Fame

**ELFA HAS NAMED JOHN DEANE** to the 2021 Class of the Equipment Finance Hall of Fame. Deane was recognized as an industry icon who established multiple equipment finance companies and co-founded The Alta Group, and as a leader in training, education, and establishing industry standards. He accepted the honor at an induction ceremony on Oct. 23 at the Chairman’s Dinner preceding the 60th ELFA Annual Convention in San Antonio. “We congratulate John for being inducted to the 2021 Class of the Equipment Finance Hall of Fame,” said ELFA President and CEO Ralph Petta. “Over the past five decades, John has played an outsized role in development and success our industry as a distinguished leader, educator and advisor.”



## Holiday Mobile App Challenge!

**DO YOU HAVE A FAVORITE HOLIDAY FOOD OR RECIPE?** Post it in the Engage Wall within the ELFA Engage Mobile App for your chance to win! Post a picture and share your favorite holiday food or recipe between Nov. 1 through Dec. 15 to be entered to win a \$25 Amazon Prime gift card and ELFA Swag! #ELFAMugClub

## Ask a Leader

**“EVERY TIME I’VE EXPERIENCED SOMETHING AMAZING IN MY CAREER,** it’s tied to facing my fears and leaping into something new and uncertain,” says Deb Reuben of TomorrowZone in the latest “Ask a Leader” interview from the Emerging Talent Advisory Council. Find out why this innovator advises you to take ownership of everything in your career and stop waiting for someone else’s permission. Read all the “Ask a Leader” interviews on ELFA’s Emerging Talent page at <https://www.elfaonline.org/industry-topics/emerging-talent>.



## Fall Special: Save 25% in the ELFA Career Center

**ARE YOU LOOKING** for top-quality candidates to join your organization? The secret to running a successful company is hiring great people. Set up your organization for success by posting your job openings in the ELFA Career Center, the equipment finance industry’s premiere online employment resource at <http://careers.elfaonline.org>. Special Offer: Employers save 25% using promo code **Fall2021** when you purchase your 30- or 60-day listing. Questions? Call 888-491-8833 x1814.



## Membership Minute

Upload the ELFA Member logo to your company website and show your support of the industry and the association.



simplify lending with  
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quote | apply | document | notify | OCR | integrate



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# Financing Success

On ELFA's 60th anniversary, a 45-year ELFA member company reflects on the past and looks to the future

**THE YEAR 2021 MARKS ELFA'S 60TH ANNIVERSARY.** We're celebrating by taking a look back as well as forward, imagining what the future will hold. In this issue we talk to Mike Jones, President, Business Capital, CIT Group, which is celebrating 45 years as a member of ELFA. See the other Q&As in this series at [www.elfaonline.org/milestone-interviews](http://www.elfaonline.org/milestone-interviews).

1961



Mike Jones



**Q** 2021 marks CIT's 45th year as an ELFA member. To what do you attribute the company's longevity in the marketplace?

**A** Since its founding more than a century ago, CIT has primarily been a commercial lender to the business community. Understanding and responding to the needs of small and mid-sized businesses is part of our DNA. This unrelenting focus has given us deep industry knowledge across a wide range of business verticals that many other banks and finance companies simply cannot match. In addition, we have developed strong and mutually beneficial relationships with key vendors and dealers that stretch over many decades. We've watched their businesses grow and have taken pride in playing our role to help finance that success. Together, this expertise and these relationships empower us to see trends coming and

empower us with the agility to respond quickly, which helps give our clients a competitive edge. They appreciate and value that market understanding and it deepens our relationships even further.

**Q** Why is it important for your company to be a member of ELFA?

**A** ELFA is a tremendous resource for us when it comes to marketplace insight and also for awareness and support on legislation affecting the equipment leasing and finance industry. Individual members are typically focused on running their own businesses to support their clients. ELFA does an excellent job of flagging trends and serving as an advocate for the industry as a whole. In addition, ELFA is extremely helpful in our ongoing efforts to educate our workforce and develop talent. Our employees regularly attend ELFA conferences and seminars and participate in discussions on equipment finance industry topics of interest. ELFA's initiatives to promote career development for women, diverse talent and young talent have been especially effective and appreciated. And during this pandemic, ELFA's forums have provided a vehicle for many employees working from home to engage with colleagues and peers. Overall, there's really no substitute for the resources that ELFA provides for the entire equipment finance industry and that explains why we've been a member for nearly half a century and expect to continue that relationship for many years to come.

**Q** The equipment finance industry is evolving. What are some ways you've seen the industry evolve over the course of your career? In what ways would you like to see or do you expect to see the industry evolve by ELFA's 100th anniversary in 2061?

**A** The most significant change in equipment finance that I've witnessed over my career is the ongoing drive towards digitization. We were once an industry that relied almost entirely on paper forms and manual processes. That has been changing for years and by now, I'm certain we are on a path to one day becoming entirely paperless as we explore new ways to work more efficiently and to serve customers more quickly and effectively.

The industry's continuing digitization also promises to deliver important insights that will drive industry change over the long term. By leveraging intelligence that comes from analyzing many thousands—or even millions—of transactions, we'll be able to better understand what works and what doesn't in individual markets and for specific industries. Instead of using year-old data, we'll be able to watch what's unfolding in real-time. That will empower us to better understand how the market is evolving and make faster decisions to adjust in ways that will ultimately benefit our customers. ☰

**The most significant change in equipment finance that I've witnessed over my career is the ongoing drive towards digitization."**

## 2021 Membership Milestones

ELFA is pleased to announce the companies that are celebrating ELFA membership milestone anniversaries this year. We thank all companies for your membership, and we are pleased to recognize those that have been members of ELFA for 20, 25, 30, 40 and 45 years! See the full list at [www.elfaonline.org/milestones](http://www.elfaonline.org/milestones).

2021



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## Councils Take Shape for 2022

**ELFA IS PLEASED TO PRESENT** the following Business Council Steering Committee rosters for 2022. The BCSCs play an important role representing your interests to the Board of Directors. The asterisks indicate members who were newly elected or re-elected in the September 2021 elections. ☰

### BANK BCSC

**Sean Svoboda**, Farm Credit Leasing (*Committee Chair*)

**Eric Bunnell**, Arvest Equipment Finance\*

**Maureen Carr**, Pacific Western Bank (*Board Liaison*)

**Mark Farlin**, LEAF Commercial Capital\*

**Adam Fay**, First American Equipment Finance, an RBC / City National Company\*

**Thomas Forbes**, Wintrust Commercial Finance\*

**Kris Foster**, Pinnacle Financial Partners\*

**Craig George**, Truist Equipment Finance Corp.

**Amy Gestal**, Huntington Technology Finance

**Bryan Grantham**, Regions Equipment Finance\*

**Matthew Hand**, U.S. Bank Equipment Finance\*

**Dale Kluga**, Providence Equipment Finance, A Division of Providence Bank & Trust

**Svetlana Kralik**, U.S. Bank Equipment Finance (*ETAC Liaison*)

**Dennis Magarro**, Peapack Capital Corporation\*

**Martha McGuire**, First Bank Chicago, a Division of First Bank of Highland Park

**Jill McKean-Bilby**, BOK Financial Equipment Finance, Inc.

**Theresa Provencher**, Bank of America Global Leasing\*

**Jourdan Saegusa**, Midland Equipment Finance, a division of Midland States Bank\*

**Robert Seltzer**, BciCapital, Inc. (BciC)

**Marci Slagle**, BankFinancial, NA

**Stan Walker**, Citizens Asset Finance

**Ken Walters**, Investors Bank Equipment Finance

ELFA STAFF LIAISON: Julie Benson, [jbenson@elfaonline.org](mailto:jbenson@elfaonline.org)

### CAPTIVE AND VENDOR FINANCE BCSC

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**Mark Bainbridge**, Caterpillar Financial Services Corporation\*

**Joe Banister**, LEAF Commercial Capital Inc.\*

**Jon Biorkman**, Healthcare Financial Services, GE Healthcare (*Board Liaison*)

**Brian Bower**, Bank of America Global Leasing\*

**Garland Brooks**, Dell Financial Services (*ETAC Liaison*)

**Todd Clegg**, TCF Capital Solutions, a division of TCF National Bank\*

**Mike Elmasry**, IBM Global Financing

**Dan Hathcoat**, Summit Funding Group, Inc.\*

**Xiang Ji**, Toyota Industries Commercial Finance, Inc.\*

**Christopher Johnson**, Pitney Bowes Global Financial Services

**Sherrie Kalajian**, Presidio Technology Capital LLC

**Mark Lombardi**, GE Healthcare Financial Services\*

**Brian Lowe**, Verdant Commercial Capital LLC

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**Chris Meeks**, OnPoint Capital, LLC

**Kara Miyasato**, Stryker Flex Financial

**Vince Mollica**, CIT

**Dan Nuss**, US Bank Equipment Finance\*

**Sara Palmer**, Key Equipment Finance

**Larry Scherzer**, Cisco Systems Capital Corporation

**Eileen Schoonmaker**, DLL\*

**Justin Tabone**, TIAA Commercial Finance, Inc.

**Greg Vandewalker**, GreatAmerica Financial Services

**Dan Willems Van Dijk**, CNH Industrial Capital

ELFA STAFF LIAISON: Bill Choi, [bchoi@elfaonline.org](mailto:bchoi@elfaonline.org)

## INDEPENDENT BCSC

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**Hollis Bufferd**, Star Hill Financial LLC\*  
**Deborah Cole**, Gaelic Leasing Inc\*  
**Roman Gajda**, ENGS Commercial Finance Co.\*  
**Autumn Heseltine**, Insight Investments, LLC  
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**Chris Pagano**, Mitsubishi HC Capital America\*  
**Jennifer Sablowski**, LeasePlan USA  
**Mark Scardigli**, Marlin Capital Solutions  
**Howard Shiebler**, Crossroads Equipment Lease & Finance LLC\*  
**Harrison Smith**, Stonebriar Commercial Finance (*ETAC Liaison*)  
**Bruce Winter**, FSG Capital, Inc. (*Board Liaison*)  
ELFA STAFF LIAISON: Amy Vogt, [avogt@elfaonline.org](mailto:avogt@elfaonline.org)

## SERVICE PROVIDER BCSC

---

**Jon Gerson**, Executive Solutions for Leasing and Finance, Inc. (*Committee Chair*)  
**Tara Aasand**, LTi Technology Solutions  
**Todd Anderson**, CSC  
**Jeffery Bilbrey**, Leasepath  
**Susan Carol**, Susan Carol Creative\*  
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**Kelly DeCarteret**, DeCarteret Transport, LLC

**Joe Franco**, CLFP, FIS\*  
**Julia Gavrillov**, Moritt Hock & Hamroff LLP\*  
**Sean McKenna**, Great American Insurance Group (*ETAC Liaison*)  
**Barry Ripes**, Equifax Company (*Board Liaison*)  
**Cody Sanguinetti**, CLFP, Great American Insurance Group\*  
**Douglas Williams**, JDR Solutions, Inc.  
ELFA STAFF LIAISON: Chelsea Neil, [cneil@elfaonline.org](mailto:cneil@elfaonline.org)

## SMALL TICKET BCSC

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**Brad Peterson**, Channel (*Committee Chair*)  
**Robert Ceribelli**, DLL  
**Mike Coon**, Hanmi Bank  
**Nicholas Gibbens**, CLFP, Wintrust Specialty Finance\*  
**Brent Hall**, CLFP Alliance Funding Group  
**Stephanie Hall**, BankFinancial, NA\*  
**Richard Irwin**, Marlin Capital Solutions  
**Chris Lerma**, CLFP, AP Equipment Financing

**Brient Mills**, JB&B Capital, LLC\*  
**Robert Neagle**, Finova Capital, LLC (*Board Liaison*)  
**Kayla Perlinger**, Oakmont Capital Services\*  
**Ryan Schlenner**, U. S. Bank Equipment Finance  
**Allen Snelling**, Financial Pacific Leasing, Inc., an Umpqua Bank Company  
**Todd Wainwright**, Amur Equipment Finance\*  
ELFA STAFF LIAISON: Ed Rosen, [erosen@elfaonline.org](mailto:erosen@elfaonline.org)



**Outgoing Bank BCSC Chair Ernie Tsorvas accepted the 2021 Advocacy Champions Award on behalf of his committee, as Chelsea Neil and Ralph Petta looked on.**

## PAST DUE

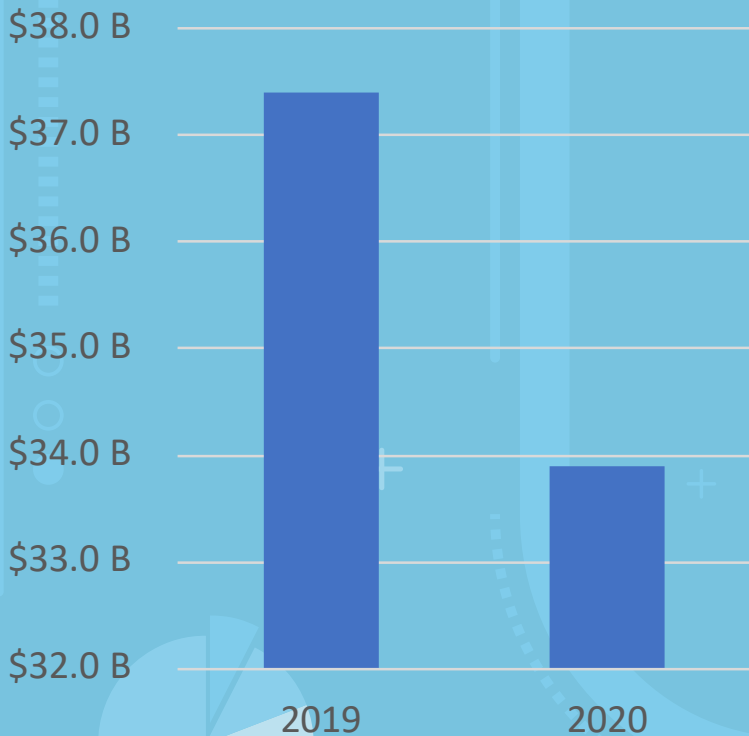
According to the 2021 SEFA Interactive Dashboard, delinquencies increased by 25% in 2020 due to pandemic related issues. The spike was short-lived as companies were able to manage the issue.

Source: <https://www.elfaonline.org/InteractiveSEFA>

# 27.4%

That's how much tax-oriented leases were down in 2020.

New Business Volume:  
Tax Oriented Leases

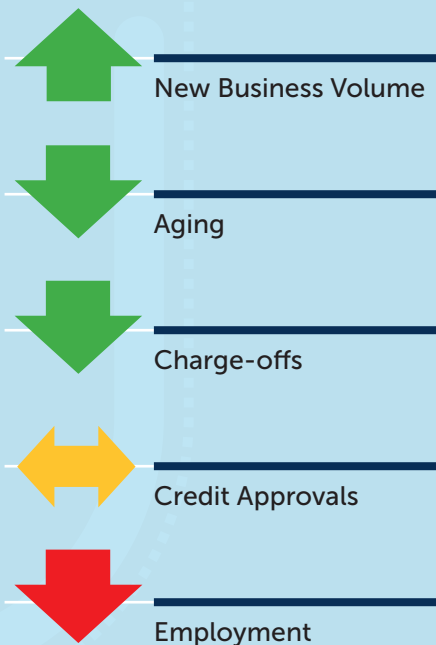


## MLFI

Monthly Leasing and Finance Index Products

### September MLFI Year-Over-Year

See details at [www.elfaonline.org/data/MLFI](http://www.elfaonline.org/data/MLFI)



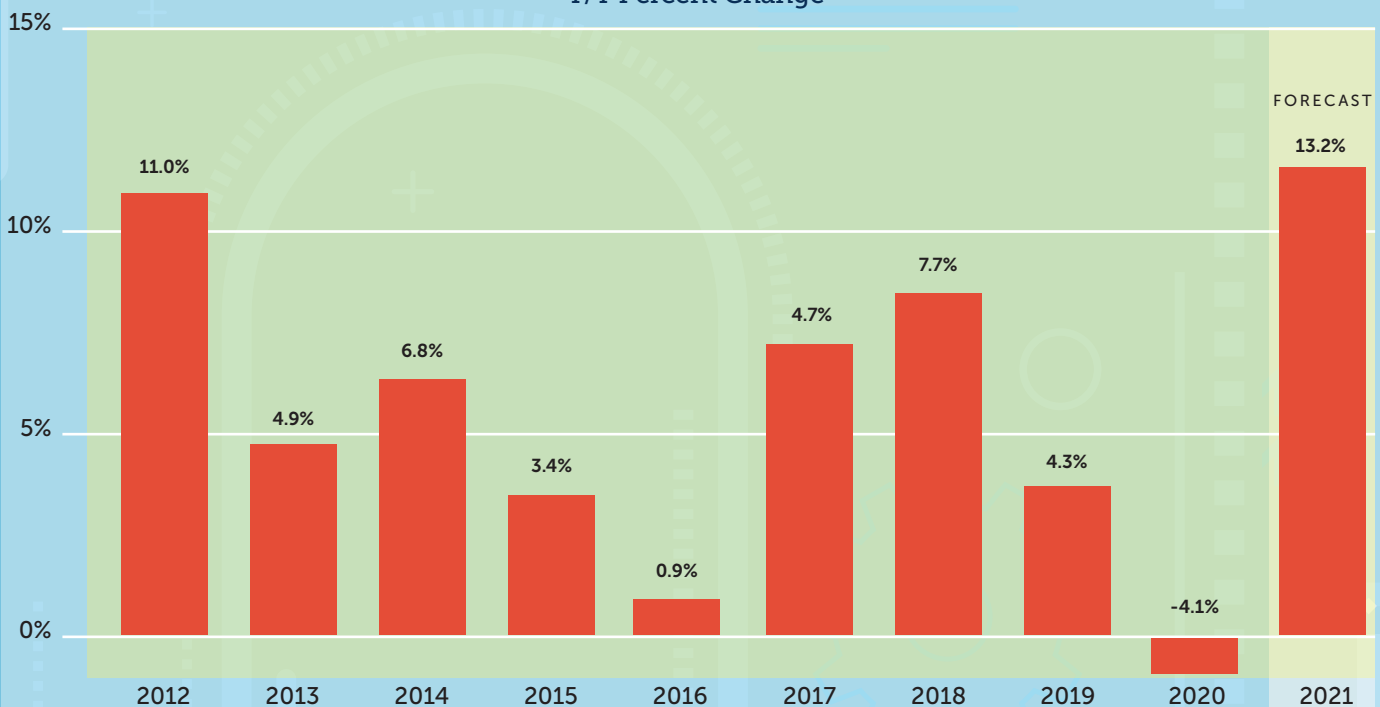


## GDP on the Rise

Annual U.S. GDP growth for 2021 is forecast at 5.3%, according to the Foundation's Q4 Economic Outlook. Annual equipment and software investment growth is forecast at 13.2%, owing largely to the burst of business activity in the spring and early summer, thanks to rising vaccination rates.

Source: <https://www.leasefoundation.org/industry-resources/u-s-economic-outlook/>

U.S. Equipment and Software Investment Growth  
Y/Y Percent Change



Source: [Equipment Leasing & Finance U.S. Economic Outlook](#)

## 4 Verticals Expanding

In November 2021, 4 of the industry's verticals expanded, with 8 peaking or slowing. The best performing verticals in November were Oil & Gas, Trucks and Materials Handling Equipment.

Source: Foundation-Keybridge Equipment & Software Investment Momentum Monitor  
<https://www.leasefoundation.org/industry-resources/momentum-monitor/>



Me  
ELF



# et the New A Members

## Deep specialties distinguish new ELFA members

**NEVER AN ASSOCIATION TO STAND IDLY BY** as markets, economies and, indeed, the entire world changes, ELFA is proud to welcome the 53 companies who became members in 2021. Profiled below are five new-member firms representing the agility and expertise of this venerable group as a whole. Take a look and get to know your new colleagues and the products and services they offer.

By Susan L. Hodges



### **Yamaha Motor Finance Corp., USA Cypress, California**

Established in 1993 as a department of the financial services group of Yamaha Motor Corp. USA, Yamaha Motor Finance Corp. USA got its start leasing fleets of golf carts, or “cars,” as they are known at Yamaha.

“At that time, it was challenging to find banks that would finance these assets, so to assist our customers and our Yamaha golf-car product sales group, we launched our own in-house leasing program,” says Gale Tarver, Group Manager, Commercial Leasing & Finance. “As our portfolio grew each year, the business also expanded so that over time, it became a vibrant and important part of our company’s business.”

Golf-car fleets continue as the company’s primary asset for leasing today, and Tarver says Yamaha Motor Finance Corp. is the only captive finance company for fleet golf cars competing in the market. “We’re also looking to expand into other Yamaha products that have commercial



Gale Tarver

applications, and we’re testing the waters on this,” she adds. The company already supports the entire wholesale floor line of Yamaha products in the U.S., providing dealer financing for motorcycles, boats, WaveRunners and a variety of ATV and side-by-side models.

Although the pandemic brought challenges, Tarver says it also spawned opportunity. “We struggled like so many other equipment-finance companies, but because golf is an outdoor sport, most courses opened fairly early in 2020, and many needed more cars to accommodate golfers who were playing solo,” she explains. And because families increased their outdoor activity to fill the void created by disruptions in summer camp, cruises and other travel, demand for Yamaha’s diverse line of products spiked and continues to run high. Says Tarver, “We were proud to be able to fill that void, and doing so has brought us not only new customers, but a great fit with our corporate goal of being a leader in creating lifetimes of exciting and memorable experiences.”

Yamaha Motor Finance joined ELFA to enhance its monitoring of and participation in the equipment finance industry. “We want to stay abreast of relevant changes in legislation, taxes and

## NEW MEMBERS

accounting, and we also desired a way to network with colleagues," Tarver says. "Our research showed that ELFA stands out as a good avenue for achieving all of these objectives."

### **SANY Capital USA, Inc.** **Atlanta, Georgia**

In business since 2011, SANY Capital USA, Inc. restructured in 2018 to focus exclusively on providing captive finance support to SANY America, Inc. and SANY's North American dealers. SANY America, Inc. is a Chinese-owned import, manufacturing and distribution arm of SANY Global, the fourth-largest equipment manufacturer in the world. SANY America makes construction and material-handling equipment, including excavators, container-reach stackers and empty-container handlers. "Eighty percent of what we finance is excavators," says Dean Waters, President. "Just about every construction company has or uses at least one of these, and SANY Global is the largest manufacturer of these machines in the world."

The remainder of SANY Capital's business is currently divided between compaction rollers for telehandlers, front-end loaders and heavy forklifts. But the company will also begin financing crawler cranes, rough-terrain cranes and telescopic cranes in the first quarter of 2022. "We finance our 48 dealers across the continental U.S. and Alaska, and also support our dealers in Canada," says Waters. "In addition, we manage a growing group of financial partners who provide retail finance to our dealers' customers while SANY Capital focuses on providing wholesale finance to our dealers and direct accounts."

Likely unique about SANY Capital USA is its status as a completely virtual captive finance company. "All of our systems are cloud-based. We've taken off-the-shelf products from best-in-class, software-as-a-service companies and connected them to form an extremely efficient means of doing business," Waters explains. "We've also connected our system to SANY America, since theirs is the only equipment we finance, and their system pushes to us the machines we finance."

In 2020, SANY Capital USA did over \$100 million in new business volume with just four employees. "We're now a team of seven—four women and three



**Dean Waters**

men—and among us, we speak three languages and are from four countries," says Waters. He adds, "We're proud to be as diverse as we are efficient, and we're delighted to be part of ELFA."

### **Clarus Capital** **Boston, Massachusetts**

A de novo independent that began operations this past August, Clarus Capital provides capital solutions to finance tangible assets for non-investment-grade middle-market and large corporate borrowers. The company originates transactions to be held on its balance sheet using long-term committed capital from BharCap, a private investment firm investing in businesses across the financial services industry.

Steve O'Leary, CEO, says Clarus Capital's ability to underwrite leveraged credits is "a niche carved out by our management team over the past 10 years, and one we want to carry forward." Clarus executives previously worked together at NewStar Financial, a publicly-traded, middle-market direct-loan originator. "Steve built a very successful equipment-finance business for us at Newstar, which we later sold to a bank," explains Tim Conway, Clarus Chairman and Co-Founder. "When Steve and I saw the opportunity to re-establish the same platform in a non-regulated environment, we capitalized on it. We believe the market will be well served by a new, non-bank participant that is focused on non-investment grade credit."

Chris Swanton, Managing Director and Head of Capital Markets, says Clarus is a generalist with a wide range of target industries and preferred equipment. "We can finance construction, Jones-Act marine, and material handling equipment, but we're also willing to finance IT, medical equipment and other softer assets," he observes, adding, "We're able to fund and hold larger transactions, up to \$30 million for the right credit."

Swanton says Clarus senior management pre-screens any opportunity and then decides whether to offer a firm proposal. "The decision-makers look at the credit as well as the equipment and how it's being used to decide on a deal structure," he notes. "We try to move quickly but still give our customers and partners a proposal they can rely on."

O'Leary, Conway and Swanton believe the



**Steve O'Leary**

combination of skills, expertise and mission make Clarus Capital unique. "Our expertise lies in our people, who've underwritten leveraged credits and have solid experience on the equipment-finance side," says O'Leary. "The team has an extensive background in equipment leasing and an outstanding track record.," adds Conway. "We'll be working with longstanding clients as well as new ones to provide competitive financing solutions. We're already closing transactions,

and our pipeline is building steadily."

The company joined ELFA for the opportunity to create and renew relationships, to network with industry colleagues, and to participate in association conferences. "I've been involved with ELFA since the early 1990's, and Chris has been involved even longer," says O'Leary. "Membership is a wonderful way for us to keep up with industry issues and work with our colleagues to move forward."



### **Kudos to the ELFA Membership Committee!**

In 2021, the Membership Committee worked closely with the ELFA Membership Department to assist in the association's recruitment and retention initiatives. With the committee's assistance, ELFA met and exceeded its membership goals for the year. Many thanks to the 2021 committee for their dedication and participation:

Amy Gross, Key Equipment Finance (*Committee Chair*)  
Jonathan Albin, Nexseer Capital  
Julie Benson, ELFA  
Brett Boehm, TBF Financial, LLC  
Donna Christensen, CSC  
Mike Coon, Hanmi Bank  
Kelly DeCarteret, DeCarteret Transport, LLC  
Mark Farlin, LEAF Commercial Capital Inc.  
Tom Forbes, Wintrust Commercial Finance

Dominic Janney, Canon Financial Services, Inc.  
Martin Klotzman, CLFP, Ivory Consulting Corp.  
Chris Lerma, CLFP, AP Equipment Financing  
Rick Matte, Encina Equipment Finance, LLC  
Thomas Pericak, Hancock Whitney Equipment Finance, LLC  
Marci Slagle, CLFP, BankFinancial, NA  
Andrea Tzamaras, ELFA  
Jeff Walker, Bank of America Global Leasing

*Do you know of a company that would benefit from ELFA membership? Please email your recommendation to Julie Benson, VP of Membership Marketing, at [jbenson@elfaonline.org](mailto:jbenson@elfaonline.org).*

**Bank OZK  
Little Rock, Arkansas**

Bank OZK has a long history of financing equipment at varying levels, from small-ticket to traditional solutions offered through its commercial banking group.

Formerly Bank of the Ozarks, the new ELFA member is now launching an initiative that will focus on the middle market. Jim Lyons, Managing Director, Equipment Finance & Capital Solutions Group, says the programs represent new asset classes for the bank and will provide a full array of products dedicated to equipment-oriented collateral, including equipment finance and lease structures.

“We’ll also provide lender-finance and structured-finance loan facilities, providing leverage and capital to non-bank lenders, funds and other industries with large capital-intensive requirements,” says Lyons. With more than \$26 billion in assets, Bank OZK aims to be “the perfect solution as a financial partner in these specialty lending markets, much as we are in the specialty commercial real-estate space,” he adds.



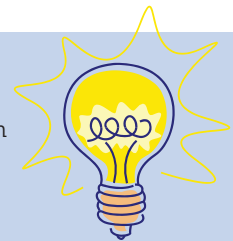
Jim Lyons

The new initiative will have average exposures in the \$5-million to \$25-million range, with higher individual exposures as the portfolio grows. Lyons says the programs will complement other existing loan verticals, which include aviation financing, community banking, commercial real estate, commercial and industrial, RV and marine, corporate loan specialties and SBA loan programs. “We have a tremendous opportunity to partner with many new customers, procuring deep and broad relationships,” Lyons says. “Our financial strength and size allow us to provide larger-scale financial solutions than many competitors in the industry.”

Bank OZK joined ELFA for the access, representation and communication opportunities it affords. “I’ve been part of ELFA since the late ‘90s, and I’m pleased to be involved once more in association with Bank OZK,” says Lyons. He adds, “We look forward to having access to important industry resources and metrics, accounting updates, legal and tax guidance, and advocacy representation—all of which are crucial for developing a new line of business in a highly regulated environment.”

**Eight Ways to Maximize Your ELFA Membership**

1. If your company is an ELFA member, you may **create a member profile** from the ELFA website and gain access to valuable, members-only resources.
2. Regular members may participate in the **Survey of Equipment Finance Activity (SEFA)** and receive a **free** copy.
3. Subscribe to the **Washington Report**, a monthly newsletter that keeps members up-to-date on ELFA’s advocacy efforts before federal policymakers, regulators and standard-setting bodies.
4. Access the **State Tax Manual**, an easily navigated reference guide designed to aid equipment finance companies in tax compliance and planning. This members-only resource provides a comprehensive state-by-state analysis of sales and property taxes.
5. Help drive the association’s mission and volunteer on an **ELFA committee**.
6. Access high-quality, interactive training and resources such as the *Equipment Finance Transaction Lifecycle* through **ELFA Academy**.
7. Subscribe to the members-only, online discussion groups: **LeaseTalk**, **AcctgTalk**, **LegalTalk**, and **TaxTalk** to stay connected and exchange information with your peers.
8. Take advantage of ELFA’s online and interactive tools including our **Wednesday Webinars series**, the **ELFA Engage Mobile App** and the **Equipment Finance Matters Podcast**.



*Do you have any questions regarding the benefits of ELFA membership? Please contact the Membership Department at [membership@elfaonline.org](mailto:membership@elfaonline.org).*

## Greenberg Traurig, LLP Washington, D.C.

Greenberg Traurig, or “GT,” as the firm is known, was founded in 1967 when a group of Miami attorneys came together to establish a New York-style business-law firm in South Florida. Serving everyone from entrepreneurs to Fortune 50 companies with large legal departments, GT today employs 2,300 lawyers in 40 locations across the U.S., Europe, South America and the Middle East. The company is ranked #14 in the Am Law 100 by gross revenue and is in the top 20 of the 2021 Global 200.

“We have several practice groups that support clients in all phases of equipment finance, including corporate, bankruptcy and financial services, litigation, government contracts, restructurings, transportation and automotive,” says Shomari Wade, Shareholder. The firm regularly represents large equipment financiers in borrower workouts, bankruptcies and restructurings, and helping clients find the best solutions in distress situations. This work includes both domestic and cross-border restructurings.

Wade, a specialist in government contracts, says his practice group serves banks and other financial institutions in structuring and negotiating leases with the federal government. “As companies navigate the unique risks of leasing to this market, we advise them under the Assignment of Claims Act and Federal Acquisition Rules,” he explains. The firm also litigates to pursue claims and settlements before the U.S. Court of Federal Claims, the Armed Services Board of Contract Appeals, the Civilian Board of Contract Appeals, and the U.S. Court of Appeals for the Federal Circuit.

Wade says GT is thrilled to join ELFA. “We recognize it as the preeminent organization for companies involved in the equipment finance sector, and we want to provide value and insight that best serves our clients who are involved in this space,” he says. Having been involved with ELFA at his previous firm, Shomari says he’s “excited at the firm’s membership, which will further allow us to stay on top of key developments in the industry and to be engaged.”

In tune with ELFA’s own diversity and inclusion initiatives, GT is proud to have recently achieved certification under The Diversity Lab’s Mansfield Rule



Shomari Wade

## 2021 Membership Milestones

### Celebrating 45 Years

CIT

Healthcare Financial Services, GE Healthcare

### Celebrating 40 Years

Caterpillar Financial Services Corporation

### Celebrating 35 Years

LeasePlan USA

Sasser Family Companies

### Celebrating 30 Years

Commerce Bank

LTi Technology Solutions

Med One Capital

Merchants Bank Equipment Finance

Mizuho Bank (USA)

Sentry Financial Corporation

SMBC Leasing And Finance, Inc.

Tokyo Century (USA) Inc.

Vedder Price P.C.

Vision Financial Group, Inc.

### Celebrating 25 Years

CCA Financial, LLC

Cisco Systems Capital Corporation

Cohn & Dussi, LLC

Credential Leasing Corporation

Dean Machinery International, Inc.

First American Equipment Finance, an RBC / City National Company

Group Financial Services

Integrated Financial Solutions, Inc.

Kingsbury Wax Bova, LLC

Linedata Lending and Leasing

People’s Capital and Leasing Corp.

SCG Capital Corporation

Trans Lease, Inc.

United Leasing & Finance

### Celebrating 20 Years

Bank of the West

First Bank Chicago, a division of First Bank of Highland Park

Frost Equipment Leasing and Finance

Huntington Equipment Finance

Jennings Haug Cunningham

Leasing Solutions LLC

Nexseer Capital

Susan Carol Creative

TEQlease Capital

TrinityRail Leasing & Management Services

## NEW MEMBERS

4.0-Plus. Certification indicates that a law firm considers at a minimum 30% women, attorneys of color, LGBTQ+ lawyers and those with disabilities for leadership and governance roles, partner promotions and formal client-pitch opportunities. "Complacency has never been our speed," says Wade. "We take pride in our roots as a small Florida law firm, and we continue to place a priority on diversity in our fields, our clients and ourselves." ☰

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



## 2021 New Members

- Asset Intelligence Group Inc.
- Associated Bank
- AZR Diversified LLC
- Bank OZK
- Beacon Business Bank, NA.
- CFBank National Association
- Clarus Capital
- ClickLease LLC
- Commercial Funding Partners, LLC
- DCR Technologies
- Dedicated Commercial Recovery, Inc.
- Dedicated Funding LLC
- DEKRA Services, Inc
- Delta Financial
- EDA by Randall-Reilly
- EFFI Finance, Inc.
- El Dorado Commercial Finance LLC
- Equipment Finance Group – Summit Bank
- FGI Equipment Finance LLC
- Finova Capital, LLC
- FinWise Bank
- First Commonwealth Equipment Finance
- Fleetway Capital Corporation
- Gordon Brothers Commercial & Industrial, LLC
- Greenberg Traurig, LLP
- Honour Capital LLC
- Karatzas Marine Advisors & Co
- Killgore, Pearlman, Semanie, Denius & Squires, P.A.
- Kin Analytics
- Lippes Mathias, LLP
- Offit Kurman PC
- On Your Six Capital LLC
- Pinnacle Financial Partners, Inc.
- QInvest LLC
- RentCo Africa Limited
- Republic Bank of Chicago
- Saint Louis Bank
- Sany Capital USA, Inc.
- SCJ Commercial Financial Services
- Sheppard Mullin Richter & Hampton LLC
- Simmons Bank
- Stuart-Lippman and Associates Inc.
- Swickard Shared Services
- Syndifi Inc.
- Teladvance LLC
- TFG Financial Corporation
- Trinity Capital LLC
- Trucklenders USA
- Trustmark National Bank
- V3 Distribution
- VersaBank
- Xerox Financial Services
- Yamaha Motor Finance Corp., U.S.A.





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# Equipment Finance Puts the Kids to Work

A new generation of equipment finance professionals had early family influencers. They didn't know they were preparing for a place in the industry.

By Susan Carol

**NO ONE AS A KID SAYS,** "I want to work in the equipment finance industry when I grow up." But passing conversations and casual observations of parents doing work at home germinate and today there are many family connections throughout the industry. Members of the next generation are following in their parents' footsteps and introducing new technology and new, efficient ways to communicate. Among the new entrants and rising leaders are young professionals working side by side with parents. Most unexpectedly landed in the same industry as their dads or moms. Based on interviews for this story, the parents didn't groom them for equipment finance careers, at least not intentionally. Some of the children were going to be engineers, fire fighters or healthcare professionals.

### A passion for the industry

Picture Jeff Berg as a child in his New Jersey home stuffing invoice envelopes for his dad, the late Ian Berg, who started COPELCO, an entrepreneurial small-ticket leasing business, in the basement of the Berg family home in the early '70s.

"There was never a master plan to follow in my father's footsteps," says Jeff, who later worked at the company his father founded. "By the time I joined COPELCO, it was a big corporation. Everyone was fantastic, but I felt I had to work twice as hard."

Jeff says he and his dad didn't talk business at home. "My father always recused himself on anything that I was working on but was always available if I ever needed to talk things through."

Working at COPELCO enabled Jeff to experience a variety of positions; its culture gave people a wide berth, and this helped to prepare Jeff for the expansive career he enjoys now. Today Jeff is President of DLL's Advanced Solutions, a global business unit that is responsible for developing new channels and products for DLL and its partners. "We are doing things that are new to DLL, and in some cases, to the industry, all focused on driving innovation and creating new, long-term value for DLL," says Jeff.

When asked what his father would say about his career, Jeff thinks he would be impressed with the people and teams Jeff has surrounded himself with. "His sense of decency and respect for every person that worked with him were second to none," adds Jeff. "I carry that with me along with his passion for the industry. He'd be thrilled to see all the experiences I have had over the years in this niche industry." Ian

loved to travel and Jeff says that one of his business trips on behalf of DLL took him around the world.

"That would have blown my dad's mind!"

Ian Berg is an industry icon, a member of ELFA's Equipment Finance Hall of Fame and one of the early industry pioneers who introduced credit scoring in small-ticket leasing and the concept of cost-per-usage lease products. These ideas had a significant impact on the evolution and growth of business opportunities for lessors following his lead.

Jeff says his dad was more of an entrepreneur than he and certainly left some "pretty big shoes to fill," but Jeff says that his father would not expect him to "fill his shoes." Instead, he says, "My dad would say, 'Find something that you love to do, do it, and have fun along the way.'"



Jeff and Ian Berg



Brett, Bob and Adam Boehm

### Treating everyone with respect

Brett Boehm watched his dad Bob, a Chicago lawyer, on the family couch on Sundays on the Dictaphone. Later Brett surprised practicing lawyers when, as a young law clerk intern, he was more adept than others in the firm at using such machines. Later, in 1998 he, his dad and his brother Adam, the CTO, would form TBF Financial, the first debt-buying service in the industry.

Today Brett is the face of the company and a participant at industry events and on ELFA committees. He has grown the business in the equipment finance industry and expanded to other areas of financial services, beyond what his dad had imagined. In fact, when asked about this, Bob said that, if anything, he advised his sons to think twice about joining him at TBF, telling them they may not get paid for a while.

There are advantages to having family connections at work, and Brett says mentorship is one of them. "You should have a mentor at the start of your career. In my case I had my dad, who obviously cared about my future."

The Boehms learned from their dad to treat everyone with respect and to "treat others as you would want to be treated," says Brett. Bob elaborated on this by noting that the company receives letters from people who owed them money, and who thank the Boehms for treating them with respect and helping them pay off their debt.

When Bob started realizing that he was getting past

his prime and that Brett and Adam were competent to run the business, he told them to take over the day-to-day operations. They were ready, but at one point, Bob says, the sons brought a sign to his office that read, "If we are day-to-day then you must stay away." Nevertheless, when the Boehms go on family vacations they still like to talk about the business because they enjoy it.

### Preparing for the future

A few years ago Madison Capital, an Independent in Owings Mills, Maryland, was looking to expand its sales team. Rather than hire experienced executives from within the industry, President Nancy Pistorio decided to hire recent business school graduates and provide training. One night she was casually talking about telemarketing over dinner, and her son Danny asked if it was something he might be able to do.

"I told her I would work cheap," said Danny, who thought it would be good to get some office experience. His previous jobs were in retail, restaurants and a tree service company. He started working at Madison in telemarketing sales on a commission-only basis. Today, at 28, he is in a business development position and sharing some valuable tech shortcuts.



Nancy and Danny Pistorio

At first Nancy said she was hard on Danny. She wanted to avoid having other employees think she would give him any special breaks, even though at the start he earned less than others. She said, however, that she is willing to cut anyone a break as long as they are performing and getting results.

Nancy says Danny quickly distinguished himself as being able to push past objections and get sales leads where others couldn't. She said she is impressed with his phone demeanor and how quickly he learns a new process and then picks up the next one, noting that the company is reliant on cloud-based systems and is tech driven.

While she is not sure where this experience will lead her son, Nancy sees him getting very good training at Madison Capital that will prepare him for employment anywhere in the industry.

### Opportunity for deeper conversations

In a reverse situation, brothers Brient and Brad Mills, who started working in equipment leasing sales at their uncle's independent finance company in Tennessee, had an opportunity to teach their dad what they knew about equipment finance and small business. When their dad, Jack Mills, retired after more than 30 years in a senior sales leadership position with Proctor & Gamble, the father and sons launched JB&B Capital in Knoxville. The uncle joined them and today they run a fast-growing business that is so special to them it is hard not to talk about it on family vacations, they said.

Brient, who is a partner at JB&B Capital, says while they aren't trying to build a corporate behemoth like P&G, they are grateful for their dad's long career there, his ability to talk to people at high levels as well as his knowledge of business structure, culture and bank relationships. "Dad gives us instant credibility when we walk in the door together," Brient adds.

While all of the Mills men apparently have sales ability in their DNA, Brient's brother Brad holds the leading role in sales and business development and says his dad taught him this: "At the core you need to have a vision and be grounded in your values, and that drives everything. The customer is always right, and integrity is the key."

Brad says an advantage to having family connections at work is having the opportunity for deeper conversations. He said they don't leave anything important unsaid.



Jack, Brient and Brad Mills

Jack Mills said he is pleased to not only watch JB&B Capital grow but also to see his sons develop in their roles and to witness the way they balance work and family. "They are both great fathers, better than I ever was. I'd give them an A in business and an A+ as fathers."

### Be a bright spot in someone's day

Family members who work together need to set boundaries and be clear about roles and responsibilities. That seems to come naturally to the Fate family. Grant Fate, Assistant Vice President of Capital Markets at Stonebriar Commercial Finance and son of Stonebriar Commercial Finance CEO Dave Fate, says, "I have 25 years of reading my dad's aura. I know when he is in work mode.... I know when I can just have a good time with my dad. We both know we are here to work, but it's a blessing to see him every day."



Grant and Dave Fate



Dave and Jordan Fate

Grant says he is fortunate that his dad has hired many young people in their 20s and 30s and treats everyone the same. Grant said when he joined the firm, he felt there were big expectations to follow in his dad's footsteps. "I had to remind people I'm just a 25-year-old kid learning like everyone," he says. To his advantage he had previous experience at a Wall Street firm, and he graduated from college with a dual degree in finance and accounting.

"I picked up a lot, learning the basics, how to price deals, how to win them, but over my entire life I watched how my father treats people, and I learned it's important to be a bright spot in someone's day," said Grant.

His father says he is impressed with Grant's soft skills and his positive personality. "He's smart, has a desire to learn and interacts well. I take comfort in knowing he can work with executives at other financial institutions, law firms and on funding deals."

Grant was encouraged to get involved with ELFA and is active in the Emerging Talent Committee. He is appreciative for those new connections in the industry, but most importantly, he is thankful for the "special opportunity to work with my dad. I don't take it for granted. We also have fun together and that makes it all the more special."

Dave Fate never advised his son to enter the industry. He just wanted his children to find something in college that could lead to a job and for which they'd have a passion. His daughter Jordan, 23, is a Salesforce analyst reporting to the CFO at Stonebriar. She started as a part-time intern then became a full-time employee last February. She works on a wide range of projects, including compiling business overviews and board presentations, and she handles social media and Salesforce applications.

Dave said he is not just impressed with his children but with the next generation. "I am positive on the future of our country and our association based on the young people I have met." ☰



**SUSAN CAROL** has been reporting on equipment leasing and finance topics for several decades, starting her career in this industry as a communications manager for ELFA. She is CEO of Susan Carol Creative, a full-service public relations and marketing communications company she founded in 1989.

**Editor's note: There are many more families working together or inspired by parents in the industry. We'd love to add your comments to this story online. Do you have a family member in the industry? Please send your comments and photos to Amy Vogt at [avogt@elfaonline.org](mailto:avogt@elfaonline.org) and we'll share them in the article postscript.**

# PEOPLE POWER



Together with our member companies, ELFA is advancing initiatives to support equity, diversity and inclusion in everything we do. Learn more about these efforts and access resources for your organization at [www.elfaonline.org/people-power/](http://www.elfaonline.org/people-power/).

## ELFA EQUALITY

DIVERSITY & INCLUSION



### Diversity, Equity & Inclusion

Information and tools for fostering equity, diversity and inclusion across the equipment finance industry



### Women's Leadership

Leadership development resources curated by the ELFA Women's Council



### Emerging Talent

Resources to get the most out of your ELFA membership, grow your career and help members attract the best and brightest to the industry



# "It's Great to Be Industry Reconnects and Reunites at

**THE 60TH ELFA ANNUAL CONVENTION IN SAN ANTONIO** was an event like none other in the association's history. After 19 months of the COVID pandemic, the ELFA community came together in full force Oct. 24-26, embracing the Convention theme, "*Reunite and Reconnect.*"

Over three days, an impressive 1,000 equipment finance leaders—900 in person and 100 online—networked, exchanged best practices and addressed critical issues and trends affecting the industry and their businesses.

For many who attended in person, the trip to San Antonio was their first industry event—and for some, their first plane travel—in well over a year. As they attended breakout sessions, mingled at receptions, organized business meetings and perused the Exhibit Hall, they marveled at the opportunity to see their colleagues. A common refrain heard throughout the event was, "It's great to be back together!"

Those who attended the Convention remotely were no less excited to be together. As they watched the event via a state-of-the-art "virtual stage" from their homes and offices, they flooded the chat screen with greetings. "Shout out to team virtual!" posted one enthusiastic attendee. At ELFA's first-ever "hybrid" event, the virtual stage was accessible to both virtual and in-person participants—and recordings were available immediately following each session—so all attendees had the option to watch the content when and where it was most convenient for them.

## Sessions Address Hot Topics

At the General Sessions, keynote speakers shared their perspectives on a range of issues relevant to the industry. Leadership expert DeDe Halfhill kicked off the Monday General Session, drawing on her 25-year military career to share a real-world perspective on the power of embracing humanness and vulnerability in leadership. Following Halfhill's remarks, incoming ELFA Chair Mike DiCecco joined her on-stage for a Q&A session.

At the Equipment Leasing & Finance Foundation luncheon, economist Dr. Robert Wescott assessed the economic landscape and previewed the Foundation's



Breakout sessions covered a variety of hot topics.





# Back Together™

## Milestone ELFA Annual Convention

new Industry Future Council Report, "[Looking Ahead to the Post-Pandemic Economy: A Strategic Assessment of the Equipment Finance Industry.](#)" Following Dr. Wescott's remarks, a panel of industry leaders discussed the report's key findings.

At the Tuesday General Session, futurist Erik Qualman presented an entertaining and thought-provoking assessment of the implications of technology and social media in our daily lives and businesses, followed by a Q&A session with Mike DiCecco.

Seventy-four industry professionals spoke at 16 concurrent breakout sessions on a wide range of topics, including funding in the digital age; "servitization"; technology and innovation; diversity, equity & inclusion; legal issues; equipment sectors; LIBOR; and the next generation. Members also participated in a community service project (see p. 32 for details.)

In keeping with the association's focus on diversity, equity and inclusion, the inaugural Equality Committee and Emerging Talent Advisory Council (ETAC) Reception was held on Monday following the afternoon breakout sessions. Also new this year, the Equality Committee, ETAC and Women's Council joined together to launch a new "Colleague Connection" program to welcome first-time attendees. They reached out to more than 100 first-timers and shared tips, answered questions and met on-site to help them make the most of their first Convention experience.

### Snow Celebrates "The Art of the Possible"

In her Convention address, Outgoing Chair Kris Snow, President of Cisco Systems Capital Corporation, began by recognizing the contributions of the association and the equipment finance industry over the past 60 years. "For six decades, we have come together as an industry to fuel the U.S. economy and provide the financing businesses need to accelerate their growth," she said. "And we have driven innovation and thought leadership to catapult our customers and our companies forward."



**RALPH PETTA**  
President and CEO  
ELFA

**SARAH PALMER**  
SVP, Credit Underwriting and Asset Management  
Key Equipment Finance

During the Monday General Session, Ralph Petta checked in with Sarah Palmer of Key Equipment Finance, one of 100 virtual attendees. "I'm really looking forward to watching all the sessions in my sweatpants," quipped Sarah.



2021 Board Chair Kris Snow



Incoming Board Chair Mike DiCecco

In keeping with the hybrid Annual Convention model, Snow joined the Convention via the power of technology. Addressing the membership via three 15-foot-tall video screens, she highlighted the many ways the association has supported members throughout the pandemic, from delivering virtual conferences to sharing relevant industry data. She focused on three areas in particular:

- **Business Recovery:** While ELFA helped member companies navigate the pandemic, equipment finance companies helped their customers' business recovery. "We restructured transactions, worked out payment deferral plans, and provided relief on interest rates," said Snow. "All of these actions helped keep thousands of American companies in business, and we should all feel exceptionally proud of our role. We literally helped our economy survive!"
- **Technology:** ELFA has played a key role in helping members understand "the art of the possible" when it comes to technology, said Snow. The association hosted a variety of initiatives in 2021 designed to help member companies excel in the new digital world. When the pandemic accelerated technology advancement, member companies harnessed the power of innovation and technology to address their own and their customers' needs.
- **Diversity, Equity and Inclusion:** ELFA's Equality Committee has been working overtime to lead the way on promoting diversity and inclusion across the association and the industry, reported Snow. Together with the Emerging Talent Advisory Committee and the Women's Council, the association continues to make strides on DE&I. "Let's acknowledge that our work on diversity, equity and inclusion is far from finished," she said. "However, as we have done for the past 60 years, ELFA will continue to guide the way and help our industry evolve."

## Members Give Back



Convention attendees rode in the Jim McGrane Charity Bike Ride and participated in a community service project with Build-a-Wheelchair, building 18 wheelchairs for the Disabled American Veterans of San Antonio. Thanks to the generosity of member sponsors and hard-working volunteers, ELFA made a financial donation of \$11,000 to Community Lodgings, an organization that offers affordable and transitional housing and youth education programs to homeless and low-income families in Alexandria, Virginia.



Keynote speaker DeDe Halfhill

Snow concluded her remarks by expressing appreciation to the membership. “Together, we have accomplished so much—and from the bottom of my heart, I thank you for letting me be a part of it.”

ELFA President and CEO Ralph Petta thanked Snow for her leadership. “The work of Chair requires significant involvement from a personal and professional perspective, and over the past year we have been fortunate to have Kris Snow serving in this role,” said Petta. “During these extraordinary times, Kris’s leadership skills, industry experience and commitment to ELFA have helped our association move forward and continue to grow and flourish.”

### Petta Recounts the “Remaking of ELFA”

Petta began his “State of the Association” address with a heartfelt greeting. “I can’t tell you how good it is to see you all! Being with you in-person, as well as virtually, really is something to celebrate.”

Petta explained that the Convention was the association’s first in-person gathering in 19 months. “Little did we know, when we conducted the Executive Roundtable in March 2020, that it would be the last in-person event we’d hold before COVID-19 changed the world—yours and ours.”

He recalled the key challenge ELFA encountered in the face of the pandemic. “How to support you, our members, when we were confined and restricted in the same ways you were? Well, we basically had to remake ELFA. We had to change what we delivered and how we delivered it to you, and we needed to do it as quickly as possible.”

He outlined some of the ways the ELFA staff and volunteer members came together to adapt to changing circumstances and serve the membership. For example: Maintaining a strong federal and state



Keynote speaker Erik Qualman taught attendees the “superhero power pose.”



The conference kicked off with a rousing musical performance by ELFA’s own Financial Statement Band. A diverse group of members wowed the audience with their rendition of “Somebody to Lease” performed remotely from across the United States.



Women’s Council Reception



More than 40 exhibitors showcased the latest products and services in a sold-out exhibit hall.



Equality Committee and Emerging Talent Advisory Council Reception

advocacy program, including hosting the largest Capitol Connections ever, where 150 members met virtually with their congressional representatives; replacing canceled live events with virtual conferences, webinars and podcasts; communicating the latest developments regarding the pandemic, the impact of the pandemic on members’ businesses, and strategies to mitigate the impact; sharing critical data and benchmarking surveys valuable to members’ business operations; and emphasizing the value and benefits of diversity, equity and inclusion.

Petta thanked volunteer members for going above and beyond to stay engaged. He also recognized the perseverance of the ELFA staff, some of whom encountered serious challenges in their family lives during the pandemic. “I know that many of you can

recite similar instances where folks in your organizations went the extra mile—juggling their personal and professional obligations, empathizing with struggling customers, and keeping your business afloat.”



Tom Ware received the Michael J. Fleming Distinguished Service Award.

### Access Convention Resources

- For recordings of Convention sessions, visit the Conference Resource Center at [www.elfaonline.org/events/conference-resource-center](http://www.elfaonline.org/events/conference-resource-center).
- To view photos and videos from the Convention, go to [www.elfaonline.org/AC](http://www.elfaonline.org/AC) and click on Media.

He closed by thanking the association leadership. “I’d be remiss if I didn’t give a special shout out to our terrific Board of Directors and especially our Chair, Kris Snow. I am personally grateful to Kris for her unwavering support, leadership and friendship during this past year.” ☰

**AMY VOGT** is ELFA VP of Communications and Marketing.



Foundation Executive Director Kelli Nienaber moderated a panel on the industry’s future with David Normandin of Wintrust Specialty Finance, Dr. Rob Wescott of Keybridge Research, Jayma Sandquist of John Deere Financial, and Foundation Chair Scott Thacker, CPA, of Ivory Consulting.



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# Preparing for the of Equipment Fin.

Members react to the Equipment Leasing & Finance Foundation's new

**THE EQUIPMENT LEASING & FINANCE FOUNDATION'S INDUSTRY FUTURE COUNCIL (IFC)** serves as a guiding light for the equipment finance industry, helping to steer its course three to five years into the future.

In 2021, the IFC undertook a months-long effort to identify the most important trends that have the highest potential to affect the equipment finance sector in a recovering and changing economy. The IFC identified six key trends that will present opportunities as well as pose risks for equipment finance firms over the coming five years. These trends fit into three overarching categories: technology, workforce and economics & policy.

The new IFC report, "Looking Ahead to the Post-Pandemic Economy: A Strategic Assessment of the Equipment Finance Industry," is the culmination of their extensive work throughout 2021. The findings

and recommendations included in the report are based on direct input from the 25 IFC members, external research and the Foundation's research partners at Keybridge, who facilitated discussions, synthesized inputs and provided research.

*EL&F Magazine* invited IFC members to answer the question, "What trend jumped out at you from the new IFC report?" and below are highlights from their responses. Special thanks to our 2021 IFC Sponsors, Equifax and Solifi. To download the full report, visit <https://www.leasefoundation.org/2021ifcreport/>. 



"While as an industry we have been discussing 'creeping consumerism' for more than a decade, the regulations that we see being introduced, passed and implemented now, both at the state and federal levels, suggest that it isn't about to happen, but is happening now and we need to brace ourselves for compliance with these requirements going forward. These changes are happening quickly with the landscape in constant flux.

Right now, equipment finance companies are having to take action to be ready for the Jan. 1, 2022 implementation of New York's Commercial Financing Disclosure Law even despite the regulations not yet being finalized. They are working with what is known and making reasonable assumptions to integrate the requirements into their systems. This is no small undertaking for many of the large, complex non-bank lenders in the industry and an equally big challenge for smaller lenders with fewer resources.\*"

**Bonnie L. Michael**

Shareholder, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC



"I was particularly pleased to see the Industry Future Council focus on the challenges facing our industry in recruiting the next generation of talent. We compete not just within our industry for the best employees, but with other industries. We must provide an environment people want to work in. That means we must accelerate our efforts at diversifying our industry (and leadership) but also recognizing it takes more than offering good earning potential to get the people we want. People in the first stages of their careers want to work for companies that support them and their values. A necessary, but insufficient, part of that is ensuring you have a diverse work force, a flexible environment and a commitment to issues they care about."

**Jon Gerson**

President, Executive Solutions for Leasing & Finance, Inc.

\*Don't miss the ELFA webinar "ELFA State Advocacy New Year's Resolutions" on Dec. 15. See details at [www.elfaonline.org/events](http://www.elfaonline.org/events).

# Future ance

Industry Future Council report.



"I found the trend on the increased role of technology in sales and business operations to be extremely relevant in our business. As we consider the role of digital natives and fin techs, our industry must have a diligent eye to modernizing our technology and with that, improving our digital capabilities for our customers, employees and (for captives) our channel. This will allow us to recruit the best talent (another IFC trend) and meet changing

customer needs.

We started critical work on this by transitioning to an Agile Operating Model just a few years ago. This positioned us to deploy thin slices of value to customers and get real time feedback, allowing us to pivot quickly. With the global pandemic, it was a critical capability, because customers desired a touchless sales process and employees needed to be able to interact with each other and with customers virtually. Being able to deploy digital value quickly was an absolute must. This trend and the interconnectedness of the other IFC study trends are particularly relevant for our business"

**Jayma Sandquist**

SVP and Chief Marketing Officer, John Deere Financial



"Throughout our discussions in the IFC, the one trend we discussed that continuously resonates with me is increased emphasis on cyber/data security. In my role at Equifax, I regularly have conversations with lenders on their data security practices and how they can continue to stay current and keep data security at the forefront of their organizations' initiatives.

Meanwhile, at Equifax, a day never goes by without some discussion on security practices.

One major initiative that supports this priority is our company-wide Cloud Transformation project that we are undertaking to provide products and data more efficiently to our clients. As the only cloud-native consumer credit reporting agency, we are making significant efforts to enhance data security in the cloud environment by relying on sound data governance, utilizing robust data security systems, and leveraging strong data encryption."

**Patrick Moore**

Director, Credit Strategy Consulting, Equifax Commercial

# Where to Now?

Takeaways from the 2021  
Lease and Finance Accountants  
Conference Live

**THE LEASE AND FINANCE ACCOUNTANTS CONFERENCE** returned in 2021 for a one-day, virtual event. Accounting and finance oriented sessions addressed the critical issues lessors are now facing, including:

- **Lessor hot topics.** This session covered the continuing importance of COVID-related accounting reliefs offered for payment modifications as well as issues related to the certainty of customer payment and its impact on the accounting analysis and other modifications related issues. The session also sought to remind lessors of the changing world of sale and leaseback accounting due to ASC 842.
- **Lessee hot topics.** In 2021 these primarily related to lessee accounting for lease impairments, modifications and abandonments, which have been a consequence of the COVID-related economic environment.
- **Lease and loan sales.** Lessors are always looking to sell a portion of their originations, and the issues related to the accounting for these transactions is complex. The central issue of derecognition (sale accounting) and the importance of what is or is not a participating interest was addressed in this session.
- **Current expected credit loss (CECL) model.** The CECL model has represented a significant change for companies from the old incurred loss model. During this session, the importance of open communications within the business, across functions, along with a thorough review of the loan and lease portfolio was discussed. The impact of COVID on credit assessments was also touched upon.
- **LIBOR transition/reference rate reform.** The sunset of LIBOR and its replacement by SOFR and/or other rates entail a number of operational and business burdens. This general session focused on the operational issues for both existing contracts, including fallback language in agreements, and new contracts written using SOFR or other rates.
- **Distinguishing a lease from a service.** While this question always existed, ASC 842 has increased the focus on this important question of what accounting literature to apply to a contract. It was observed that a great deal of effort is being applied to “X as a service” models in order to have transactions kept out of lease accounting, particularly for the customer. The audience was also reminded that a transaction that was a lease under ASC 840 might not be a lease under ASC 842 and vice versa.
- **How lease accounting and revenue recognition intersect.** Lease transactions may include an element that is accounted for under the revenue recognition guidance in ASC 606 or where the lease guidance draws on the concepts in ASC 606. The allocation of consideration in a lease contract is of significant consequence to lessors, as is the evaluation of lease classification and collectability.
- **The state of the Federal tax code.** This session discussed the high probability of a corporate tax increase *if* legislation is enacted. A best guess of the expected rate is 25%, and it was noted that lessors should plan accordingly for a world of increasing tax rates. There may also be an expansion of tax credits related to renewable energy.

The sessions were recorded and are available on the Conference Resource Center at [www.elfaonline.org/events/conference-resource-center](http://www.elfaonline.org/events/conference-resource-center). ☰

**SAVE THE DATE:** The 2022 Lease and Finance Accountants Conference will be held Sept. 12-14 in New Orleans.



**JOHN BOBER** is Director of The Alta Group and Chair of the ELFA Financial Accounting Committee.



# 2022 ELFA Calendar of Conferences, Workshops and e-Learning Opportunities

## FEBRUARY

February 13-15, 2022  
**Equipment Management Conference & Exhibition**  
Westin La Paloma Resort & Spa  
Tucson, AZ

## MARCH

March 3, 2022  
**Innovation Roundtable**  
Virtual

March 13-15, 2022  
**Executive Roundtable**  
Omni Amelia Island Resort  
Amelia Island, FL

March 24, 2022  
**21st Annual IMN/ELFA Investors Conference**  
New York, NY

## APRIL

April 11-12, 2022  
**Women's Leadership Forum**  
Palmer House Hilton  
Chicago, IL

April 12-14, 2022  
**33rd Annual National Funding Conference**  
Palmer House Hilton  
Chicago, IL

April 12, 2022  
**Bank Best Practices Roundtable  
Captive & Vendor Finance Best Practices Roundtable  
Independent Best Practices Roundtable  
Small Ticket Best Practices Roundtable**  
Palmer House Hilton  
Chicago, IL

April 12, 2022  
**Emerging Talent Networking Event**  
Palmer House Hilton  
Chicago, IL

April 27-29, 2022  
**Principles of Equipment Leasing and Finance Workshop**  
ELFA Headquarters  
Washington, DC

## MAY

May 1-3, 2022  
**Legal Forum**  
Omni Shoreham Hotel  
Washington, DC

May 19, 2022  
**Innovation Roundtable**  
Virtual

May 25, 2022  
**Capitol Connections**  
Hyatt Regency Washington on Capitol Hill  
Washington, DC

## JUNE

June 6-8, 2022  
**Credit and Collections Management Conference & Exhibition**  
Hilton Palacio Del Rio  
San Antonio, TX

June 22, 2022  
**Tax Best Practices Roundtable**  
Akerman Offices  
Chicago, IL

## JULY

July 14, 2022  
**Emergence2022**  
Key Equipment Finance  
Boulder, CO

July 14, 2022  
**Emerging Talent Networking Event**  
Boulder, CO

## AUGUST

August 4, 2022  
**Innovation Roundtable**  
Virtual

## SEPTEMBER

September 12-14, 2022  
**Operations & Technology Conference & Exhibition**  
Sheraton New Orleans  
New Orleans, LA

September 12-14, 2022  
**Lease and Finance Accountants Conference**  
Sheraton New Orleans  
New Orleans, LA

September 12, 2022  
**Emerging Talent Networking Event**  
Sheraton New Orleans  
New Orleans, LA

September 21-23, 2022  
**Principles of Equipment Leasing and Finance Workshop**  
ELFA Headquarters  
Washington, DC

## OCTOBER

October 9-11, 2022  
**61st ELFA Annual Convention**  
JW Marco Island Beach Resort  
Marco Island, FL

## NOVEMBER

November 3, 2022  
**Equality Forum**  
Washington, DC

November 10, 2022  
**Innovation Roundtable**  
Virtual



The ELFA Academy provides high-quality, interactive training and resources for you and your staff. For a complete listing of the online self-study courses and web seminars available through the ELFA Academy, go to: [www.elfaonline.org/Events/eLearning/](http://www.elfaonline.org/Events/eLearning/).

## PRINCIPLES OF EQUIPMENT LEASING AND FINANCE WORKSHOP

ELFA instructors have been introducing equipment finance company employees to the basics of the business for three decades. For workshop details, visit [www.elfaonline.org/events/](http://www.elfaonline.org/events/). If the 2022 dates and locations do not fit your schedule and you have 10 or more employees you would like to send to the workshop, ELFA can bring the workshop to you. Please contact Alexa Carnibella for further details and pricing, 202-238-3416 or [acarnibella@elfaonline.org](mailto:acarnibella@elfaonline.org).

For the latest information and updates go to:  
[www.elfaonline.org/events](http://www.elfaonline.org/events)



# Hidden Liability

## Your Company and Unclaimed Property Laws

**AS STATES CONTINUE** to try and fill the gap between revenue and expenses, many are looking to unclaimed property. For example, 10% of Delaware's annual revenues come from the collection of unclaimed property. As probable holders of unclaimed property, ELFA members should be aware of these laws and their related liability issues.

### Unclaimed property terminology

Let's assume your company does business with a supplier. That supplier issues your company an invoice. Your company cuts a check to the supplier. The check is never cashed. In this situation, the uncashed check is unclaimed property. The supplier is the owner of that unclaimed property. Your company is the holder.

### What property is subject to unclaimed property laws?

For something to be considered property under unclaimed property laws, it must meet four criteria:

- The property is typically intangible but can be tangible. Examples of intangible property include vendor credits, customer credits, uncashed payroll checks, uncashed payable vendor checks, shares and dividends and unresolved suspense account items.
- It must be unredeemed, uncashed or unused.
- It must be on the holder's books or in the holder's custody.
- It must be the result of fixed and certain obligations of the holder.

### What is unclaimed?

Property is unclaimed if after a period of time, often called a dormancy period, the owner has not communicated with the holder concerning the property. The dormancy period varies from state to state but is generally three to five years.

### What happens to unclaimed property?

Once an item is deemed to be unclaimed property, the holder must report and remit it to either the state of the last known address of the owner or, if the property owner is unknown or unreachable, to the state where the holder is incorporated.

### What to expect if you are audited

To ensure unclaimed property laws are being complied with, state governments will audit businesses, often with special

focus on those businesses incorporated in that state. If your business is the subject of an audit, there are six things you should be aware of.

First, the audit will likely be done by a third-party, not by government employees. These third-party auditors are generally compensated by the state on a contingent fee basis. Because the third-party auditors have a direct interest in an audit outcome, they have strong incentive to resolve any doubts in favor of the state and against the holder.

Second, most audits will cover multiple states. Since unclaimed property must be turned over to the state of the owners last known address or where the holder is incorporated, the auditor will be looking for unclaimed property in every state that has retained them. Most third-party auditors are retained by multiple states.

Third, the audit will cover a long period of time. Most states have statutes that allow auditors to look back 10 reporting years. This means that when you add in the dormancy period, a holder will need to have records from as many as 15 years prior to the audit.

Fourth, an unclaimed property audit will be subject to "estimation." Estimation occurs when a holder no longer has records for periods covered by an audit. When those records are missing or incomplete, the holder's state of incorporation will estimate the amount of unclaimed property held by the holder for those periods. To do so, the state will typically (1) calculate the holder's actual unclaimed property liability for the periods for which the holder does have records, (2) compute an "error rate" for that period and (3) use the error rate to extrapolate unclaimed property liability. (For example, assume you had \$1M in revenue in 2020 and adequate records showing unclaimed property of \$10,000. Your error rate would be 1% of your revenue. Therefore, if you had \$750,000 in revenue in 1996 but missing records for that year, the state will assume you had \$7,500 in unclaimed property in 1996.) Of course, any estimated unclaimed property has no real or identifiable owner. Therefore, the holder's state of domicile will claim such extrapolated liabilities.



Fifth, your company will have the burden of proof. In general, the state has the burden of proving the existence of any unclaimed property. However, many states take the position that if the holder's records indicate the existence of a liability (for example, issuance of a check), the burden is shifted to the holder to demonstrate that the obligation is invalid or satisfied. Unfortunately, holders don't often maintain adequate records to meet the state's high standard of proof. The inability to remediate such apparent liabilities is compounded once the error rate is extrapolated back to estimate liability for prior periods.

Sixth, you can expect to be paying out cash. Generally, if the auditor finds unclaimed property on a holder's books, the auditor will give the holder a brief period of time to contact the owner. If contact is made, this property will no longer be unclaimed. However, where the holder is unable to make contact, the property must be turned over to the state, usually in the form of a check. If your accounting practices are sufficient, you are

excluding possible unclaimed property from your financial statements, so turning this money over will not affect your bottom line. However, if you are subject to estimation, there is a significant chance you will be cutting a check for liabilities you did not know you had.

### Conclusion

In the current economic climate, states are enforcing unclaimed property laws to increase revenue. Careful holders would be well advised to review their compliance policies and procedures and to assess the exposures associated with unclaimed property. ☰



**SCOTT KEARNS** is a 20+ year veteran of the equipment finance industry and has spent the last 14 of those at Dell Financial Services. He currently serves on the DFS Legal leadership team with a focus on global expansion and strategic projects. This article is an update from a 2013 edition of *EL&F Magazine*.

## Engage the Next Generation

- **Guest Lecture Program:** Deliver a ready-made presentation to increase awareness of equipment leasing and finance as a career path.
- **Scholarship Program:** For 2022 up to five scholarships of \$5,000 will be granted to students interested in pursuing a career in the equipment finance industry.

[LeaseFoundation.org/Academic-Programs](http://LeaseFoundation.org/Academic-Programs)

**EQUIPMENT LEASING & FINANCE FOUNDATION**  
Your Eye on the Future

## Build-to-Suits: More Popular than Ever

**A BUILD-TO-SUIT ARRANGEMENT** is one where a lessee works with a developer or builder of either real estate or equipment to design and construct an asset to its exact specifications. Build-to-suits are vehicles employed by lessees to acquire new and customized assets with minimal or no cash outlay. Lessees today are entering into build-to-suit arrangements in record numbers thanks to the historically low financing environment, the off-balance sheet treatment during construction, reduced balance sheet recognition during the lease, and the ability to finance 100% of the project costs. If the transaction is structured as a lease, it will allow a user the use of a new, custom-built asset without strapping themselves with the residual risks associated with ownership.

While build-to-suits have been a successful tool for lessees to lease new core assets, like real estate headquarters and vessels, the previous guidelines under ASC 840 were full of accounting potholes. For example, no hard costs could be incurred by the lessee during construction. If the lessee bought the steel for a build-to-suit project, for example, it would have been deemed to be “involved” in the construction of the asset. Other examples of involvement:

- The lessee had an ownership interest in the lessor.
- The lessee began construction or broke ground.
- The lessee incurred soft costs of greater than 10% of the total expected project cost.
- The lessee took title to the asset.
- The lessee indemnified the lessor for cost overruns or environmental exposure.
- For real estate, the lessee owned the land and did not lease it to the developer prior to construction.

If a lessee was guilty of any of the above statements, it would have caused the construction to be booked on its balance sheet and forced the lessee to have undergone sale and leaseback accounting to de-recognize the asset. Numerous companies disclosed in their financial statements they are violating one of the involvement tests and being required to book the asset under construction. For a transaction

**Lessees are entering into build-to-suit arrangements in record numbers.**

to qualify for sale and leaseback accounting treatment, allowing removal of the asset, the leaseback portion could not have contained any items that indicated that the lessee had “continuing involvement” in the

asset. Examples were renewal options that could have extended beyond 90% of the remaining life of the asset, a purchase option for the lessee, and having the leaseback be deemed a capital lease.

The build-to-suit rules under EITF 97-10 and then ASC 840-40-55 have been simplified under ASC 842 thanks to the change from a risk-based standard to a control-based standard. The five control parameters are detailed in ASC 842-40-55-5 and determine if a lessee has obtained control of an asset. If the answer to any of the following five questions below is “yes,” the lessee is deemed to control the asset. The existence of control means the asset will be on the lessee’s books during construction, and, like ASC 840, must undergo sale and leaseback accounting to de-recognize the asset. The leaseback portion of the transaction must qualify as an operating lease, and if it contains a purchase option, it must be at fair market value and a similar asset must be available in the marketplace. A notable exception to the purchase option is for real estate transactions. The FASB believes all real estate is unique, therefore a real estate leaseback cannot contain a purchase option and qualify for sale and leaseback accounting treatment under ASC 842.

ASC 842 control parameters:

1. Does the lessee have the right to obtain the asset during construction?
2. Does the lessor have an enforceable right to payment and does not have another use for the asset?
3. Does the lessee own both the land and improvements or the non-real-estate asset under construction?
4. Does the lessee own the land and improvements and does not enter into a lease for the same?
5. Does the lessee lease the land on which the improvements will be constructed and does not enter into a sublease before construction begins?

It should be noted that the leases in questions 4 and 5 above need to have terms, including renewals, that extend for substantially all the life of the property improvements. Using the same steel example as above, under ASC 842-40-55, if the purchase of steel does not trigger a “yes” to any of the five questions above, “control” of the asset will not vest with the lessee. The result is that this asset will be off balance sheet during construction and avoid sale and leaseback accounting. The new guidance will result in many more assets remaining off balance sheet during construction, thus offering lessees more flexibility in the structuring of their build-to-suit transactions.

Build-to-suits, if they avoid sale and leaseback accounting, have the flexibility to be structured as either operating or finance leases to match the lessees’ accounting objectives. One key change is the timing of the lease classification test, which has shifted from lease inception under ASC 840 to lease commencement under ASC 842. This adds complexity because most build-to-suit leases are executed before construction begins, but final lease classification will now take place when construction ends, and the lease begins. This change in timing of the lease classification may result in a lessee taking interest rate risk during construction. A possible unintended consequence

could be a lease that was an operating lease at inception may end up a finance lease at commencement, which likely will not be a good outcome.

In conclusion, the accounting changes that surround build-to-suits, especially when paired with today’s historically low interest rate environment and an excess of investor and bank capital, have made these transactions increasingly popular. Lessees revel in the thought of a newly constructed, completely customized asset, and investors and banks are happy to pay top dollar for these assets thanks to the delta between the bank interest rates and the capital yield on an investment in an asset. All this should make for a continued robust build-to-suit market for the foreseeable future. ☰



**AMIE D. SWEENEY, CPA** is Vice President at CBRE and a member of the ELFA Financial Accounting Committee.



## Stay Nimble in the New Year

**AS WE ALL ARE STILL ENERGIZED** after the first in-person ELFA Annual Convention since 2019, trying to absorb the lessons of the off-year elections, and trying to figure out where this infrastructure debate lands, it's worth looking at what the coming year may hold for ELFA members, politically and policy wise.


During the Convention, the federal government affairs team engaged with ELFA members about the issues facing their businesses. To a person, the conversations were about how to adapt to a changing environment in order to thrive. These were not "woe is me" conversations, they were conversations about how a vaccine mandate might affect their business if they did work with the federal government, how best to start getting ready for the implementation of Section 1071, or what shifts in certain tax policies might mean for certain deal types.

This is fabulous because 2022 does look like a year where adaptive businesses will thrive, and those that don't—or can't—may falter. The workplace is going to continue to adjust to the new normal of the (pick your word) pandemic/epidemic/post-pandemic workplace. Savvy commercial finance companies are going to begin to look at how to adapt to comply with Section 1071 but are going to leave themselves plenty of open options in case of

developments that are bound to come in this rule. Additionally, the recently enacted infrastructure bill presents lots of opportunities, and if the president's Build Back Better proposals are enacted in the coming weeks, there could be a lot more to come.

Politically, it seems like many ELFA members are fed up with the dysfunction. There were many more conversations amongst the ELFA membership about whether a third party is viable in this day and age vs. who might fill committee slots should trends continue and Republicans win the House. That being said, it seems like political dysfunction and the whiplash of rapid party switches of control in Washington seem likely to continue in the near term, and the frustration with the dysfunction has not hit rock bottom yet. What was heartening was

2022 looks like a year where adaptive businesses will thrive.



that ELFA members, despite their frustration with the dysfunction, still see the tremendous importance of the association's grassroots and political engagement, which will be a critical part of ELFA's federal advocacy program next year.

With regard to Section 1071, it seems likely that a final compliance deadline is going to be 2024 at the earliest, but there's a lot of work that needs to be done in order for companies to be ready to respond. One of the areas that ELFA will be focusing on is making sure that our software company members have the information they need to make all the necessary systems changes. A big effort will also begin to help ELFA members, especially those without pre-existing robust compliance departments, comply with these new requirements.

What should you be doing to get ready for 2022? First, invite your local member of Congress to your offices for a town hall and talk to them about what you do, your verticals, and your investments in their/your

congressional district. They love these sessions as it allows them to learn and interact with constituents in a productive, efficient way and it makes a huge difference when we're advocating if a member of Congress understands our business. Second, get ready to be ready for Section 1071: Read the summaries, review your origination process to see what changes might be necessary, and stay tuned to ELFA channels for the latest developments. And finally, stay nimble. Things will change. We don't know how, we don't know when, but we know they will. ☰



For more information, contact **ANDY FISHBURN**, ELFA Vice President of Federal Government Relations, at [afishburn@elfaonline.org](mailto:afishburn@elfaonline.org).

# ELFA Advocates on State Disclosure Regs

## ELFA Achieves Wins in New York, Files Comments in California

**ELFA**, powered by our Legislative and Regulatory Subcommittee and State Disclosure Workgroup, achieved major wins on Wednesday, Oct. 20, after only being given nine days to educate the New York Department of Financial Services (DFS) regarding their proposed disclosure regulations. **FIRST** among those wins: ELFA fought hard for a stay on compliance until six months after final adoption and publication of the regulations.

In what was an unusual request, the DFS sought input from stakeholders prior to proposing their draft disclosure regulations. ELFA used this opening to educate the DFS of our concerns. Those draft regulations can be found here: [2021 NY DFS Draft Regulations 10.20.21](#). ELFA is currently reviewing the draft regulations carefully and will file additional comments as deemed appropriate in the 60 days permitted.

In addition to the draft regulations linked above, the NY DFS issued a Regulatory Impact Statement. That Impact Statement include a statement on changes made based on comments from certain groups. **The items highlighted below** are all items that ELFA advocated for, and in some cases was the only group that did so for the benefit of all financiers.

### From the Statement:

*8. Alternatives: There are no viable alternatives to this regulation. The Department is promulgating Part 600 to comply with an expressed statutory mandate in FSL Article 8. The Department posted a draft text of this regulation on its website for 10 days to solicit comment from small businesses that might be affected. The Department received 8 comments. One commenter representing small businesses praised the proposed text and suggested additional protections for small business. Seven other comments requested revisions mainly for the benefit of financiers. One commenter representing small businesses pointed out that FSL section 808 requires a special disclosure concerning "double dipping." "Double dipping" refers to a common practice used by financiers when doing renewals and refinancing. Lenders charge borrowers*



### Important ELFA State Financial Disclosure Webinar

#### PLEASE MARK YOUR CALENDARS:

ELFA will host an important member-wide State Disclosure Webinar to review California and New York disclosure requirements and strategies for compliance. The webinar is scheduled for Wednesday, Dec. 15 at 1pm EST. See details and register at <https://bit.ly/ELFADisclosureWebinar>.

*for fixed fees still outstanding and due under a prior financing when they do a renewal financing or a refinancing; they then charge fixed fees for the new financing. The Department responded to this comment by amending its disclosure formats. Industry representatives objected to the term "double dipping," but FSL section 808 uses this terminology and requires its use in disclosure forms. All commenters believe a transition period for compliance is necessary after Part 600 is adopted. Financiers and brokers must see the final regulation before they can adjust their computer systems, compliance procedures, and contracts with other parties. They must train their*

*employees on the new law. Several commenters requested a six-month period for compliance. The Department has heeded this request. Affected parties will only be required to fully conform to the disclosure requirements of Part 600 six months after the final adoption and publication of the regulation.*

*The Department made other changes based on comments from lending industry representatives. First, the Department modified the definition of when a specific offer is made that triggers the requirement to provide a disclosure. This change should allow for some negotiations between borrowers and lenders before disclosures are required. Second, commentors suggested the Department include the Secured Overnight Financing Rate (SOFR) as one of the acceptable rate indexes to be used in adjustable-rate financings. The Department feels this change is appropriate because the London Inter-Bank Offered Rate (LIBOR) is being phased out as a benchmark. Third, the Department clarified the definition of a "broker;" the term "broker" is now defined in terms of the substantive*



services they perform during the underwriting process. Finally, the Department has modified the allowed tolerances in the calculation of APRs required under Part 600.04. For most transactions, the tolerance threshold will remain 1/8 of a percent; for irregular transactions, the Department proposes a larger tolerance of 1/4 of a percent. The Department did not feel it was wise to make additional revisions to Part 600 at this time. Some comments requested changes that were inconsistent with the letter and spirit of FSL Article 8. Other comments require further deliberation by the Department and consideration of additional comments during a full 60-day comment period.

In addition, the DFS adopted ELFA's changes with respect to the definition of "lease financing" to remove any suggestion that true leases and finance leases were not exempt from the disclosure.

## ELFA Meets with California DFPI and Files Additional Comments Re: Third Modification of Proposed Rules


ELFA met with the California Department of Financial Protection and Innovation (DFPI) on Oct. 26, and taking into account those discussions filed an [Oct. 28 cover letter](#) and [comments](#) addressing the Department's Third Modification of the proposed regulations for SB 1235. Below please note the following overarching themes covered by the ELFA comments and the highlighted impacts on equipment finance companies in particular:

■ **Timing and Frequency of Disclosures** – The fluidity of commercial leasing negotiations, inclusive of the frequent back-and-forth between and among the provider, financier, broker, and recipient, will make the timing and frequency of the disclosures set forth in the regulations especially challenging. Contrary to our understanding of the primary intent of the statute to provide timely, accurate information in writing prior to consummation of a commercial financing, we fear this type of repeated disclosure during the course of negotiations is likely to be more confusing to customers than helpful. In that vein, we have provided a few suggested edits to the revised/new definitions of "at the time of extending a specific commercial financing offer" and "specific commercial financing offer" presented in the latest draft of the regulations. These suggested edits are designed to simplify and clarify the proposed regulations for the benefit of finance companies and their customers.

■ **Clarification of Broker and Financer Responsibilities and Definitions** – In light of the recent updates to Section 952 of the regulations related responsibilities of financiers and brokers, we have sought to further avoid the potential for overlapping definitions and responsibilities given the discrete roles each party plays in a typical commercial financing transaction. To that end, we are also suggesting clarifications in the definition of "broker" to avoid the potential application of disclosure obligations to various third parties involved in these types of transactions, such as attorneys and document preparation and delivery companies.

■ **System Updates and Enforcement** – Although ELFA members have been preparing for the implementation of this disclosure for many months, they will need time to update their systems to reflect the precise requirements set forth in the regulations. In order to avoid foot faults while companies do their best to implement these disclosures where applicable, we would appreciate if the DFPI would issue guidance indicating that enforcement will be tolled for a minimum of six months to allow companies to update their systems to account for the disclosures. We note that the New York Department of Financial Services has similarly indicated that there would be a six-month grace period after the regulations are final prior to enforcement for California transactions.

The DFPI is only legally required to consider those comments considered responsive to changes last made (in the third modification). ELFA's latest comments are intended to serve two functions: first and most importantly, to relate our concerns to the latest changes and secondly to put on the record concerns that may be the basis of future requested interpretive opinions.

ELFA again thanks our Chair Moorari Shah of Shepard Mullin and the members of the ELFA State Legislative and Regulatory Subcommittee for their continued analysis and guidance. While the regulation process continues in California and New York, your ELFA will stand guard and endeavor to protect our industry at every step. While also on the front line in New Jersey, ELFA is positioned to educate state policy makers anywhere in America. 



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

# Make a Lasting Impact

**WITH THE SUPPORT** of generous Corporate and Individual donors, the Equipment Leasing & Finance Foundation develops future-focused economic forecasts and topical industry studies coupled with a strong focus on promoting equipment finance careers to the next-generation workforce at various educational institutions, including offering a student Scholarship Program.

Foundation donors position themselves to both compete and thrive by having access to industry data before it is made available to the public. Join our growing donor family and make a lasting impact on your equipment finance industry. Donate at [www.lease-foundation.org/giving/online/](http://www.lease-foundation.org/giving/online/).

**Thank you** to our 2021 Corporate and Individual donors for supporting the Foundation's vision: *your eye on the future.* ☰



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

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# Helping Black-Owned Businesses Succeed Through Technology Financing and Education

**THE PANDEMIC EXPOSED** many of the inequities that plague our communities and society. It deemed what job roles were essential and forced some businesses to shut down and lay off workers, while others were able to easily transition to working from home. We saw the digital divide widen as students without access to the internet or a laptop were unable to join their classes, and we saw a social justice movement that amplified the unequal treatment of communities and people of color. Despite the different yet shared experiences through all of this, we also saw innovation and new commitments to address these inequities and help businesses and communities succeed.

## New Commitments and Plans of Action

At Cisco our purpose is to power an inclusive future for all. To help close the digital divide and remove barriers to help make changes, we made new commitments last year with the launch of a Social Justice Beliefs and Action plan. Cisco Capital is leading initiatives to provide Black-owned businesses with the capital, education, customers and technology they need to drive business results. It is rare that I have an opportunity to support my community from a professional perspective and I have an overwhelming sense of pride in my company for proactively creating actions to combat the social injustice that is so pervasive in Black communities. We've put together an action plan to help create a more inclusive future in their communities and with their customers and partners.

## Financing Options for Technology Fuels Innovation

For businesses to remain competitive and succeed they need to be able to adopt the right technology solutions to become efficient and offer their workforce and



customers the experience they expect. Every industry was forced to update their infrastructure, adopt new technology solutions to remain productive, and keep their workforce and customers safe due to COVID. These technologies can be expensive and less accessible to some businesses and communities. Partnering with financing providers that service Black-owned companies and communities, we can help them create attractive financing offers to help their customers get access

to the technology solutions needed. For example, the Historically Black Colleges and Universities (HBCUs) impacted by the onset of COVID. Students, faculty and staff did not anticipate the immediate shift to virtual learning and teleworking. To help modernize the technology at HBCUs, and in addition to technology donations that Cisco Systems, Inc. has made, Cisco Capital has created a special finance offer of 0% interest and 6-month deferral financing. By giving Black students better access to the education and technology they need it not only has a positive impact on them but their local and regional economies, as well.

Cisco Capital is partnering with ELFA to offer education programs to its Black-owned channel partners.

### Accelerating Enablement with Black-owned Finance Partners and Channel Partners

We are making a concerted effort to bring more Black-owned financing companies into our network of partners to provide them with a broader base of potential customers and financing prospects. Our customers can realize value by increased opportunities for diversity spending.

For Black-owned Channel Partners, we are offering extended payment terms and education programs about how to leverage financing to increase their revenue and profitability, co-sponsored with the Equipment Leasing and Finance Association and the Certified Lease & Finance Professionals (CLFP). After connecting with an African American Cisco channel partner in my own community I could see firsthand how gaining access to extended payments term options, knowing when and how to leverage financing with his customers, and collaborating with finance partners could significantly accelerate the trajectory of success within his business.

I feel fortunate to be in a unique position to have a direct impact on my community, from our Black students and universities to our Black business owners and financiers. I encourage other companies and leaders to join us. If more leaders and businesses make these types of investments, we can help more people succeed and create a more inclusive future for all. [E](#)

**TANISHA GORDON-FLOWERS** is Senior Manager, U.S. and Canada Technology Finance Partners at Cisco.



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# Building Visionary Leaders Through Intrapreneurship

Q&A with incoming Emerging Talent Advisory Council Chair Martin Klotzman

**AS EQUIPMENT FINANCE COMPANIES SEEK** to attract and retain the next generation of employees, ELFA's Emerging Talent Advisory Council is leading critical conversations on this topic. *EL&F Magazine* caught up with Martin Klotzman, incoming Chair of ETAC, to discuss the committee's ELFA Annual Convention breakout session, "Avoid Being the Next Blockbuster: Embrace Intrapreneurship."



## Q: What is Intrapreneurship?

Intrapreneurship is a corporate management practice that encourages employees to act like entrepreneurs within an established company. Employees are given the autonomy to work on special projects and explore policies, technologies or applications that will improve their company's performance. Sometimes those special projects become a new product, business section, department or subsidiary.

Many of the products and services that we rely on everyday were created by intrapreneurs whose employer fostered a culture of creativity and innovation. For example, Google supports its employees becoming intrapreneurs by encouraging them to allocate between 10% and 20% of their time to "passion projects" that could benefit the company. Some of these

successes are Gmail, Google News, Google Maps and AdWords.

Amazon Prime was created by a group of employees who believed customers would pay more for an "exclusive" membership that offered two-day delivery. The Sony PlayStation was a side project of an employee who would later become the company's Chairman and CEO. The Post-it Note was created by a 3M employee who needed a bookmark that would stick without damaging the pages.

The list goes on and on.

## Q: Why is the Emerging Talent Advisory Council highlighting this topic? What makes an effective intrapreneur?

The Emerging Talent Advisory Council is highlighting intrapreneurship because it is an effective way of developing younger professionals into future, visionary leaders.

Intrapreneurship gives emerging talented employees who have a flair for innovation a chance to thrive. Truth be told, not everyone has the resources and stability to pursue their ideas and dreams, or the capacity to take big risks. For example, if you have a family to support, leaving a secure job to build a start-up might

ELFA established ETAC in 2014 to encourage industry professionals to get involved in the association early in their careers and to attract the best and brightest to the industry. If you'd like to get involved in ETAC's 2022 initiatives, including regional networking events, the annual EMERGENCE leadership development conference and more, visit the Emerging Talent page at <https://www.elfaonline.org/industry-topics/emerging-talent>.

not be possible. In contrast, most established companies have the variety of resources intrapreneurs need to succeed so they do not have to take on the personal risk that entrepreneurs do. Those resources can include access to infrastructure, capital, technology and customers.

There are many ways to become an effective intrapreneur, but every intrapreneur must focus on evolving their organization from the inside out. This means looking within your own area of expertise as a starting point to seek innovative solutions to the problems around you.

### **Q: Why should equipment finance leaders take this topic seriously?**

Equipment finance leaders should take this topic seriously because intrapreneurship among young professionals can provide a means of keeping talented people motivated and loyal, and because equipment finance firms must digitize—and digitize quickly—to stay competitive. It's the intrapreneur who can make that happen.

Since I first joined this industry in 2014, embracing innovation and adopting a technology-oriented mindset to both mitigate the threat of outside competition and prepare for the next generation has been a recurring discussion among ELFA members. During these seven years, especially in the past 18 months, I have witnessed an entire industry digitize their infrastructure. Nonetheless, industry leaders should keep asking themselves, "What more can I do to remain competitive and achieve continued success, and how can I use intrapreneurship as a vehicle to secure that result?"

An organization is all about its people. The best people need to feel that they are in control of their careers and have the opportunity to develop a broad set of skills. In a world full of change and uncertainty, intrapreneurs have the ability to drive growth, leapfrog the competition and empower the business to succeed for another generation. ☰

**MARTIN KLOTZMAN, MBA, CLFP**, is Senior Manager Marketing and Product Management at Ivory Consulting Corporation and incoming ETAC Chair.

## EXECUTIVE ROUNDTABLE



### March 13-15, 2022

Omni Amelia Island Resort • Amelia Island, FL

Discuss the issues of the day, strategize about the future and create lasting business relationships. This Roundtable is open only to executives from ELFA member companies, including Service Provider member companies.

Complete details and registration information coming soon.

Contact Lisa Ramirez at [lr Ramirez@elfaonline.org](mailto:lr Ramirez@elfaonline.org) to receive information about this Roundtable.

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## Technology-Related Trends:

- Increased Role of Technology in Sales and Business Operations
- Increased Emphasis on Cyber/Data Security



## Workforce-Related Trends:

- Challenges Recruiting the Next Generation of Equipment Finance Workers
- Expanding Focus on Promoting Diversity, Equity, and Inclusion



## Economic and Policy Trends:

- Pandemic-Driven Changes to Equipment Demand
- Increased Regulatory Pressures on the Equipment Finance Sector

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