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Foreword

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Foreword

The *North Carolina Banking Institute (NCBI)* celebrates the publication of Volume 23 and the twenty-third annual North Carolina Banking Institute continuing legal education (CLE) program at which the journal is distributed each year.

This year's journal features important articles and remarks offering insight and guidance by prominent attorneys engaged with the issues currently facing the financial services industry. The journal includes an article by David T. Bloom, Senior Vice President and Deputy General Counsel of SunTrust Banks, Inc. Mr. Bloom's article synthesizes the legal bases of the global foreign exchange market, including national laws and master trading agreements.

Highlighting the importance of Federal Home Loan Banks in the nation's financial system is an article co-written by Jonathan A. Scott, Professor of Finance at Temple University and Chairman of the Board of the Office of Finance of the Federal Home Loan Banks, and Reginald T. O'Shields, Senior Vice President and General Counsel of the Federal Home Loan Bank of Atlanta.

Additionally, this volume includes a timely article on bitcoin futures from Lee Reiners, Lecturing Fellow and Executive Director of the Global Financial Markets Center at Duke University School of Law. Mr. Reiners unpacks the impact of bitcoin futures on systemic risk and offers suggestions on how to improve the product approval process in the age of cryptocurrency.

The journal also includes an article derived from John Finneran's remarks made at last year's Banking Institute. Mr. Finneran, Corporate Secretary and Senior Advisor at Capital One Financial Corporation, delivered the traditional after-lunch bank counsel remarks, sharing his thoughts on fostering an open and inclusive culture. His remarks highlighted his journey as General Counsel at Capital One, and watching the company grow to one of the largest banks in the United States.

We are also very proud of the fifteen notes published by our 2L staff members, which is the first time in the journal's history that all student staff members have produced publishable notes. These notes include insight and analysis on numerous issues at the forefront of the financial services industry, such as Ashley Longman's note which forecasts the direction in which blockchain technology and corresponding privacy concerns are moving, and Marion Brown's note which

addresses the SEC's rejection of proposed bitcoin-based exchange-traded funds.

Our student notes also include analyses of recent trends regarding regulatory oversight and merger activity among financial institutions, such as Blake Leger's note which analyzes the Bank of the Ozarks' ridding itself of SEC oversight by dissolving its holding company; Brad Cheek's note which addresses the trend of troubled companies using unrestricted subsidiaries to alleviate mounting debt pressures; Devon Tucker's note which argues for deregulation of commercial mortgage-backed securities; Garrett Moore's note which evaluates the effectiveness of stress tests ten years after the 2008 Financial Crisis; and Nute Thompson's note which analyzes credit union merger trends and the evolving role of credit unions in the financial services industry.

Several notes offer differing perspectives on timely consumer protection issues, such as Brienne Glass's note which evaluates the Consumer Financial Protection Bureau's (CFPB) treatment of tribal payday lending; Courtney Cornelius's note which argues for a return to the CFPB's proactive approach to protecting servicemembers from predatory lending; Kylie Norman's note which argues against a proposal for consumer accounts at the Federal Reserve; and Morgan Schick's note which questions the effectiveness of the updated Community Reinvestment Act procedures.

Additionally, student notes offer fresh insight into the intersection of politics and the financial services industry, both domestically and globally, such as Erin Catlett's note on social activism by banks in the wake of the Parkland, Florida shooting; Alexandria ter Avest's note which analyzes the effects of Iranian financial sanctions; Lindsay Seventko's note which offers a deep-dive into the European Union's new General Data Protection Regulations; and Rachel Brinson's note about whether the United States will become a tax haven because of its absence from the Automatic Exchange of Information.

Finally, we are pleased to publish two notes submitted by 3L staff members, Joseph Fields and Zachary Layne. Joseph's note discusses bank merger activity following the increased SIFI threshold, and Zachary's note focuses on privacy concerns in the wake of high-profile data breaches, and how financial regulators should combat these threats.

The journal is distributed at the annual University of North Carolina School of Law Banking Institute, held March 21–22, 2019. The Banking Institute is one of the nation's premier programs for banking attorneys and industry professionals. Hosted in the spring of each year in Charlotte, North Carolina, it is sponsored by the Center for Banking and Finance at the University of North Carolina School of Law (Center).

Featured speakers at this year's Institute include Allen Kamensky, General Counsel and Secretary of Synovus Financial Corp.; Jelena McWilliams, Chairman of the FDIC; and Jo Ann Barefoot, Chief Executive Officer of Barefoot Innovation Group. Panels will address complying with OFAC sanctions, fintech, cybersecurity, privacy, and a potpourri of hot topics.

The annual Banking Institute is preceded by a one-day program, "The ABCs of Banking Law," for those interested in a short course overview of banking law fundamentals. Many thanks to Moore & Van Allen, PLLC for hosting the 2019 program and to our continuing cast of program faculty joining Lissa Broome, including Scott Cammarn, Cadwalader, Wickersham & Taft LLP; Gene Katz, Wells Fargo & Company (retired); Karol Sparks, Barack Ferrazzano Kirschbaum & Nagelberg LLP; Cliff Stanford, Alston & Bird LLP; and John Stoker, Wells Fargo & Company.

The *NCBI* participated in several programs throughout the academic year to assist students' professional networking efforts. The *NCBI* editors and staff members would like to thank the attorneys who participated in *NCBI*'s tenth annual Career Trek. In an effort to learn more about legal careers in the financial services industry, members of the *NCBI* traveled to Charlotte to meet with attorneys and other professionals at King & Spalding LLP, including attorneys from Fifth Third Bancorp, Bank of America, and Wells Fargo & Company. The editors and staff members especially thank Ariana Johnson, former *NCBI* member from King & Spalding, for helping to plan the event and to the firm for its gracious hospitality.

To further stress the importance of building a strong professional network, attorneys from the Triangle area were invited to join members of the *NCBI* at the August *NCBI* orientation lunch, discuss their career paths, and provide feedback on students' resumes. Many thanks to journal alums Ariana Johnson, King & Spalding LLP; Brian Meacham, Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP; Jason Strickland, Ward and Smith, PA; and Dan Tracey, Wyrick Robbins Yates & Ponton LLP.

The Center was established in July 2000 to play a leadership role in the continual evolution of the financial industry. While the annual Banking Institute is the Center's signature program, the Center is also involved as a sponsor or co-sponsor with a wide variety of other programs designed to provide high quality education to the banking and finance industry. The Center sponsored its second Financial Services Compliance Boot Camp, June 11–12, 2018, in Charlotte. The program for compliance professions in the securities industry attracted over 160 students

and panelists. Thanks to Tracy Calder of LPL Financial for co-directing the program.

In September 2018, the Center sponsored “September 2008: A Legal Retrospective,” held at the offices of Arnold & Porter in D.C., and featuring many of the attorneys working with regulators, legislators, and banks in response to the financial crisis. The keynote speakers were Sheila Bair, then Chairman of the FDIC; Senator Chris Dodd, then Chairman of the Senate Banking Committee; and Rodgin Cohen from Sullivan & Cromwell who was asked for advice during this period by virtually everyone. The Center provided travel grants so that over twenty law students were able to participate in this historic event. The Center is working with the Kathrine R. Everett Law Library to provide a repository collecting audio and video of the event, pictures from the event, along with other materials relating to the financial crisis, <https://scholarship.law.unc.edu/financial-crisis-legal-retrospective/retrospective/program/3/>. Others are invited to contribute materials for inclusion in the repository. Thanks to Eric Spitler for his help in co-directing this unique retrospective.

The Center co-sponsored with North Carolina’s Office of the Commissioner of Banks a program, “Emerging Issues Forum for Bank Directors: Banking in the 21st Century: A Focus on Fintech.” The annual Dan K. Moore Program in Ethics (co-hosted by the Center and the UNC School of Law Office of Continuing Legal Education) returned to Chapel Hill from its 2017 location in Charlotte. The annual Festival of Legal Learning in February 2019 featured the Center’s annual Consumer Law and Consumer Credit Symposium.

A distinguished Board of Advisors, consisting of attorneys and industry professionals, guides the activities of the *NCBI* and the Center. The financial support provided by the Center’s Board of Advisors has been crucial in permitting the Center to undertake its many activities. That financial support is manifested in annual sponsorships of the Banking Institute CLE program and a campaign establishing an endowment to support the Center’s activities spearheaded by a transformative gift from George and Susan Beischer. In honor of the Beischers’ generosity, the annual address at the Banking Institute dinner is named in their memory.

Funds collected from sponsors have endowed a scholarship for a journal student and a research fund that supports the Center. In addition, since 2013–14, the board has provided a second scholarship for a journal student, in an equivalent amount to the endowed scholarship, out of current sponsorship funds. The board began making an additional commitment to scholarships in honor of the twentieth anniversary of the *NCBI*, with the remaining *NCBI* editors each receiving a \$3,000 scholarship for

their third year of law school. The board will continue to provide supplemental scholarships from sponsor funds to the rising 3L editors of the *NCBI*.

In 2015, the Center offered its first study abroad scholarship in the amount of \$5,000 to assist a rising 2L UNC School of Law student to study abroad in the summer between the 1L and 2L year and focus on issues related to banking and finance. Jared McDaniel received the 2018 Center for Banking and Finance Study Abroad Scholarship to study law and business at the University of Augsburg in Germany.

The Center and its Board welcome your suggestions as to how the Center may better serve the needs of the industry. Please contact Lissa Broome (lbroome@email.unc.edu) to share your ideas or to become involved in the Center's activities. To learn more about the Center's programs and activities, please visit the Center's website at <http://www.law.unc.edu/centers/banking>. To view the PDF versions of the Notes and Articles provided herein or past volumes published by the *NCBI*, please visit the Center's website at <http://www.law.unc.edu/journals/nbank/volumes/>. If you have any suggestions about topics that the students of the *NCBI* should write about in the future or you have an interest in having an article published in Volume 24, please email your topic ideas or article to nbank@unc.edu.

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