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Foreword

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FOREWORD

The *North Carolina Banking Institute* (“NCBI”) celebrates the publication of Volume 24 and the twenty-fourth annual North Carolina Banking Institute continuing legal education (“CLE”) program at which the journal is distributed each year.

As we begin the year of 2020, the journal reflects on its significance. It is a milestone which not only marks the beginning of a new decade, but also the ten-year anniversary of the legislative response to the 2008 financial crisis that overhauled the American financial system: the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”). This year’s journal features an article by Eric Spitler which reflects on the various methods in which opponents of Dodd-Frank have challenged it over the past decade and are still challenging it today. Mr. Spitler is an Adjunct Professor at the University of North Carolina School of Law where he teaches *The Legal Response to the Financial Crisis* to upper-level law students. Additionally, Mr. Spitler served as Director of the Office of Legislative Affairs for the Federal Deposit Insurance Corporation (“FDIC”) during the years surrounding the financial crisis, and he also served as Counsel to the Chairman and Director of the U.S. Securities and Exchange Commission (“SEC”) during the years of Dodd-Frank’s implementation.

Volume 24 of the journal also includes an article co-written by Elliot Ganz and Phillip Black which focusses on the notorious Dodd-Frank mandate of risk retention in securitization transactions. Messrs. Ganz and Black work for the Loan Syndications and Trading Association (“LSTA”), and Mr. Ganz served as one of the lead attorneys in the LSTA’s successful lawsuit against the SEC and Board of Governors of the Federal Reserve System challenging the risk-retention requirement’s applicability collateralized loan obligation (“CLO”) managers.

The journal also includes an article which analyzes the cyclical nature of bank failures and subsequent legislative and regulatory responses, co-written by William Handorf, Professor of Finance and Banking at the George Washington University School of Business; Reggie O’Shields, Executive Vice-President and General Counsel of the Federal Home Loan Bank of Atlanta; and Andrew Richardson, a student at the University of Georgia School of Law.

Brian Haney provides an in-depth look at current blockchain technology and its security vulnerabilities given recent advancements in quantum computing and cryptography. Mr. Haney's article adds a new perspective to the on-going discussion on blockchain and its potential impact on the modern financial system while analyzing the surrounding legal, economic, technological, and related scientific issues.

We are also very proud of the fourteen student notes published by our staff members. Katherine Franck's note discusses cannabis and banking, including concerns over conflicting state and federal law, and examines the impact on the banking industry while advocating for reform. Richard Willi's note addresses the recent changes in accounting standards for banks under Current Expected Credit Loss ("CECL") and advocates for certain changes to alleviate its disproportionate impact on smaller banking institutions.

Our student notes also include analyses of recent trends in securities, banking, and financial services industries. Brage Humphries's note examines the recent growth of crowdfunding as an alternative source of capital market financing for emerging growth companies and its impact on traditional bank lending while offering recommendations to banks on how to adapt to the growing crowdfunding industry. Chase Ponder's note discusses recent fiduciary standards imposed on financial advisors by the federal government while arguing for state-centered regulation in lieu of the federal framework currently in place. John Fallon's note addresses recent concerns in the municipal bond market due to underfunded pension funds and cautions that municipal bonds may not be as safe of an investment as they appear.

Other student notes offer differing perspectives on timely developments in fintech and virtual currencies. Meredith Bock's note examines the use of biometrics in the banking industry to protect the privacy of consumer's financial data and whether the Gramm-Leach-Bliley Act ("GLBA") adequately addresses these new technological concerns while recommending modification to certain GLBA language to ensure its protections fully reach biometrics. Lizzie Hobbs's note provides insight on concerns of the existing unbanked population and examines Facebook's proposed cryptocurrency, Libra, the legislative and regulatory challenges it currently faces, as well as the potentially vast impact such a global digital currency could have on reaching the unbanked population.

Additionally, several student notes offer fresh insight into economic growth, as well as the intersection of politics and the banking and finance industries. Tyler Talton's note examines the post-financial crisis environment for de novo banks and recommends potential areas for regulatory reform to encourage de novo bank entry going forward. Kemper Patton's note examines the recent push towards encouraging investment in low-income areas through positive tax treatment on investments in "Opportunity Zones" and highlights ways banks can capitalize on this trend to help satisfy their Community Reinvestment Act obligations. Thomas Walls's note discusses political proposals aimed at addressing affordable housing and analyzes their potential affect and viability. Anna Huffman's note addresses recent discussions surrounding student debt forgiveness and the economic impact student loan forgiveness could have while arguing against the adoption of such programs.

Finally, we are pleased to publish three additional student notes as part of Volume 24's mini-symposium on comprehensive data privacy reform legislation in the United States. First, Elizabeth Feld's note discusses the impact of the European Union's ("EU") General Data Protection Regulation ("GDPR") on the banking and finance industries in the United States, including recent state legislation modeled after the EU's GDPR. Then, Lauren Davis's note examines California's data privacy legislation—the California Consumer Privacy Act—modeled after the EU's GDPR. Lastly, Fara Soubouti's note discusses recent efforts to pass comprehensive data privacy legislation at the federal level in the United while advocating in favor for such reform.

The journal is distributed at the annual University of North Carolina School of Law Banking Institute, held March 26–27, 2020. 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 Ellen Fitzsimmons, Chief Legal Officer, Head of Enterprise Diversity and Human Resources at Truist Financial Corporation; Tom Barkin, President and Chief Executive Officer, Federal Reserve Bank of Richmond; and Professor Patricia McCoy, Boston College School of Law. Panels will address bank partnerships with fintech firms, preparing for and implementing the LIBOR transition, digital currencies and

distributed ledger technology, preparing your bank for the next downturn, diversity and inclusion in banks, and supervisory issues related to cannabis and hemp banking.

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 Mayer Brown for hosting the 2020 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); Lisa McDougald, Truist Financial Corp.; Karol Sparks, Barack Ferrazzano Kirschbaum & Nagelberg LLP; and Cliff Stanford, Alston & Bird LLP.

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* eleventh annual Career Trek. In an effort to learn more about legal careers in the financial services industry, members of the *NCBI* traveled to Raleigh to meet with attorneys and other professionals at Alston & Bird LLP, including attorneys from SAS Institute, Inc. and BB&T. The editors and staff members especially thank Frank Hirsch, Mark Kanaly, Matt McGuire, and Cliff Stanford from Alston & Bird LLP 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 Graham Dean, Credit Suisse; Max Isaacson, K&L Gates; Charles Kabugo-Musoke, Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP; and Amanda Stokes, Morningstar Law Group.

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 co-sponsored with North Carolina's Office of the Commissioner of Banks the North Carolina Bank Directors' College and the Emerging Issues Forum for Bank Directors. The annual Dan K. Moore Program in Ethics (co-hosted by the Center and the UNC School

of Law Office of Continuing Legal Education) was held for the second time in Charlotte. The annual Festival of Legal Learning in February 2020 featured the Center's annual Consumer Law and Consumer Credit Symposium, directed by Professor Kate Elengold.

The Center will sponsor its second Financial Services Compliance Boot Camp, June 2–3, 2020, in Charlotte. The 2018 version of this program for compliance professions in the securities industry attracted over 160 students and panelists. Thanks to Tracy Calder of LPL Financial and her team for their assistance in leading this program.

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 2013–2014, 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 scholarship of at least \$3000 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 \$5000 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. Last summer and this summer, the Center will provide support for five to six students to visit the University of Tübingen and participate in classes with German law students for two weeks.

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/ncbank/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 25, please email your topic ideas or article to ncbank@unc.edu.

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