



UNC  
SCHOOL OF LAW

NORTH CAROLINA  
BANKING INSTITUTE

---

Volume 20 | Issue 1

Article 2

---

3-1-2016

## Foreword

Eric S. Anderson

Lissa L. Broome

Follow this and additional works at: <http://scholarship.law.unc.edu/ncbi>



Part of the [Banking and Finance Law Commons](#)

---

### Recommended Citation

Eric S. Anderson & Lissa L. Broome, *Foreword*, 20 N.C. BANKING INST. (2016).

Available at: <http://scholarship.law.unc.edu/ncbi/vol20/iss1/2>

This Article is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in North Carolina Banking Institute by an authorized editor of Carolina Law Scholarship Repository. For more information, please contact [law\\_repository@unc.edu](mailto:law_repository@unc.edu).

## FOREWORD: CELEBRATING TWENTY YEARS OF THE NORTH CAROLINA BANKING INSTITUTE

The *North Carolina Banking Institute (NCBI)* celebrates the publication of Volume 20 and the twentieth annual North Carolina Banking Institute continuing legal education (CLE) program at which the journal is distributed each year. The founding of the journal and the Banking Institute CLE program are recounted in the Foreword to Volume 10 in 2006.<sup>1</sup> The ten years since then have been a time of turmoil for the financial services industry. In 2006, the subprime mortgage crisis was not yet on *NCBI's* radar screen. In 2007, there was discussion of regulatory guidance on nontraditional mortgage products<sup>2</sup> and concentrations in commercial real estate lending.<sup>3</sup> In the spring of 2008, two professional pieces addressed the subprime mortgage crisis,<sup>4</sup> and by the spring of 2009 most of the professional and student articles focused on some aspect of the financial crisis, including perspectives on the crisis penned by five UNC School of Law faculty members.<sup>5</sup> Volume 14, published in the spring of 2010, discussed the Troubled Asset Relief Program (TARP),<sup>6</sup> the mortgage foreclosure crisis,<sup>7</sup> and various regulatory responses to the financial crisis.<sup>8</sup>

The passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act in July 2010 provided the opportunity for the *NCBI* to publish another series of UNC Law faculty perspectives in Volume 16 in March 2011.<sup>9</sup> Most of the student pieces in that volume

---

1. Lissa Lamkin Broome, *Foreword: Celebrating Ten Years of the North Carolina Banking Institute*, 10 N.C. BANKING INST. I (2006).

2. Stuart M. Rigot, Student Note, *Nontraditional Mortgage Products: Does Guidance Effectively Inform Borrowers of Risk?*, 11 N.C. BANKING INST. 131 (2007).

3. H. Gary Pannell & Robert L. Carothers, Jr., *Regulatory Guidance on Concentrations in Commercial Real Estate Lending*, 11 N.C. BANKING INST. 57 (2007).

4. Frank A. Hirsch, Jr., *The Evolution of a Suitability Standard in the Mortgage Lending Industry: The Subprime Meltdown Fuels the Fires of Change*, 12 N.C. BANKING INST. 21 (2008); Kenneth C. Johnston, James B. Greer, Julie K. Biermacher & Joseph Hummel, *The Subprime Morass: Past, Present and Future*, 12 N.C. BANKING INST. 125 (2008).

5. Professors Charles E. Daye (housing), Melissa B. Jacoby (bankruptcy), Thomas Lee Hazen (derivatives), Lissa L. Broome (government investment in banks), and Saule T. Omarova (global financial crisis) all contributed their perspectives to the journal. See *Perspectives on the Financial Crisis*, 13 N.C. BANKING INST. 103 (2009).

6. Michael S. Melbinger, *Executive Compensation and Risk: TARP Rules for Financial Institutions Trigger Broader Risk Assessment of Compensation Policies*, 14 N.C. BANKING INST. 59 (2010); Andrew P. Atkins, Student Note, *The AIG Bailout: Constraining the Fed's Discretion*, 14 N.C. BANKING INST. 335 (2010); Patrick D. Craig, Student Note, *Citizens South: Innovative Use of TARP Funds Creates Value for Customer, Community, and the Bank*, 14 N.C. BANKING INST. 361 (2010).

7. See *The North Carolina Banking Institute Symposium on the Foreclosure Crisis*, 14 N.C. BANKING INST. 191 (2010) (containing student notes by Kathryn Johnson, Carolyn E. Waldrep, Daniel J. Behrend, Leila A. Hicks, S. Adeline McKinney, and Marjorie B. Maynard).

8. See, e.g., Peter S. Kim, Student Note, *The FDIC's Special Assessment: Basing Deposit Insurance on Assets Instead of Deposits*, 14 N.C. BANKING INST. 381 (2010).

9. *Perspectives on the Dodd-Frank Wall Street Reform and Consumer Protection Act*,

provided additional insight on various aspects of Dodd-Frank. The Dodd-Frank Act and its implementing regulations have continued to provide topics for subsequent volumes of the *NCBI*. The financial crisis also led to the publication of a second volume of the *NCBI* in November 2013 when many of the transcripts and papers from a conference held in February 2013 at The George Washington University Law School on “The Political Economy of Financial Regulation” were published in a special volume of the *NCBI*. This conference was co-sponsored by the University of North Carolina School of Law Center for Banking and Finance; The George Washington University Center for Law, Economics & Finance (C-LEAF); the Insurance Law Center at the University of Connecticut School of Law; and the Institute for Law and Economic Policy. Throughout the financial crisis and its aftermath, the *NCBI* and the CLE have provided an important opportunity for policymakers and practitioners to discuss and reflect on the important events of the day, including legislative and regulatory responses. We hope to be able to continue to make important contributions to the continual evolution of the financial services industry, but hope that the next ten years are less tumultuous than the last ten years.

The initial request by seven students to begin a banking journal was at first turned down by the dean at the time, Judith Wegner, in part because of concern that student interest in the journal would lag after the initial group of interested students had graduated. Over the past twenty years, however, 343 students have served the journal as staff or editors. A number of the *NCBI* alumni have found rewarding careers providing legal advice to the financial services industry or working directly in the industry. This year’s volume includes ten dedicated 3L editors and fifteen enthusiastic 2L staff members.

An informal survey of former journal members revealed other impacts (outside of career guidance) of journal service. These impacts included the opportunity to work with others in leading an organization, selecting and empowering the leaders of the organization for the following year, developing legal research and writing skills that are now used on a daily basis, interacting with the professionals attending the Banking Institute, and creating a network of professional contacts. And over the past twenty years, the close contact among journal members helped lead to at least two marriages: “I met my assigned editor. We later dated, fell in love, and got married. So, we owe the Banking Institute journal a lot!” From a second *NCBI* alum: “I talked my girlfriend into being a staffer with me. Now we are married with two kids.”

---

15 N.C. BANKING INST. 11 (2011) (containing perspectives by Professors Thomas Lee Hazen, Lissa Lamkin Broome, Saule T. Omarova, and Melissa B. Jacoby, joined by board of advisors member David Line Batty).

This year's volume of the *NCBI* includes an article on commercial mortgage backed securitization written by Alan Kronovet, one of the founding student members of the *NCBI*, who now serves as Executive Vice President and Head of Commercial Mortgage Servicing for Wells Fargo, and his colleague Chris van Heerden. Alan's career in CMBS was foreshadowed by his student note published in Volume 1, *An Overview of Commercial Mortgage Backed Securitization: the Devil is in the Details*.<sup>10</sup>

Also in honor of Volume 20, we asked John Douglas, an attorney at Davis, Polk & Wardwell LLP, and a founding member of the *NCBI*'s Board of Advisors, to write on the subject of technology and banking, the same subject on which he wrote one of the three articles he published in Volume 1.<sup>11</sup> The issues John highlighted in 1997 included "home banking" and "electronic money" (including stored value cards, "computer/internet money," and Mondex, an entity that issued electronic money in exchange for real money).

As a follow-up on last year's Banking Institute CLE program where Tony Gaeta made some provocative remarks about the future of community banking at the conclusion of a panel discussion on community banks, we asked Tony to deliver his views in writing, and we invited the North Carolina Commissioner of Banks, Ray Grace, to provide a response. We know you will enjoy reading their exchange. Another controversial topic is addressed by Dennis Kelleher, the President and Chief Executive Officer of Better Markets, an organization that promotes the public interest in the U.S. and global financial markets, in his discussion of whether Dodd-Frank has been worth its costs. We anticipate that many of our readers may have different views, and we invite you to submit them to us for potential publication in next year's journal.

Finally, we are happy to showcase a piece written by Pete Webb, a recent graduate of the UNC School of Law, on the OCC's guidelines related to Leveraged Lending. Pete is a good example of one of the many students who has benefitted from the law school's focus on banking and financial services even though he participated in the *North Carolina Journal of International Law & Commercial Regulation*, and did not serve on the *NCBI*. Pete began his analysis of this topic in an independent study for Professor Broome, following his enrollment in her Banking

---

10. Alan Kronovet, Student Note, *An Overview of Commercial Mortgage Backed Securitization: The Devil Is in the Details*, 1 N.C. BANKING INST. 288 (1997).

11. John L. Douglas, Article, *Technology & Banking*, 1 N.C. BANKING INST. 37 (1997). John published two other articles in that inaugural edition. John L. Douglas, Article, *Banking Organizations: Structural and Other Considerations Involving Non-Banking Activities*, 1 N.C. BANKING INST. 59 (1997); John L. Douglas, Article, *Proposed Revisions to Regulation Y*, 1 N.C. BANKING INST. 103 (1997).

Law course.

Of course, we remain very proud of the articles published by our 2L staff members. Some of them address or respond to issues also highlighted in Volume 1 of the journal. John Douglas's previously mentioned bookend articles on technology and banking are complemented by Ariana Johnson's piece on cybersecurity for financial institutions.<sup>12</sup> John could not have predicted in 1997 how his discussion of electronic money would evolve over the next twenty years into Maxwell Gregson's forthcoming note on Apple Pay and mobile payments technology.<sup>13</sup> Some topics, however, remain evergreen in the banking industry. Volume 1 featured a student note by Karen Mower on the propriety of characterizing credit card late payment fees as interest,<sup>14</sup> and Volume 20 features a student note by Tanisha Edwards on overdraft fee regulation.<sup>15</sup> John Douglas also wrote in Volume 1 about proposed amendments to Regulation Y that made bank acquisitions easier to complete.<sup>16</sup> Twenty years later Volume 20 contains a note by Dr. Kenneth Lee regarding Dodd-Frank liability concentration limits intended to inhibit acquisition activity by the largest U.S. banks.<sup>17</sup> Volume 20 also explores other important current issues in financial regulation and provides comprehensive analysis of recent developments in the banking and finance industry.

Volume 20 is published in conjunction with the twentieth annual University of North Carolina School of Law Banking Institute, held March 31–April 1, 2016. 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). 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 2016 program.

---

12. Ariana Johnson, Student Note, *Cybersecurity for Financial Institutions: The Integral Role of Information Sharing in Cyber Attack Mitigation*, 20 N.C. BANKING INST. (forthcoming 2016).

13. Maxwell Gregson, Student Note, *Less is NOT More: The Need for Regulation of Apple Pay*, 20 N.C. BANKING INST. (forthcoming 2016).

14. Karen Mower, Student Note, *Smiley v. Citibank (South Dakota), N.A.: Banks Find "Interest" in Credit Card Late Payment Fees*, 1 N.C. BANKING INST. 169 (1997).

15. Tanisha Edwards, Student Note, *The Banking Shuffle: Barring Reordering Consumer Transactions and Other Recommendations*, 20 N.C. BANKING INST. (forthcoming 2016).

16. John L. Douglas, Article, *Proposed Revisions to Regulation Y*, 1 N.C. BANKING INST. 103 (1997).

17. S. Kenneth Lee, Student Note, *Section 622 of the Dodd Frank Act: Liability Concentration Limits—With Exceptions That Defeat the Purpose*, 20 N.C. BANKING INST. (forthcoming 2016).

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 seventh 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 at Wyrick Robbins Yates & Ponton LLP. Attorneys from First Citizens Bank (including Barry P. Harris IV, Executive Vice President and Chief Legal Officer), the North Carolina Office of the Commissioner of Banks, and the North Carolina Bankers Association also joined for some or all of the day's discussion. The editors and staff members especially thank Tony Gaeta and Todd Eveson from Wyrick Robbins for planning the event and for their 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 for lunch, discuss their career paths, and provide feedback on students' resumes. Many thanks to our journal alums who joined our lunch: Cindy Collins, Robinson, Bradshaw & Hinson, PA; Drew Kifner, Kilpatrick Townsend & Stockton LLP; Jack Magee, Wyrick Robbins Yates & Ponton LLP; and Monica Tew, Morgan Stanley Wealth Management.

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. This year, the Center is kicking off a Financial Services Compliance Boot Camp to be held in Charlotte August 15–17, 2016. This program is designed for financial services compliance professionals with less than five years of experience and those interested in learning more about a career in compliance, including those with J.D. degrees.

A distinguished Board of Advisors, consisting of attorneys and industry professionals, guides the activities of the *NCBI* and the Center. The board's financial support has also 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 recently completed major gift campaign establishing an endowment to support the Center's activities. 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 is making an additional commitment to scholarships in honor of the

twentieth anniversary of the *NCBI*, which will be announced at the CLE program.

The banks and firms represented on the board of advisors joined other friends in matching the \$1 million dollar challenge grant of George and Sue Beischer. The conclusion of the Beischer challenge was celebrated in the spring of 2011. The \$2 million pledged or given to the Center is a transformative gift providing generous support for the Center's many activities. In honor of the Beischers' generosity, the annual address at the Banking Institute dinner is named in their memory.

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. The inaugural recipient, Ford Eubanks, was subsequently selected as a staff member of the *NCBI*. Ford's studies took him to the University of Augsburg in Augsburg, Germany. The Center will continue to offer this scholarship and is working to develop financial support for a rising 3L to undertake an international summer internship related to banking or finance.

At the 2015 Banking Institute, the Center honored its long-time board member Tony Gaeta with the Center's Leadership Award. Tony joined a select group of prior award winners that includes only Marion Cowell, Jerone Herring, and Paul Polking who respectively served as general counsel for First Union Corporation, BB&T Corporation, and Bank of America Corporation; and Paul Stock, the long-time executive vice president and counsel to the North Carolina Bankers Association.

A number of members of the board of advisors have served on the board for its entire twenty-year existence. Many thanks to those steadfast members for their unwavering support: James R. Bryant, III; Marion A. Cowell, Jr.; A.P. Carlton, Jr.; James P. Carroll; H. Rodgin Cohen; Anthony Gaeta, Jr. (emeritus); Thomas L. Hazen; Jerone C. Herring (emeritus); Jerry W. Markham; and Paul J. Polking (emeritus).

The Center and its Board welcome your suggestions as to how the Center may better serve the needs of the industry. Please feel free to 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 21, please email your topic ideas or article to [ncbank@unc.edu](mailto:ncbank@unc.edu).

ERIC S. ANDERSON  
*Editor-in-Chief*  
*North Carolina Banking Institute*  
*Volume 20*

LISSA L. BROOME  
*Wells Fargo Professor of Banking Law*  
*Director, Center for Banking and Finance*