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## Foreword

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## **Foreword**

The *North Carolina Banking Institute (NCBI)* celebrates the publication of Volume 22 and the twenty-second 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 journal alumnus Martha Svoboda, Poyner Spruill, LLP, on fair lending and redlining enforcement cases. Martha's article follows up on her contribution as a panelist during last year's Banking Institute, offering insight into the legal problems surrounding redlining and fair lending. She provides a practical guide for banks to evaluate their own lending practices and comply with legal and regulatory expectations.

Highlighting the significance of confidential supervisory information and its inconsistent treatment among prudential regulators, Clifford S. Stanford, Alston & Bird LLP, wrote on practical issues that arise with regard to the definition and use of confidential supervisory information. His article suggests numerous opportunities for reform to reduce inconsistencies and inefficiencies in the regulatory process and ensure effective bank supervision from each of the prudential regulators.

The journal also includes articles derived from remarks made at last year's Banking Institute. David Leitch, Global General Counsel at Bank of America, delivered the traditional after-lunch bank counsel remarks. His remarks focused on the significance of the role of counselor at law, specifically in counseling clients on post-legal issues. John Dugan, former Comptroller of the Currency, delivered the Sixth Annual George and Susan Beischer Address. John provided an in-depth analysis of bank runs and how the failure of government regulatory measures contributed to the financial crisis. He endorsed the Single Point of Entry approach to handle the failure of a large financial institution and prevent runs in the future.

We are also very proud of the twelve notes published by our 2L staff members, which include insight and analysis on numerous issues at

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the forefront of the financial services industry, such as Sean Whelehan's note which addresses the student debt crisis and advocates for a fiduciary obligation on the part of student loan servicers; Sabrina Galli's note which explores the New York Department of Financial Services' first-of-its-kind data security regulations as a model for uniform data breach prevention regulation; Stephen Spivey's note which examines the impact of an overly broad application of the CFPB's small business data rule on community banks; and Rebecca Floyd's note which studies the short-lived CFPB regulation prohibiting the use of arbitration agreements barring consumers from participating in class actions.

Finally, we are pleased to publish a note submitted by a 3L editor, Patrick Conlon. Patrick's note assesses the Federal Reserve's proposed rule limiting grandfathered financial holding companies from engaging in physical commodities activities and calls for Congress to repeal the grandfather provision allowing such activities.

The journal is distributed at the annual University of North Carolina School of Law Banking Institute, held March 22–23, 2018. 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 John Finneran, General Counsel and Corporate Secretary of Capital One Financial Corporation; Rodge Cohen, Senior Chairman of Sullivan & Cromwell; and Grovetta Gardineer, Senior Deputy Comptroller for Compliance and Community Affairs at the Office of the Comptroller of the Currency. Panels will address bank mergers and acquisitions; LIBOR and its potential replacement; fintech; community banks, affordable housing, and community development; developments within the CFPB; and prospects for bank regulatory reform in 2018.

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 Alston & Bird LLP for hosting the 2018 program again and to our continuing cast of program faculty joining Lissa Broome, including Scott Cammarn, Cadwalader, Wickersham & Taft LLP; Karol Sparks, Barack Ferrazzano Kirschbaum & Nagelberg LLP; Cliff Stanford, Alston & Bird LLP; and newcomer John Stoker, Wells Fargo & Company.

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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* ninth 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 Poyner Spruill LLP, including attorneys from BB&T, First Citizens, and North Carolina's Office of the Commissioner of Banks. The editors and staff members especially thank Brian Corbett from Poyner Spruill 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 for lunch, discuss their career paths, and provide feedback on students' resumes. Many thanks to journal alums Andrew Atkins, Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP; Nancy Coppola, First Citizens Bank; Jack Magee, Wyrick Robbins Yates & Ponton LLP; and Jason Miller, Miller Monroe & Plyler.

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. In September 2017, the Center co-sponsored with North Carolina's Office of the Commissioner of Banks a program for bank directors, "What Every Director Should Know About Cyber Security, Block Chain Technology, and Other Scary Things." For the first time, the Dan K. Moore Program in Ethics (co-hosted by the Center and the UNC School of Law Office of Continuing Legal Education) was held in Charlotte. The annual Festival of Legal Learning in February 2017 featured the Center's Consumer Law and Consumer Credit Symposium, with ten separate classes.

Upcoming programs include the Center's second Financial Services Compliance Boot Camp, June 11–12, 2018, in Charlotte, and a special program to commemorate the role lawyers played in resolving the difficult issues presented by the financial crisis, particularly in the pivotal month of September 2008. That program will be held September 21,

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2008 at the offices of Arnold & Porter Kaye Scholer LLP in Washington, D.C., and will feature the chief counsel from most of the financial services regulatory agencies, the relevant Congressional committee staffs, and private attorneys who represented the affected financial institutions. The program is called, “The September 2008 Financial Crisis: A Legal Retrospective.”

A distinguished Board of Advisors, consisting of attorneys and industry professionals, guides the activities of the *NCBI* and the Center. We were saddened to learn this past year of the death of our colleague and board member A.P. Carlton, Jr., and this volume of the North Carolina Banking Institute journal is dedicated to his memory.

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. Joshua Stroud received the 2017 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 feel free to contact Lissa Broome (lbroome@email.unc.edu) to share your ideas or to

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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 23, please email your topic ideas or article to [ncbank@unc.edu](mailto:ncbank@unc.edu).

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