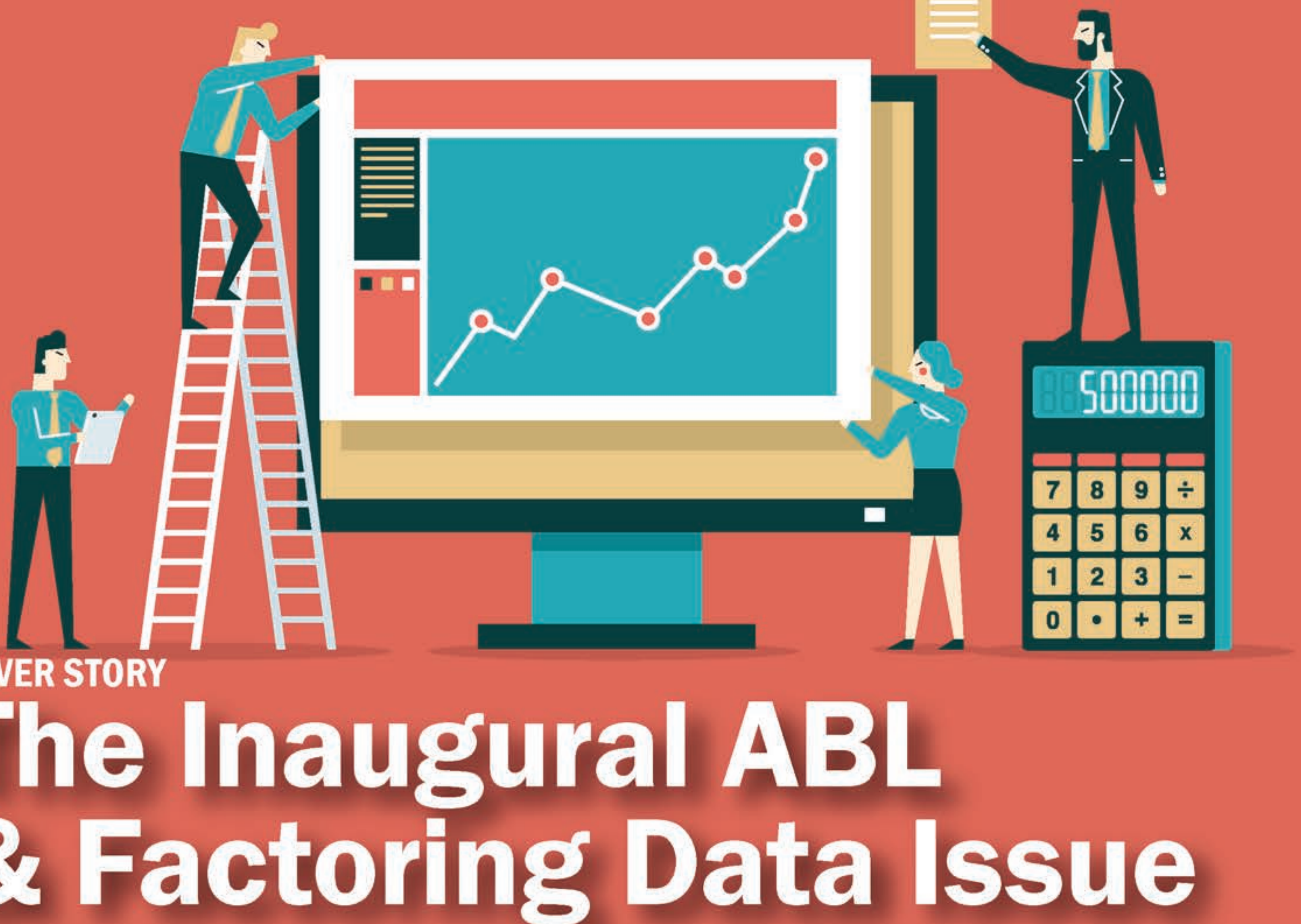
ALSO IN THIS ISSUE: LENDER LIABILITY, CANNABIS LENDING, INFLATION'S IMPACT

THE SECURED Lender

JULY 2022 WWW.SFNET.COM

Putting Capital To Work



COVER STORY

The Inaugural ABL & Factoring Data Issue

TSL BREAKS OUT KEY DIMENSIONS OF GROWTH IN OUR INDUSTRY WITHIN PRODUCT SEGMENTS AND PEER GROUPS BY COMPANY FOR THE FIRST TIME

A publication of: Secured Finance Network

SALUTING GERALD JOSEPH ON HIS RETIREMENT

Recognizing a True Leader

The team at eCapital Asset-Based Lending wants to thank Gerald Joseph for his decades of leadership, his commitment to integrity and his passion for excellence.

Gerald is a true icon in the finance industry with experience that spans two continents and countless executive titles. Most known for founding Gerber Finance in New York City in 1994 (acquired by eCapital in 2017), he was an innovator from day one, combining traditional, formulaic ABL with a relationship-focused approach. He led the company to accelerated growth, becoming truly invested in each client's business. Always a firm believer in transparency, even before it was a buzzword, Gerald became known for encouraging clients to always share both the good and bad news. He never shied away from having hard conversations with banks and stockholders and this, along with his track record of success, earned him trust and respect throughout his career.

A champion of people and especially of women in the male-dominated finance industry, he built a diverse team that is more like a family. At Gerber Finance he created and led a rarity in the industry; an executive team consisting of 60% females and a portfolio consisting of over a third of women-run businesses. A passionate advocate for the less fortunate, Gerald also started a foundation to provide relief to food insecure children which will continue its mission as part of his legacy.

Gerald is an inspiring example of what you can achieve with guts, grit, and passion. He exemplifies how building a business on a foundation of trust, integrity, and fairness can lead to not only success, but the utmost respect and admiration of those around you.

We wish Gerald all the best for his retirement. Thank you for everything you have done for the ABL industry, and for us.

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TOUCHING BASE

TSL INAUGURAL DATA ISSUE

Raising the Profile of the Industry

Welcome to *The Secured Lender's* inaugural Data Issue. When we surveyed SFNet members' needs in January, increased data and information was a top priority. Our mission behind this issue is to enhance our offering to members and raise the profile of the secured finance industry.

On the following pages, we break out key dimensions of growth in our industry within product segments and peer groups by company for the first time. This report will offer a more complete picture than existing league tables and will complement member organizations' marketing efforts, assist you in attracting capital and allow you to understand how your firm is performing against benchmarks. It will also encourage more members to participate in SFNet's ongoing surveys, thus generating more robust and meaningful reports.

I would like to thank the intrepid participants in this inaugural issue who are further profiled by relevant statistics, such as growth trends, industry and product focus and deal characteristics. As more member companies join in sharing this beneficial information in the interest of providing a more robust and transparent view of our market environment, the secured finance industry will continue to grow in its impact and influence. I urge every member to participate in our quarterly and annual ABL Surveys and/or our Annual Factoring Survey. Please contact Aydan Savaser at asavaser@sfnet.com to participate in future surveys and/or data issues or if you have any questions.

This issue includes additional relevant data resources, including Refinitiv's 2021 full syndicated bookrunner list on page 50. Also, from Refinitiv, on page 52, Maria Dikeos updates readers on 1Q22 U.S. ABL loan volume.

On page 42, we present the 2022 Q2 SFNet Market Pulse, an economic report that highlights emerging macroeconomic trends likely to affect secured finance and asset-based lending over the near term. The report, underwritten by a grant from the Secured Finance Foundation, is designed to help lenders stay up-to-date on the most important macro-level economic and policy trends driving commercial credit demand, credit supply, portfolio performance, and financial stress. This report is produced by Keybridge, a boutique economic research consultancy comprised of economists and public policy experts based in Washington, D.C.

Going beyond data, to other information you need, in *A Look at Continued Inflation and Its Impact on a Group of Key Industries* on page 64, Hilco experts from across the Valuation Services team discuss how the ongoing inflationary environment is impacting a broad range of industries from a cost, pricing and operational perspective.

RICHARD D. GUMBRECHT
SFNet Chief Executive Officer

On page 56, SFNet's co-general counsels bring readers up to date on recent lender liability cases and the lessons learned from them.

Evaluating trademarks is not the same as appraising retail and wholesale inventories, M&E or real estate. On page 70, in *The Art and Science of Loaning Against Trademarks,* Eric Gul of Tiger Group explains what lenders and their representatives need to consider that are not always associated with more conventional asset classes.

The only constant in the cannabis industry is change. In *Chronic Problems in Cannabis Lending: Navigating the Patchwork of Laws, Rulings and Regulations,* on page 60, Richard Paul Ormond of Buchalter provides an overview of the latest developments and points out that lenders need a deep understanding of the inconsistent patchwork of laws and regulations and the continuing conflict of law between the states and the federal government before entering this space.

Borrowers face an uphill battle when conducting an internet search for capital. Lee Haskin of Crossroads Financial discusses the misinformation out there and offers clarifications concerning certain types of finance products, in *Fighting Misinformation: Don't believe Everything You Read on the Internet* on page 68.

We would appreciate your feedback on this issue. Tell us what you liked and what you think could be improved upon in the 2023 Data Issue. Please reach out to mocejo@sfnet.com or contact me (rgumbrecht@sfnet.com) directly with your thoughts. Wishing the SFNet community a safe and enjoyable summer!

THE SECURED **Lender**
A PUBLICATION OF SECURED FINANCE NETWORK

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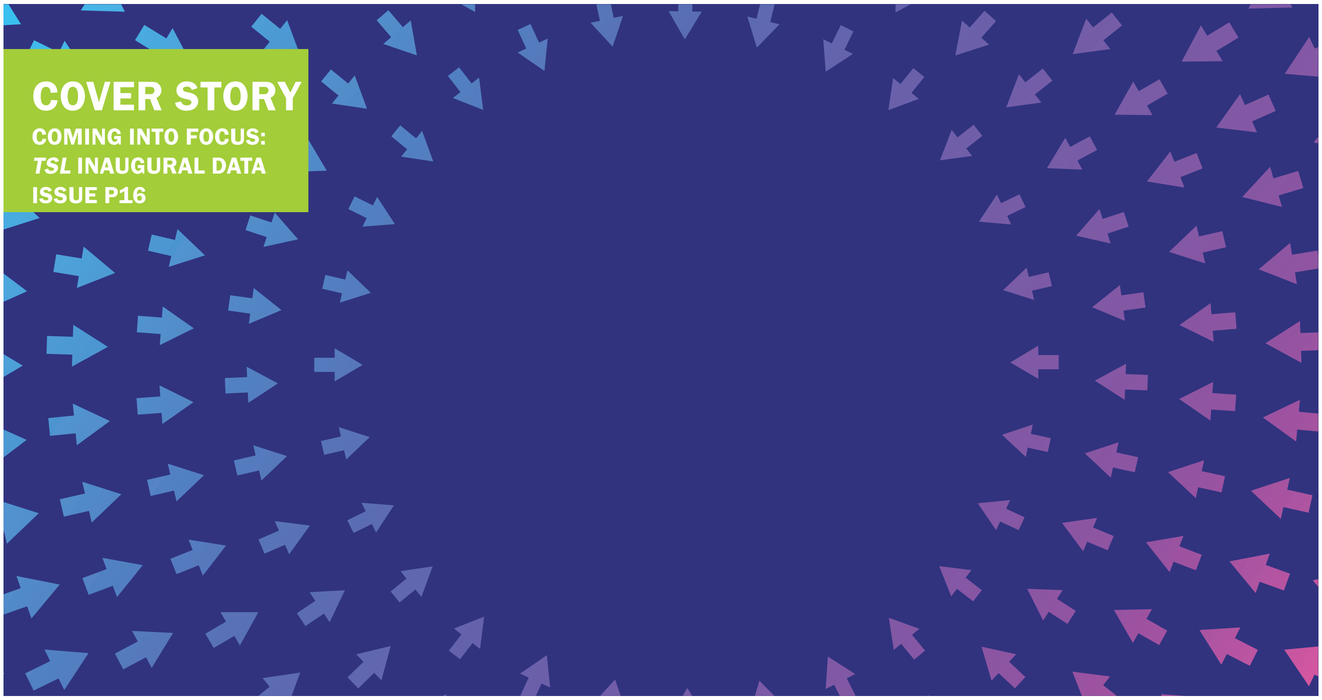

FEATURE STORIES

Articles

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Secured Finance Network

An association of professionals putting capital to work

The Secured Finance Network is the trade group for the asset-based lending arms of domestic and foreign commercial banks, small and large independent finance companies, floor plan financing organizations, factoring organizations and financing subsidiaries of major industrial corporations.

The objectives of the Association are to provide, through discussion and publication, a forum for the consideration of inter- and intra-industry ideas and opportunities; to make available current information on legislation and court decisions relating to asset-based financial services; to improve legal and operational procedures employed by the industry; to furnish to the general public information on the function and significance of the industry in the credit structure of the country; to encourage the Association's members, and their personnel, in the performance of their social and community responsibilities; and to promote, through education, the sound development of asset-based financial services.

The Secured Lender, magazine of the asset-based financial services industry (ISSN 0888-255X), is published 8 times per year (Jan/Feb, March, April, May, June, September, October and November) $65 per year non-member rate, and $105 for two years non-member rate. SFNet members are complimentary.

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DEPARTMENT
INDUSTRY DEALS

Lender/Participant	Lender Type	Amount	Borrower	Industry	Structure
36th Street Capital	Non-bank	**$14 Million**	Electric vehicle components manufacturer	Manufacturing: EV components	Funding
AB Private Credit Investors, the middle-market direct lending platform for AllianceBernstein	Non-bank	**$70 Million**	Airwavz Solutions, Inc., a wireless connectivity company that designs and builds technology infrastructures for property owners, Charlotte, NC	Wireless infrastructure	Credit facility
Access Capital	Non-bank	**$2 Million**	Encore, a provider of IT staffing solutions	Staffing	Facility
AFC Gamma, Inc.	Non-bank	**$82.5 Million**	Bloom Medicinals Holding Company and certain of its affiliates, Boca Raton, FL, a privately held multi-state cannabis operator with licenses in Missouri, New Jersey and Ohio	Cannabis	Senior secured credit facility
Agility Capital	Non-bank	**N/A**	Zan Compute, a rapidly growing, San Francisco Bay area-based provider of AI-based facility maintenance platforms	Mobile/cloud-based solutions	Financing
Alleon Healthcare Capital	Non-bank	**$700,000**	Infusion pharmacy, Florida	Pharmaceutical	Medical accounts receivable financing facility
Amerisource Business Capital	Non-bank	**$1.5 Million**	Cookie and dessert production firm, New York	Food	Credit facility
Amerisource Business Capital	Non-bank	**$10 Million**	Design, engineering, and manufacturing firm, Texas	Manufacturing	Credit facility
Amerisource Business Capital	Non-bank	**$1 Million**	Data solutions firm, Maryland	Technology	Credit facility
Ares Commercial Finance	Non-bank	**N/A**	MFG Chemical, LLC, a portfolio company of Platte River Equity, a niche specialty chemicals manufacturer, Dalton, GA	Manufacturing: chemicals	Senior secured credit facility
Assembled Brands	Non-bank	**$3.5 Million**	Mason Dixie Foods	Food	Facility
Bank of America, N.A., other institutional lenders and affiliates of Pathlight Capital LP	Bank and Non-bank	**$24 Million**	Armstrong Flooring, Inc., an industry-leading manufacturer of innovative flooring products focusing on design, performance and durability for the home and commercial applications	Manufacturing: Flooring products	Debtor-in-possession (DIP) financing, consisting of an asset-based revolving credit facility and a term loan facility
Bank of America, N.A. [Administrative Agent, Issuing Bank and Swingline Lender] J. P. Morgan Securities LLC [Sustainability Structuring Agent], BMO Capital Markets Corp., JPMorgan Chase Bank, N.A. and Wells Fargo Securities, LLC [Syndication Agents], Truist Bank and PNC Bank, N.A. [Documentation Agents] and BofA Securities, Inc., BMO Capital Markets Corp., JPMorgan Chase Bank, N.A., and Wells Fargo Securities, LLC, [Joint Bookrunners and Joint Lead Arrangers]	Bank	**$700 Million**	Sprouts Farmers Market, Inc., a supermarket chain headquartered in Phoenix, AZ	Grocery	Revolving credit facility and credit agreement that refinances the company's previously existing $700 million revolving credit facility

Lender/Participant	Lender Type	Amount	Borrower	Industry	Structure
Bank of Montreal	Bank	**$33 Million**	PopReach Corporation, , a Tier 1 Issuer on the TSX Venture Exchange, with shares also trading on OTCQX® Best Market, is a free-to-play game publisher focused on acquiring and optimizing proven franchises	Gaming	Secured credit facilities consist of a $8 million revolving facility, a $25 million non-revolving term facility, and an "accordion" option for up to an additional $15 million.
BHI International	Non-bank	**$20 Million**	North Shore Components, Inc., a global OEM distributor of electronic computer parts, components and hardware based in Bellport, NY	Distributor: Computer parts	Revolving loan
BMO Financial Group [Lead Sustainability Structuring Agent] and TD Financial Group and CIBC Financial Group [Co-Lead Sustainability Structuring Agents]	Bank	**$1 Billion**	Gildan, a leading manufacturer of everyday basic apparel which markets its products in North America, Europe, Asia Pacific, and Latin America	Apparel	Amended and restated $1 billion 5-year revolving credit facility
Briar Capital Real Estate Fund	Non-bank	**$3.5 Million**	Troubled property, Phoenix, AZ	Real estate	Commercial real estate bridge loan
Bridge Bank	Bank	**$7.5 Million**	Blue Sky eLearn, an e-learning experience and virtual event company that helps organizations advance the career of every professional, San Diego, CA	e-learning	Credit facilities
Cambridge Savings Bank	Bank	**$26 Million**	Modera Wealth Management, LLC (MWM), a fee-only, independently owned and operated registered investment advisor (RIA) and financial planning firm	Financial planning	Financing package
Cambridge Savings Bank	Bank	**$2.4 Million**	To acquire and renovate a new building in Hingham, MA to a special purpose entity controlled by Stephanie Hernan, president of Yankee Trader Seafood (YTS)	Real estate	Commercial real estate mortgage and construction to permanent loan with a $300,000 working capital line of credit
Celtic Capital Corporation	Non-bank	**$1 Million**	Two Washington-based affiliated companies in the environmental and industrial hygiene consulting business	Environmental and industrial hygiene consulting	Accounts receivable line of credit
CIT, a division of First Citizens Bank	Bank	**$29.9 Million**	For the acquisition of a portfolio of industrial buildings in Greater Chicago by Aminim Group	Real estate	Financing
CIT, a division of First Citizens Bank	Bank	**N/A**	Kenneth Cole Productions Inc., a renowned men's and women's fashion brand	Footwear, handbag, apparel and fragrance	Financing
CIT, a division of First Citizens Bank	Bank	**$145 Million**	Natural Gas Compression Systems, a full-service gas compression equipment and service business that provides contract compression and recurring field service throughout the United States and Canada, Traverse City, MI	Gas compression equipment	Credit facility

Lender/Participant	Lender Type	Amount	Borrower	Industry	Structure
CIT, a division of First Citizens Bank, Deutsche Bank, HSBC, Nomura, Rabobank, and Santander [Coordinating Lead Arrangers]	Bank	**$375 Million**	Origis Energy, one of America's leading renewable energy platforms	Renewable energy	Credit facility
Citizens	Bank	**N/A**	1A Auto, Inc., a leading specialty e-tailer of automotive products, Nashua, NH	Automotive	Senior secured credit facility
CIT Northbridge Credit, as advised by CIT Asset Management and Tiger Finance	Bank	**$47 Million**	A leading e-commerce seller of branded consumer products	e-commerce	Financing consisting of a $30 million revolving credit facility provided by CIT Northbridge, a $5 million term loan provided by Tiger Finance, and an accordion for up to an additional $12 million
CIT Northbridge Credit	Bank	**$65 Million**	Hello Bello, a manufacturer and marketer of baby, child and adult care products	Manufacturing: Baby products	Credit facility
Crayhill Capital Management LP	Non-bank	**$200 Million**	Bridgelink Power, a leading developer, constructor, and operator of utility-scale solar and energy storage projects	Solar	Senior secured revolving credit facility
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**$400,000**	Regional freight-all-kinds transport company, Maryland	Transportation	Accounts receivable facility
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**$200,000**	Freight-all-kinds transport company, Wyoming	Transportation	Accounts receivable facility
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**$150,000**	Intermodal transportation company, South Carolina	Transportation	Accounts receivable facility
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**$7.5 Million**	Aluminum pole manufacturer, Ohio	Manufacturing: aluminum poles	Asset-based lending facility consisting of $6 million and a $1,575,380 term loan
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**$2 Million**	Ice road transport company, Northwest Territories	Transportation	Ledgered line of credit facility
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**N/A**	Transportation company, Southern U.S.	Transportation	Vendor finance equipment finance
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**$750,000**	Dry freight transportation company, California	Transportation	Accounts receivable facility
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**$700,000**	Dry freight transportation company, California	Transportation	Accounts receivable facility
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**$300,000**	Refrigerated trucking company, Texas	Trucking	Accounts receivable facility
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**$150,000**	Power only trucking company, Georgia	Trucking	Accounts receivable facility
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**CAD $4 Million**	Chemical manufacturer, Alberta, Canada	Manufacturing: Chemicals	Ledgered line of credit facility

Lender/Participant	Lender Type	Amount	Borrower	Industry	Structure
Crestmark, the Commercial Finance Division of MetaBank®	Bank	**$3.25 Million**	Machining shop and foundry, Illinois	Machining shop	Ledgered line of credit facility
Crossroads Financial	Non-bank	**$5.8 Million**	Producer, direct seller and distributor of wines	Distributor	Inventory revolving line of credit
Crossroads Financial	Non-bank	**$2 Million**	Manufacturer of nutritional supplements	Manufacturing	Inventory revolving line of Credit, partnered with a factor
Diamond Creek Capital, LLC	Non-bank	**$4 Million**	Smart for Life, Inc, a global leading developer, marketer, and manufacturer of nutritional and related products	Nutritional products	Senior credit facility
DNB Capital LLC	Non-bank	**$25 Million**	Atlantic Sapphire, the largest global onshore aquaculture company in the world	Onshore aquaculture	Credit facility
DNB [Sustainability Coordinator, Mandated Lead Arranger and Bookrunner], BNP Paribas [Documentation Agent, Mandated Lead Arrangers and Bookrunner]	Bank	**EUR 1.3 Billion**	Statkraft, a leading company in hydropower internationally and Europe's largest generator of renewable energy	Renewable energy	Five-year sustainability-linked syndicated revolving credit facility
Encina Lender Finance, LLC (ELF)	Non-bank	**$300 Million**	To support Arena Investors, LP Middle Market Cash Flow Based Lending Platform	Institutional asset manager	Credit facility, which includes an accordion feature
Farm Credit of Central Florida	Non-bank	**$30 Million**	Kalera AS, one of the preeminent leafy green vertical farming companies and a leader in plant science for producing high-quality produce in controlled environments, Orlando, FL	Produce	Senior secured credit facility
Fifth Third Business Capital	Bank	**$27.8 Million**	Comfort Research, a manufacturer of affordable furniture, pool products, and outdoor furniture with its primary line of products being the Big Joe™ brand of bean bag chairs	Manufacturing: Furniture	Revolving line of credit
Fifth Third Bank, National Association, and PNC Capital Markets LLC	Bank	**$76.3 Million**	Greenbacker Renewable Energy Company LLC, a leading owner and operator of sustainable infrastructure and energy efficiency projects	Energy	Senior credit agreement
First Business Bank	Bank	**$4.5 Million**	Transportation company	Energy	Accounts receivable factoring facility
Fortress Investment Group	Non-bank	**$40 Million**	VOX Funding, an alternative finance company, New York, NY	Alternative finance	Credit facility
Gateway Trade Funding	Non-bank	**$975,000**	Outdoor markets company	Outdoor markets	Purchase order facility
Gateway Trade Funding	Non-bank	**$3 Million**	Healthcare supplies wholesale distribution company received a large contract for PPE from a state government	PPE	Purchase order facility
GemCap	Non-bank	**$4.0 Million**	Munitions manufacturer which wholesales and retails its inventory	Manufacturing: Munition	Facility consisting of a working capital revolver, an equipment term loan and a mortgage

Lender/Participant	Lender Type	Amount	Borrower	Industry	Structure
Goldman Sachs and Ares Management	Bank/ Non-bank	**$200 Million**	Kyte, a company pioneering cars delivered to people on-demand, San Francisco, CA	Technology	Asset-backed credit financing
HG Global Ltd.	Non-bank	**$150 Million**	Hudson Structured Capital Management Ltd, (conducting its re/insurance business as HSCM Bermuda) and Security Benefit Life Insurance Company	Re/insurance investment management	10-year term loan credit facility
Hercules Capital, Inc.	Non-bank	**$75 Million**	Viridian Therapeutics, Inc., a biotechnology company	Biotechnology	Debt financing
Horizon Technology Finance Corporation	Non-bank	**N/A**	Native Microbials, Inc., which discovers, develops, and commercializes next generation microbial solutions for animals covering both companion and livestock species	Microbial solution	Venture loan financing
HSBC	Bank	**More than $127 Million**	Proposed acquisition of Particle Culture Technology Group in mainland China	Technology	Acquisition financing
HSBC Bank USA	Bank	**N/A**	Overhaul, the industry's first and only software-based, supply-chain visibility, integrity, and security solution for leading enterprises shipping freight globally	Software	Venture debt financing
HSBC Bank USA	Bank	**$150 Million**	Tangelo, a leading financial technology company in Latin America specializing in alternative credit	Technology	Credit facility
Huntington Business Credit	Bank	**$16 Million**	Stansport, LLC, a supplier of branded and private label camping, hiking, outdoor, survival, emergency prep gear and child play tents primarily to leading retailers, Los Angeles, CA	Camping gear	Credit facilities
Huntington Business Credit	Bank	**$550 Million**	Designer Brands Inc., a leading North American footwear and accessories designer, producer and retailer for women, men, and children, Columbus, OH	Retail	Credit facility
InterNex Capital	Non-bank	**$4.5 Million**	Pharmaceutical manufacturer and distributor, Southeastern, U.S.	Manufacturing: Pharmaceuticals	
InterNex Capital	Non-bank	**$1.5 Million**	Technology company serving the construction industry and based in the Northeast US.	Technology	Line of credit
Iron Horse Credit	Non-bank	**$3 Million**	An e-commerce retailer of bedding and loungewear	e-commerce retail	Stand-alone inventory revolving line of credit
Iron Horse Credit	Non-bank	**$6.5 Million**	Iron foundry and manufacturer	Manufacturing: iron foundries	Stand-alone inventory revolving line of credit
J D Factors	Non-bank	**$100,000**	Staffing company, Ontario	Staffing	Factoring facility
J D Factors	Non-bank	**$50,000**	Transportation company, Ohio	Transportation	Factoring facility
J D Factors	Non-bank	**$500,000**	Transportation company, Arizona	Transportation	Factoring facility
J D Factors	Non-bank	**$120,000**	Transportation company, Minnesota	Transportation	Factoring facility
J D Factors	Non-bank	**$100,000**	Transportation company, Ontario	Transportation	Factoring facility
J D Factors	Non-bank	**$120,000**	Transportation company, Illinois	Transportation	Factoring facility
J D Factors	Non-bank	**$750,000**	Transportation company, Texas	Transportation	Factoring facility
J D Factors	Non-bank	**$250,000**	Transportation company, New York	Transportation	Factoring facility

Lender/Participant	Lender Type	Amount	Borrower	Industry	Structure
J D Factors	Non-bank	**$350,000**	Transportation company, California	Transportation	Factoring facility
J D Factors	Non-bank	**$500,000**	Transportation company, Wisconsin	Transportation	Factoring facility
J D Factors	Non-bank	**$700,000**	Transportation company, California	Transportation	Factoring facility
J D Factors	Non-bank	**$100,000**	Transportation company, British Columbia	Transportation	Factoring facility
J.P. Morgan, with Neuberger Bermann acting as a mezzanine provider	Bank	**$300 Million**	Wayflyer, the revenue-based financing and growth platform for e-commerce businesses	Technology	Debt facility
JP Morgan, Bank of America, Truist, MUFG Bank, Sumitomo Mitsui Banking Corporation and Wells Fargo and includes a total of 39 lenders	Bank	**$4.8 Billion**	Ares Capital Corporation	Lender finance	Revolving credit facility
JPMorgan Chase Bank, N.A. [Administrative Agent] JPMorgan Chase Bank, N.A., Barclays Bank PLC, Morgan Stanley Senior Funding, Inc., Sumitomo Mitsui Banking Corporation, and Wells Fargo Securities, LLC, [Joint Lead Arrangers and Joint Bookrunners] with BOKF, NA dba Bank of Oklahoma and First Financial Bank [Additional Lender]	Bank	**$350 Million**	Excelerate Energy, Inc. is a US-based LNG company, The Woodlands, Texas	Liquefied natural gas	Senior secured revolving credit facility
JPMorgan Chase Bank, N.A., Bank of America, N.A., U.S. Bank National Association, Regions Bank, Wells Fargo Bank National Association, Texas Capital Bank National Association and Zions Bank	Bank	**$425 Million**	Clarus Corporation, a global leading designer, developer, manufacturer and distributor of best-in-class outdoor equipment and lifestyle products	Outdoor equipment	Amended and upsized existing senior secured credit facility consisting of an increased revolving credit facility of $300 million and a $125 million term loan
Lacuna Sustainable Investments and Javelin Capital	Non-bank	**$20 Million**	Encore Renewable Energy, a leading innovator in community-scale clean energy, Burlington, VT	Renewable energy	Senior loan
LSQ	Non-bank	**$65 Million**	Continuum Global Solutions, a provider of omnichannel contact center services worldwide via voice and non-voice channels such as chat, email, and social media	Omnichannel contact center services	Working capital facility
LSQ	Non-bank	**$5 Million**	Trucking and logistics company, California	Trucking	Working capital facility and accounts receivable management program
MidCap Financial	Non-bank	**$30 Million**	Kayne, LLC, (Jenni Kayne) an all-encompassing lifestyle brand rooted in modern Californian minimalism	Apparel and home décor	Senior secured revolving credit facility

Lender/Participant	Lender Type	Amount	Borrower	Industry	Structure
MidCap Financial	Non-bank	**$150 Million**	Treace Medical Concepts, Inc.	Medical technology	Five-year $150 million loan arrangement comprising up to $120 million in term loans and a $30 million revolving credit facility
MidFirst Business Credit	Non-bank	**$5.5 Million**	Group360, Inc., d/b/a We Are Alexander, a provider of a portfolio of integrated marketing communications services, including strategy, creative, retail marketing, packaging design and production, premedia, photography and experiential marketing, St. Louis	Marketing communications	Working capital facility
Monroe Capital LLC	Non-bank	**N/A**	To support FFL Partners' investment in Optomi Professional Services (OPS), a provider of technology consulting, team augmentation and domestic rural outsourcing services to Fortune 2000 Clients, Atlanta, GA	Technology	Senior credit facility
Monroe Capital LLC	Non-bank	**N/A**	To support the recapitalization and future growth of Dealer Services Network (DSN), a technology-enabled provider of automotive tag, title, registration, secure document management, and other ancillary services, Deerfield Beach, FL, by private equity sponsor Frontenac	Technology	Senior credit facility
National Bank of Canada	Bank	**$42 Million**	Pluribus Technologies Corp, a technology company that is a value-based acquirer of small, profitable business-to-business technology companies in a range of verticals and industries	Technology	Three-year credit facility
North Avenue Capital	Non-bank	**$25 Million**	Mega Highwall Mining, a company that provides ADDCAR and Superior/Cat highwall mining systems to mining operations throughout the U.S.	Mining	Business & industry loan
Oxford Finance LLC	Non-bank	**$660 Million**	Specialty Dental Brands, a dental services organization focused on pediatric dentistry, orthodontics, and oral surgery	Dental services	Senior credit facility
Prosperity Bank	Bank	**$100 Million**	RealManage, one of the nation's top three HOA and condominium management companies	Real estate management	Debt capital
Rabobank	Bank	**$200 Million**	CleanCapital, an industry-leading clean energy investment platform	Clean energy investment	Credit facility
Rosenthal & Rosenthal, Inc.	Non-bank	**$3.6 Million**	Major producer of organic dried fruit and keto snacks that was experiencing rapid growth, New Jersey	Food	Purchase order financing facility
Runway Growth Capital LLC	Non-bank	**$25 Million**	Revelle Aesthetics, Inc., a developer of novel medical devices for women's most bothersome aesthetic needs	Medical device	Senior secured term loan

Lender/Participant	Lender Type	Amount	Borrower	Industry	Structure
Second Avenue Capital Partners, LLC	Non-bank	**$10 Million**	myGemma, a modern and professional alternative for consumers wanting to buy or sell high-end luxury goods, New York City, NY	Retail	Senior secured credit facility
Second Avenue Capital Partners, LLC	Non-bank	**N/A**	MARIA TASH, a fine jewelry and luxury piercing brand founded by designer Maria Tashjian	Jewelry	Senior secured credit facility
Second Avenue Capital Partners, LLC	Non-bank	**$67.5 Million**	The Jessica Simpson Collection, the $1 billion fashion empire and signature lifestyle brand inspired by and designed in collaboration with Jessica Simpson	Retail	Term loan
SG Credit	Non-bank	**$3.0 Million**	Rallio, a social media management SaaS platform that provides brand control and reputation management solutions to franchise businesses	Technology	Saas growth capital facility
Siena Lending Group LLC	Non-bank	**$30 Million**	CST Industries, Inc., a global leader in storage tank and cover solutions, Kansas City, MO	Storage tank solutions	Asset-based credit facility
Silicon Valley Bank	Non-bank	**$7 Million**	Standard Bariatrics, Inc., an emerging leader in the bariatric surgery medical device field, Cincinnati, OH	Medical device	Debt facility
Silicon Valley Bank	Non-bank	**$15 Million**	Click Therapeutics, Inc., a leader in Digital Therapeutics™ as prescription medical treatments	Medical	Term loan
SLR Credit Solutions (SLR CS)	Non-bank	**$20.5 Million**	Oscar de la Renta, LLC, a designer and retailer of luxury women's apparel sold through upscale wholesale accounts and direct-to-consumer (DTC)	Retail	Revolving line of credit
Sprott Private Resource Lending II	Non-bank	**$185 Million**	Marathon Gold Corporation, a Toronto-based gold company advancing its 100%-owned Valentine Gold Project located in the central region of Newfoundland and Labrador, one of the top mining jurisdictions in the world	Mining	Term loan credit facility
Tiger Finance	Non-bank	**$5.2 Million**	Private label health and beauty care products company	Health and beauty	Financing
TradeCap Partners	Non-bank	**$800,000**	Integrated security solutions company	Security	Production finance facility
Tradecycle Capital	Non-bank	**$1.5 Million**	Privately held manufacturer and distributor of specialty apparel	Specialty apparel	Revolving accounts payable funding facility
Tradecycle Capital	Non-bank	**$1 Million**	Private equity-owned manufacturer of specialty sports equipment	Manufacturing: Sports equipment	Revolving accounts payable funding facility
Tradecycle Capital	Non-bank	**$1 Million**	Privately owned bottler and distributor of specialty wines	Distributor: Wine	Revolving accounts payable funding facility
Tradewind Finance	Non-bank	**$1.5 Million**	Importer and distributor of frozen seafood, Miami	Frozen seafood	Credit facility
Tradewind Finance	Non-bank	**$5 Million**	Garment manufacturer from Mauritius	Manufacturing: Garments	Receivables financing

DEPARTMENT
INDUSTRY
DEALS

Lender/Participant	Lender Type	Amount	Borrower	Industry	Structure
Victory Park Capital (VPC)	Non-bank	**$100 Million**	Juvo+, one of the top private label product developers in e-commerce	Technology	Credit facility
Wells Fargo Bank, National Association	Bank	**$7 Million**	Smith Micro Software, Inc., a developer of software to simplify and enhance the mobile experience	Software	Secured revolving credit facility
Wells Fargo Capital Finance Corporation Canada	Bank	**N/A**	Prana, a leader within the organic and plant-based food industry	Food	Senior secured revolving loan facility and a senior secured term loan facility
White Oak Commercial Finance, LLC	Non-bank	**$7 Million**	Converter and distributor of flexible film packaging products for the medical, cosmetic, and food industries, New York	Flexible film	Senior secured credit facility
White Oak Global Advisors, LLC	Non-bank	**$100 Million**	To support the acquisition of a large US-based multi-channel IT services provider by a Canadian IT services platform	IT	Term loan
White Oak Global Advisors, LLC	Non-bank	**$75 Million**	North Atlantic Imports, which also operates under the name Blackstone Products, a Utah-based distributor of branded griddles and accessories	Distributor	Term loan
White Oak Global Advisors LLC	Non-bank	**$21.3 Million**	To support Salt Creek Capital's acquisition of Omni Recycling, a leading single-stream recycling and waste disposal company	Waste disposal	Senior credit facility
Wingspire Capital	Non-bank	**$30 Million**	Ashley Stewart, an omni-channel retailer that sells apparel for plus-size women, Secaucus, NJ	Retail	Revolving line of credit
Wingspire Capital LLC and TCW Asset Management Company LLC	Non-bank	**N/A**	cabi LLC, a women's apparel brand	Apparel	Unitranche senior credit facility
Wintrust Receivables Finance	Non-bank	**$19.5. Million**	Midwest based provider of hospitality staffing	Staffing	Credit facility

Coming Into Focus
TSL Inaugural Data Issue

On the following pages we break out key dimensions of growth in our industry within product segments and peer groups by company for the first time. The intrepid participants in this inaugural issue are further profiled by relevant statistics, such as growth trends, industry and product focus and deal characteristics.

It is our expectation that as more member companies join in sharing this beneficial information in the interest of providing a more robust and transparent view of our market environment, the secured finance industry will continue to grow in its impact and influence.

Welcome to *The Secured Lender's* first ever Industry Data Issue. Over the past several years, SFNet has invested heavily in data resources designed to improve planning, provide competitive benchmarking, and attract capital to our industry. Through resources like our groundbreaking Market Sizing and Impact Study, which dimensioned the secured finance ecosystem and will be refreshed this year, to our quarterly and annual data surveys, which continue to grow in participation, to our forward-looking Market Pulse Reports, we have made great strides in capturing, analyzing, and predicting industry trends by the numbers.

This issue of *TSL* brings the evolution of our insights a step further. On these pages we break out key dimensions of growth within product segments and peer groups by company for attribution. The intrepid companies participating in this inaugural issue are further profiled by relevant statistics such as growth trends, industry and product focus and deal characteristics.

It is our expectation, that as more member companies join in sharing this beneficial information in the interest of providing a more robust and transparent view of our market environment, the secured finance industry will continue to grow in its impact and influence.

Together, these data sources paint a picture of a secured finance marketplace that is large, diverse, confident, growing and fulfilling its essential purpose of putting capital to work.

While much of the data in this issue is self-reported, we also draw upon publicly available data compiled by Refinitv, and, in the interest of accuracy, have applied consistent definitions for asset-based loans and factoring to those companies surveyed.

ABL loans include the following attributes:

a) the loan is collateralized by a first priority lien on the borrower's assets;
b) the requirement of a borrowing base, which is reported to the lender monthly or more frequently as needed and is the basis of all advances to borrowers;
c) collateral monitoring through periodic field exams and appraisals; and
d) dominion and control over cash accounts held by the lender.

In addition, ABL includes:

a) loans for which the participating organization was the sole lender;
b) the share of loans for which the participating organization was an originator, but not the sole lender; and
c) loan participations/syndications bought (i.e., the participating organization was not an originator)
d) lender finance transactions

Factoring includes the following attributes:

Cash advances to a client against their accounts receivable. The types of factoring include:

a) recourse and non-recourse
b) notification or non-notification basis.
c) U.S. based and international

Net Funds Employed:

The balance of outstanding advances on a client's accounts at a given time. Equal to the total of the purchase price of purchased accounts less the amount of the reserve account

Factoring Volume:

The total face value of the accounts receivable purchased from clients in a given period of time.

The data provided in this issue is directional, but not comprehensive. In addition to the representative subset of companies providing data for this issue, we have augmented these numbers with our Annual ABL and Factoring participant surveys and provided further context from the SFNet Market Sizing and Impact Study (see figures 1-4 on next pages) and Refinitiv LPC data. These building blocks illustrate the evolving understanding of our marketplace and help to validate our findings. Subsequent Data Issues will serve to further dimension our industry as more organizations join our early adapters in participating in future surveys and the picture becomes more complete.

ASSET-BASED LENDING COMPILATION:
TSL Data Issue + 2021 Annual ABL Survey + Q1 2022 Confidence Index + SFNet Market Sizing Report

The Secured Finance Network's Annual ABL and Factoring Surveys are a key member benefit with a rich set of data and insights available to participating companies beyond the broadly published data and the picture becomes more complete reports. The Surveys have measured year-to-year asset-based lending and factoring activity since 1976. In addition, trends in ABL are demonstrated in SFNet's Quarterly ABL Surveys, which provide new business and portfolio performance indicators for members on a quarterly basis. The Survey are conducted by Keybridge Research LLC in partnership with SFNet's Data Committee.

"The SFNet Data Committee is fortunate to have active and engaged committee members composed of industry leaders who generously devote their time in order to review and discuss the aggregated survey results prepared by Keybridge on a quarterly and annual basis. The Data Committee members attempt to make sense of the numbers and provide valuable insight and analysis to the entire SFNet community," said Lawrence Chua of Ares Management LLC, who is chair of the SFNet Data Committee.

"One of our core objectives as a trade association is to strengthen our relationships with our members by providing important insights that help them run their businesses. SFNet places a high priority on providing our members with important data and insights about the markets we serve. Having Keybridge as our partner has added a whole new dimension to our surveys because of their ability to integrate economic data with the input we get from our members. Keybridge understands our members' needs and puts their unique macroeconomic context to our reports," said Barry L. Bobrow, who is a member of the Data Committee as well as vice president-finance for SFNet.

"I've been a consumer of the data surveys for years. The new surveys are more conclusive and provide comparative information relevant to assessing how we compare to industry peers. I particularly like the confidential ability to get a specific comparison of what the data we provided vs. our peer group," said Jeff Goldrich, SLR Business Credit and past president of SFNet.

2021 was a year of rapid economic growth, with U.S. real GDP increasing by 5.7%. The continued recovery from the pandemic recession in early 2020 featured improving business conditions and increased demand for asset-based lending, but also rising inflation.

Total ABL commitments in our Annual Survey grew by 8.3% for all lenders reporting (43 companies) from 2020 to 2021 while the total ABL commitments for participating firms (13 companies) in this issue grew by 13.59% (see figure 1), with bank and non-bank commitments increasing at similar rates. The two lender groups had contrasting results for new client commitments (increasing for banks, decreasing for non-banks) and commitment runoff (decreasing for banks, increasing for non-banks). For all lenders, deals with existing clients increased, with average expansions/extensions up by 82.9% for banks and 63.9% for non-banks.

Overall, commitment trends reflect a competitive lending environment, with lenders trying to retain and, as possible, expand existing clients.

Figure 1.

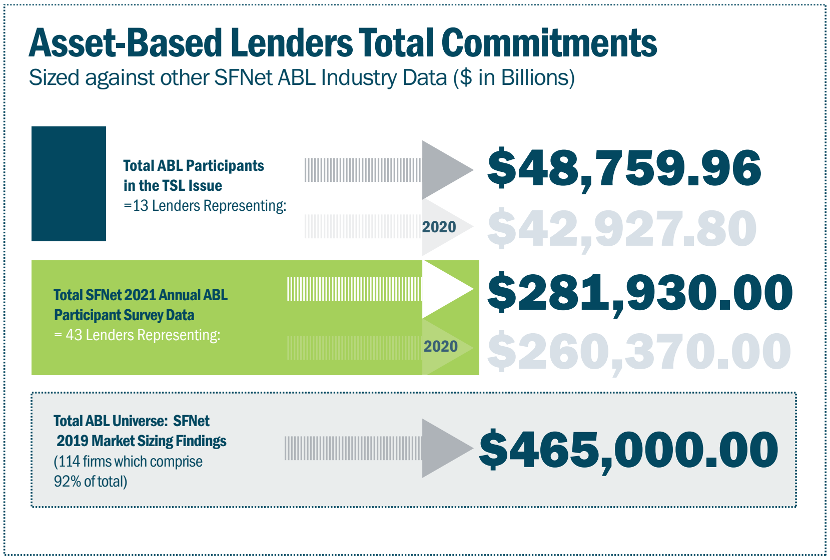
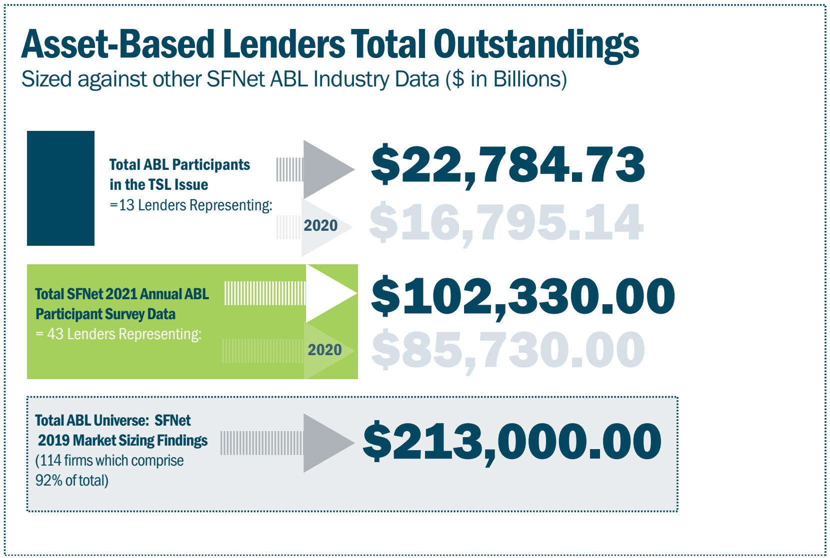


Figure 2.



Increases in total outstandings for both banks (18.8%) and non-banks (33.6%) outpaced their growth in commitments, leading to higher credit line utilization for all lenders (see figures 2&3). Growth in purchased participations reflected existing deals getting bigger for banks, and increased outstanding runoff mirrored increased commitment runoff for non-banks. In terms of industry concentration, wholesale outstandings grew the most, potentially reflecting inventory accumulation in response to supply chain challenges and surging consumer demand. The location of U.S. bank outstandings shifted away from the Northeast to the Midwest and West.

Total revenues decreased relative to outstandings, a trend that suggests pricing compression. Total expenses also declined relative to outstandings, with personnel expenses down the most.

Strong portfolio performance characterized 2021, with non-accruals, gross write-offs, and loan loss provisions plummeting for banks and non-banks (criticized and classified loans also fell for banks). Non-accruals and gross write-offs approached some of their lowest levels in years.

Profits declined relative to outstandings, with pre-tax income dipping slightly for banks and non-banks. The average return on assets, however, increased for both groups and the average return on equity increased for banks.

The total number of employees decreased in 2021 for banks, but increased for non-banks.

The location of bank offices shifted away from the Northeast in 2021, mirroring bank outstanding trends, and a general shift in economic activity toward the Sun Belt. However, the location of bank clients was relatively consistent across both years.

"Looking ahead, 2022 and 2023 could present challenges for lenders, who, along with clients, will need to navigate rising inflation, supply chain disruptions, and workforce shortages," said Richard Gumbrecht, the SFNet's CEO. "These factors, in addition to geopolitical

Figure 3.

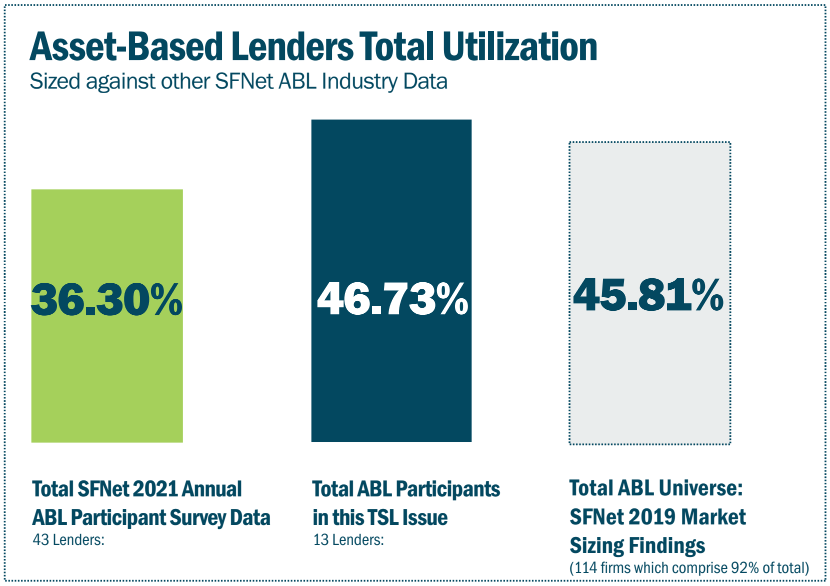
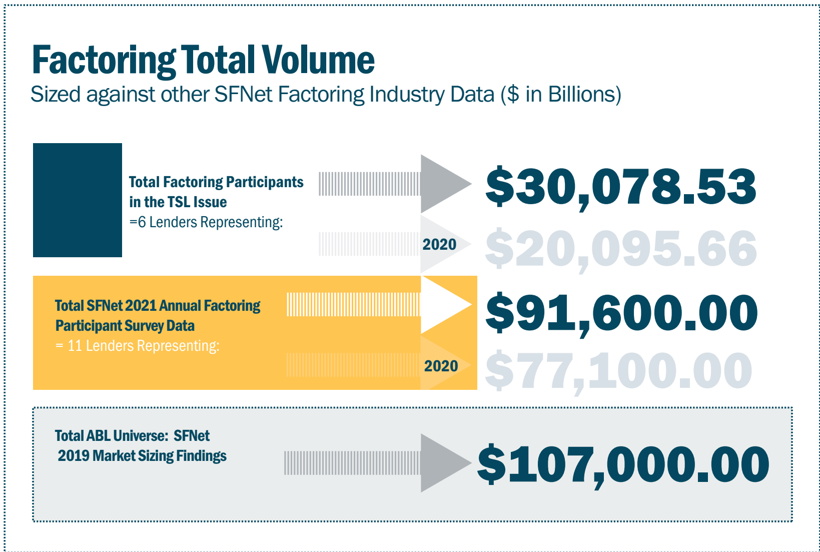


Figure 4.



uncertainty, could undermine economic growth and favorable business conditions. Fortunately, should we enter a period of contraction, both ABL and factoring have fared well in such environments as companies seek additional sources of working capital."

FACTORING COMPILATION:

TSL Data Issue + 2021 Annual Factoing Survey + SFNet Market Sizing Report

"Events of the past 24 months have challenged drawing any conclusions about business borrowing patterns or trends. It is, however, clear from the data, that factoring is a flexible and durable form of working capital liquidity for businesses operating in various situations and adapts well to a changing macro environment," said Terry Keating, Access Capital, Inc., a member of SFNet's Data Committee.

After a brief, but severe, recession in early 2020, 2021 saw rapid economic growth as real gross domestic product increased by 5.7% (compared to a 3.4% decrease in 2020). This continued economic recovery featured improving business conditions overall and increased demand for financing, including factoring.

Overall factoring volume increased by 18.7% in 2021, reflecting the economic recovery and improved business demand as well as a growing acceptance of factoring as a financing mechanism. Shifts in volume away from the Northeast align with regional trends in asset-based lending and may stem from stronger economic growth in large Sunbelt states.

Factoring clients increased significantly, nearly doubling. Overall client growth might be expected given the growth in volume; however, such pronounced growth may also reflect factors gaining clients through acquisitions as opposed to developing entirely new clients. Regional client shifts to the Southeast parallel volume trends; and, in terms of industry concentration, fewer electronics and furniture clients could stem from supply chain disruptions, whereas growth in textiles and apparel coincides with surging demand for durable goods and has been accompanied by rapid growth in transportation factoring.

Overall revenues increased relative to both volume and average earning assets, but interest revenue decreased, potentially a result of intensifying competition for clients. On the other hand, service fee revenue increased, which could reflect increased extensions or other accommodations that generate fees.

While overall expenses declined relative to volume, other personnel expenses increased. Notably, personnel expenses for business development dropped, a trend that parallels a decline in the total number of business development employees.

Portfolios had a strong year, with a significant decline in gross write-offs relative to volume and average earning assets and with recoveries increasing. Compared to past years, portfolios had solid credit performance.

As to be expected with rising revenues and falling expenses, profits increased in 2020. Pre-tax income rose dramatically relative to both volume and average earning assets.

Overall, 2021 was a strong year for the factoring industry, but there are challenges on the horizon. Rising inflation could stymie real economic growth and continue to exert upward pressure on wages, an important component of expenses. In addition to spurring wage growth, labor shortages could also challenge factors as they hire new staff and expand to meet demand.

Listing of Representative *TSL* Asset-Based Lending[1] Firms

(*TSL* Data Issue participants alongside comparative sources - $ in Billions)

Lender	Lender Type	2020 New Originations	2020 Total Commitments	2020 Total Outstandings	2021 New Originations	2021 Total Commitments	2021 Total Outstandings
BMO Financial Group	Bank Affiliate	$2,257.20	$16,686.60	$5,645.30	**$3,687.70**	**$19,246.80**	**$8,254.10** ▲
Cadence Business Finance	Bank Affiliate	$67.00	$766.60	$417.40	**$157.20**	**$745.60**	**$425.50** ▲
Cambridge Savings Bank	Bank Affiliate	--	$135.62	$76.51	**–**	**$195.85**	**$110.50** ▲
Camel Financial	Independent	$3.95	$10.02	$6.50	**$5.90**	**$15.57**	**$8.60** ▲
Eastern Bank	Bank Affiliate	$19.50	$262.17	$119.71	**$100.40**	**$363.92**	**$224.78** ▲
eCapital Corp.	Independent	$25.00	$175.00	$100.00	**$225.00**	**$400.00**	**$300.00** ▲
Fifth Third Bank	Bank Affiliate	$1,729.24	$8,288.54	$2,874.30	**$3,297.48**	**$9,880.81**	**$3,907.42** ▲
ING Capital	Bank Affiliate	$2,543.00	$7,731.00	$3,893.00	**$2,765.00**	**$8,368.00**	**$5,005.00** ▲
Loeb Term Solutions	Independent	$15.00	$30.00	$30.00	**$17.00**	**$40.00**	**$40.00** ▲
MUFG Union Bank, N.A.	Bank Affiliate	$1,900.00	$7,200.00	$2,500.00	**$1,200.00**	**$7,600.00**	**$3,100.00** ▲
Republic Business Credit	Independent	$12.50	$30.20	$17.43	**$24.00**	**$44.85**	**$32.23** ▲
Rosenthal & Rosenthal	Independent	$30.00	$375.00	$170.00	**$45.00**	**$425.00**	**$230.00** ▲
White Oak Commercial Finance	Independent	$234.95	$1,237.05	$944.99	**$238.39**	**$1,433.55**	**$1,146.60** ▲
Total Resonding Lenders in TSL Issue[2]		**$8,837.34**	**$42,927.80**	**$16,795.14**	**$11,763.07**	**$48,759.96**	**$22,784.73** ▲

Comparisons:							
Total 2021 Annual ABL Survey Data[2]	**43 Lenders**	**$26,760.00**	**$260,370.00**	**$85,730.00**	**$32,950.00**	**$281,930.00**	**$102,330.00**
- Total 2021 Annual ABL Survey Data (Bank)	26 Banks	$24,100.00	$252,380.00	$82,710.00	$30,620.00	$273,240.00	$98,290.00
- Total 2021 Annual ABL Survey Data (Independents)	17 Independents	$2,660.00	$8,000.00	$3,020.00	$2,340.00	$8,690.00	$4,040.00
Total Refinitiv LPC Syndicated ABL Volume[3]	59 Lenders	$75,506.45	–	**–**	$141,057.66	–	–
Total 2019 SFNet Market Sizing Study[4]	114 Lenders	–	–	**–**	$164,000.00	$465,000.00	$213,000.00

Footnotes: [1] ABL loans include the following attributes: a) the loan is collateralized by a first priority lien on the borrower's assets; b) the requirement of a borrowing base, which is reported to the lender monthly or more frequently as needed and is the basis of all advances to borrowers; c) collateral monitoring through periodic field exams and appraisals; and d) dominion and control over cash accounts held by the lender.

In addition, ABL Includes: (a) loans (not factored volume) for which the organization was the sole lender; (b) the share of loans (not factored volume) for which the organization was an originator, but not the sole lender; and (c) loan participations/syndications bought (i.e., the organization was not an originator) (d) lender finance transactions

[2] Of the 13 lenders in the *TSL* Data Issue, 12 participated in the Annual SFNet 2021 ABL Survey Report: www.sfnet.com/home/industry-data-publications/industry-insights-trends/asset-based-lending-factoring-surveys

[3] Of the 43 lenders in the Annual SFNet 2021 ABL Survey Report, 14 are included in the Refinitiv LPC Syndicated ABL 2021 Ranking List (see page xx) and of the 15 lenders in the *TSL* Data Issue, 4 are included.

[4] $ amounts in the 2019 SFNet Market Sizing Study are based on the 2019 calendar year, used here as illustrative. To download the report visit: www.sfnet.com/home/industry-data-publications/industry-insights-trends/market-sizing-impact-study; in addition, the Secured Finance Network will be reissuing an updated report in the first quarter of 2023.

Listing of Representative *TSL* Factoring[1] Firms

(*TSL* Data Issue participants alongside comparative sources - $ in Billions)

Lender	Lender Type	2020 Total Volume[2]	2020 Total Net Funds in Use[3]	2021 Total Volume[2]	2021 Total Net Funds in Use[3]
Cash Flow Resources, LLC	Independent Non-Bank	$6.55	$0.41	**$8.45** ▲	$0.77
eCapital Corp.	Independent Non-Bank	$935.00	$271.00	**$2,100.00** ▲	$447.00
Republic Business Credit	Independent Non-Bank	$860.27	$48.74	**$877.74** ▲	$75.27
Rosenthal & Rosenthal	Independent Non-Bank	$8,600.00	$875.00	**$10,600.00** ▲	$948.00
Triumph Business Capital	Bank Affiliate	$7,134.82	$1,036.55	**$13,125.13** ▲	$1,546.36
White Oak Commercial Finance	Independent Non-Bank	$2,559.02	$406.40	**$3,367.21** ▲	$437.7
Total Responding Factors in TSL Issue[4]		**$20,095.66**	**$2,638.10**	**$30,078.53**	$3,455.10

Comparisons					
Total 2021 Annual Factoring Survey Data[4]	**11 Lenders**	**$77,100.00**	**$315.00**	**$91,600.00**	$549.95
Total 2019 SFNet Market Sizing Study[5]		$103,000.00		**$107,000.00**	

Footnotes:

[1] Factoring includes the following attributes: Cash advances to a client against their account receivables. The types of factoring includes:

a. recourse and non-recourse

b. notification or non-notification basis.

c. National and international

[2] Factoring Volume: The total face value of the accounts receivable purchased from clients. This number differs widely based on industries served when considering variables such as turnover and ancillary products.

[3] Net Funds Employed: the balance of outstanding advances on a clients accounts at a given time. Equal to the total of: a) the Purchase Price of Purchased Accounts less the amount of the Reserve Account,

[4] Of the 6 lenders in the *TSL* Data Issue, 3 participated in the Annual SFNet 2021 Factoring Survey Report: www.sfnet.com/home/industry-data-publications/industry-insights-trends/asset-based-lending-factoring-surveys

[5] $ amounts in the 2019 SFNet Market Sizing Study are based on the 2019 calendar year, used here as illustrative. To download the report visit: www.sfnet.com/home/industry-data-publications/industry-insights-trends/market-sizing-impact-study; in addition, the Secured Finance Network will be reissuing an updated report in the first quarter of 2023.

BMO Financial Group

Size of Asset-Based Loans ($ in milions):

2020	2021
New Originations: **$2,257.20**	New Originations: **$3,687.70** ▲
Total Existing Commitments: **$16,686.60**	Total Existing Commitments: **$19,246.80** ▲
Total Outstandings: **$5,645.30**	Total Outstandings: **$8,254.10** ▲

Year Over Year % Change:

Total Commitments	**15.34%** ▲
Total Outstandings	**46.21%** ▲
New Originations	**63.37%** ▲

Utilization:

2020	**38.83%**
2021	**42.89%** ▲

Types of financing: Asset Based

Industry specialties: Metals, Retail, Cross-Border, Distribution, Healthcare, Business Services, Food and Industrials

Geographical locations serviced: North America **Headquartered in:** Chicago

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Email: michael.scolaro@bmo.com

LYLA KANJI
Head, Asset Based Lending, BMO Bank of Montreal
Tel: 416-643-4405
Email: lyla.kanji@bmo.com

BMO Asset Based Lending is a leading North American provider of asset based solutions to over 320 clients. Since 2007, the group has grown at a compounded rate of 23% annually. Our clients enjoy industry leading expertise across multiple business lines including Metals, Retail, Food and, of course, Cross Border. BMO is a top 10 North American Commercial Lender. Recently, BMO was named one of the world's most ethical companies by Ethisphere, one of the top 15 most sustainably managed companies by the *Wall Street Journal* and one of the Best Employers for Diversity by *Forbes*.

Size of Asset-Based Loans ($ in milions):

2020	2021
New Originations: **$67.00**	New Originations: **$157.20** ▲
Total Existing Commitments: **$766.60**	Total Existing Commitments: **$745.60**
Total Outstandings: **$417.40**	Total Outstandings: **$425.50** ▲

Year Over Year % Change:

Total Commitments	**-2.74%**
Total Outstandings	**1.94%** ▲
New Originations	**134.63%** ▲

Utilization:

2020	**54.45%**
2021	**57.07%** ▲

Types of financing: Asset-Based Lending & Specialized Financing

Industry specialties: We specialize in asset-based lending for the manufacturing, distributing and service sectors, as well as lend to finance companies that offer asset-backed loans.

Geographical locations serviced: Nationwide, lower 48

Headquartered in: Atlanta

MAIN CONTACT:
NORBERT SCHMIDT
EVP Director of Business Finance

Tel: 404-239-8841
Email: Norbert.Schmidt@cadencebank.com

Cadence Business Finance provides customized asset-based financing to middle market companies with $20M to $200M in revenue and finance companies specializing in asset-based loans. Customized financing includes transactions ranging from $5M to agented transactions up to $75M.

What sets us apart:

- Taking the time to understand your company and its unique value proposition
- Crafting individualized creative and flexible solutions
- Senior level team dedicated to the customer experience

Size of Asset-Based Loans ($ in milions):

2020	2021
Total Existing Commitments: **$135.62**	Total Existing Commitments: **$195.85** ▲
Total Outstandings: **$76.51**	Total Outstandings: **$110.50** ▲

Year Over Year % Change:

Total Commitments	**44.41%** ▲
Total Outstandings	**44.43%** ▲

Utilization:

2020	**56.41%**
2021	**56.42%** ▲

Types of financing: Asset-Based Lending
Industry specialties: Manufacturors, Distributors, Retailers, Finance Companies and Service Providers
Geographical locations serviced: Northeast
Headquartered in: Cambridge, MA

MAIN CONTACT:
YVONNE KIZNER
Co-Founder and SVP Asset-Basd Lending

Tel: 617-234-7232
Email: ykizner@cambridgesavings.com

Cambridge Savings Bank is a full-service banking institution with over $5 billion in assets. As a mutual bank, CSB is committed to improving the quality of life of our employees, customers and the communities we serve. One of the oldest and largest community banks in Massachusetts, Cambridge Savings Bank offers a full line of individual and business banking services and has 18 branches throughout the Boston area.

CSB's ABL team was launched in 2019, as part of CSB's commercial lending team, and offers revolving lines of credit as well as term loans, depending on the borrower's needs. Our loans range in size from $2 million to $20 million for businesses and strategic partners located in the Northeast, and are secured by accounts receivable and inventory, with advance rates on eligible accounts receivable up to 90%, advance rates on eligible inventory up to 85% of appraised value. We also offer seasonal stretch facilities where appropriate.

CSB offers a full complement of Corporate Banking, Lending, Cash Management, and Trade Services solutions that are customized to meet our Borrowers' unique business needs—today and in the future.

Camel Financial, Inc.

Size of Asset-Based Loans ($ in milions):

2020	2021
New Originations: **$3.95**	New Originations: **$5.90** ▲
Total Existing Commitments: **$10.02**	Total Existing Commitments: **$15.57** ▲
Total Outstandings: **$6.50**	Total Outstandings: **$8.60** ▲

Year Over Year % Change:

Total Commitments	**55.39%** ▲
Total Outstandings	**32.30%** ▲
New Originations	**49.37%** ▲

Utilization:

2020	**64.87%**
2021	**55.23%**

Types of financing: Asset-Based Lending, PO Finance

Industry specialties: Manufacturing, Logistics, Biotechnology, Progress Building

Geographical locations serviced: Western United States **Headquartered in:** California

MAIN CONTACT:
HELENA SOPWITH
Managing Partner

Tel: 949-722-7717
Email: helena@camelfinancial.com

For over 30-years, Camel Financial, Inc. has been providing asset-based lending solutions to companies with annual revenues between $500M and $10MM. Focused primarily on the staffing, manufacturing, and distribution, our deep insight into industry trends and best practices has allowed our clients to experience higher advance rates, competitive rates, and flexible service. Our clients utilize the facility for average of 3 years and can request specialty lending products through Camel Financial such as purchase order financing, equipment refinancing, and term loans.

Camel Financial maintains strong relationships with our referral partners, brokers, and alternative lenders and all closed referred deals are paid throughout the life of loan. We also actively participate and accept participants for clients experiencing rapid growth. Camel Financial is also a major supporter of the community both in professional associations and the non-profit sector. We serve on the local Risk Management Association chapter board and actively support the local Secured Finance Network chapter as well. Our non-profit affiliations focus on youth development and include local Boys & Girls Clubs and Exchange Clubs.

If you're looking for a partner with a strong performance history and dedication to the community of alternative lenders, please give us a call. We are an excellent partner to purchase order finance companies and banks for a secondary exit source as well as work closely with factors and other alternative ABL companies on complex deals.

CFR CASH FLOW RESOURCES

Size of Factoring Loans ($ in milions):

2020	2021
Total Factoring Volume: **$6.55**	Total Factoring Volume: **$8.45** ▲
Total Factoring Net Funds in Use: **$0.41**	Total Factoring Net Funds in Use: **$0.77** ▲

Year Over Year % Change:

Total Volume	**29.00%** ▲
Total Net Funds in Use	**87.80%** ▲

Types of financing: Factoring
Industry specialties: Specialty Contractors, Food and Beverage, Labor Providers, Janitorial, Engineering
Geographical locations serviced: Gulf South
Headquartered in: New Orleans, LA

MAIN CONTACT:
KEVIN LABORDE
President

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Email: kevin@cfrnow.com

Cash Flow Resources ("CFR") focuses on providing working capital to small businesses in the gulf south. Formed in 2003, CFR has worked through easy and difficult market conditions never losing its commitment to meeting client needs. Virtually any B2B relationship can be addressed, however, we do not fund general contractors or subcontractors unless services provided are unique or highly specialized. CFR has been and likely always will be a small shop as that enables us to provide a higher level of service beyond the mechanics of funding invoices.

Eastern Bank

Size of Asset-Based Loans ($ in milions):

2020	2021
New Originations: **$19.50**	New Originations: **$100.40** ▲
Total Existing Commitments: **$262.17**	Total Existing Commitments: **$363.92** ▲
Total Outstandings: **$119.71**	Total Outstandings: **$224.78** ▲

Year Over Year % Change:

Total Commitments	**38.81%** ▲
Total Outstandings	**87.77%** ▲
New Originations	**414.87%** ▲

Utilization:

2020	**45.66%**
2021	**61.77%** ▲

Types of financing: Working Capital revolving lines of credit, Equipment term loans, Real Estate term loans

Geographical Locations Serviced: Sole Lender, Club (Northeast inclusive of NY & NJ.) Broadly Syndicated (National)

Headquartered in: Boston, MA

MAIN CONTACT:
DONALD B. LEWIS
Senior Vice President, Head of ABL

Tel: 617-910-8305
Email: d.lewis@easternbank.com

Founded in 1818, Boston-based Eastern Bank has more than 120 locations serving communities in eastern Massachusetts, southern and coastal New Hampshire, and Rhode Island. As of December 31, 2021, Eastern Bank had approximately $24 billion in total assets. Eastern provides banking, investment and insurance products and services for consumers and businesses of all sizes, including through its Eastern Wealth Management division and its Eastern Insurance Group LLC subsidiary. Eastern takes pride in its outspoken advocacy and community support that includes $240 million in charitable giving since 1994. An inclusive company, Eastern employs approximately 2,100 deeply committed professionals who value relationships with their customers, colleagues and communities. Join us for good at www.easternbank.com and follow Eastern on Facebook, LinkedIn, Twitter and Instagram. Eastern Bankshares, Inc. (Nasdaq Global Select Market: EBC) is the stock holding company for Eastern Bank. For investor information, visit investor.easternbank.com.

eCAPITAL®

Size of Asset-Based Lending, and Factoring Facilities ($ in milions):

2020	2021
New ABL Originations: **$25.00**	New Originations: **$225.00** ▲
Total ABL Existing Commitments: **$175.00**	Total Existing Commitments: **$400.00** ▲
Total ABL Outstandings: **$100.00**	Total Outstandings: **$300.00** ▲
Total Factoring Volume: **$935.00**	Total Factoring Volume: **$2,100.00** ▲
Total Factoring Net Funds in Use: **$271.00**	Total Factoring Net Funds in Use: **$447.00** ▲

Year Over Year % Change:

Total ABL Commitments	**128.57%** ▲
Total ABL Outstandings	**200.00%** ▲
New ABL Originations	**800.00%** ▲

ABL Utilization:

2020	**57.14%**
2021	**75.00%** ▲

Total Factoring Volume	**124.60%** ▲
Total Factoring Net Funds in Use	**64.94%** ▲

Types of financing: Asset-based lending, Factoring, Lines of credit, Equipment Finanacing
Industry specialties: Transportation, Staffing, +80 other industries
Geographical locations serviced: US, Canada, UK **Headquartered in:** Aventura, FL

MAIN CONTACT:
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CEO
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SECONDARY CONTACT:
STEVE MCDONALD
President
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eCapital is committed to accelerating access to capital for companies in the United States, Canada, and the UK. By leveraging a team of over 600 experts and proprietary, industry-leading technology, eCapital is creating the future of business funding. With a full suite of products such as freight factoring, invoice factoring, lines of credit, asset-based lending, payroll funding, and equipment financing, eCapital ensures businesses have the funds they need to do more. Through its Freight Factoring, Commercial Finance, Staffing and Asset-Based Lending divisions, eCapital delivers customized funding solutions for over 80 industries.

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- **Invoice Factoring**
- **Equipment Financing**
- **Lines of Credit**

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FIFTH THIRD BANK

Size of Asset-Based Loans ($ in milions):

2020	2021
New Originations: **$1,729.24**	New Originations: **$3,297.48** ▲
Total Existing Commitments: **$8,288.54**	Total Existing Commitments: **$9,880.81** ▲
Total Outstandings: **$2,874.30**	Total Outstandings: **$3,907.42** ▲

Year Over Year % Change:

Total Commitments	**19.21%** ▲
Total Outstandings	**35.94%** ▲
New Originations	**90.69%** ▲

Utilization:

2020	**34.68%**
2021	**39.55%** ▲

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Managing Director, Asset Based Lending Group Head
Fifth Third Business Capital
Tel: 847-653-7311 | Email: william.stapel@53.com

GREG ECK
Group Head - Asset Based Lending, Fifth Third Bank
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Fifth Third Bank is a leading provider of asset-based credit facilities of $5,000,000 and up with substantial hold and agency capabilities depending on the financing profile. Fifth Third ABL customers include businesses of all sizes from the lower middle market to large corporate located throughout the US and Canada and include public, private equity backed, and entrepreneur owned companies. We provide both fully monitored traditional ABL facilities as well as ABL structures with flexible and streamlined reporting. Fifth Third Bank offers a full suite of competitive banking products. Fifth Third considers the entire balance sheet on its revolvers and term loans lending against accounts receivable, inventory, equipment, real estate and IP, and supplements these facilities with stretch term loans when supported by satisfactory cash flow coverages. Our approach is best suited for acquisitions, growth financing, recapitalizations, turnarounds, and refinance transactions. We also have extensive experience working with multi-tiered debt and capital structures. As of March 31, 2022, Fifth Third Bank had $211 billion in assets and operates 1,079 full-service Banking Centers in Ohio, Kentucky, Indiana, Michigan, Illinois, Florida, Tennessee, West Virginia, Georgia, North Carolina and South Carolina. Fifth Third also has a growing Western Market presence with middle market offices in Texas and California.

ING

Size of Asset-Based Loans ($ in milions):

2020	2021
New Originations: **$2,543.00**	New Originations: **$2,765.00** ▲
Total Existing Commitments: **$7,731.00**	Total Existing Commitments: **$8,368.00** ▲
Total Outstandings: **$3,893.00**	Total Outstandings: **$5,005.00** ▲

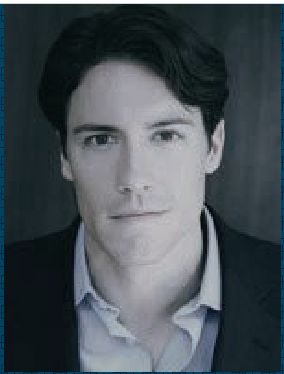
Year Over Year % Change:

Total Commitments	**8.24%** ▲
Total Outstandings	**28.56%** ▲
New Originations	**8.73%** ▲

Utilization:

2020	**50.36%**
2021	**59.81%** ▲

Types of financing: Asset-Based Revolvers and Term Loans, Cross Border ABLs, FILO tranches, Trade and Commodity Finance **Industry specialties:** Retail, Equipment Rental, Manufacturing, Distribution, Business Services, Technology, Food and Agriculture, and Commodities **Headquartered in:** New York, NY **Geographical locations serviced:** US (with offices in New York, Los Angeles, Dallas and Houston), Canada and Europe



MAIN CONTACTS:
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ING Capital LLC is a financial services firm offering a full array of wholesale financial lending products and advisory services to its corporate and institutional clients. ING Capital LLC is an indirect U.S. subsidiary of ING Bank NV, part of ING Groep NV (NYSE: ING), a global financial institution with a strong European base. We know being sustainable is not just about reducing our own impact, it's also in the choices we make—as a lender, in our financing, and through the services, we offer our customers. That's why sustainability is inherent to our purpose of empowering people to stay a step ahead in life and in business. ING Bank's more than 53,000 employees offer retail and wholesale banking services to customers in over 40 countries. Please note that neither ING Groep NV nor ING Bank NV have a banking license in the U.S. and are therefore not permitted to conduct banking activities in the U.S.

LOEB

Size of Asset-Based Loans ($ in milions):

2020	2021
New Originations: **$15.00**	New Originations: **$17.00** ▲
Total Existing Commitments: **$30.00**[1]	Total Existing Commitments: **$40.00**[1] ▲
Total Outstandings: **$30.00**[1]	Total Outstandings: **$40.00**[1] ▲

Year Over Year % Change:

Total Commitments	**33.33%** ▲
Total Outstandings	**33.33%** ▲
New Originations	**13.33%** ▲

Utilization[1]:

2020	**100%**
2021	**100%**

Types of financing: Asset Based Lending, Equipment Line of Credit (ELOC), Term Loan, Leaseback

Industry specialties: Food, Chemical, Cosmetics, Pharmaceutical, Metalworking, Woodworking, Construction, Energy/ Mining, Healthcare, Agriculture/Forestry, Utilities, Yellow Iron

Headquartered in: Chicago, IL

MAIN CONTACT:
HOWARD NEWMAN
President

Tel: 773-548-4131
Email: howardn@loebequipment.com

Our expertise in the daily valuation of industrial assets allows us greater ability to capitalize on the values within complete plants and facilities.

Loan purposes: Plant and product expansion; start-ups and business growth; management/partner buy outs; reorganizing of a business; purchasing new equipment; strengthening of business credit position; unlocking equity from existing equipment.

[1] **Loan characteristics:** Types of loans: term, sale leaseback and equipment lines of credit (eloc); terms: 2-year balloon with 4-year amortization (refi available after term); funding: $1mm to $20mm; closings: within 4 weeks (contingent on financials and lien status)

Loan details: single machines to complete plants; guarantees may be waived depending on capital structure and ownership; interest only periods available; lower costs/fees than the competition; broker fees paid at closing

MUFG

Size of Asset-Based Loans ($ in milions):

2020	2021
New Originations: **$1,900.00**	New Originations: **$1,200.00**
Total Existing Commitments: **$7,200.00**	Total Existing Commitments: **$7,600.00** ▲
Total Outstandings: **$2,500.00**	Total Outstandings: **$3,100.00** ▲

Year Over Year % Change:

Total Commitments	**5.56%** ▲
Total Outstandings	**24.00%** ▲
New Originations	**-36.84%**

Utilization:

2020	**34.72%**
2021	**40.79%** ▲

Types of financing: Asset Based Loans (Bank ABL)
Geographical locations serviced: North America, Europe and APAC
Headquartered in: New York, NY

MUFG ABF is a provider asset-based lending solutions. With a current portfolio of more than $7.6BN in commitments and a dedicated nationwide Asset-Based Finance team, we provide senior secured credit facilities of $20MM to $5BN with committed hold positions of $20MM to $300MM. We offer a full-service of capabilities including syndication, agency services, dedicated collateral monitoring and field exam work. We structure revolving lines of credit and term loans (including FILO and stretch tranches) to numerous industry sectors and throughout a borrower's life cycle. Borrowers typically include retailers, wholesalers, distributors and manufacturers. MUFG is focused on key client accounts and building long-term relationships.

For transactions, such as LBOs, acquisitions, operational & financial restructurings, carve outs, growth capital or general working capital needs please allow us to help unlock the most from your working capital assets and fixed assets.

MAIN CONTACT:
EDWARD GATELY
Head of Asset-Based Finance

Tel: 212-782-4873
Email: egately@us.mufg.jp

REPUBLIC BUSINESS CREDIT

Size of Asset-Based Lending, and Factoring Facilities ($ in milions):

2020	2021
New ABL Originations: **$12.50**	New ABL Originations: **$24.00**
Total ABL Existing Commitments: **$30.20**	ABL Total Existing Commitments: **$44.85** ▲
Total ABL Outstandings: **$17.43**	ABL Total Outstandings: **$32.23** ▲
Total Factoring Volume: **$860.27**	Total Factoring Volume: **$877.74** ▲
Total Factoring Net Funds in Use: **$48.74**	Total Factoring Net Funds in Use: **$75.27** ▲

Year Over Year % Change:

Total ABL Commitments	**48.51%** ▲
Total ABL Outstandings	**84.91%** ▲
New ABL Originations	**92.00%** ▲
Total Factoring Volume	**2.03%** ▲
Total Factoring Net Funds in Use	**54.43%** ▲

ABL Utilization:

2020	**57.72%**
2021	**71.86%** ▲

Types of financing: Asset Based Lending, Recourse Factoring, Non-Recourse Factoring

Industry specialties: Manufacturing, staffing, distribution, apparel, textiles, food, beverage and oil field service.

Geographical locations serviced: National **Headquartered in:** New Orleans

Republic Business Credit is a national commercial finance company that primarily provides working capital facilities up to $15,000,000. Republic provides asset-based loans, traditional factoring, ledgered lines of credit, Fast AR Funding and Direct to consumer and ecommerce facilities. Republic partners with entrepreneurial, private equity and independent owned businesses that are looking for a growth orientated senior debt facility. Republic is proudly headquartered in New Orleans, with offices located in Los Angeles, Houston and Chicago.

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CONGRATULATIONS TO THE SFNET

FOR PUBLISHING THE FIRST INDUSTRY LEAGUE TABLE

REPUBLIC

BUSINESS CREDIT

is proud to participate in the inaugural league table and celebrate our team's great performance.

"We are thankful to our team and our partners, their energy and assistance have helped us to achieve strong growth across all of our products in 2021. With over 30% more growth so far in 2022, we are already looking forward to next year's!"
- *Stewart Chesters CEO*

- **FACTORING**
- **ASSET BASED LENDING**
- **DIRECT TO CONSUMER**

REPUBLIC
BUSINESS CREDIT

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Rosenthal & Rosenthal

SINCE 1938

Size of Asset-Based Lending, and Factoring Facilities ($ in milions):

2020	2021
New ABL Originations: **$30.00**	New ABL Originations: **$45.00**
Total ABL Existing Commitments: **$375.00**	Total ABL Existing Commitments: **$425.00**
Total ABL Outstandings: **$170.00**	Total ABL Outstandings: **$230.00**
Total Factoring Volume: **$8,600.00**	Total Factoring Volume: **$10,600.00**
Total Factoring Net Funds in Use: **$875.00**	Total Factoring Net Funds in Use: **$948.00**

Year Over Year % Change:

Total ABL Commitments	**13.33%**
Total ABL Outstandings	**35.29%**
New ABL Originations	**50.00%**
Total Factoring Volume	**23.25%**
Total Factoring Net Funds in Use	**8.34%**

ABL Utilization:

2020	2021
45.33%	**54.12%**

Types of financing: Asset Based Loans: Working Capital Loans; Growth Finance; Turnaround Finance; eCommerce/DTC Inventory Finance; Real Estate Bridge Loans; Acquisition Finance. **Factoring:** Domestic and International Factoring; Inventory Financing; P.O. Financing; Trade Finance **Geographical locations serviced: ABL:** National & Canada **Factoring:** Domestic & International **Headquartered in:** New York, NY (with full service offices in California and Georgia)

MAIN CONTACT:
PAUL SCHULDINER
EVP, Chief Lending Officer

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Email: PSchuldiner@rosenthalinc.com

Rosenthal is the largest privately held factor and finance company in the United States.

Rosenthal's working capital facilities benefit private and public companies that sell products or services on terms, across a wide range of industries, including but not limited to: manufacturing & transportation, food & beverage, consumer tech, beauty, fashion, accessories, footwear and black car services. Rosenthal is a friendly participant with banks, investment banks, hedge funds, private equity firms, law firms, accounting firms, BDCs, turnaround firms, and other alternative lenders.

A senior-secured, revolving line of credit traditionally backed by your accounts receivables and inventory. Rosenthal can also provide specialty loans against non-traditional forms of collateral, such as intellectual property, royalty income streams and metal leasing (e.g., gold, silver, palladium and platinum). Rosenthal works with start-ups to mature businesses with more than $1 billion in sales. Loan size up to $30 million, including working capital loans and term loans. Collateral, including commercial A/R and inventory, in addition to intellectual property and real estate; international Factoring.

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TSL print

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The power of buzz is still alive in print

7 out of 10 B2B readers say they spend more time with industry related print publications than with mainstream business or consumer print magazines, according to the Association of Business Information & Media Companies.

Put your capital to work with SFNet today. Contact James Kravitz, Business Development Director at (917) 881-1247 or jkravitz@sfnet.com.

Size of Factoring Loans ($ in milions):

2020	2021
Total Factoring Volume: **$7,134.82**	Total Factoring Volume: **$13,125.13** ▲
Total Factoring Net Funds in Use: **$1,036.55**	Total Factoring Net Funds in Use: **$1,546.36** ▲

Year Over Year % Change:

Total Volume	**54.35%** ▲	Total Net Funds in Use	**67.01%** ▲

Types of financing: Factoring
Industry specialties: Transportation
Geographical locations serviced: Contiguous U.S

MAIN CONTACT:
ED ROBERTS
SVP of Business Development

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Email: sales@tbcap.com

Triumph Business Capital is a provider of invoice factoring solutions dedicated to the transportation and logistics industry. We offer a suite of services to growth-focused transportation companies, including our fuel advance and fuel discount programs, credit and risk analysis, account resolutions, account management software (MyTriumph), and additional back-office services designed to empower our clients further.

Triumph Business Capital is an operating subsidiary of TBK Bank, SSB (Member FDIC), and a member of Triumph Bancorp, Inc. (Nasdaq: TBK). Triumph Bancorp is a financial holding company headquartered in Dallas, Texas, offering a diversified line of payments, factoring, and banking services.

WHITE OAK COMMERCIAL FINANCE

Size of Asset-Based Lending, Lender Finance, and Factoring Facilities ($ in milions):

2020	2021
New ABL Originations: **$234.95**	New ABL Originations: **$238.39** ▲
Total ABL Existing Commitments: **$1,237.05**	Total ABL Existing Commitments: **$1,433.55** ▲
Total ABL Outstandings: **$944.99**	Total ABL Outstandings: **$1,146.60** ▲
Total Factoring Volume: **$2,559.02**	Total Factoring Volume: **$3,367.21** ▲
Total Factoring Net Funds in Use: **$406.40**	Total Factoring Net Funds in Use: **$437.7** ▲

Year Over Year % Change:

Total ABL Commitments	**15.90%** ▲
Total ABL Oustandings	**10.70%** ▲
New ABL Originations	**1.40%** ▲

ABL Utilization:

2020	**76.10%**
2021	**78.90%** ▲
Total Factoring Volume	**31.60%** ▲
Total Factoring Net Funds in Use	**7.70%** ▲

Types of financing: Asset-Based Revolvers, Factoring, Lender Finance **Industry specialties:** Apparel, Importers, Wholesale, Manufacturing, Lender Finance, Accessories, Home Furnishings, e-Commerce, Staffing, Electronics, Frozen Foods **Geographical locations serviced:** NY, CA, NC, GA, FL, United Kingdom, Southeast Asia, and Australia **Headquartered in:** New York, NY

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White Oak Global Advisors, LLC is a global financial products and services company offering Asset-Based Lending, Factoring, and Lender Finance solutions to middle market companies. The firm has offices and personnel throughout the US, UK and Australia and is a financing affiliate* of White Oak Global Advisors, LLC.

*The Financing Affiliates (as such term is defined in White Oak Global Advisors' Form ADV) are owned by White Oak Global Advisors' funds and managed accounts.

DATA & INSIGHTS

SFNet Market Pulse

2022 Q2

The SFNet Market Pulse is an economic report that highlights emerging macroeconomic trends likely to affect secured finance and asset-based lending over the near term. The report, underwritten by a grant from the Secured Finance Foundation, is designed to help lenders stay up-to-date on the most important macro-level economic and policy trends driving commercial credit demand, credit supply, portfolio performance, and financial stress. The SFNet Market Pulse is produced by Keybridge, a boutique economic research consultancy comprised of economists and public policy experts based in Washington, D.C.

The U.S. economy is displaying mixed signals, with negative GDP growth in Q1 2022 after strong growth to end 2021. The combination of supply chain problems and geopolitical turmoil has prevented many businesses from operating at full capacity. Strong consumer demand has only compounded these challenges. These factors have held inflation at highs not experienced since the 1980s. Responding to persistent inflation, the Federal Reserve has moved to tighten monetary conditions, starting a series of rate increases which will constrain borrowing activity. Meanwhile, asset-based lenders report improved market conditions in Q1 2022 and remain generally confident about the industry heading into Q2 2022. Demand for loans continues to rebound, credit supply is solid and portfolio performance is strong, but competition is increasing.

60.9 ▼-8.0

2022 Q1 SFNet Composite Confidence Index

Overall Score

Expectations over the next 3 months*

Responses are converted to a 100-point scale where a "0" indicates a decrease/decline, a "50" indicates that things are expected to stay the same, and a "100" indicates an increase/improvement.

US ECONOMIC OUTLOOK

Inflation and Geopolitical Turmoil Slow GDP Growth

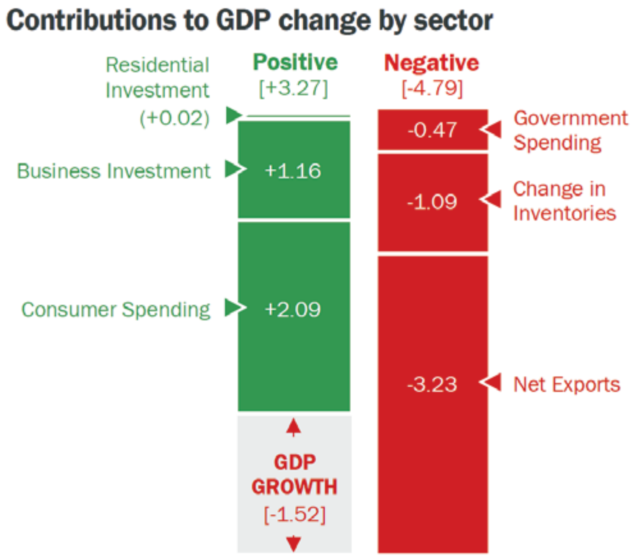
The U.S. economy contracted at an annualized pace of 1.5% in the first quarter of 2022, the worst rate since Q2 2020 and below expectations for modest growth. Much of the contraction was due to net exports, which subtracted more than 3 percentage points from overall growth. The Omicron wave, Russia's invasion of Ukraine, and China's lockdowns slowed global growth, reducing demand for U.S. exports. A reduction in private inventory investment was also a headwind, after driving growth in the previous quarter.

Despite these headwinds, several key components of domestic spending remained positive. Consumer spending on services and durable goods rose throughout the quarter, as did business fixed investment. These factors suggest that the inner core of the U.S. economy continues to move forward, even as much of the rest of the world economy languishes.

A looming question for future growth, however, is whether the Federal Reserve's interest rates hikes will lead to a "soft landing." Indeed, some economists are starting to warn of an approaching recession.

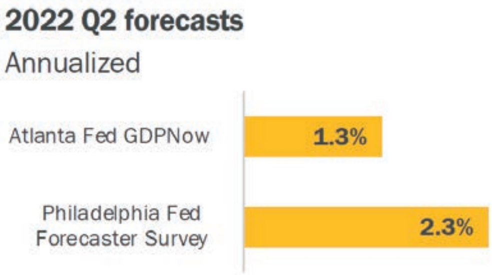
A Look Back: US Q1 2022 Economic Activity

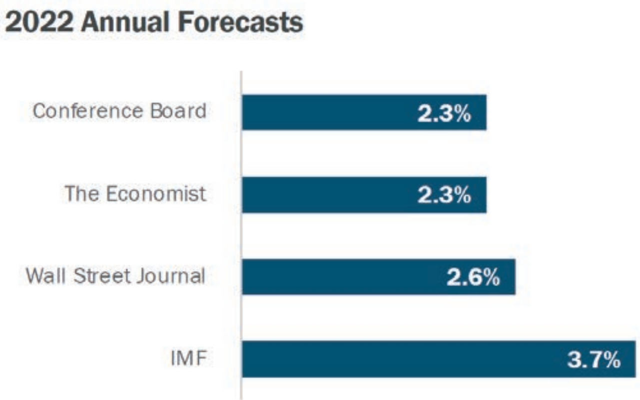
The U.S. economy contracted at a 1.5% annualized pace in Q1 2022, the first decrease since Q2 2020 and largely a result of supply chain challenges and surging energy prices.



Source: Bureau of Economic Analysis

Looking forward: US Real GDP Forecasts





Over the next six months, three themes are worth watching:

Geopolitical Uncertainty. As supply chain disruptions were beginning to ease, Russia invaded Ukraine, causing widespread destruction and a humanitarian crisis while creating new sources of supply chain uncertainty. Meanwhile, China is experiencing the first major test of its "zero COVID" policy, shuttering the nation's largest cities and further snarling supply chains.

Inflation. With persistent supply constraints, annual CPI inflation registered 8.3% in April, just below the multi-decade high in March and suggesting that underlying inflationary pressures have yet to abate. One of the biggest questions for 2022 is whether inflation will recede without a painful recession and destruction of consumer demand.

Monetary Policy Response. The Fed has adopted a more hawkish posture to combat inflation. In addition to raising rates by 50bps in May, the Fed is expected to raise rates another 50bps by June and 150bps or more by year end.

TRACKING INFLATION

What's Driving Inflation?

Just as the U.S. economy was emerging from the Omicron wave and substantial in-person activity was resuming, Russia's invasion of Ukraine and lockdowns in China sparked yet another supply shock. Prices for oil and other commodities have surged in recent weeks. Finally, a tight labor market, with low unemployment and more vacancies than job seekers, is also spurring faster nominal wage growth.

Has Inflation Peaked?

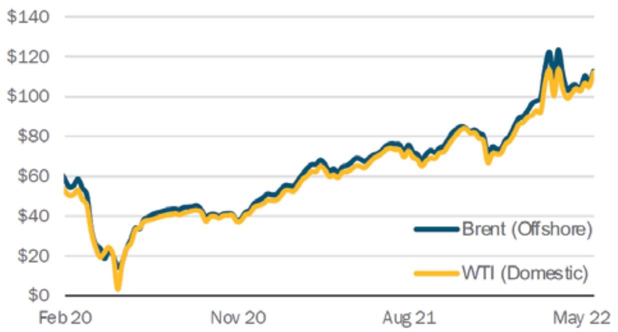
The headline consumer price index (CPI) rose 8.3% Y/Y in April, falling slightly from March's multi-decade high. Keybridge's "Top 25 to Watch," which attempts to remove CPI components hit by transitory price changes, signals that higher structural inflation, including from housing, household operations, and services, is settling in, but not necessarily accelerating.

SECTOR ACTIVITY

Producers Struggle to Meet Robust Demand

Retail Trade. Retail spending has proven resilient, with total retail and food services sales rising to $677.7 billion in April, 8.2% above year-ago levels. Even as the Omicron wave persists, strong savings and greater comfort with public activity have pushed sales at food and drinking places 19.8% above April 2021 levels. Nevertheless, price increases are lowering real incomes and are likely to drag on spending in coming months.

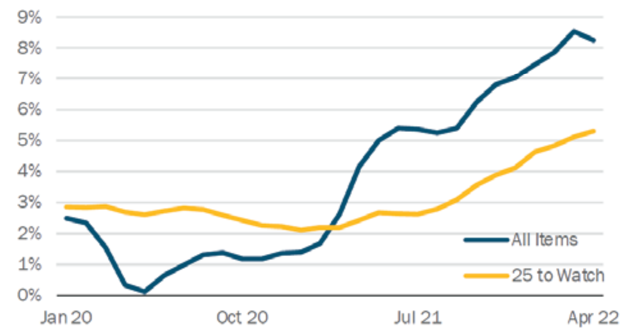
1 Crude Oil Prices
USD/barrel, weekly average



Source: Energy Information Administration (https://www.eia.gov/dnav/pet/PET_PRI_SPT_S1_D.htm)

Crude oil prices climbed sharply following Russia's invasion of Ukraine and are now hovering between $110 and $120/barrel.

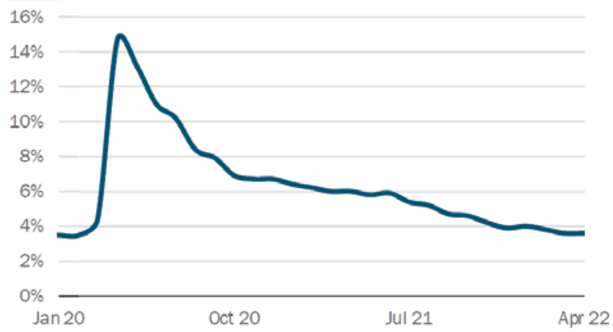
2 Keybridge's "Top 25 to Watch"
Year-over-year percent change in consumer prices



Source: Keybridge, Bureau of Labor Statistics (https://www.bls.gov/news.release/cpi.nr0.htm)

Keybridge's Top 25 to Watch, a proxy for core inflation, increased by 5.3% Y/Y in April while headline inflation rose by 8.3%.

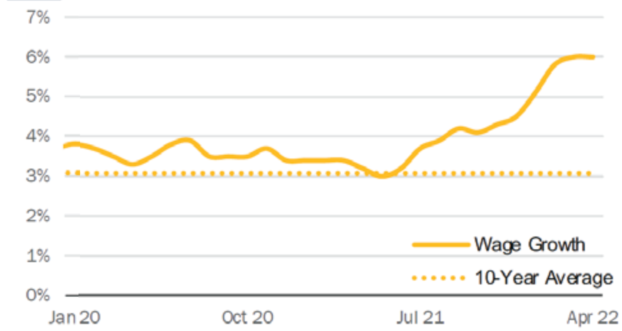
3 Unemployment Rate
National unemployment rate, seasonally adjusted



Source: Bureau of Labor Statistics (https://www.bls.gov/news.release/pdf/empsit.pdf)

The unemployment rate has fallen to its pre-pandemic level of 3.6%, indicating a historically tight labor market.

4 Wage Growth Tracker
Measure of the monthly nominal wage growth of individuals

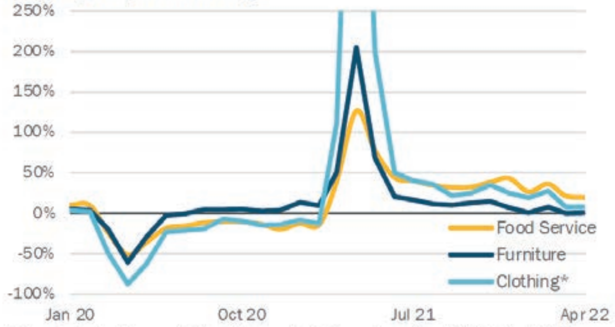


Source: Federal Reserve Bank of Atlanta (https://www.atlantafed.org/chcs/wage-growth-tracker)

Wage growth held at 6.0% in March and April, the highest value since 1990, and nearly double the 10-year average of 3.1%.

Retail Sales by Category

Year-over-year percent change



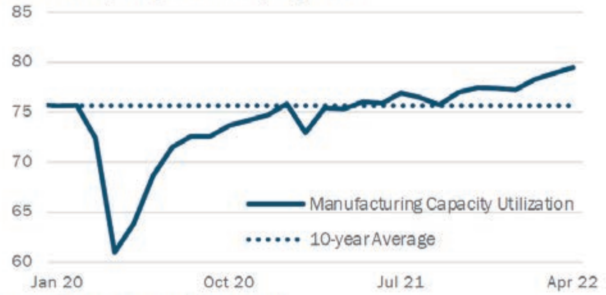
* The chart cuts off some clothing data for clarity. The value peaks at 748% in April 2021.

Source: US Census Bureau

Manufacturing. While high energy prices and surging costs for other key inputs have weighed on manufacturing activity this year, there are reasons for optimism. The National Association of Manufacturers Outlook Index remained well above its historical average in Q2, suggesting that if supply chain disruptions can be tamed, American factories are primed to boost output. Furthermore, manufacturing activity held steady in early 2022 and capacity utilization jumped to a multi-year high.

Manufacturing Capacity Utilization

Percent of capacity, seasonally adjusted

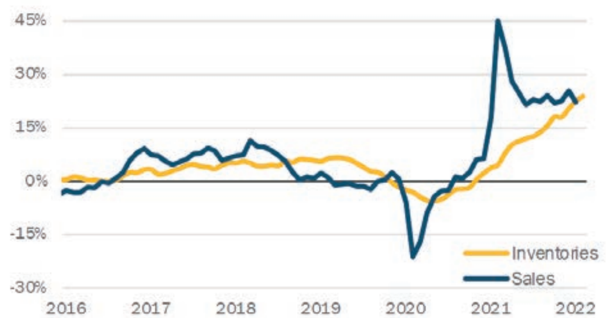


Source: Federal Reserve Board, G.17

Wholesale Trade. In March 2022, inventories grew solidly, but remain hampered by persistent supply disruptions, which have only been exacerbated by factory shutdowns in China and record levels of unfilled job openings. Months of supply shocks had prevented wholesale inventories from catching up with sales until very recently, a source

Wholesale Sales & Inventories

Year-over-year percent change



Source: US Census Bureau

of rising prices. Growing consumer activity, however, has been a consistent bright spot for the U.S. economy.

Housing. After years of steady increases, home price growth started to accelerate in the second half of 2020. Nationwide, home prices increased by about 20% over the course of 2021, up from an annual average of about 5% increases from 2010 to 2019. With the Fed raising interest rates and starting to sell off some of its mortgage-backed securities, housing demand could experience a downturn. Indeed, builder sentiment in the NAHB/Wells Fargo Housing Market Index plummeted in May.

Normally, interest rate hikes reduce demand for homes, decrease new construction, and slow price growth. In 2018, a 1 percentage point lift in the federal funds rate cut home price growth in half, dropped transaction volume, and lowered builder sentiment.

A unique feature of the current housing market has been the geographic variance in price growth. Some metro areas, like Phoenix and Austin, experienced price increases above 30% while others, like Minneapolis and Washington, DC, experienced growth closer to 10%. With rate hikes increasing mortgage costs, home demand and prices could fall, especially in areas with the greatest growth in recent months.

GLOBAL ECONOMIC TRENDS

Supply Chain Problems

Already strained by the pandemic and surging consumer demand in 2021, global supply chain disruptions have been exacerbated by Russia's invasion of Ukraine and COVID-related lockdowns of key Chinese industrial cities. These new supply shocks are adding to inflationary pressures and hampering global economic growth. The April IMF World Economic Outlook projects global growth will slow from an estimated 6.1% in 2021 to 3.6% in 2022, a downward revision of 0.8 percentage points from January. The IMF expects the growth slowdown to be widespread, with notable deceleration in Russia, China, and the Euro Area. It also forecasts inflation to remain elevated for longer than previously expected.

Persistent supply chain disruptions and geopolitical crises have spurred a reconsideration of business models that rely on global supply chains Some companies have started to shift sourcing and locations of operations to foster production resilience as opposed to efficiency. However, whether supply chain realignment will become a long-term trend remains to be seen, but the near-term impact of these events will weigh on growth and elevate prices.

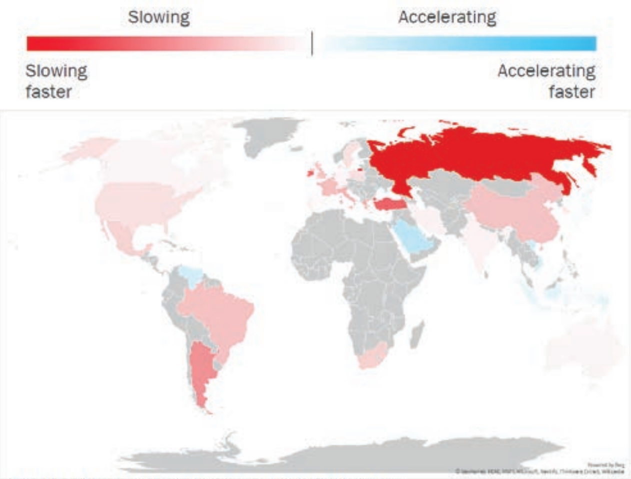
Russian Invasion of Ukraine

Russia's invasion of Ukraine resulted in unprecedented sanctions that severed many of the connections between Russia and the rest of the world. Ripple effects of these sanctions are being felt worldwide, particularly among countries that depend on oil, metals, and grains from Russia and Ukraine. The OECD estimates that the war in Ukraine could reduce global economic growth by 1% and increase worldwide inflation by 2.5% in 2022.

DATA & INSIGHTS

Growth of Key Global Economies

Anticipated change in growth rate & direction from 2021 to 2022



Source: IMF World Economic Outlook (April 2022)

As sanctions on Russia expand, many multinational corporations are grappling with a new reality of less favorable business conditions in certain countries and are planning for the possibility of more fractious trade relations, including in Asia. In particular, Russia's aggression, Ukraine's resistance, and the unified response of Western democracies have raised issues about what might happen should China take a confrontational stance toward Taiwan. One lesson seems to be that stakeholders might bring more pressure to bear on Western companies than governments in the short run if they sense that an autocratic country takes actions that they deem to violate the rule of law.

China's Zero-COVID Policy

Lockdowns of key Chinese cities due to China's zero-COVID policy have further roiled supply chains. Widespread shutdowns of manufacturing units and ports in cities like Shenzhen and Dongguan are contributing to delays and pushing up container freight rates. The Chinese government even went as far as to enact a staggered shutdown of Shanghai in late March and conduct near-city-wide testing in Beijing. If these shutdowns persist, even intermittently, throughout 2022, the effects on supply chains will slow global growth and keep inflation high.

At this point, it appears unlikely that China will be able to completely avoid future COVID outbreaks due to the increasing transmissibility of variants and the limited efficacy of Chinese vaccines. As long as China maintains its zero-COVID policy, supply chains that rely on Chinese production will move in fits and starts. In its latest global GDP growth forecasts for 2022, the IMF dropped expectations for Chinese GDP growth from 4.8% to 4.4%, and further reductions could be in the offing if more shutdowns are coming.

CREDIT DEMAND & GROWTH

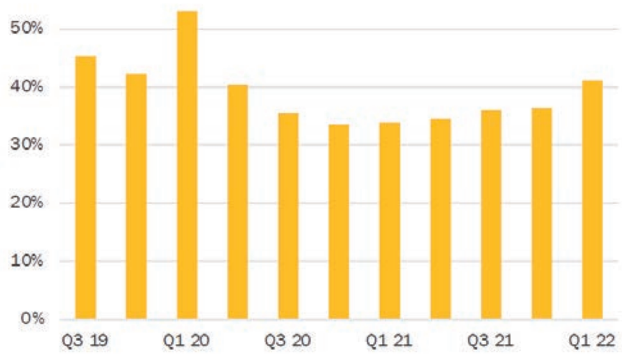
Demand Continues to Rebound

Strong consumer activity entering 2022 has fueled increased demand for loans. The Federal Reserve's April 2022 Senior Loan Officer Opinion Survey on Bank Lending Practices suggests that overall business loan demand from both large and small firms is rising. After the highest reading in over 7 years in January 2022, a net 12% of banks reported stronger demand from large and medium firms for commercial and industrial (C&I) loans in the April survey. Banks reported the largest increase in demand for C&I loans from small firms since 2014, with a net 18% reporting stronger demand. A net 12% reported increased inquiries from potential borrowers seeking new or expanded credit lines. The results suggest that the economic recovery is on stable footing as companies of all sizes seek loans.

The increase in C&I loan demand can be attributed to customers needing funds to overcome supply chain challenges and keep pace with consumer demand. Indeed, historically low inventories to sales ratios and record levels of job openings suggest that companies are struggling to meet demand. Accordingly, the Fed survey reported that the top reasons banks cited for increased demand (right) have been the need to finance inventory, accounts receivable, and investment and equipment. Of the few respondents reporting weaker demand, decreased need for merger or acquisition financing was identified as the top reason.

ABL Credit Line Utilization Rate for All Lenders

Q3 2019 – Q1 2022



Source: SFNet Q1 2022 Asset-Based Lending Survey. Values represent lenders that have reported on the referenced field in all quarters shown.

The Q1 2022 SFNet Composite Confidence Index for new business demand and existing credit line utilization (above) points to a promising market for lenders in Q2 2022 and beyond. Many borrowers are continuing to turn to asset-based lending as other credit markets become less attractive. Credit line utilization (left) increased for the 5th consecutive quarter, as the rate continues to edge closer to pre-pandemic levels. Expectations for utilization dipped slightly from Q4 2021, but remain high overall, a signal that there is still room for growth. Demand and utilization trends indicate that the industry remains on solid footing and underscores the value of asset-based lending as credit tightens.

CREDIT SUPPLY

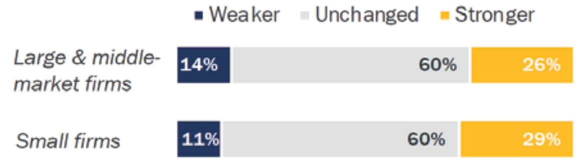
Standards Ease as Competition Mounts

The April 2022 Senior Loan Officer Opinion Survey revealed minimal changes in bank lending standards. After a general easing of standards for firms of all sizes over the past four quarters, standards for both small and large firms seeking C&I loans were relatively unchanged as of April. Respondents who tightened standards most cited a less favorable or uncertain economic outlook, reduced tolerance for risk, and industry-specific problems as reasons for tightening. Those that eased standards uniformly cited heightened competition from other lenders as a motivation. Despite consistent standards, a net 17% of respondents reported expanding their maximum size of credit lines.

The Q1 2022 SFNet Asset-Based Lending Survey revealed growth in total commitments for the 4th consecutive quarter (right). Commitments grew by 10.9% compared to the same quarter in 2021 and by 1.4% compared to Q4 2021. Along these lines, 63% of respondents reported increased commitments from the past quarter. Commitment growth, however, has started to slow and 34% of respondents reported decreased commitments. Future loan supply will be impacted as the Federal Reserve tightens monetary policy to counter persistent inflation.

April 2022 Senior Loan Officer Opinion Survey

*% of banks by change in **C&I loan demand** and customer size*



*Top reasons for **stronger** demand in Q1*

1. Increasing customer needs to finance inventory (91%)
2. Increasing customer accounts receivable financing needs (78%)
3. Increased investment in plant or equipment (74%)

Note: shares are % reporting "somewhat important" or "very important."
Source: Federal Reserve.

Q1 2022 SFNet Composite Confidence Index

*Expectations over the next 3 months**

Demand for New Business	Utilization Rate
79.7	78.1
▲ +2.7	▼ -1.6

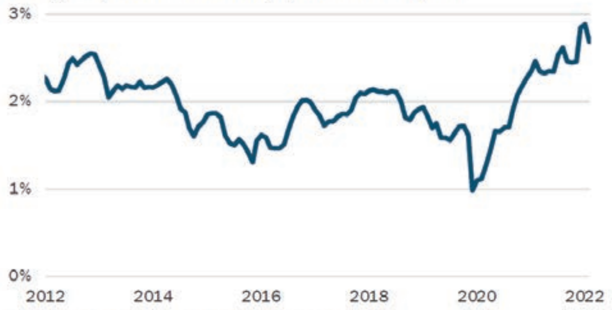
*Responses are converted to a 100-point scale where a "0" indicates a decrease/decline, a "50" indicates that things are expected to stay the same, and a "100" indicates an increase/improvement.

Can the Fed Engineer a Soft Landing?

After headline inflation hit 8.5% in March — its highest rate since 1982 — and remained elevated in April, there continue to be risks that the Fed is behind the curve in maintaining price stability, a key Fed goal. Although Russia's invasion of Ukraine has worsened the near-term inflation outlook, Chairman Powell recently acknowledged that "we should have moved earlier." The FOMC

10-Year Breakeven Inflation Rate

Average implied inflation rate (%) over next 10 years



Source: Federal Reserve Bank of St. Louis

has since stated its intentions to tighten monetary policy and tamp down inflation without causing a recession, but pandemic-fueled shutdowns in Asia, ongoing supply chain snags, and the war's effect on the global economy make the Fed's task a daunting one.

The Fed's role is particularly difficult because it must walk a fine line between increasing rates enough to meaningfully counter inflation while not increasing so rapidly that it harms employment, the other pillar of its mandate. Nevertheless, the FOMC now appears prepared to take bolder action: the CME FedWatch Tool estimates the federal funds rate will most likely hit 3.0% by December, which would require several rate hikes. There is also some concern that rate hikes will be of limited effectiveness against inflation since much of the inflationary pressure stems from commodity prices and international supply chain issues that are outside the Fed's control. How inflation and employment respond to monetary tightening will be issues to watch in the coming months.

LENDER PROFITABILITY

Competition Continues to Squeeze Profits

The April 2022 Senior Loan Officer Opinion survey indicates that loan spreads narrowed moderately for both large and small banks, suggesting that rising competitive pressures have compressed spreads. After near consecutive declines in net interest income for U.S. commercial banks (right) since the first quarter of 2020, net interest income rose in both Q3 and Q4 of 2021. Nevertheless, heightened competition should squeeze lending profitability in upcoming quarters, challenging banks to maintain levels of profitability from the second half of 2021. Elevated inflation may also remain a threat to profitability if not adequately addressed in loan covenants.

April 2022 Change in C&I Loan Spreads for Large Firms

L = Large Banks (>$50 bn in assets), S = Small Banks (<$50 bn in assets)

Source: Federal Reserve

PORTFOLIO PERFORMANCE

As Good as it Gets?

Portfolio performance remained strong in early 2022. C&I delinquencies dipped in Q1 to 1.1%, hovering at that level for the past year, and charge-offs fell to 0.1%, a record low. Similarly, the Q1 SFNet ABL Survey found that non-accruals as a percent of total outstandings dropped below 0.2%, continuing to parallel consistent declines in criticized and classified loans. A key question is whether such strong performance can last. The Q1 SFNet Composite Confidence Index indicates that lenders expect portfolio performance and business conditions to decline over the next three months, signaling that performance was about as good as it could get. Falling expectations for performance and business conditions are tempered by generally positive overall confidence and other indicators that the industry is on solid footing.

2022 Q1 SFNet Composite Confidence Index

*Expectations over the next 3 months**

Portfolio Performance	General Business Conditions
40.6	32.8
▼ -18.8	▼ -21.2

*Responses are converted to a 100-point scale where a "0" indicates a decrease/decline, a "50" indicates that things are expected to stay the same, and a "100" indicates an increase/improvement.

Is Financial Stress Rising?

While pandemic stimulus buoyed financial health in 2021, stresses are likely to rise throughout 2022. The Fed's monetary tightening measures will automatically increase financial pressure in the economy, while ongoing supply challenges show few signs of easing. Despite these significant economic headwinds, there are reasons for cautious optimism as the labor market and consumer spending remain strong, and there are early indications that headline inflation may be peaking, although worries about persistently high core inflation remain a concern.

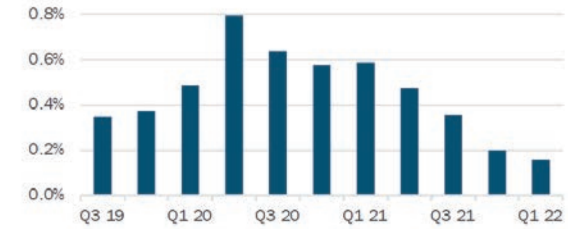
Net Interest Income for U.S. Commercial Banks

% change from prior quarter

Source: FDIC

Total Non-Accruing Loans as % of Outstandings

Q3 2019 – Q1 2022



Source: SFNet Q1 ABL Survey. Values above cover lenders that have reported on the referenced field in all quarters shown.

Your partner through strategic change

Gordon Brothers provides both short- and long-term capital to clients undergoing transformation. We lend against and invest in brands, real estate, inventory, receivables, machinery, equipment and other assets, both together and individually, to provide clients liquidity solutions beyond our market-leading disposition and appraisal services.

Our firm partners with management teams, private equity sponsors, strategic buyers and asset-based lenders globally to provide our expertise and additional capital in special situations. We recently increased our capital base to over $1 billion to fuel the continued rapid growth of our capital offerings.

Dominion Packaging Inc.

$10.6 million

Term loan

Working capital financing

Foxpoint Trucks

$85 million

Term loan

Working capital financing

French Connection

£25 million

Term loan

Acquisition financing

Myer

A$215 million

Term loan

Debt refinancing

Nicole Miller

Majority investment

Spiele Max

€10 million

Term loan

Acquisition financing

Toll Global Express

A$160 million

Acquisition financing

Tuesday Morning

$10 million

Term loan

Working capital financing

Refinitiv LPC

2021: Record-setting year for asset-based lending

The U.S. asset-based loan market bounced back from a 10-year low in 2020 to an all-time high in 2021. Market recovery was not subtle as lenders syndicated US$140.4bn, nearly doubling 2020's US$72.4bn and exceeding 2011's previous high of US$101.2bn by 39%. In Refinitiv LPC's 2021 US ABL Bookrunner League Table, the top four bookrunners remained unchanged from 2020. BofA Securities was the top bookrunner for the second consecutive year by arranging US$25.7bn over 169 deals. Wells Fargo & Co came in second, arranging US$22.3bn across 137 deals. JP Morgan ranked third in 2021 with US$13.9bn via 100 deals, holding this spot since 2008, or 14 consecutive years. PNC Bank arranged US$8.4bn across 57 deals and ranked fourth, the spot they held since 2014 or eight consecutive years. Truist Financial moved up six levels from eleventh in 2020 to fifth in 2021 with US$7.9bn. The top five bookrunners arranged US$78.2bn and represented a combined 56% of total market share.

1Q 2022 ABL issuance totaled US$28.2bn and was up a modest 3% year over year. New ABL assets were flat year over year with US$6.9bn in 1Q22, however, only 15% of new money was event driven in the form of M&A compared to 45% in 1Q21. In Refinitiv LPC's 1Q22 US ABL Bookrunner League Table, Wells Fargo & Co overtook BofA Securities to become the top bookrunner after placing second in 1Q21. The top arranger led US$7.3bn over 35 deals. BofA Securities fell to second place in the 1Q22 tables with US$6.0bn across 41 deals. PNC Bank arranged US$2.2bn via 15 deals and moved up to third after placing seventh in 1Q21. JP Morgan fell one rank to fourth with US$2.1bn across 18 deals. US Bancorp claimed fifth place in 1Q22 from eighth in 1Q21 with US$2.0bn. The top five bookrunners arranged US$19.7bn and represented 64% of total market share.

2021 Refinitiv LPC U.S. Syndicated Asset-Based Lending (ABL) Bookrunner

Rank	Bookrunner	Pro Rata Volume (USD)	Deal Count	Market Share (%)
1	BofA Securities	25,710,244,667.89	169	18.23%
2	Wells Fargo & Co	22,288,857,795.44	137	15.80%
3	JP Morgan	13,892,399,226.90	100	9.85%
4	PNC Bank	8,439,294,822.11	57	5.98%
5	Truist Financial	7,869,881,336.02	44	5.58%
6	BMO Capital Markets Financing Inc.	5,604,709,455.53	46	3.97%
7	Citi	5,174,739,854.61	37	3.67%
8	Barclays	4,881,757,549.15	44	3.46%
9	Mitsubishi UFJ Financial Group Inc.	4,824,305,431.79	30	3.42%
10	US Bancorp	3,809,494,983.46	23	2.70%
11	RBC Capital Markets	3,689,069,195.80	30	2.62%
12	Citizens Financial Group	3,153,038,885.01	30	2.24%
13	Capital One Financial Corp	3,143,784,271.30	16	2.23%
14	Fifth Third Bank	2,706,556,064.03	17	1.92%
15	Regions Bank	2,702,859,054.84	22	1.92%
16	Goldman Sachs & Co	2,197,980,151.06	23	1.56%
17	Deutsche Bank AG	2,013,056,070.05	26	1.43%
18	Sumitomo Mitsui Financial Group Inc.	1,964,443,512.05	7	1.39%
19	Credit Suisse AG	1,883,925,256.41	27	1.34%
20	Toronto Dominion Bank	1,450,120,957.48	8	1.03%
21	BNP Paribas SA	1,345,485,870.13	13	0.95%
22	HSBC Banking Group	1,158,783,891.55	6	0.82%

Rank	Bookrunner	Pro Rata Volume (USD)	Deal Count	Market Share (%)
23	Rabobank	1,069,444,444.44	2	0.76%
24	ING Group	1,062,720,839.61	10	0.75%
25	Mizuho Financial Group Inc	1,048,560,503.82	9	0.74%
26	Morgan Stanley	992,606,147.73	8	0.70%
27	KeyBank	883,937,777.78	9	0.63%
28	Societe Generale SA	465,526,315.79	2	0.33%
29	Banco Santander SA	421,458,333.33	4	0.30%
30	UBS AG	420,773,015.87	8	0.30%
31=	Lloyds Banking Group Plc	409,090,909.09	1	0.29%
31=	Royal Bank of Scotland Plc [RBS]	409,090,909.09	1	0.29%
33	New York Community Bank	388,396,111.12	4	0.28%
34	Scotiabank	383,253,588.52	2	0.27%
35	CIT Group Inc	365,604,444.45	4	0.26%
36	Huntington Bancshares	353,181,818.18	5	0.25%
37	Stifel Financial Corp	307,192,982.46	3	0.22%
38	Jefferies	266,823,076.92	6	0.19%
39	Credit Agricole Corporate & Investment Bank SA [Credit Agricole CIB]	252,271,794.87	2	0.18%
40	Ally Financial Inc	228,333,333.33	3	0.16%
41	Banco Bilbao Vizcaya Argentaria SA [BBVA]	203,666,666.67	2	0.14%
42	UniCredit	125,000,000.00	1	0.09%
43	Natixis SA	111,715,476.19	3	0.08%
44	Wintrust Financial Corp	110,000,000.00	2	0.08%
45	First National Bank	100,000,000.00	2	0.07%
46	SVB Financial Group	93,333,333.33	1	0.07%
47	Macquarie Group Ltd	92,142,857.15	3	0.07%
48	Nomura Holdings Inc	83,611,111.11	3	0.06%
49	M&T Bank	80,500,000.00	1	0.06%
50	Landesbank Baden-Wurttemberg [LBBW]	78,125,000.00	1	0.06%
51	Cobank ACB	66,666,666.67	1	0.05%
52	Antares Holdings	65,000,000.00	2	0.05%
53	American AgCredit ACA	50,000,000.00	1	0.04%
54	First Horizon Bank	48,181,818.18	1	0.03%
55	Kayne Anderson Capital	40,000,000.00	1	0.03%
56=	CIBC	25,000,000.00	1	0.02%
56=	NXT Capital LLC	25,000,000.00	1	0.02%
58	KKR & Co Inc	19,166,666.67	1	0.01%
59	Comerica Inc	7,500,000.00	1	0.01%

DATA &
INSIGHTS

1Q22 U.S. ABL Loan Volume Tops U.S. $28bn; Mix Of Deals Skews To Technical Amendments

BY MARIA C. DIKEOS

Refinitiv's Maria Dikeos provides highlight of Q1 syndicated ABL market.

U.S.

■ **MARIA C. DIKEOS**
Director of Analytics,
Refinitiv LPC

asset-based lenders had an arguably auspicious start to 2022, pushing over US$28bn through retail syndication in the first quarter, the strongest 1Q results since 2011 (US$28.5bn) and a nearly 3% increase over year ago totals. (Fig. 1). The solid numbers nevertheless become less compelling as one digs into the mix of deals that came to market and the accompanying lender fee revenues generated during the quarter.

At under US$7bn, new ABL loan assets represented less than 25% of total 1Q22 ABL volume, on par with year ago totals on both a dollar basis and pro rata share of total quarterly lending (Fig. 2). Nevertheless, out of 80 deals to come to market during the period, only nine (or 11% of total) were new to the ABL market. At slightly north of US$500m, these financings represented 2% of total 1Q22 issuance. In contrast, for full year 2021, there were 338 deals of which 53 represented issuers new to the ABL market (over 15% of the pipeline on a deal count basis) and roughly 11% of total volume for the year.

More significantly, only five 1Q22 credits represented event driven transactions, down from ten in 1Q21. At US$599m, 1Q22 syndicated ABL credits backing M&A events represented 2% of total ABL loan volume for the quarter. The addition of clubbed deal volume, pushed M&A volume up to 3.65% of the combined syndicated and clubbed pipeline during the same period, but the results were nonetheless down significantly from the 9.5% garnered during all of 2021 (Fig. 3).

"It's hard to compare 1Q22 to 1Q21 [given the strength of the market last year]," noted one ABL arranger, "but the punchline for many is that fee revenues are probably down, but average loan balances went up." With that, spread incomes ultimately sustained P&Ls.

Rising Inflation Spurs Higher Loan Balances

Three critical factors came together to boost loan balances. The first is the inflationary environment which, by its very nature, gives way to higher loan balances. The second is market technical, which highlighted economic growth – despite the inflationary pressures. And the third is the

Fig. 1: US: ABL Volume & Deal Count

1Q22 ABL issuance up modestly year over year but deal mix favors

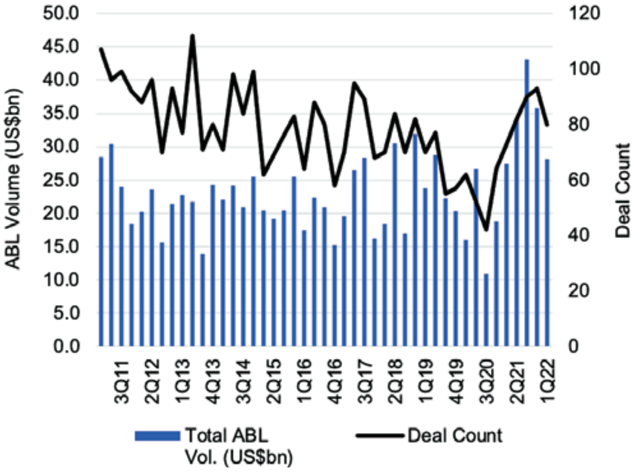


Fig. 2: US: ABL Volume, New Money & Refinancings

New loan assets limited due to dearth of event driven dealflow

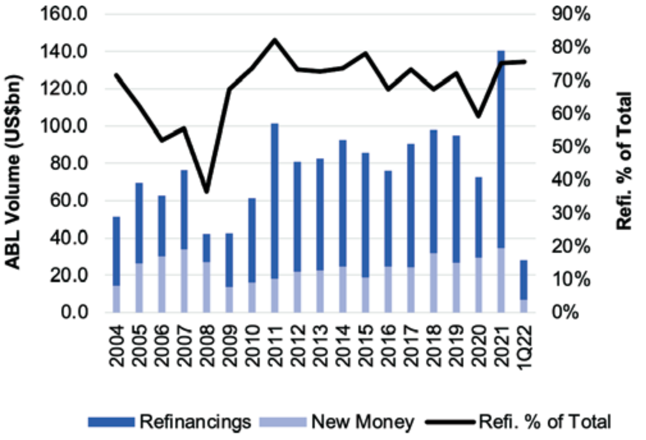
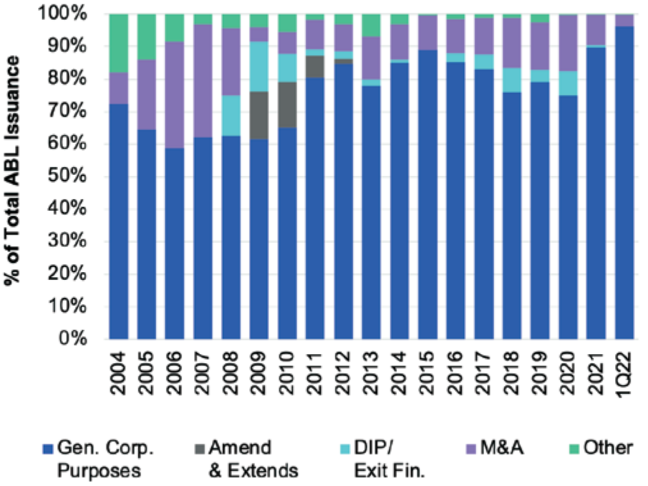


Fig. 3: US: ABL Market Share by Purpose

Technical amendments and accordion upsizings fill 1Q22 calendar sponsor activity stalls



Source: Refinitiv LPC

Fig. 4: US: ABL Volume, Corporate & Sponsored

Sponsored activity represents 11% of total 1Q22 ABL issuance

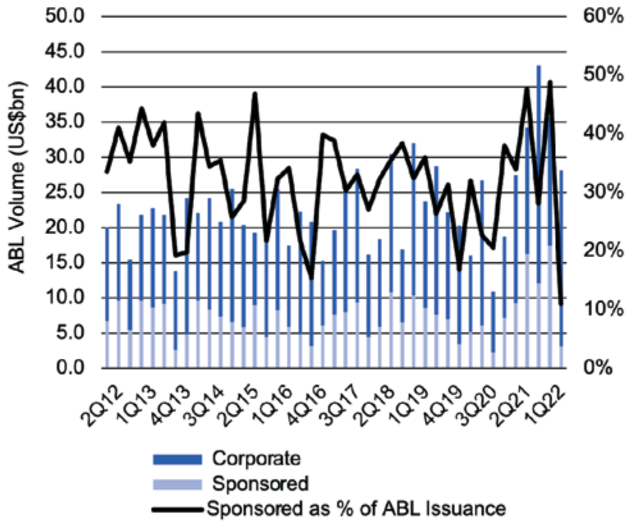


Fig. 5: US: ABL New Money Volume, Sponsored & Corporate

PE backed financings represent less than 14% of new ABL assets in 1Q22, down from 44.6% same time last year

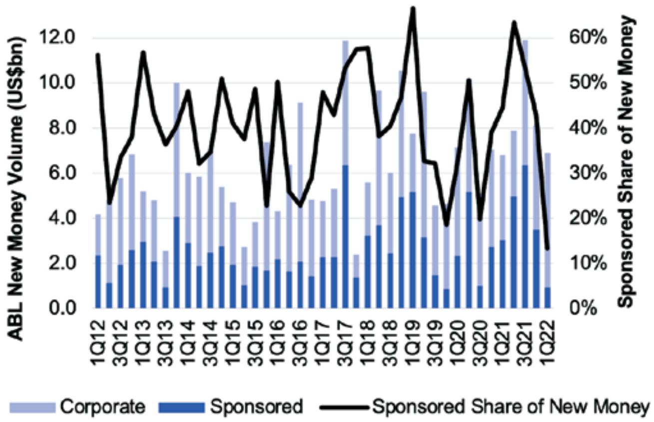
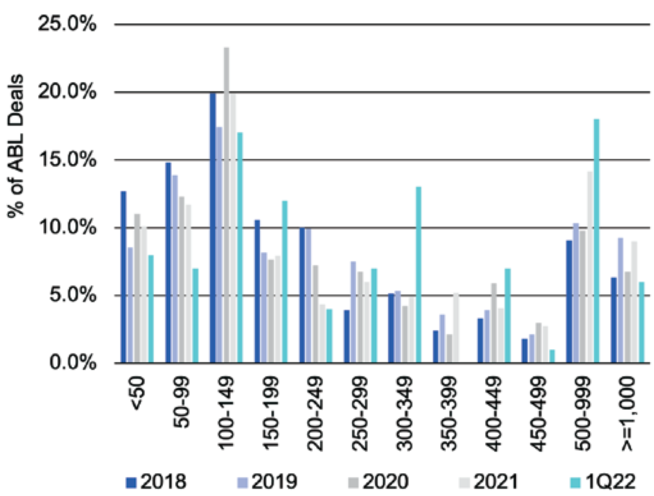


Fig. 6: US: ABL Deal Size Dispersion

Proportion of jumbo ABL deals edge down in 1Q22



Source: Refinitiv LPC

absence of paydowns or refinancing of existing ABL revolvers after over US$91bn of refinancing activity in 2021.

Instead, "technical amendments" due to SOFR adoption drove lending activity during the quarter. More often than not, such amendments were not accompanied by concurrent capital market exercises (either via the institutional loan market or high yield bond markets) and the associated arranger fees that come with them, although some did come in combination with exercised accordions.

Sponsored Deal Flow Down Dramatically

Against this backdrop, private equity sponsors played a smaller role in generating ABL deal opportunities. At US$3.1bn, 1Q22 issuance backing sponsored lending activity represented 11% of total ABL loan volume, the lowest pro rata share of quarterly issuance on record (Fig. 4).

Of greater significance, private-equity backed credits represented less than 14% of total new ABL loan volume during the quarter at less than US$1bn. This represented the smallest pro rata share of new money since 4Q11 (Fig. 5).

Deal Sizes Contract, Hold Sizes Continue to Increase

"There wasn't a lot of M&A," said one arranger. "Any discussions were put on hold because markets outside of ABL slowed."

The invasion of Ukraine and the unsettling headlines that followed, only cast a longer shadow on lending opportunities. "The day Ukraine happened, it did not put a chill on the [ABL] market," explained one arranger, "but two to three weeks later, there was the realization that this situation will last a while. In that moment, market sentiment switched to risk off."

In the absence of large, transformative transactions, the deal size dispersion of financings that did come to market changed. Only 6% of deals of US$1bn or greater were completed during the quarter, down from 9% for full year 2021 (Fig. 6). In turn, deals greater than US$500m, but less than US$1bn, represented 18% of the ABL pipeline, up from just over 14% at the end of 2021.

Deals of US$300-349m marked a sweet spot for issuers at 13% of total ABL calendar in 1Q22. Although the deal size dispersion will undoubtedly be recalibrated throughout 2022, the 13% market share among credits of US$300-349m represented a sharp increase from normalized, annual levels in the range of 4.0-5.0%.

In the context of pricing, the ABL market did not see spreads gap out despite increasing credit pressures among key industries. Nevertheless, there were shifts. As lenders noted, from an ABL perspective, expectations as early as last year suggested significant market recovery and a rollback to pre-pandemic pricing levels by year end 2021. And this was borne out with deals pricing at or below 150bp edging up from

Fig. 7: US: ABL Spread Dispersion by No. of Deals US$75m+

Proportion of deals priced at 200bp or greater edges up

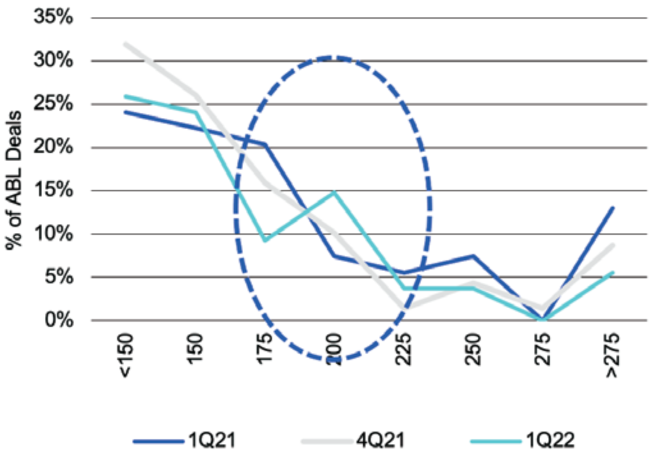
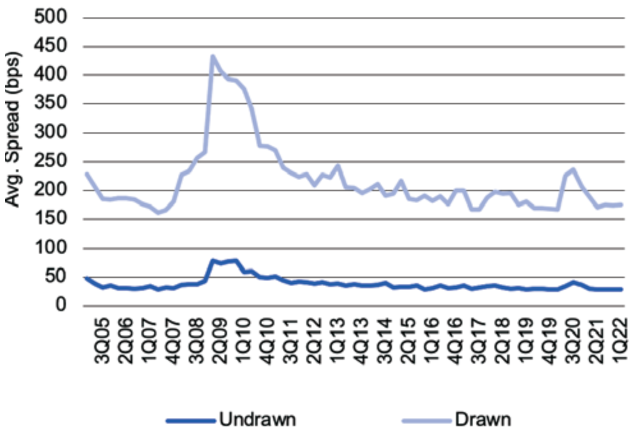


Fig. 8: US: Average ABL Pro Rata Pricing



46% of total deal flow at the end of 1Q21 to nearly 58% by year end. In 1Q22, the size of this bucket was down to make up 50% of total issuance, while deals priced at 200bp over term SOFR represented almost 15% of quarterly volume, up from 7.4% in the year ago period and just over 10% in 4Q21 (Fig. 7).

Average spreads, ultimately, remained stable however, hovering at 28.4bp undrawn and 174.8bp drawn in 1Q22, up from almost 28bp and 173.7bp at the end of last year (Fig. 8).

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LEGAL INSIGHTS

Lenders Beware: Lender Liability

BY JONATHAN N. HELFAT AND BOBBI ACORD NOLAND

SFNet's co-general counsels bring readers up to date on recent lender liability cases and the lessons learned from them.

The past few years have seen strong liquidity in the marketplace coupled with unprecedented government support of certain borrowers; increased competition for secured transactions among banks and non-banks; and surprisingly fewer distressed transactions during the pandemic than would have been anticipated. As a result, lenders have not had to focus as much on managing distressed credits and the potential pitfalls and risks that are associated with them. As a few recent cases discussed below show, assertions of lender liability may arise in various contexts to an unsuspecting lender. The review by a court or other third party after the fact of actions of the lender, emails and other communications between a distressed company and its lender, and internal lender strategy discussions may result in unexpected exposure for the lender.

A complicating factor in many cases is that a lender often assumes that a court understands the structure of asset-based credit facilities as well as the lender. The concepts of overadvances, reserves, cash dominion, and the management of a collateral-based facility are generally understood in secured transactions across the finance industry, but may seem unusual to a court, especially when analyzing a distressed-borrower scenario. The recent Bailey case highlights this issue, and the cases discussed in this article also serve as a reminder that lender liability is alive and well, even in the current financing market.

The Bailey Case

In *In re Bailey Tool & Manufacturing Company,* 2021 WL 6101847 (Bankr. N.D. Tex. Dec. 23, 2021), a lender entered into an inventory financing agreement and factoring arrangement with borrowers that were already suffering losses. The borrowers were delinquent on their accounts payable and also owed certain property taxes. The lender generally was aware of the borrowers' financial condition prior to closing, and also agreed to a closing date accommodation for the treatment of a substantial government receivable that later became ineligible after closing to the alleged surprise of the borrowers.

Immediately after the closing, the lender advised the borrowers that they were in default and stopped making advances. The lender cited a cross-default to a term loan from a third party arising from the failure to pay property taxes. The borrowers alleged that they were unable to pay those taxes due to the restricted availability under the financing documents. As a result of that default, the lender deemed itself insecure. The lender refused to make advances, charged additional fees, and imposed reserves. From the collections, the lender allowed Bailey to pay only payroll and essential supplier costs in an effort to pay down its exposure under the inventory financing facility and the factoring arrangement. The lender also required the borrowers' owner to grant the lender a mortgage on his Texas home. The lender used the proceeds from the sale of the home to pay down the loan without advancing additional funds to the borrowers and also charged a termination fee without notice to the borrowers. As a result, the borrowers lost employees and customers and their business failed. The lender was paid in full through collections on accounts receivable but withheld remaining collateral proceeds until the borrowers executed a release of claims. The borrowers refused to execute the release. The borrowers filed for bankruptcy under Chapter 11, but later the cases were converted to Chapter 7. The bankruptcy trustee sued the lender for breach of contract and various torts.

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The court found the lender liable to the borrowers' estates based upon several theories. The court first held that the lender breached the underlying financing documents with the borrowers. The court noted that immediately after closing the lender refused to make advances to the borrowers, wrongly told the borrowers that there was no borrowing base availability while paying its loans down, selected the employees and vendors to pay, charged high fees, demanded a mortgage on the owners' home, and refused to release excess collections after the payoff until the owners' signed a release of claims. The court highlighted that the lender continued to demand performance from the borrowers even after the lender had terminated the financing arrangements. The court further held that the lender breached its duty of good faith and fair dealing by withholding the collections and basically "micro-managing" and controlling the borrowers' business which led to the borrowers' demise. The court found that the lender repeatedly made false representations and tortiously interfered with the borrowers' business through its actions in managing the distressed credit. In addition, the lender claimed that it owned the receivables under the factoring arrangement after it had been terminated and after the bankruptcy case was filed. The court found that the lender's post-petition demand that customers pay the lender and not the borrowers violated the automatic stay, and the court assessed punitive damages against the lender. Finally, the court equitably subordinated all of the lender's claims under Section 510(c) of the Bankruptcy Code and found that many of the lender's actions were inequitable and caused actual harm to the borrowers and their other creditors.

After the Bailey case, some commentators have questioned whether all of the actions of the lender were outside the scope of a typical asset-based facility or whether some of the actions that appeared especially egregious to the court and were used as a basis for the adverse decision against the lender were instead actually more customary in the asset-based lending industry. The case is a reminder to all lenders that a lender must be very careful in its internal communications regarding a troubled credit and interactions with a distressed borrower. Also, while the underlying contract may give certain rights and remedies to the lender, the lender should weigh the exercise of those rights in the broader context of the specific credit and the desired exit strategy. As the case highlights, any actions that may be viewed later by a third party as exerting too much control over the borrower may result in unexpected liability for the lender.

The WARN Act Revisited

While many times overlooked, one of the most important issues that a lender must evaluate in deciding whether to finance its borrower's Chapter 11 reorganization is the borrower's WARN Act exposure. The lender need only reference the Supreme Court decision in *In re Czyzewski v. Jevic Holding Corp.* 137 S.Ct. 973 v. Jevic (2017), to understand how a substantial WARN Act claim can frustrate the reorganization process.

The WARN Act (Workers Adjustment and Restraining Notification Act) is a federal statute which requires that employees of an entity that employs 100 or more employees receive 60 days written notice in advance of an impending "plant closing" or "mass lay-offs". Employers that fail to timely provide the required notices subject themselves to being liable for wages and benefits for each affected employee for each day notice was not provided during the 60-day window and attorneys' fees. It also is important to note that the sale of a borrower's business (including a sale of assets) that results in a plant closing or mass lay-offs also will require adherence to the WARN Act. The reader should note that there are various exceptions to the statute's application including an unforeseen change in the borrower's business and that there also are various mini WARN Act statutes that expand upon the federal coverage for employees in certain states.

In the Chapter 11 context, the failure to give the affected employee less than 60 days advance written notice of a plant closing or mass layoff that occurred prior to the filing can result in a priority claim in favor of the employee. If, however, the plant closing or mass layoff occurs during the Chapter 11 case and the employer fails to give proper notice, the workers' claims will rise to the level of a Chapter 11 administrative claim that must be satisfied in full before the Chapter 11 case can be confirmed.

A recent case emanating from the Fourth Circuit Court of Appeals, *Pennington v. Fluor Corp,* 2021 U.S. App. Lexis 35307 (4th Circuit Nov. 30, 2021), has brought further clarity to the statute and, in so doing, narrowed the reach of the WARN Act. In a unanimous decision, the Court examined the definition of who is considered an "employer" under the WARN Act. The case involved a South Carolina public utility ("SCANA") which hired Westinghouse Electric Company ("WEC") to design two nuclear reactors and who in turn employed Fluor Corp. as a subcontractor to undertake the actual construction of these facilities. When WEC went into bankruptcy, SCANA began paying Fluor directly. SCANA abruptly ended the project, and WEC and Fluor laid off approximately 4000 workers without any prior notice to any of the affected workers. The affected workers sued SCANA and Fluor claiming that both were the employers who had failed to give the WARN Act notices. While SCANA did in fact order the plant closings that resulted in the mass layoffs, the Court found that SCANA did not actually employ any of the workers who brought the claims. The Court followed the U.S. Department of Labor guidelines as to when an entity is to be considered an independent contractor and concluded that Fluor was not the alter ego of SCANA. The Court found that there was (i) no common ownership between SCANA and Fluor, (ii) no common directors and/or officers, (iii) no defacto exercise of control by SCANA, (iv) no unity of personnel policies emanating from a common source, and (v) no dependency of operations and therefore, Fluor was an independent entity and did not fall under the definition of an employer under the statute. This clarification of the definition of who is an employer under the WARN Act will clearly be a favorable consideration in evaluating the borrower's WARN Act exposure with regard to a potential Chapter 11 filing.

Recharacterization of Loan as Equity

In the context of a motion to dismiss, the Bankruptcy Court for the Southern District of New York held in *In re TransCare Corporation, et al.,* 602 B.R. 234 (2019), that the Trustee in bankruptcy had successfully pleaded the facts necessary for the reclassification of the lender's loan from debt to equity.

The reclassification or subordination of a lender's debt is a rare occurrence and, as such, this case is a cautionary tale of what can happen when the "borrower" and the "lender" are affiliated entities.

The facts, while complex, relate to a medical transportation company, TransCare Corporation ("TransCare"), which is majority owned by Ark Investment Partners II, L.P. ("Ark II") and which, in turn, is owned and controlled by Lynn Tilton ("Tilton"). Tilton also is the sole director of TransCare.

Tilton also controls an entity known as Patriarch Partners Agency Services ("PPAS"), which agented a 2003 secured credit facility in favor of TransCare. While the lending group for this facility had certain independent lenders, the majority of the debt was held by two entities affiliated with Tilton. TransCare also had a secured line of credit from Wells Fargo Bank, N.A. ("Wells Fargo"), which was senior in priority to the PPAS facility.

TransCare, while initially profitable after being acquired by Ark II in 2003, began to experience financial difficulty starting in early 2015 and by late 2015 was clearly insolvent, unable to satisfy its vendors and various taxing authorities (including payroll taxes) in the normal course of business. At the same time, its customer base was eroding and its senior lending facility with Wells Fargo was in default.

In danger of losing the ability to operate its fleet of ambulances due to non-payment of insurance premiums and in order to keep the fleet insured, in January 2016 PPAS advanced $1,500,000 to TransCare. At the time of this advance, no terms or conditions were provided to TransCare.

Anticipating that a Chapter 7 liquidation of the TransCare entities was inevitable, in February 2016 Tilton started to execute a plan pursuant to which PPAS would foreclose its liens on the assets of TransCare and transfer these assets to a sister company also controlled by Tilton.

As the plan to transfer the assets of TransCare was being formulated, on February 10, 2016 (nearly four weeks after the January 2016 advance by PPAS to TransCare), TransCare executed a loan agreement with Ark II, dated "as of " January 15, 2016, converting the January 2016 advance into a loan, as well as granting Ark II a security interest in the assets of TransCare, and further requiring an intercreditor agreement which subordinated the 2003 credit facility to the Ark II loan.

After a detailing recitation of the facts, the bankruptcy judge then considered what are referred to in the decision as the Autostyle factors. Autostyle is the leading case in New York that outlines the criteria that distinguishes between a loan document and an equity infusion, including such factors as (i) the name of the document, (ii) whether it contained a fixed maturity date and a schedule of payments, (iii) whether there was a fixed rate of interest, (iv) was it secured, etc.

The Court ultimately denied the motion to dismiss and concluded that:

1. The January 2016 advances were made by a different entity several weeks before the Ark II Credit Agreement was executed and, at the time of these January 2016 advances, there were no loan terms or documentation.
2. Given the financial condition of TransCare at the time of the January 2016 advances, no reasonable creditor would have made such a loan because there would have been no reasonable expectation of repayment.
3. The January 2016 advances were made for the purpose of keeping TransCare "alive" so that it could effectuate the Article 9 sale.

The takeaway is clear – loans among affiliated entities face a high level of scrutiny, and the failure to contemporaneously document a transaction and the lack of a clear corporate purpose may lead to the recharacterization of the loan.

As head of the Commercial Finance practice at Parker Hudson Rainer & Dobbs, Bobbi Acord Noland guides global banks, regional banks and finance companies through domestic and cross-border transactions ranging from $5 million to more than $1 billion. She has handled practically every aspect of commercial lending, from single-lender deals to syndicated facilities involving multiple lenders, borrowers, creditors and multi-tiered debt tranches. In addition, Acord Noland frequently advises her clients on workouts and restructurings. Acord Noland is an active participant in the finance community and serves as co-general counsel for the Secured Finance Network. She has served as an adjunct professor at Emory University Law School in Atlanta. Bobbi is also the past Chair of the Business Law Section, UCC Committee of the Georgia State Bar and the Business and Finance Section of the Atlanta Bar.

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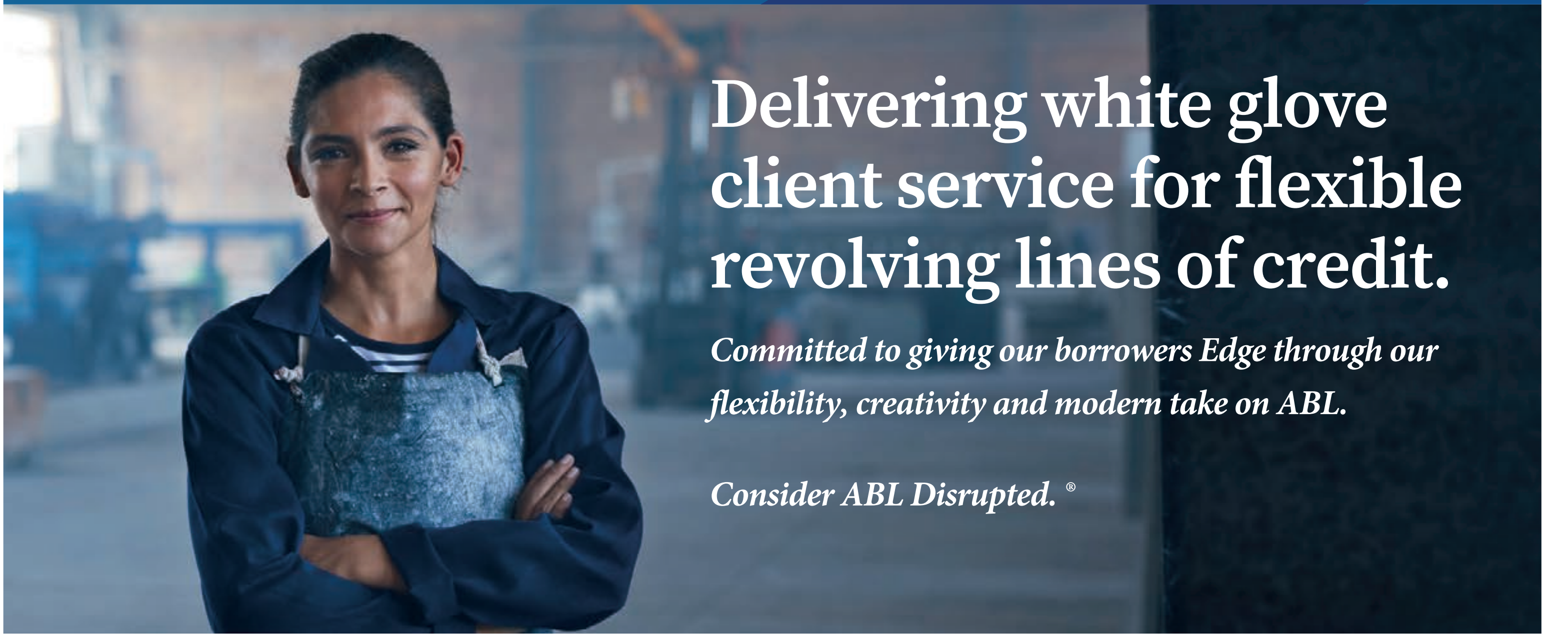

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LEGAL & FINANCING INSIGHTS

Chronic Problems in Cannabis Lending

Navigating the Patchwork of Laws, Rulings and Regulations

BY RICHARD PAUL ORMOND

The only constant in the cannabis industry is change. This article provides an overview of the latest developments and points out that lenders need a deep understanding of the inconsistent patchwork of laws and regulations and the continuing conflict of law between the states and the federal government before entering this space.

Secured lending in the cannabis industry has evolved significantly over the past four years. What was recently left only to the "hard money" lenders or to lenders of "last resort" is now moving into mainstream lending. From factoring to bank-initiated secured real estate transactions, more and more lenders are now entering the cannabis industry and lending on (relatively) competitive terms to Cannabis Related Businesses (or "CRBs"). However, collateralization of these loans remains difficult without understanding the various moving parts of the industry, ever-changing regulations and conflicts of law. Lenders must be cognizant of laws and regulations at the local/municipal level, the state level and, of course, at the federal level to have any true protection and success. So, despite this quickly developing loan market, serious pitfalls and concerns continue to plague the industry for lenders.

A Brief Legal History

On January 4, 2018, only four days after California enacted the Adult Use of Marijuana Act (AUMA or Proposition 64),[1] then U.S. Attorney General Jefferson B. Sessions rescinded the Department of Justice's nationwide guidance relaxing certain types of enforcement in connection with the cultivation, distribution and possession of marijuana set forth in the Controlled Substances Act (CSA).[2]

This rescission under Attorney General Sessions included the revocation of the important 2013 memorandum issued by James M. Cole, Deputy Attorney General (referred to in the industry as the "Cole Memo") that provided that, if cannabis businesses operated legally within the "four corners" of their respective state's laws and complied with the eight primary directives listed in the Cole Memo, the Department of Justice would create a safe harbor, albeit a narrow one, for compliant cannabis business operators whereby federal officials would refrain from seeking enforcement of the CSA with respect to those operators.

A few weeks after the Cole Memo was rescinded, the U.S. Department of the Treasury declined to follow Mr. Sessions' lead. In a public letter dated January 31, 2018, sent to U.S. House Rep. Denny Heck, the Treasury Department reaffirmed that the Financial Crimes Enforcement Network ("FinCEN") would continue to follow the Cole Memo. In the FinCEN Memorandum, the Treasury Department agreed that the safe harbor from prosecution as set forth in the Cole Memo was necessary and laid out protocols for banks that do business with CRBs. The Treasury's announcement complicated the regulatory picture even further: CRBs (and Lenders) must contend with competing federal agencies and bureaucracies that don't necessarily agree with one another. The Biden administration has not taken any meaningful steps, thus far, to reinstate or update the Cole Memo and has remained mostly silent on the issue. These inconsistencies today create an environment where finance, banking, lending and creditors' rights face a mishmash of rules, restrictions and guesswork.

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Adding to the complexity is the Rohrabacher–Farr amendment (also known as the Rohrabacher–Blumenauer amendment), which is duly passed legislation incorporated into the federal budget, approved by Congress, that prohibits the Justice Department from spending funds to interfere with the implementation of state medical cannabis laws.[3] It passed the House in May 2014, becoming law in December 2014 as part of an omnibus spending bill and it must be renewed annually. But it cannot and should not be relied on by lenders in this industry.

Risks To Lenders

Lending to a CRB is risk-inherent as any collateral secured by the lender may still be subject to Civil Asset Forfeiture, presenting a significant credit risk for banks that may otherwise want to provide services in this industry. Civil Asset Forfeiture may include "All real property, including any right title, and interest ... which is used ... in any manner or part to commit, or to facilitate the commission of [violation of the CSA] shall be subject to forfeiture."[4]

Recovery of seized property is possible, but a lender must satisfy the conditions of the "Innocent Owner" defense under the Civil Asset Forfeiture Reform Act[5], which has two key elements: (1) owner before illegal conduct giving rise to forfeiture occurs is an "innocent owner" if that owner was not aware of illegal conduct giving rise to forfeiture; or upon learning of such conduct, did all that reasonably could be expected under the circumstances to terminate the illegal use of property; and (2) an owner who acquires property after illegal conduct occurs is an "innocent owner" if at time of acquisition it was a bona fide purchaser or seller for value; and did not know and was reasonably without cause to believe that the property was subject to forfeiture.[6] Thus, crafting loan documents in these circumstances requires precision and creativity to ensure that these defenses are preserved.

Federal Courts and Bankruptcy Courts are Closed for CRB Business

Because cannabis is a Schedule I drug pursuant to the CSA and thus, illegal, at the federal level, enforcement rights for lenders are curtailed by limited loan enforcement remedies. A federal court is unlikely to grant a writ of attachment on behalf of a lender seeking to attach assets that consist of or are derived from an illegal narcotic (at least for as long as the CSA remains on the books without mitigation). Also, if the nature of the collateral is unlawful, it may raise an illegality of contract issue in that the subject matter of the loan agreement (and its security) is illegal and thus the entire contract or loan itself is unenforceable under federal law.[7] Naturally, that's a nightmare scenario for any lender.

A critical issue for dealing with a marijuana-related bankruptcy is the inability, in many circumstances, to appoint a trustee or debtor-in-possession and, even if appointed, what constraints he or she will have while operating a CRB or liquidating its "contraband" assets.

California, in anticipation of an illegality of contract defense being raised in its state courts, preemptively issued and signed into law Assembly Bill No. 1159, which was enacted as California Civil Code § 1550.5 and provides that "commercial activity relating to medicinal cannabis or adult-use cannabis conducted in compliance with California law and any applicable local standards, requirements, and regulations shall be deemed to be all of the following: (1) A lawful object of a contract[;] (2) Not contrary to an express provision of law, any policy of express law, or good morals[; and] (3) Not against public policy."[8] Lenders can thus rest assured, at least in California state courts, that their loan agreements will not be summarily deemed unenforceable by virtue of conflicting Federal law.

Adding to the complexity of creditors' rights is the fact that it is nearly impossible for a CRB to seek protection under the Bankruptcy Code, eliminating the many creditor protections available to a lender in a bankruptcy proceeding. A number of rulings from the Ninth Circuit and other federal courts effectively close the door to bankruptcy protection for struggling CRBs concluding that a lender cannot rely on its creditor rights that it would typically have in Bankruptcy Court. As one court firmly declared, bankruptcy courts "should not be 'a haven for wrongdoers.'"[9] If the activity of the debtor is illegal federally, then state law notwithstanding, the trustee or debtor-in-possession cannot violate that federal law.

A critical issue for dealing with a marijuana-related bankruptcy is the inability, in many circumstances, to appoint a trustee or debtor-in-possession and, even if appointed, what constraints he or she will have while operating a CRB or liquidating its "contraband" assets. Specifically, the case of *In re Arenas*[10] addresses this issue ruling that a Chapter 7 debtor could not operate his business legally under the CSA even though he possessed all of the required licenses and permits necessary for producing and distributing marijuana in the State of Colorado. The Court opined that "[f]or the Trustee to take possession and control of the Debtors' Property and marijuana inventory would directly involve him in the commission of federal crimes."[11] Further, the Court held that the inevitable illegality of the trustee's administration of illegal estate assets constituted cause to dismiss under section 707(a).[12]

In a Chapter 11 context, a number of practical concerns arise including the inability to open debtor-in-possession bank accounts and a restricted or complete lack of access to debtor-in-possession financing (commonly referred to as "DIP financing"). To further add to these inconsistencies, some Bankruptcy Courts have allowed Chapter 13 cases to proceed, despite the fact that creditors will be paid by cannabis-derived funds. So how does a lender navigate these pitfalls?

Looking Forward and Being Smart

Despite the restrictions and access to Bankruptcy Court, there are remedies available to creditors through different state law mechanisms, but these must come with the caveat that none of them is perfect. A lender is not precluded from seeking a receiver in state court to harbor and hold the obligor's assets in custodia legis and a lender may seek the authority for a receiver to liquidate such assets or sell them to a new operator.[13] The receiver needs to understand the conflict between state and federal law and the implied risks of that conflict, including seizure of assets and criminal liability.

An Assignment for Benefit of Creditors (ABC) is also an option.[14] An ABC is a business liquidation device available to insolvent debtors as an alternative to formal bankruptcy proceedings. It is analogous to a Chapter 7 liquidation proceeding under the Bankruptcy Code. An assignment vests title to all of the debtor's assets in an Assignee who liquidates the debtor's property for cash and then distributes the cash to the debtor's creditors in accordance with priorities established by state law. However, like a receiver, the assignee faces similar risks with banking and conflict of law issues and there is no "stay" on other creditors filing suit.

Another option for secured personal property is a public sale pursuant to Article 9 of the Uniform Commercial Code—confined within the four corners of the state where the collateral is located.[15] This requires smart documentation on the part of a lender, allowing it to foreclose (through a licensed agent) on cannabis "leaf-touching" assets and also, separately, taking a lien on the CRB licenses (but only in the states where that is an option as many states restrict the transfer or assignment of the CRB licenses). It may also entail taking an assignment of agricultural "grower" or "producer" rights in those states that have legislated those types of protections.

There is some recent cause for cautioned optimism. Recent efforts by Congress seek to create a "safe harbor" for banks so that banks can comfortably and, without regulatory risk, receive deposits from CRBs. These proposed bills range from changing the CSA schedule of cannabis to providing new laws and guidelines to banks and other financial institutions so that they can engage with CRBs. However, even though approximately ten potential bills that could change the cannabis landscape are churning around in the legislative "hopper", not one of the recent bills proposed has yet to make it to a vote, rendering any short-term resolution impossible.

The only constant in this industry is change. Lenders must be creative and flexible to navigate this change. Being a lender requires a deep understanding of the inconsistent patchwork of laws and regulations and the continuing conflict of law between the states and the federal government. Advice regarding corporate governance, tax, banking, finance, real estate, bankruptcy and other business law needs requires surgical precision and must be constantly supplemented with up-to-date information for a lender to be truly protected in this nascent industry.

Richard P. Ormond is the founder of Ejudicate.com, an online dispute resolution platform and he is a shareholder at the law firm Buchalter, APC, in Los Angeles. He specializes in representing businesses, banks and investors in this industry. He is also the president of the California Receivers Forum and the former chair of the LACBA Remedies Section.

[1] The full name of the measure is the "Control, Regulate and Tax Adult Use of Marijuana Act".

[2] Comprehensive Drug Abuse Prevention and Control Act of 1970 §§ 401, et seq., 21 U.S.C. §§841, et seq. (2010). As set forth in the formal rescission memo issued by the Attorney General, these previous guidelines include all five of the Justice Department memoranda listed in n.4, supra.

[3] Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 538, 128 Stat. 2130, 2217 (2014).

[4] 28 U.S.C. § 881(a)(7) (2002).

[5] Civil Asset Forfeiture Reform Act of 2000, Pub. L. No. 106-185, 114 Stat. 202, 202 (2000).

[7] The Doctrine of Illegality holds that a person should not benefit from his or her own wrong and that the law should not condone illegality. See, e.g., Bovard v. American Horse Enters. Inc., 201 Cal.App.3d 832, 247 Cal. Rptr. 340 (1988).

[8] Cal. Civ. Code § 1550.5 (2018); see also A.B. 1159, ch. 530, 2017-2018 Sess. (Cal. 2017).

[9] Lockyer v. Mirant Corp., 398 F.3d 1098, 1107 (9th Cir. 2005)(quoting Universal Life Church, Inc. v. U.S., 128 F.3d 1294, 1297 (9th Cir. 1997)).

[10] In re Arenas, 514 B.R. 887, 890-891 (Bankr. D. Colo. 2014), aff'd, 535 B.R. 845 (B.A.P. 10th Cir. 2015).

[11] Arenas, 514 B.R. at 891-892.

[12] Id. at 892.

[13] CAL. R. CT. 3.1179.

[14] CAL. CIV. PROC. CODE §§ 493.010 et seq.

[15] CAL. COM. CODE §§ 9610 et seq.

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ECONOMIC TRENDS

A Look at Continued Inflation and Its Impact on a Group of Key Industries

BY HILCO VALUATION SERVICES

In this article, Hilco experts from across the Valuation Services team discuss how the ongoing inflationary environment is impacting a broad range of industries from a cost, pricing and operational perspective.

Trademarks are one of the fastest-growing collateral categories in the ABL sector—due in no small part to the ease with which owners of properly supported brands can sell their products via multiple channels, including e-commerce, m-commerce, wholesale distribution, and retail stores. On the consumer side, younger generations are driving much of the e-commerce and m-commerce demand. They have grown up absorbing branded content on Tik-Tok and Instagram and have also discovered the convenience of making brick-and-mortar returns.

Inflation was relatively non-existent for much of the last business cycle. So much so, that business leaders across most every industry and sector could be heard lamenting its absence and the lack of opportunity that existed to increase prices as a means of allowing for increased wages and improved corporate profitability. According to the Federal Open Market Committee at the time, a 2% inflation rate was deemed to be healthy for the economy. Such a predictable, manageable level meant that a healthy tug-of-war between supply and demand could exist and promote economic growth. Things, of course, would not work out quite that simply. Enter the global pandemic and the ensuing chaos.

Automotive

The arrival of COVID-19 in the first quarter of 2020 cast the once vaunted supply chain of the automotive industry into disarray. While the sentence was quick, restitution has been painfully slow. The industry has struggled to restore any semblance of balance between supply and demand. Material managers refer to it as “whack-a-mole,” the children’s game where every time one mole is chased underground, another pops up elsewhere. Chasing parts shortages has been a non-stop activity for the last 12 months. Just as soon as supply is restored on one part, the supply of another part is depleted.

As of yet, there has been no “vaccine” developed for the ailments of the supply chain and material managers will tell you that there is no category of parts that has developed an immunity. This includes the labor force. Unemployment levels had sunk below 4% prior to the pandemic and they near those levels again. Nobody is complaining about the lack of inflation anymore. The price for new and used cars have increased precipitously in the past 18 months. Retailers and distributors of parts for light-duty vehicles are reporting 3% - 5% inflation and 4% - 6% on parts for heavy-duty vehicles. Most materials managers are confident law and order will eventually be restored to the supply chain. Most human resource managers are not as confident and worry that the solution to the labor shortage is much longer-term. For now, retailers and distributors have been able to recover inflation by passing it on to the consumer. The longer the shortage exists, however, the more difficult it will be to maintain profitability.

Food

According to the U.S. Department of Agriculture Economics Research Service, the 20-year historical average for food inflation is 2.4 percent per year. In 2020, annual food prices increased 3.4% and in 2021 they rose by 3.9%. Segments experiencing substantial increases over the last year include: Beef and Veal (+18.6%); Pork (+15.1%); Poultry (+9.5%); Fish and Seafood (+8.4%); Eggs (+11.1%); Fats and Oils (+8.8%); and Fresh Fruit (+7.9%).

Anhydrous ammonia, which is the primary source of nitrogen fertilizer, increased substantially in 2021 based on reporting from Data Transmission Network. While the 5-year average price was around $500 per ton, prices increased to an all-time high of $1493 per ton in January 2021. According to Reuters, prices are at record highs “due to the soaring cost of the natural gas used to produce them, and severe storms that have disrupted production.” The cost of fertilizer is a crucial input cost for corn and wheat prices. The U.S. is the largest producer of corn in the world, and approximately half of U.S. corn production is actually used for animal feedstock. As a result, large price increases escalate costs dramatically and have wide-ranging implications for food supply. Case in point, because these increases in fertilizer costs also impact which crops farmers plant, this can result in farmers planting less fertilizer-rich crops such as soybeans. Additionally, in recent weeks, wheat prices have skyrocketed as well. Russia and Ukraine combined account for nearly one-third of the world’s wheat and barley exports. The products they supply are made into bread, noodles and animal feed across the globe.

From a labor perspective, costs have increased as well in many areas and the pandemic has driven many workers away from restaurants, most of which are currently experiencing staffing shortages as a result. Demand for warehouse workers within the food industry also remains high, although, admittedly, under the most normal of circumstances it is rare for us to visit any warehouse and see it fully staffed. As widely reported, gas prices have risen even further in response to current world developments and the cost of importing product from overseas continues to run high, as food companies require added working capital to pay for more expensive containers and account for inventory stuck in port due to supply chain challenges. Even though these and other costs are rising, some food producers with high demand have been able to pass them on to customers and improve profitability, even with many plants at only around 80% of capacity. On the retail side, food chains such as Starbucks and McDonald's are also taking the path of increasing customer prices to account for cost increases. Foodservice is still recovering, but is much improved from 2020.

We expect to see increasing fertilizer, transportation, and labor costs continue to drive up prices in 2022 for meats, dairy, fruits/vegetables, and other food categories.

Home Furnishings

The home furnishings industry has been experiencing notable inflationary pressure stemming from a few primary factors, including insufficient manufacturing capacity, increased freight and raw material costs. Employers, struggling with worker shortages, have had to raise wages as an incentive to keep existing employees and attract potential new candidates. With smaller workforces, production capacity is reduced. Freight container shortages have led to a substantial increase in container prices, forcing retailers, wholesalers, and manufacturers to "bite the bullet" and either pay the increase or jeopardize future sales and customer relationships based on a lack of inventory available for sale. The freight issues, however, do not end with these costs. Once a container finally does arrive at its destination port, further delays are occurring with offloading the vessel (staff shortages) and getting the containers on trucks to be delivered (driver shortages). In an effort to offset these ocean freight delays, some companies have resorted to air freight, which, of course, comes at a hefty price. In terms of raw materials, there has been continuous increases in the cost of lumber, metal, foam and cotton, the primary base materials used in home furnishings (i.e., furniture, décor, and towels).

The factors above are, in turn, leading to increased product costs. In most cases, these are being passed on to the consumer, although some retailers, wholesalers, and manufacturers are working with suppliers to split the higher costs, so these increases do not have to be borne by their customers and consumers. Prices are going to continue to escalate until demand is brought back in line with supply, either through slower demand growth, faster supply growth, or a combination of the two.

Lumber/Paper

Market prices for softwood lumber have been on a wild ride since COVID struck the U.S. back in early 2020. During the initial months of the pandemic, when new home construction was deemed an essential activity, demand for lumber remained robust. That demand only increased as people began to remodel their homes and looked for larger residences amid the work-from-home environment and the desire to socially distance. Although slowing slightly over the past six months, the housing market remains robust and demand for lumber continues to run high. Supply of lumber, however, has remained relatively limited over the last couple of years with companies along the supply chain struggling to maintain enough staff amid the initial COVID wave and subsequent delta and omicron variants. Market prices for softwood lumber normally range between $250 and $450 per thousand board foot (MBF). Since June 2020, however, the floor for softwood lumber has been $450 per MBF and prices have reached as high $1600 per MBF in June 2021. Recent lumber prices hit approximately $1200 per MBF, nearly triple the level that would have been considered strong only a few years ago.

Sawmills are taking the overwhelming majority of the lumber price increases to the bottom line as the increase in the price of logs has remained relatively muted. The largest beneficiaries have been sawmills processing pine in the southern part of the U.S. After years of overplanting pine plantations, landowners are not able to gain advantage of the highest lumber prices on record. While prices for logs have increased more in other parts of North America, namely Canada, sawmills in those regions are still enjoying record profit margins.

Metals

Steel: Market prices for most steel increased rapidly in 2021 as the effects of the COVID-19 pandemic waned. Prices peaked in the fourth quarter of 2021 and have since decreased, but remain significantly above pre-pandemic levels. While most steel product pricing had trended downward or was flat prior to the start of the pandemic, its arrival disrupted demand for auto and other industrial goods and, in turn, basic steel products. Uncertain of demand, producers and distributors reduced their inventories throughout the supply chain and steel mills significantly reduced output.

As economies around the world expanded in the latter part of 2020, demand increased while the depleted supply chain and fierce competition for resources resulted in increased market prices. Producers that had historically been exporters were now selling more within their own borders. Meanwhile, the residual effects of the Trump-era tariffs, longer shipping lead times, and significantly higher export cargo prices all combined to discourage imports into the U.S. These decreased imports along with higher import prices, allowed domestic producers to increase both their output and their prices.

While the economy was expanding, consolidation of the steel industry continued. Cleveland Cliffs, which historically operated as an iron ore mining company, purchased AK Steel and ArcelorMittal's U.S. operations, thereby combining two of the country's largest steel producers. Other consolidation occurred, including U.S. Steel's purchase of Big River Steel, which served to further reduce price competition among domestic producers.

Not surprisingly, costs associated with steel production have increased during this period. Iron ore, metallurgical coal, energy, labor and other costs all increased in 2021 and remain at higher levels. While it is likely that steel market prices will continue to decrease, they are likely to ultimately stabilize well above pre-pandemic levels.

Aluminum: Like steel, aluminum output also decreased during the pandemic and then demand outpaced supply as the world economy expanded. China, the world's largest producer, decreased production to control pollution and Co2 levels, further decreasing world supply. It is also worth noting that in 2021, the three largest exporters of aluminum were Canada, Russia and the United Arab Emirates.

Russia's current invasion into the Ukraine could bring embargos on Russian aluminum, further escalating aluminum pricing.

Plastics/Chemicals

CEO Thomas E. Gottwald of NewMarket Corporation (NEU) stated in a letter reporting NEU's 2021 operating results: "Throughout the year, we have continued to see our operating margins decline mainly due to the prolonged period of escalating raw material costs. While we have made some progress in adjusting our selling prices to offset the effects of the higher costs, we have not been able to adjust sufficiently to offset the cost increases. We continue to see a lag between when price increases go into effect and when we begin to see margin recovery. This lag will continue until we see a period where raw material prices stabilize. We have also seen significant increases in many elements of our operating costs such as utilities, logistics, insurance, and third-party manufacturing services. In addition, the worldwide supply chain disruptions continue to negatively impact our business. Margin recovery and cost control will be priorities throughout 2022 so that we will return to our historical profit margin range. We will also be working hard to resolve continuing supply chain issues to meet our customers' growing needs, and we expect to see improvement in the supply chain and in our performance as the year unfolds."

It is safe to say that, at the present time, virtually any company within the chemical industry could make a similar statement regarding the current operating environment and inflation. While NEU primarily manufactures additives and lubricants, regardless of what position a company occupies in the chemical industry supply chain right now, it is dealing with significant inflationary pressure from increased prices for raw materials, utilities, insurance, and most operating costs. Shipping delays, product availability, and labor shortages have all added to the inflationary pressures. As a result, most companies have increased prices, many quite significantly. While all companies have had inflationary pressure on their margins, the individual company and its market position dictated whether margins expanded or declined. That said, reduced margins driven by inflation have not been at all uncommon as of late. Many CEOs and experts are currently forecasting for inflation to continue through at least the first half of 2022, with continued pressure being applied by supply and labor shortages. Most chemical companies will continue to raise prices, but the general sentiment in the market is to continue to expect more of the same with high inflation and continued challenges caused by logistics, supply, and labor.

Seafood

Seafood pricing, like all other products, has experienced added costs due to the global supply pressures. This has of course resulted in higher product landing costs. The impacts to product margins vary depending on customer/supplier arrangements. Those maintaining fixed contracts with larger retailers for private label products are seeing negative product margin impacts in the short term as many are unable to pass along 100% of pricing increases to clients. Suppliers who sell based on prevailing market pricing are able to flex pricing accordingly, which has resulted in margin fluctuations based largely on supply/demand equilibrium metrics as opposed to the supply chain inflationary pressures.

Tires

The pandemic took the air out of the tire industry in 2020. Production by U.S.-based tire makers fell by double-digits in all key categories, reflecting the weeks and even months of suspended manufacturing at most U.S. tire plants during March, April, and May. For passenger tires, production was at its lowest output level since 1955. During 2021, manufacturers and importers announced a dizzying number of price increases. Their stated rationale is largely predicated on the fact that about two-thirds of their raw materials costs are directly influenced by oil prices, with natural rubber, butadiene, carbon black, and synthetic prices continuing to rise steadily. Given Russia's invasion of Ukraine and its dramatic impact on oil prices in recent weeks, this is likely to be a continued concern. Well-documented port congestion, shipping delays, increased freighter demand, etc. contributed to 40' container costs for imported tires increasing by over $10,000 over previous norms.

Drivers have always heard that tires need to be properly inflated, but based on these and other factors, the industry may be taking pricing to a whole new level of overinflated. Leading manufacturer Michelin North America Inc. just announced its sixth price increase in about a year, citing "market dynamics." Competitors also raised prices on passenger and light truck (PLT) as well as commercial tires numerous times over the same timeframe. Increased demand for consumer products and supply chain disruptions, including the previously referenced port congestion and container shortages, has led to inflationary cost pressures.

Gross margins have tended to improve as higher production volumes lower per-unit fixed costs. Similarly, at the wholesale and retail levels, the sale of tires purchased ahead of price increases, contributed to higher margins. The future remains a bit uncertain, with resistance building against price increases as many buyers look for lower cost options for their vehicles. Additionally, while many in the supply chain have been able to sell popular sizes and brands, we believe it is possible that slower turning units comprise a larger percentage of actual tires in stock.

Conclusions

Based upon the thousands of valuations that we have performed over the past few years, Hilco Valuation Services has observed inflation impact numerous industries and companies in varying ways; some more than others. As illustrated in the sampling of industries presented here, price increases have been driven largely by increased raw material prices, labor and transportation costs. Concurrently, demand has been spurred by government stimulus payments, increased paychecks and limited supplies resulting from pandemic-driven production declines and supply chain issues. While companies in some spaces have been able to successfully pass along price increases to customers, others have been unable to do so. Smaller companies have been most impacted overall, as they often just don't have the size, clout, or capital to circumvent these types of challenges.

We have seen these many variables, in combination, impact companies' inventories in both positive and negative ways when being considered as collateral for asset-based loans. As a result, this has increased the frequency of many of the valuations we perform.

In the current inflationary market, we advise lenders to closely monitor sales in relationship to inventory levels. In our experience, declining sales with flat or increasing inventory levels is often an indication that on-hand inventory is not resonating with customers, which in turn then runs the risk of becoming aged or obsolete. Lenders that are advancing on inventory where there is a freight component included, or built into the cost, should be particularly careful that a borrower's balance does not get too close to the limit, as a reduction in freight costs could lead to lower inventory levels and an over-advanced position. We also advise lenders to consider reserving for landing costs (freight and duty) and to monitor product margins to gauge the impact of increasing costs and how the associated increase in selling prices are accepted by the customer/end user.

Industry experts from across Hilco Global's Valuation Services team contributed to this article, including: Keith Spacapan (Auto), Patrick Jensen (Food), Matt Perry (Home Furnishings), Jesse Marzouk (Lumber/Paper), Michael Sullivan (Metals), Kevin Duffy (Plastics/Chemicals), Dean Hogencamp (Seafood) and Greg Baldor (Tires). For more information, contact Ed Zimmerlin, EVP- Hilco Valuation Services at ezimmerlin@hilcoglobal.com.

Keith Spacapan is vice president of Hilco's automotive practice. Keith has more than 30 years of automotive industry experience, including 15 years with General Motors as a divisional director of operations and finance. He has also worked with a wide range of automotive suppliers. His unique dual perspective—original equipment manufacturing and related suppliers— fosters a full understanding of the dynamics which impact asset value.

Patrick Jensen is a valuation director at Hilco Valuation Services with 15 years of appraisal experience. He works extensively in the food industry and values inventory from farm to table. This includes producers/processors, distributors, importers/exporters, and grocery stores. Patrick is USPAP certified and attended the University of Wisconsin (B.A. Economics) and Marquette University (MBA).

With over 18 years of appraisal experience, Matt Perry applies his extensive knowledge to assist Hilco clients in determining highly accurate net orderly liquidation value (NOLV) for their business assets. Among broader valuation work, Matt has appraised numerous furniture and home décor manufacturers, distributors, and retailers across North America. Matt holds a Bachelor of Science in Business Administration (BSBA) degree in accounting from Suffolk University in Boston, MA.

Jesse Marzouk has appraised numerous U.S. and Canadian pulp, paper, and lumber-related companies involved in manufacturing and distribution. Jesse received his MBA in finance from Kellogg School of Management at Northwestern University, and has a degree in finance and accounting from Indiana University.

Michael Sullivan performs inventory valuation appraisals for purposes of Asset-Based Lending (ABL) for steel and aluminum coils and plate, steel long products (welded and seamless tubes, beams, angels, channels), aluminum extrusions, titanium products, silicon metals, aluminum casting, brass casting, iron and stainless-steel casting. Customers include fully integrated steel and stainless mills, aluminum smelters casting facilities, steel service centers, fabricators, stampers, smelting and recycling facilities, Hilco's clients include mining and minerals companies—including coal mining companies—with a total of more than $5 billion in sales.

Kevin Duffy specializes in the chemicals industries. He has valued numerous chemical-related companies in North America that are involved in distributing, compounding, and manufacturing chemicals, resins, films, sheets, and molds. Kevin received his B.A. in finance from Illinois State University, and passed the CPA Exam in Illinois. He has diverse business experience in accounting, manufacturing, distribution, and retail.

Dean Hogencamp has appraised numerous U.S., Canadian, Mexican, and European seafood-related companies involved in processing, importation, and distribution. Dean received his CFA designation in 2006 and maintains a degree in accounting from Bentley University.

Greg Baldor has appraised numerous North American, European, and Asian tire-related companies involved in production, importation, distribution, and installation. Greg received his CPA designation in the 1980's and holds a degree in accounting and business administration from the University of Vermont.

FINANCE TERMS

Fighting Misinformation:

Don't believe Everything You Read on the Internet

BY LEE HASKIN

Borrowers face an uphill battle when conducting an internet search for capital. Lee Haskin of Crossroads Financial discusses the misinformation out there and offers clarifications concerning certain types of finance products.

I began my career in the finance industry in the early eighties. Times were far simpler then. It was a time when a phone was something that didn't have a screen; you put a dime into it to make a call. Cameras used film and it took days to develop to see the pictures. Your news came from a newspaper or a journalist on TV and a business loan was defined as what it was.

Today, information overload takes place from any number of so-called media channels. Instagram, Facebook, Twitter and an ever-growing number of Internet platforms bombard us with fake news and misinformation on a daily basis.

The catalyst for this article came from an internet search I conducted for the definition of "inventory lending", which happens to be the business I have been perfecting for over 16 years. I also searched the internet for "receivable finance." I was dumbfounded to find any number of non-inventory and non-receivable lending companies defining themselves as lenders in those arenas. Further, through these searches and during many conversations with borrowers and loan brokers/referral sources, I learned that many have a hard time differentiating between a cash-flow loan and a revolving collateral-backed loan.

Back in my day, if you were lucky enough to have all 25 volumes of an encyclopedia, you may have been able to find the answers to most questions. Today, a definitive go-to source on the internet is an online encyclopedia called Wikipedia. The content found on this site comes from the submissions of individuals who might – or might not - have a background or knowledge of the topic for which they are contributing definitions. There is no way for a common person to know whether the source of information is reliable or even credible.

With today's technological advances, information sources are endless and immediate. All one has to do is type – or ask Siri or Alexa - on their phone or computer a question and an answer is provided within seconds. Where that information comes from is often an unreliable source. This is why I caution that you, "Don't believe everything you read on the internet."

LEE HASKIN
Crossroads Financial

Most funding sources hire outside firms to handle their search engine optimization (SEO) as well as their online marketing. Many of these companies unwittingly spread misinformation simply due to their lack of industry knowledge. It is their job to increase the "hit rate" or "click rate" on the funding company's web site in order to achieve success. The SEO companies have knowledge about, well SEO, and very little knowledge of the definitions surrounding the funding programs offered by their clients. Thus, they utilize the entire myriad of words and phrases that describe any form of funding in order to attract "clicks." This begets a whole new generation of newcomers to the asset-based financing world who are left questioning the true nature of asset-based financing and the differences between them.

Circling back to my recent search using the most popular internet search engine, I found some disturbing results. Results that are not only a disservice to funding sources, but also a disservice to anyone entering the borrowing arena. My search for inventory lenders resulted in two pages of results before I found an actual inventory lender.

According to the results, all forms of financing are covered by lenders like Amazon, OnDeck and Cabbage, along with a myriad of other cash advance businesses. Further, these companies turn out to have the highest results with all of my searches.

Using all variations of words imaginable related to asset-based financing proffers results that makes one believe that every type of funding is covered by some form of cash flow loan. This makes it very difficult for a borrower to navigate through the internet to find the financing relating to their specific needs. One size does not fit all.

To the best of my knowledge, there are two categories under which most financing companies fall. The first is "collateral-backed asset-based financing" and the other is "noncollateral-backed financing." Let's define further:

Noncollateral-Backed Financing: A cash-flow loan (or cash-advance loan) is one where the lender performs due diligence on the historical cash flow of the borrowing company to ascertain that company's ability to pay back the loan.

Accounts Receivable Financing: A/R funding is provided by both the factoring business and receivable financing industry. Whether the funding against the account receivable is based on the purchase of same is with or without recourse, the principle remains the same. Receivables are generated by a seller or borrower based upon the completed delivery of goods and/or services (not future delivery) creating an obligation being due from debtors who have the ability to pay. The key word is "delivered" and never has it been for services or products to be delivered in the future.

Equipment Financing: An equipment lender or bank will make an advance against an often-appraised piece of equipment. This funding would be underwritten at a loan-to-value that would anticipate a full recovery based upon the possibility of liquidating that piece of equipment at the worst time possible and under the most likely scenario that the borrower is going out of business. In many cases, if there is a limited life expectancy of the equipment then the lender would amortize that equipment based upon loss of value as it becomes older. Time frames for equipment could range from as short as two years and as long as ten years from the date of acquisition.

Real Estate Lending: In similar fashion, as applied to the equipment lending business, the loan is made based upon the recovery value of the real estate established at the time of the loan. In almost all cases there will be an applied amortization schedule or repayment schedule as a feature of the loan that is often set at 10 years or greater even if the asset appreciates in value over time. Commercial real estate lending can be for income-producing property, raw land or owner-occupied property that domiciles the borrower's business.

The finance world has gone through many changes since I got into the factoring business 40 years ago, but the basics have remained the same. The definition of each of the lending programs have remained consistent through the years.

Inventory Revolving Lines of Credit: An inventory loan functions in many ways like an accounts receivable line of credit, where a loan is made on inventory already owned by the borrower. The loan-to-value, or how much is to be lent against the Inventory already owned by the borrower, is determined by an industry expert appraisal company that evaluates and provides recovery values for the inventory based on market value and forced liquidation values. The most common value needed is the net orderly liquidation value (NOLV), which gives an estimate of how much could be recovered from the sale of the Inventory in an orderly liquidation over a 90-day time period. The value is net of expenses required during the liquidation period including rent to landlords, payroll and fees to the liquidator as identified in the appraisal. From that appraisal, a borrowing base will be established and provided by the borrower once a week or once a month showing the lender the most current inventory levels, including what inventory was purchased and sold. This allows the lender to adjust the loan value based on the actual collateral to remain "in formula" as inventory levels change during the normal course of business. Companies that borrow are ones that need to hold inventory for sale. They are comprised of companies that sell direct to consumers, like e-commerce and brick-and-mortar retailers as well as companies who sell to other businesses like manufactures or distributors. The important criteria of this type of lending is to have access to the proceeds of the sale of inventory so that the lender can stay in formula as inventory comes in and gets sold over the course of the month and year.

The finance world has gone through many changes since I got into the factoring business 40 years ago, but the basics have remained the same. The definition of each of the lending programs have remained consistent through the years. If a simple internet search delivers three pages of cash flow lenders before a typical borrower is able to find a true receivable or inventory finance company, then it is not just misinformation that concerns me, it is the realization that this is jeopardizing the integrity of the industry by making it such that a borrower or consultant new to the industry may never find the lender who can provide the financing that is needed.

We all need to do a better job of disseminating information on the internet.

Lee founded Crossroads in 2006 to provide inventory and purchase order financing to lower and middle market commercial customers. Prior to Crossroads, Lee was a senior managing partner with Capital Access Group, arranging lines of credit averaging a total $200M per year. Prior to that, Lee was an EVP and co-founder of Great Western Financial Services Inc., a factoring and ABL provider. Lee has over 30 years' experience in the commercial finance industry starting at Allstate Financial as head of sales and marketing. From his career in asset based lending, Lee brings a unique knowledge and understanding of inventory lending. Under his direction and guidance, Crossroads has successfully funded over $240 million in credit facilities with less than a 1% loss ratio.

LENDING TRENDS

The Art and Science of Loaning Against Trademarks

BY ERIC GUL

Evaluating trademarks is not the same as appraising retail and wholesale inventories, M&E or real estate. Eric Gul of Tiger Group explains what lenders and their representatives need to consider that are not always associated with more conventional asset classes.

Trademarks are one of the fastest-growing collateral categories in the ABL sector—due in no small part to the ease with which owners of properly supported brands can sell their products via multiple channels, including e-commerce, m-commerce, wholesale distribution, and retail stores. On the consumer side, younger generations are driving much of the e-commerce and m-commerce demand. They have grown up absorbing branded content on Tik-Tok and Instagram and have also discovered the convenience of making brick-and-mortar returns.

This suggests a long-term future for lending against the intellectual property of a brand. However, evaluating trademarks is not the same as appraising retail and wholesale inventories, M&E or real estate. In trademark-based loans, lenders and their representatives need to consider variables that are not always associated with more conventional asset classes.

As always in asset-based lending, the organizing principle of the due diligence process is to ask the simple question, "What can we fall back on if the borrower defaults?"

Initial Review

To be sure, any due-diligence process for trademark collateral should include requisite analyses of certain standard risk factors. For example, legal counsel will need to check the U.S. Patent & Trademark Office (USPTO) database to confirm that the marks are properly registered and uncontested in their appropriate classes.

Likewise, searches should be run for any outstanding liens or litigation involving the mark. Examples of the latter could include government agencies or consumer groups contesting efficacy claims made by the brand; personal injury claims involving the brand's products; or trademark-infringement lawsuits from rivals. In some cases, companies with similar trademarks will have agreed to "live and let live," with conditions, as part of a coexistence agreement. Lenders need to know about all such agreements. They also need to understand any exclusivity provisions or usage restrictions contained within license or distribution agreements involving that trademark.

ERIC GUL
Tiger Group

If the brand is sold outside the United States, additional reviews may be justified depending on the scope of such sales. For example, in certain major-market countries outside the United States, so-called "squatters" often swoop in and file legal claims of ownership to popular U.S. brands. Remedying this via litigation tends to be long and expensive, with uncertain outcomes. Prior to loaning against a trademark with international reach, the lender should understand not only the country-by-country breakdown of sales, but also the mark's degree of protection or exposure in each market. That should include confirming that the marks are properly registered and uncontested in their appropriate classes in each country.

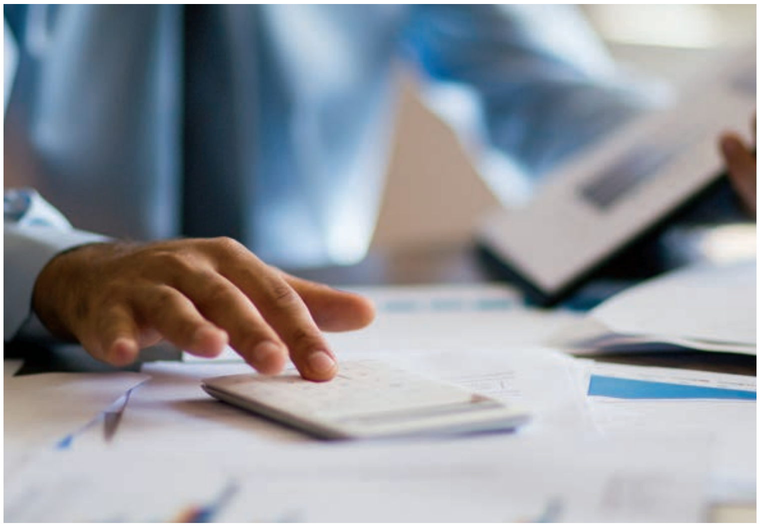
Big-Picture Brand Analysis

In tandem with the checks described above, lenders should also consider the business position of the borrower's brand. This is where the territory can get a bit more subjective and may require the expertise of a specialist in evaluating brands. What makes the brand special? What does it stand for? To what degree does it face competition from national or private-label brands? What are its growth prospects? How resilient is it likely to be if consumer spending patterns and markets undergo major shifts?

Some brands are a bit like a smartly diversified stock portfolio—they are a natural fit for a whole range of product categories sold through various distribution channels, both brick-and-mortar and online. While some wholesale and retail borrowers may be able to add customers, channels and categories, their lenders should carefully assess the viability and cost of the borrower's growth strategy. A denim brand may have a hard time expanding into footwear and bags, despite the owner's ambitious expansion plans. A footwear or handbag brand may stumble if its owner tries to launch a new line of women's apparel.

The analysis should include analyzing how many retail stores the brand is sold in, and the depth/breadth of distribution. In many cases, exclusively online direct-to-consumer (DTC) companies find that their sales are not enough to cover the inordinate costs of social media marketing. While breaking into highly visible brick-and-mortar locations can bolster brand-recognition, building stores is expensive and will constrain a company's finances. A DTC company could try to expand into retail via third party retailers (e.g., department stores), but securing space at retailers is not easy or permanent.

Similarly, when trying to grow a brand by crossing over into other channels of distribution, lateral moves generally are safer. So, too, are downward shifts—strategies such as launching diffusion lines (i.e., a high-end brand introduces a secondary line retailing at lower tiers of distribution and at lower prices). By contrast, if the trademark is a staple at big-box discount chains, an ambitious attempt to sell into luxury stores will face long odds.



In reviewing the borrower's P&L, the team should pay particular attention to any sales declines, flat sales, indications of slowing growth and/or any unusual spikes. A classic example of the latter would be the "COVID-19 bump" enjoyed by a raft of product categories in 2020 and 2021...

Is It Really a Brand?

Some brands have won a place in consumers' hearts in a way that adds substantial monetary value. Others, though, are more like a perfunctory label affixed to a low-cost alternative product. It is one thing to own the trademark of an instantly recognizable top seller, but another to own the functional equivalent of a private-label knockoff of that product. This is not to suggest that such collateral is valueless; while such private label type brands may have strong sales, lenders just need to be careful to avoid an overly optimistic appraisal.

Naturally, the borrower analysis will include looking carefully at forecasted financials, as well as full financial statements for at least the last three to five years and factors such as profit, loss, cash flows, working capital needs, inventory turn and sales breakdowns by channel of distribution—i.e., where and how sales occur (retail, wholesale, brick-and-mortar, online, licensing of core and non-core products, etc.).

In reviewing the borrower's P&L, the team should pay particular attention to any sales declines, flat sales, indications of slowing growth and/or any unusual spikes. A classic example of the latter would be the "COVID-19 bump" enjoyed by a raft of product categories in 2020 and 2021 such as athleisure apparel; home goods; masks; hand sanitizer; exercise equipment; and disinfectants, to name a few. Does the mark's current sales volume (or a previous sales period touted as being representative of brand strength) depend on a "black swan" event or temporary trend? It is also important to look carefully at the company's competitors—including any gains they may be making into that brand's space.

Lastly, if licensing is a major part of the business, it is important to review the agreements and scrutinize:

- Sales of the licensee(s)
- Expiration dates and renewal provisions
- Existence of any alternative licensees if the current licensee defaults and needs to be replaced
- Existence of any exclusivity provisions or carve-outs
- Licensee concentration (Do one or two licensees account for the bulk of sales?)
- Creditworthiness of the licensees (How sound are their financials so that they can pay their guaranteed minimum royalties? Do they pay on time? Have they made any relief requests?)

The 'Hollywood' Factor

For some brands, the involvement of celebrities can be a source of both value and risk.

Whether it's a consumer-products brand bearing a celebrity's name, or a brand endorsed by a celebrity, any type of negative activity by that individual could potentially cause harm to the perception, market acceptance, and value of that borrower's brand. This point was driven home in dramatic fashion during the upsetting turn of events at the 2022 Academy Awards.

The calculation here is not always straightforward. Much-publicized "bad behavior" by celebrities can sometimes bolster the value of brands associated with those artists. In most cases, though, criminal behavior involving a felony will harm the brand. In conducting due diligence, if the individual who is closely associated with the prospective collateral already has a record of problematic behavior, this should not be ignored.

The due-diligence process should also include close scrutiny of any prevailing morals clauses in any endorsement agreement. These clauses, which are one of the most highly negotiated provisions in any celebrity endorsement agreement, need to be as tight as possible. However, lenders should be advised that the remedies they tend to offer—such as contract termination or cessation of future payments—may fall far short of the damage done. If a celebrity-endorsed apparel brand loses 40 percent of its sales in the wake of a scandal, cancelling the contract with that star will be cold comfort.

Moreover, enforcement of these agreements can sometimes depend on the celebrity being convicted of a crime (not merely arrested or indicted)—a potentially lengthy legal process during which brand value may substantially erode. As an aside, morals clauses are typically not automatic: They kick in at the discretion of the trademark owner. If the celebrity engages in a grey-area violation—such as using a recreational drug that is legal in some states, but not in others—it is possible to gauge public reaction before triggering the clause.

Maximizing Recovery

With respect to recouping maximum value in a default situation, lenders need to consider the level of marketing investment in the brand: If it has achieved a high degree of relevance and has become a household name with a substantial presence within coveted markets and channels, this will give the lender more options for recouping value, including via a sale of the collateral.

Exit strategies for monetizing the asset should include an analysis of the likeliest types of buyers. Not all brands are created equal; factors that attract one potential buyer could be of little or no interest to another. The specific context can reveal potential opportunities. For example, imagine that the brand in default happens to be widely available at a mass-market retailer. Having never managed to get its own brand on those shelves, a rival could be interested in acquiring it as a way to overcome those barriers to entry. Another asset could meet the unique screening criteria of private equity firms looking for turnaround opportunities. Still another could be a strong fit for a brand-management company that acquires long-established brands that have fallen out of favor and relaunches these “fallen angels” into new channels, typically with an infusion of increased marketing.

Art and Science

Overall, lending against trademarks is both art and science. The latter hinges on procedures and best practices—such as properly completing UCC filings and taking all necessary actions to protect the lender’s security interest—that are straightforward and well established. By contrast, those who are proficient in the “art” of assessing brand value tend to live and breathe subjects that may seem wholly unrelated to the ABL world. If you observe them chatting about Jay-Z, devouring *The New York Times*’ “Wirecutter” section or rhapsodizing about HBO’s “Succession,” it may be a good sign: Those who love brands and pop culture the most often bring the best insights into where this collateral may be headed.

Tiger Group managing director Eric Gul has over 20 years of experience in advising both public and private companies on IP, licensing, M&A, divestitures, financings and other matters involving consumer-facing brands. He can be contacted at: egul@tigergroup.com.