

2019 CLFP Body of Knowledge

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History & Overview of Equipment Finance and Leasing

Ancient History

Middle Ages

Industrial Revolution

Railroad Industry

Early 1900s

Independent Leasing Companies

Captives

History of Modern Equipment Finance

1950s

Government Efforts to Stimulate Economy

Advancement of Technology

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Revenue Ruling 55-540

1960s

ITC

Accelerated Depreciation

1970s

Revenue Procedure 75-21

FASB 13

1980s

ERTA

TEFRA

DRA

ACRS

TRA '86

AMT

Competitive Equality Banking Act

1990s

Small-Ticket Scoring Models

Bank Acceptance of TPOs

Creative Financing Structures & Large-Ticket Leasing

Double-Dip Leases

Form and Substance

Levereaged Leases

Defeased Transactions

LILOs

FSC

Synthetic Leases

Significant Equipment Growth

2000 - 2010

Rapid Expansion in Leasing Industry

Enron

NorVergence

2008 - 2010 Great Recession

The Collapse of Capital Markets

Failure of Long-Time Players
Tightening of Credit Parameters

Expansion of Banks in Leasing Industry

2010 - Present

Regulation

- Dodd-Frank*
- CFPB*
- Too Large to Fail*
- Systematically Important Entity*

Exit of GE Capital

- Industry Absorption*

Low Interest Rate Environment

Low Delinquency Rates

- Assets Under Management*

Significant Increase in Financing and Decrease in Leasing Activity

- Combination of Products Within the Industry*

Accounting Debate and Changes

- Implementing of Changes*
- Anticipated Impact for Providers and Users of Equipment Financing and Leasing*

Emphasis on Automation and Efficiency

- Fintech*
- Further Industry-Specific Software and Options*

Increase in Technology Investment

Benefits of Equipment Financing and Leasing

Participants in The Industry

- Equipment End-Users (Borrower or Lessee)
- Lessors and Lenders (
- Third Party Originating Organizations
- Investors
- Equipment Suppliers
- Service Companies
- Trade Associations and Foundations
- Regulators
- Government Leasing

Industry Sector by Transaction Size

- Micro-Ticket
- Small-Ticket
- Lower Middle-Market
- Middle-Market
- Large-Ticket

Competition to Equipment Financing (Direct and Indirect)

- Cash
- Unsecured Lines of Credit
- Personal or Corporate Credit Cards
- Merchant Cash Advances
- Working Capital
- Invoice Factoring

- Secured Loans
- Small Business (SBA) Loans
- Home Equity Lines of Credit
- Equity Capital, Public Stock Offerings
- Collateralized or Secured Bonds, Unsecured Bonds
- Capital Budget
- Tax Revenue

Equipment Products

- Capital Lease
- Commercial Term Loan
- Conditional Sales Contract
- Early Buyout Option (EBO)
- Equipment Finance Agreement (EFA)
- Fair Market Value Lease (FMV)
- Finance Lease
- Leverage Lease
- Managed Service Lease (Contract Services)
- Money-Over-Money Transaction
- Net Lease
- Nominal Purchase Option
- Non-Tax Lease
- Operating Lease
- Purchase Upon Termination Lease (P.U.T.)
- Rental Agreement
- Sale-Leaseback
- Split-TRAC
- TRAC Lease

Financial and Tax Accounting

Financial Accounting

Classification Under ASC 840 (FKA FASB 13)

Lease Classification (Lessor)

- Sales-Type Leases
- Direct Financing Leases
- Leveraged Leases
- Operating Leases

Lessor Accounting

Financial Statement Compilation (Lessor)

- Direct Financing Lease (Balance Sheet at Inception and Income Statement for First Month)
- Operating Lease (Balance Sheet at Inception and Income Statement for First Month)
- EFA/Loan

End of Lease Options

Lessee Accounting

How Operating and Capital Leases Are Handled

Accounting Basis

Accrual Basis

Cash Basis

Tax Basis

Accountants Reports

Compiled

Reviewed

Audited

Financial Statements

Balance Sheet

Income Statement

Statement of Cash Flows

Reconciliation of Retained Earnings or Net Worth

Notes to Financial Statements

Tax Accounting

Revenue Rulings & Procedures

Revenue Ruling 55-540

Revenue Procedure 2001-28

Classification Under 55-540

Lease vs. Conditional Sale Contract

Depreciation

Modified Accelerated Cost Recovery System (MACRS)

Bonus Depreciation

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Alternative Minimum Tax (AMT)

Description Of "How It Works" – Regular vs AMT "Parallel" Tax Calculation

Sales and Personal Property Tax

Sales Tax

Requirements Based on Jurisdiction Where Equipment Is Located

Lessee Vs Lessor Responsibilities

Sales Tax Types

Up Front on Cost

Up Front on Sum of Receipts

On Stream

Filing Frequencies

Equipment Exemptions

Personal Property Tax

Requirements Based on Jurisdiction Where Equipment Is Located

Lessee vs. Lessor Responsibilities

Filing Frequency

Assessment Date

Rendition Filing and Payment Process

Leasing Law

Basis for U.S. Leasing Law

Statutory, Case and Regulatory Law

Federal Law State Law

General Principles of Contract Law

The Uniform Commercial Code

Conflicts of Law

Choice of Law

Legal Definition of a Lease

UCC Article 2: Sale of Goods

UCC Article 9: Secured Transactions

Financing Statement

Security Interest

PMSI

UCC Article 2a: True Leases

Contrasting True Lease And Lease Intended as Security

Distinctions in Lessee's Bankruptcy

Interest/Usury

Collateral Liability

UCC Rights

Perfection of Security Interests

Residual

Bankruptcy Law

Types of Bankruptcy

Liquidating Bankruptcy or Reorganization

Voluntary and Involuntary Bankruptcy

Bankruptcy Procedures

Automatic Stay.

Plan of Reorganization

Proof of Claim

Assumption/Rejection

Preferences in Bankruptcy

Legal Entities

Corporations

"C" Corporation

"S" Corporation

Non-profit Corporation

Professional Corporation ("PC")

LLCs

General Partnerships and Limited Partnerships

Sole Proprietors

Tradenames

Other Variations of Business Entities

Joint Venture

Association

Trust

Municipality

Federal Government

Qualification to Do Business

Taxes

Licensing and Being in "Good Standing"

Lease Pricing

Lease Pricing Fundamentals

Time Value of Money Concept

Terminology

Yield

Implicit Rate

Running Rate or Stream Rate
Lease Rate or Lease Rate Factor
Discount Rate
Internal Rate of Return
Points
Basis point

Calculating Present Value

Major Variables
Term/Number of Payments
Rate
Equipment Cost/PV
Lease Payment
Residual Value

Minor Variables

Indirect Costs
Security Deposit
Number of Advance Payments
Other Fees/Costs

Solving for Any Unknown Element in The Transaction

Cash Flow Diagrams

Application of The Cash Flow Diagram to The Lease Transaction

Structuring of A Payment

Principal Plus Interest
Amortizing Payment

Non-Tax Pricing

Computing Unusual Payment Structures

Pricing Tools (SuperTrump™, TValue™, Financial Calculator, Custom Spreadsheet)

True (Tax) Lease Pricing

Elements Affecting True (Tax) Lease Pricing

Sales and Marketing

Role and Purpose of Sales and Marketing

Sales and Marketing Coordination and Collaboration

Brand
Top of Mind Awareness
Continuous Contact

Common Equipment Finance Origination Channels

Marketing

Market Segmentation

The Marketing Plan

Components
Keys to Successful Execution
The 4 Ps of Marketing
Monitoring and Measuring Success of the Marketing Plan

Sales

Filling the Prospect's Need
Mind the Portfolio
Sales Participation Throughout the Origination Lifecycle

- Communication and Customer Experience
- The Necessity of the Niche
- Tailoring the Benefits of the Product to Prospect Needs
- Proposals
- Typical Sales and Marketing Tools
 - Contact and Customer Relationship Management
- The Direct Origination Channel
 - Definition
 - Purpose
 - Market Segmentation
 - Benefits
 - Drawbacks
- The Vendor Origination Channel
 - Definition
 - Purpose
 - Market Segmentation
 - Marketing Methods
 - Benefits
 - Drawbacks
- The Third-Party Origination Channel (TPO)
 - Definition
 - Purpose
 - Similarities to Vendor Origination
 - Market Segmentation/Target Identification
 - Benefits
 - Drawbacks
 - Marketing Efforts
- Lease Syndication Buy & Sell
 - Definition
 - Purpose
 - Benefits
 - Drawbacks
- Portfolio Acquisition
 - Definition
 - Purpose
 - Benefits
 - Drawbacks
- Credit
 - Role and Purpose of Credit
 - 5 Cs Of Credit
 - Risk Appetite Framework
 - PD, LGD, EAD, EL*
- Credit Process
 - Small-, Medium-, and Large-Ticket
- Credit Request/Credit Application
- Data Gathering and Due Diligence

Know the Origination Channel
Know Your Customer
Fraud
Know the Legal Entity

Making the Credit Decision
Credit Evaluation Tools
Credit Scores
Credit Bureaus
Financial Statement Analysis
Non-Traditional Data Sources
Risk Ratings and Risk Scores
Industry Peer Comparison

Financial Statements Analysis
Basic Purpose of Financial Statements
Types of Financial Statements and Impact on Credit Decision
 Audit/Review/Compilation/Management Prepared
 Audit Opinions
Analysis Techniques
 Industry Review and Comparison
 RMA, NAICS, SIC
 Ratios
 Profitability
 Gross Profit Margin
 Operating Profit Margin
 Net Profit Margin
 ROA/ROE
 Liquidity
 Current Ratio
 Quick Ratio
 Accounts Receivable Turnover
 Inventory Turnover
 Accounts Payable Turnover
 Leverage
 Debt to Equity
 Debt To EBITDA
 Long Term Debt to Capitalization
Cash Flow and Coverage Ratios
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 Traditional Cash Flow Analysis
 Cash Throw-off
 Global Cash Flow Analysis
 Debt Service Coverage Ratio (DSCR)
 Fixed Charge Coverage Ratio

Other Financial Information
Personal Tax Returns
Personal Financial Statements

Deal Structuring
Credit Enhancements

Credit Decision
Small-, Mid- and Large-Ticket Decisioning

Credit Scoring and Analysis

- Building and Using a Scorecard
- Risk Acceptance Criteria & Making Decisions
- Scoring Methodology

Equipment Lease and Financing Documentation

Documentation Process

Standard Documentation

- Forms of Contracts
 - Standard "One-Off" Agreement*
 - Master Agreement*
 - Plain Language Agreement*

13 Standard Lease & Financing Documents

- Lease Contract*
- Lease Schedule*
- Exhibits & Schedules*
- Delivery & Acceptance Certificate (D&A)*
- Guaranty*
- Corporate Resolution*
- Real Estate Waiver*
- Fixture Filing*
- UCC Filings*
- Cross-Default Agreement*
- Purchase Order*
- Invoice*
- Advance Funding/Prefunding Agreement*
- Purchase Option*

Elements and Provisions of a Lease Contract

- Identification of The Parties*
- Identification and Address of The Vendor/Supplier*
- Equipment Description*
- Equipment Location*
- Terms*
- Purpose/Intent of Agreement*
- Acceptance of Equipment by Lessee*
- Disclaimer of Warranties*
- Article 2A Provisions*
- Assignment*
- Rental Commencement and Other Payments*
- Non-Cancellation Provisions*
- Lessee/Lessor Signatures*
- Choice of Law/Jurisdiction/Venue*
- Security Deposits*
- Authorizations, Power of Attorney, Amendments*
- Location and Use of Equipment*
- Ownership Provisions*
- Renewal Provisions*

- Insurance Requirements*
- Responsibility for Liens and Tax Liability*
- Lessee Indemnification of Lessor*
- Lessor Assignment, Waiver of Defense Clause*
- Service Charges, Late Fees, Interest*
- "Time Is of The Essence" Provisions*
- Default Provisions*
- Remedies to Default*
- Cross Default Clause*
- Attorney Fees/Regarding Enforcement Expense*
- Severability*
- Schedules and Exhibits
- Delivery and Acceptance
 - Purpose of the D&A*
 - Use of the D&A*
 - Elements of the D&A*
 - Acceptance and Representations Regarding Equipment
 - Instructions to Pay Supplier (Vendor)
 - Unconditional Nature of Acceptance
 - "Acceptance" In Advance of Delivery
- Personal and Corporate Guarantees
 - Purpose of The Guarantee*
 - Use in The Lease Transaction*
 - Cross Entity/Corporate/LLC/Partnership Guaranties*
 - Issues to Consider Regarding Guaranties*
 - Consideration
 - Authority to Guaranty
 - Obligation Guaranteed
 - Waiver of Suretyship Defenses
 - Standard Provisions
- Corporate Resolutions
 - Purpose of The Corporate Resolution*
 - Use of The Corporate Resolution*
 - Elements of The Corporate Resolution*
 - Authority of Corporation to Enter into Lease And/or Guarantee
 - Identification of Authorized Signers for The Corporation
- Real Estate & Landlord Waivers
 - Purpose of The Real Estate/Landlord Waiver*
 - Use of The Real Estate/Landlord Waiver*
 - Filing Requirements for A Real Estate/Landlord Waiver*
 - Landlord Waiver
 - Identification of The Parties
 - Agreement on Subject and Nature of Fixture
 - Waiver of Rights by Landlord/Mortgagee
 - Permission to Claim Property
 - Legal Description of Property
 - Acknowledgment

Fixture Filings

- Purpose of A Fixture Filing*
- Use of The Fixture Filing*
- Form Used for Fixture Filings*
- Filing Requirements*
- Protections Offered from A Fixture Filing*

UCC Filings

- Purpose of UCC Filings in The Lease Transaction*
- Form of The UCC Filing*
 - UCC-1
 - UCC-3 Amendment/Assignment/Termination Form
- Filing Requirements*
 - Filing Location
 - Timeliness
 - Continuation
 - Fees
 - Signatures
- Additional UCC Issues*
- Precautionary Filings*

Purchase Order

- Parties to The Purchase Order*
- Purpose of The Purchase Order*
- Content of The Purchase Order*
 - Representations Required by Supplier
 - Disclaimers and Conditions by Lessor
- Use of The Purchase Order*

Invoice

- Parties to The Invoice*
- Purpose of The Invoice*
- Content of The Invoice*

Advance Funding/Pre-Funding Agreement

- Parties to The Agreement*
- Purpose of The Agreement*
- Terms and Use of The Agreement*
- Contents and Styles of The Agreement*
 - Lease Commencement
 - Interim Funding
- Additional Considerations/Potential Dangers of Use*

Purchase and Renewal Options

- Parties to The Option*
- Types of Options*
 - Nominal Option
 - Fair Market Value Option (FMV)
 - PUT Option/Fixed Purchase Option
 - Renewal Option
 - Early Buyout Option (EBO)

Additional Collateral as Security

Parties to The Agreement

Purpose of An Additional Collateral Agreement

Form for The Agreement

Requirement to Perfect Interest

Real Estate as Additional Collateral

Forms of Security

Deed of Trust

Mortgage

Requirements for Filing and Perfection

Anti-Deficiency Laws

Equipment Finance Agreements (EFAs)

Purpose of EFAs

Use of EFAs

Documentation for EFAs

Comparing EFAs To Leases

Municipal Leasing Documentation

Agricultural Leasing Documentation

Equipment Finance Operations and Funding

Sources Of Capital

Internal Funding

Brokerage

Discounting

With or Without Recourse

Benefits

Risks

Financial Considerations

Tax and Operational Considerations

Equity and Debt

Subordinated Debt

Revolving Lines of Credit

Permanent or Term Debt

Asset Securitization

Commercial Paper Conduits

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Regulatory Compliance

State Regulations

State Electronic Recycling Regulations

State Security Breach Regulations

Automatic Renewal (Evergreen Clause)

California Finance Lenders Law Requirements

Usury

Licensing and Being in “Good Standing”

Federal Regulations

CFPB

ECOA (Reg B)

BSA/AML/USA PATRIOT Act

OFAC and FINCEN

SOC

Funding

Standard Funding Package

Invoice

Verification of Executed Documents

Wet Signatures

eSignatures

Vaulting

Insurance

Delivery and Acceptance (D&A)

UCC

Verbal Verification

Tax Treatment

Equipment Inspection

Driver's License

Titled Transactions

POA

Title/MSO

Notary

Driver's License

Lien Perfection Lease vs. EFA

Electronic Titles (When Auditing and When Perfecting)

Tax Treatment Variables

Technology

Software

Selection, Implementation, Maintenance

CRM

Origination System

Portfolio Management System

Electronic Signatures

Authentication Options

Signature

Vaulting

Business Functions

3rd Party Services

Data Repository, Reporting, Analytic Tools

Content Management

Infrastructure

Business Process Management

Business Productivity and Corporate Applications

API's and Integration

Future of Equipment Finance Technology

Customer Service

Pre-Booking Customer Service

Post-Booking Customer Service

Payoff

Early Termination Payoffs

Ending (End of Lease Term)

Renewals
Legal/Liquidation
Sales and Property Tax Implications Lease vs. EFA
Property Tax
Account Inquiries
Contract Adjustments
Contract Assumption Scenarios
Proactive Payment Relief Scenarios
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 Timing Considerations
Insurance Administration
 Insurance Considerations for Equipment Finance
 Property Insurance
 Liability Insurance
 Insurance Binders
 Insurance Certificates
 Force Placed Insurance
 Insurance Claims
Title Management
Account Reconciliations

Portfolio Management

Tracking Portfolio Performance
Portfolio Characteristics
Portfolio Reporting Performance Indicators
 Credit Risk Indicators
 Financial Risk Indicators
 Business Risk Indicators

Collections

Importance of Industry Knowledge
Knowing Which Collection Practices are Lawful and Efficient
 Fair Debt Collection Practices Act (FDCPA)/National Automated Clearinghouse Association (NACHA), Etc.

Maintaining Customer Goodwill

Primary Responsibilities

Collection of Lease Contracts
 General Collections

 Collection of Residuals
 Collection of Taxes
 Collection of Insurance Premiums
 Collection of Late Charges
 Collection of All Other Amounts Due

Identify Accounts at Risk

Tracking Collection -Specific Portfolio Indicators

Document Collection Activities

Secondary Collections Responsibilities

When to Escalate
Interfacing with Attorneys on Litigation Matters
Repossession
Remarketing Repossessed Equipment
Alternative Collection Processes (Remedies)
Bankruptcy Procedures
Asset Management
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 Equipment Type Implications
 Lease Structure Implications
 Value Verification
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 Residual Value Review
 Return and Maintenance Agreements
 Fees
 Inspections
Post-Funding
 Credit Reviews & Equipment Inspections
 Residual Value Adjustments as Required
 Default Scenarios
 Establish Risk Parameters
 In-Place Value vs. Recovered Value
 Legal Impact
 Commercially Reasonable Sale vs. Straight Liquidation
 Costs to Recover, Recondition, and Sell