Vol. 1 No. 1 February 1999

NAFOA News

"Strengthening Tribal Sovereignty Through Sound Financial Management"

A message from the President

Welcome to the first issue of the new NAFOA news! It is our pleasure to bring to you this first issue filled with interesting information and to introduce our association to you.

I would like to point out two items of interest in this issue. The first is NAFOA's annual conference (see inserts) which will be held May 11-14, 1999 in Las Vegas, Nevada. On behalf of NAFOA I would like to personally invite you to attend. This conference will mark our 17th annual and they have proven to be very valuable forums to learn and share new information in regards to finance issues in Indian Country.

Secondly, NAFOA is launching a new summer internship program for junior and senior level college students. A variety of businesses, including a tribal site, a law firm dealing with Indian finance and a CPA firm will be participating in this program. If you know of a student who would be interested, contact our office for an application.

The new millennium will no doubt bring more challenging times for our people. It is imperative for all of our Tribes, Indian businesses and organizations to have in place the most sound financial policies in order to protect ourselves from the never-ending attacks on our tribal sovereignty. NAFOA is here to assist you in that process.

We welcome suggestions, questions and comments regarding this newsletter. Let us know what you think.

Best Wishes in 1999! And thank you for your continued support to the Native American Finance Officers Association.

Jeffrey Lamb (Gros Ventre)

NAFOA ~ Who we are?

The Native American Finance Officers Association (NAFOA) is a national organization, founded in 1982 by a dedicated group of tribal finance officers who recognized a need for a forum to share financial information.

NAFOA is the only national consortium of Indian finance and accounting professionals.

NAFOA has grown to a current membership of 80 Tribes with an expected membership of 100 Tribes by mid-1999. Membership consists of Tribal governments, Tribal and Indian organizations as well as private sector associates. Members range from the East to the West coasts and include finance officers, treasurers, controllers, accountants, bookkeepers, Tribal Council members and various sponsors.

NAFOA's mission is: **to provide a professional organization dedicated to the improvement of the quality of financial and business management of Native American governments and businesses which will strengthen Tribal sovereignty through sound financial management.**

The current services that NAFOA provides are: 1) regional training and technical assistance pertaining to finance issues; 2) an annual conference (CPE credit certified); 3) a student scholarship program; 4) a newsletter; 5) a webpage-**www.nafoa.org**

NAFOA can assist Tribes to implement and maintain sound financial policies.

Visit us on the web page or give us a call to find out how you can become a member of NAFOA.

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NAFOA Board of Directors:
The Native American Finance Officers Association has five (5) Board of Directors and one Project Coordinator. NAFOA is substantially supported by the Oneida Nation of Wisconsin.

Jeff Lamb, (Gros Ventre), President
Edwin Kane, (White Mountain Apache Tribe), 1st Vice President
Virginia Moore, (Navajo), 2nd Vice President
Bruce A. King, (Oneida), Secretary
Robert F. Lewis, CPA, (Grand Traverse Band of Ottawa & Chippewa), Treasurer
Jodell Crawford, (Sisseton Wahpeton Dakotah Nation), Project Coordinator

Advisory Board:
NAFOA has recently added a voluntary advisory board that assists in developing and planning programs of the association, they include:

Corrine Wilson, (Reno Sparks Indian Colony), Finance Director
Dan Lewis, (Navajo), Native American Financial Services Director, Bank of America
Jim Parrish, Sr. Audit Manager, Rogoff Erickson Diamond & Walker, LLP
Robin R. Kovash, (Three Affiliated) Attorney, Fredericks, Pelcyger, Hester and White

NAFOA holds their elections annually at every conference. If you are interested in being a Board member, advisory Board member or providing other assistance, please contact the NAFOA office. Thank you.

Gambling on the Year 2000 ~ "Y2K"

Every major industry relies on automated computer systems. The gaming industry is no exception. Computer networks are the foundation of casino systems. They provide the path and vehicle for data and message exchange between the casino's business systems. Whether the network is linking player tracking, hotel registration, slot management or time in attendance systems within a single site, an integrated, properly tuned network is the backbone of the successful casino

On January 1, 2000, computers all over he world will reset the date, but will interpret this date as January 1, 1900, or some other random year. This programming over-sight may cause networks and systems to crash or yield unpredictable results. This has become known as the "Millennium Bug," the "Year 2000 Problem," or the "Y2K Problem."

Mainframe computers are not the only focus of the Y2K. Indeed, many experts contend that failures in embedded microchips - located in slot machines and other gaming equipment - may present an even greater risk. Clearly, this is an issue the gaming industry cannot ignore or avoid if business is to survive into the Millennium.

Theoretically, correcting the Year 2000 Problem is relatively simple. It requires a program's source code to be fixed on a line basis. However, when this task is multiplied by millions of lines of code, used in thousands of systems across the globe, the task appears impossible to complete within the limited time. Some observers contend that if a company has not started addressing the Y2K problem by 1998, it already may be too late to effectively solve it in time.

Individual Problem Areas
Tribes in the gaming industry must conduct broad assessments of the Y2K's individual risks and address those risks. At a minimum, this requires an identification of which critical systems are susceptible to malfunctioning, an analysis of the potential legal ramifications, an identification of where the responsibility lies in fixing the Y2K problem, and providing certainty that the Tribe's information technology becomes Year 2000 compliant. Tribes must then evaluate the Y2K's potential harm and balance this harm against the costs associated with eliminating the Y2K from their automated systems.

How to become Year 2000 Compliant Many Tribes believe that there is a "one-way" solution to this problem. But Tribes must realize that no simple answer exists and that different approaches are required. The initial questions in contracting for Year 2000 compliance is to understand the basic issues and possible alternative approaches to a difficult problem.

There is no uniform definition for Year 2000 compliance. For example, the FAR Final Rule states, "Year 2000 compliant means that the information accurately processes date/time data from, into and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology being acquired, properly exchanges date/time data with it."

All definitions, however, seem to address the same general issue - that all information technology will continue to work consistently and correctly before, during and after January 1, 2000.

Year 2000 Compliance Cost Many company executives believe that Year 2000 compliance expenditures have not "positive value." The current industry rate for

NAFOA provides internships and student scholarships. NAFOA is seeking applications for internship positions for Junior and Senior level college students who are majoring in the business/finance fields. The internships will include a tribal site, a law firm and a CPA firm. Travel, lodging, meals and a stipend will be provided. The program will begin in June and last 6 weeks. Also, NAFOA is currently accepting applications for financial scholarships for students majoring in a business or finance field. You must be accepted into a college or university by Fall of 1999.
For applications please contact the NAFOA office at 920-490-3510 or visit our website at www.nafoa.org.

Year 2000 compliance modification ranges from about $1.50 to $2.00 per line of code. With forty to eighty percent of all codes affected, medium to large size companies may spend $40 million to bring their computers into Year 2000 compliance.

The Financial Accounting Standards Board and the Securities and Exchange Commission have agreed that the cost to create a Year 2000 solution for each organization will have to be expensed in the year such charges are incurred - and not capitalized.

Immediate expensing of the Year 2000 solutions has advantages and disadvantages. The advantage is that the current expense will save the company in actual costs because of the time value of money. The disadvantage is that companies will be forced to take a large, one time cost in the period when the expense is incurred.

Where Does the Responsibility Lie? The first step a tribe should take to become Year 2000 compliant is to prepare an inventory of the hardware and software being utilized in the company. Once all software packages are identified, the company should locate and review license agreements and long-term maintenance agreements relating to all third party licensed software. The Tribe must identify the appropriate vendor to contact to request information as to the terms of the agreement and whose responsibility it is to replace or repair information technology.

This article was written and submitted by Heidi L. McNeil and David E.M. Field of Snell & Wilmer, Phoenix, AZ. For the entire report and/or additional information about the Y2K problem, please contact the NAFOA office.

Tribal Ownership of Financial Institutions

"You must supply in order to demand." - George Gilder.

Financial institutions are a major supplier of capital in our commercial environment. They are regarded as the life-blood of economic development and commercial activities in a community. There is a great desire to stimulate economic development and nurture entrepreneurship and, accordingly, a major demand for capital resources in Indian Country. Yet, existing financial institutions have been slow to respond to the needs of Indian Country.

Existing institutions are more competitive than ever to establish banking relationships with tribal governments. But how eager are those institutions to make loans to individual tribal members? Are tribal and tribal member deposits being used instead to make loans to off-reservation commercial and consumer borrowers? After thinking about these questions, one is no longer surprised of the growing interest in ownership of financial institutions.

At recent count, there are approximately 10 tribes holding ownership interest in commercial banks. Other tribes have sponsored the organization of credit unions. This trend is certain to continue. Given that one of the largest barriers to economic development is the lack of access to capital, tribal ownership of a financial institution is viewed as a means to give tribal members an open door to a major source of capital. One of the first issues facing tribal government as it explores the complex options of financial institution ownership is to decide what kind of institution best serves the needs of the tribal community.

Choice of Entity A financial institution serves the critical role of monetary intermediary in a community's economy. Most simply, the institution takes money in the form of deposits from those businesses and individuals having excess capital and it distributes that money in the form of loans to those businesses and individuals in need of capital. The authority to receive deposits and lend that money to others provides depository institutions a powerful vehicle to leverage its resources. For example, assume that a tribal institution has equity capital equal to 8% of its total assets and that the institution lends out 70% of its deposits. If this tribal institution has $5,000,000 in equity capital, it would have total assets of approximately $62,500,000 of which $43,750,000 would be loans to tribal members, Indian-owned ventures and reservation/community projects.

Having dual authority to take deposits and make loans is a function of federal law. Institutions having such authority can be classified in three categories: commercial banks, savings and loan associations and credit unions. Commercial banks were originally established to provide short and long-term credit to consumers, business and governments. Commercial banks presently provide a broad range of financial services including deposits, credit, fiduciary, investment and insurance services.

A savings and loan association is chartered primarily to provide long-term home financing for individuals located in its community. Laws relating to savings and loans are designed to promote this purpose by limiting the amount of commercial and/or consumer loans and related transactions that can be engaged in by a savings and loan association.

Credit unions are traditionally chartered to make consumer loans to individual depositors of the institution. In practice, however, credit unions today engage in most of the activities conducted by commercial banks. Therefore, a decision whether to invest in or from a credit union or a commercial bank is often controlled by factors other than the statutory powers possessed by either form of entity. At the same time, although a credit union and a commercial bank look generally similar now, it must be recognized that this may not always be the case as the financial institutions industry continues to undergo rapid change.

A credit union by law is expected to only serve the needs of persons having a "common bond" - usually defined in terms of geographic and occupational limitations. Membership of a credit union is required to be comprised of persons or organizations having similar occupations or residing within a well-defined neighborhood, community or district. As long as the tribally-owned institution is not expected to become a national or regional competitor, the "common bond" requirement should not be an obstacle to choosing a credit union form of structure.

Move over, a credit union can be organized for fewer dollars than a commercial bank. Federal Deposit Insurance Corporation (FDIC) policy generally requires a new commercial bank to have initial capital of $20,000,000. The amount could be higher depending on local market conditions. The amount of capital required to form a new credit union is substantially less.

Perhaps one of the more important distinguishing features between a credit union and a commercial bank is the fact that depositors *vis-a-vis* shareholders control a credit union. In order to become a customer of a credit union, you must become a member. To become a member, you must be a depositor. Once a member, you are not only entitled to borrow, but to vote and participate in institution earnings as well. A commercial bank, by contrast, is controlled by shareholders - the individuals or the Tribe, as the case may be, that invests and risks capital to form a new institution. If a Tribe is the sole or major sponsor/ shareholder, the formation of a commercial bank would serve a tribal objective of maintaining effective tribal government control over the new institution. This control, in turn, would serve an objective to insulate the institution from day-to-day political influence.

Choice of Law A tribal objective to form an institution under tribal law in order to limit or avoid the application of federal or state banking statutes and regulations is problematic. As with any business corporation, a financial institution's powers are derived from statutory law. As a general principal, there is a prohibition against acting as a bank within the United States unless done under authority of federal or state law. Federal law provides that no "person, firm, corporation...or similar organization" shall engage in the business of receiving deposits unless such person, firm, etc. is "incorporated under, and authorized to engage in such business by, the laws of the United States or any State, Territory or District" and is subject to examination under such laws. Assuming that sections of the federal law apply, the only way that a tribally chartered bank can comply with Section 378 is if a Tribe is considered a "territory." It can be argued that, because of a Tribe's inherent sovereignty, federal banking law does not apply since such laws have not expressly divested the Tribe of its authority to regulate in the area of banking. An equally compelling argument, however, can be made that due to the pervasive nature of federal banking law Congress has implicitly divested the Tribe of its sovereignty in the area of bank regulation. The federal bank regulatory agencies have not yet taken a formal position on the issue of whether tribal banks must be formed under federal law or state law. All that is now clear is that the costs of forming a bank under tribal law can be expected to be substantially higher than mentioned above if judicial intervention is required to resolve these legal issues.

Similarly, the FDIC will have significant difficulty determining that a bank chartered under tribal law is eligible for FDIC deposit insurance. Federal law requires the FDIC to insure deposits of federal and state banks. The term "state bank" means any bank incorporated under the laws of any "state of the United States, the District of Columbia, any territory of the united States..." Again, the issue of whether a bank formed under tribal law is entitled to obtain federal deposit insurance hinges on the meaning of the term "territory," a union law. The National Credit Union Administration can insure deposits of all credit unions organized under the laws of "any state, the District of Columbia, the several territories...and possessions of the United States..." The term "territory" is not defined under federal credit union law. This is a big deal since a bank formed without FDIC deposit insurance can anticipate being at a competitive disadvantage to insured institutions.

Because of these legal issues, tribal needs may be best served by investing in or forming a commercial bank or a credit union created under federal or state law. The decision at that point becomes largely whether the Tribe wishes federal, or both federal and state regulators to be the primary regulator.

This article was prepared and submitted by Robin R. Kovash of Fredericks, Pelcyger, Hester & White, LLC, an attorneys at law firm in Louisville, Colorado. For additional information on tribal ownership of financial institutions, please contact the NAFOA office.

Near Perfect Economy = Low Interest Rates and Flat Yield Curve

Strong economy, low inflation Interest rates have fallen dramatically over the past twelve months. Although the economy is expanding, inflation is low. High levels of productivity, continued low price inflation, and expectations that these conditions will persist are responsible for the current low interest rate environment.

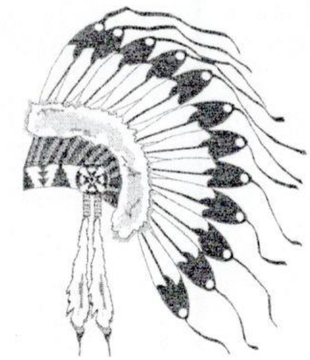
Improved government financing is also contributing to the low interest rate environment. Reduced federal spending combined with higher taxes from corporate profits and stock market gains are producing the first federal budget surplus in three decades. As the government's need to borrow shrinks, the supply of bonds declines, causing bond prices to rise and interest rates to fall.

Why is the yield curve "flat"? In today's treasury market, two year bonds have approximately the same yield as ten year bonds, while investors pick up a meager 20 basis points (.20%) by purchasing 30-year bonds. This situation is called a "flat" yield curve.

Many clients have asked us to explain why the yield curve is "flat." Several factors are creating this condition. Low long-term interest rates are the product of the favorable economic fundamentals of low inflation and a budget surplus. Short-term interest rates reflect the same expectations; however, short term rates cannot fall much further until the Federal Reserve lowers the Federal Funds rate, which is currently 5.50%. However, it is unlikely that the Federal Reserve will reduce short term rates in the near future because the domestic economy is strong.

The yield curve will probably remain flat until the economy significantly weakens (causing short term rates to drop) or strengthens (causing short-term rates to rise). As we do not expect any near term volatility, we recommend investing in intermediate term securities for income, while keeping an eye on price.

This article was submitted by Anne Sorensen, Senior Portfolio Manger with the C.H. Brown Company. Anne can be reached at 1-800-774-3024 for additional information.



MARK YOUR CALENDARS ~ NAFOA Annual Conference

The annual NAFOA Conference will be held May 11, 12, 13 and 14, 1999, in Las Vegas, Nevada at the Rio Hotel and Convention Center. This year's theme is: "NATION BUILDING FOR THE 21ST CENTURY"

Highlights include:

Various Tracts focusing in the areas of: Economic & Revenue Development; Legislative, Regulatory & Taxation; Finance, Banking & Investments; and Accounting, Auditing & Technology. *(Now offering CPE Credits)*

3rd ANNUAL NAFOA GOLF TOURNAMENT - Tuesday, May 11, 1999, - Shotgun Start 1:00 p.m. Las Vegas Paiute Golf Course *(See registration form for fees)*

HOTEL ACCOMMODATIONS:
Call 1-888-746-7482, Group Code #GNATIV2 **(cutoff date 4/10/99)** All Room Suites @ $110 per night at the Rio Hotel & Convention Center (newly remodeled)

DISPLAY TABLES:
Contact Marketplace Productions Inc. @ 1-651-645-6061 or Visit their website @ www.marketplaceproductions.com

CONTACT (for forms & fees):
Jodell @ 920-490-3510 for information or visit the NAFOA website @ www.nafoa.org

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