

## EMBRACING THE SHARING ECONOMY AND PREPARING FOR RISK: THE CSA EXPERIENCE

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### ABSTRACT

*As Community Supported Agricultural systems (CSAs) continue to capture an increased portion of the overall food budget and enjoy growing customer*

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*awareness and support, they prove to be an important alternative food system independent from intensive agribusiness. The underlying motivations of CSAs extend beyond a risk sharing economic exchange. These systems act as a strategy to fight a disconnect between farmer and consumer, rethinking the relationship among food, community economics, and ecological sustainability. Several challenges centered on legal and economic risks could restrict future expansion of CSAs. This Article will examine three unique CSA operations and a survey of CSA members to illustrate these complex challenges of combining farming with high levels of customer engagement. Additionally, this Article will identify strategies to better manage these risks and enhance the social and economic sustainability of this evolving form of community food production.*

## I. INTRODUCTION

A discrepancy exists between the communal nature of local food systems and the laws and regulations that oversee the operation and external governance of general food businesses. In some instances, well-intentioned food safety measures act as road blocks or deterrents for farmers trying to sell directly to consumers. The result is that many Americans feel they have no connection to the anonymous, far-off farms that provide their food and are confronted with an increasingly vocal narrative of agriculture's negative impacts on local environments and

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1. See generally Nicholas R. Johnson & A. Bryan Endres, *Small Producers, Big Hurdles: Barriers Facing Producers of Local Foods*, 33 HAMLIN J. PUB. L. & POL'Y 49 (2012); Steven M. Schnell, *Food with a Farmer's Face: Community-Supported Agriculture in the United States*, 97 GEOGRAPHICAL REVIEW 550 (2007).

2. *Id.* at 66-68 (describing numerous legal hurdles for the local food producer).

3. Leo Horrigan et al., *How Sustainable Agriculture Can Address the Environmental and Human Health Harms of Industrial Agriculture*, 110 ENVTL. HEALTH PERSP. 445, 445 (2002). These negative impacts include both environmental and economic consequences for local communities. The industrial agriculture system uses non-renewable fossil fuels, water, and degrades topsoil at an unsustainable rate; Ramu Govindasamy et al., *Increased Purchases of Locally Grown Ethnic Greens and Herbs due to Concerns about Food Miles*, 43 J. FOOD DISTRIBUTION RES. 62 (2012). For example, food miles, which measures the carbon impact of food production as it travels from farm to fork, is a substantial issue in the United States. One estimate suggests that produce travels 2,811 miles and requires 51,709 tons of greenhouse gas emissions annually to reach grocery stores.

4. A. Bryan Endres & Lisa Schlessinger, *Legal Solutions to Wicked Problems in Agriculture: Public-Private Cooperative Weed Management Structures as a Sustainable Approach to Herbicide Resistance*, 3 TEX. A&M L. REV. 827, 828 (2016). The often excessive and indiscriminate use of herbicides and pesticides in industrial agriculture has detrimental effects on local ecology and propels the evolution of herbicide resistant weeds that threaten local landscapes while creating costly weed management problems for farmers. See also Horrigan, *supra* note 3, at 445 (explaining that monocultures erode biodiversity, pesticides

communities.<sup>5</sup> Historically, as more Americans have moved to urban and suburban neighborhoods, there has been less of a connection with the farms and farmers who stock their local grocery stores.<sup>6</sup> Community Supported Agriculture (CSA) developed as a strategy to fight this disconnect between farmer and consumer, while also seeking to develop a food system that is independent from the dominant form of intensive agribusiness.<sup>7</sup>

The CSA model attempts to reunite direct connections between consumers and farmers as part of a broader community stewardship effort with environmental, social, and economic elements.<sup>8</sup> Local community members purchase an annual membership in the CSA before the growing season, in return they are promised a share of the resulting harvest.<sup>9</sup> The CSA member (member) shares in the risk of crop failure and production challenges with the farmer and other CSA members.<sup>10</sup> Conversely, the member also shares in the bounty of a productive season as well as the opportunity to participate in farm activities and the social aspect of weekly produce deliveries/pick-ups during the production season.<sup>11</sup> The result, in theory, is a community-based food network between the CSA farm and its varied members.<sup>12</sup>

The underlying motivations of CSA often extends beyond a risk sharing economic exchange; it is a movement that rethinks the relationship among food, community, economics, and ecological sustainability by diverting community members' patronage from national supermarket chains to direct participation in local agricultural economies.<sup>13</sup> These impacts can be substantial, as many states see millions of dollars that consumers spend on food each year profit out-of-state enterprises.<sup>14</sup> CSA provides an opportunity for local community members to work together and develop a system that meets consumer demands for high quality foods

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and fertilizers pollute local ecology, soil erosion destroys the land's future productivity, and consumption of water is unsustainable).

5. Thomas Macias, *Working Toward a Just, Equitable, and Local Food System: The Social Impact of Community-Based Agriculture*, 89 SOC. SCI. Q. 1086, 1086 (2008).

6. Schnell, *supra* note 1, at 550.

7. *Id.*

8. Macias, *supra* note 5, at 1086.

9. Nicholas R. Johnson et al., *Community Supported Agriculture: An Exploration of Legal Issues and Risk-Management Strategies*, 28 NAT. RESOURCES & ENV'T 26, 26 (2013).

10. *Id.*

11. *Id.*

12. *Id.*

13. Schnell, *supra* note 1, at 550; E. HENDERSON & R. VAN EN, SHARING THE HARVEST: A GUIDE TO COMMUNITY SUPPORTED AGRICULTURE 5 (2007).

14. See Steve Martinez et al., USDA, Local Food Systems: Concepts, Impacts, and Issues, Economic Research Service/USDA ERR-97, 43 (2010).

while retaining an increased share of the billions spent on food.<sup>15</sup> Moreover, a more localized economy has the potential to act as a catalyst for rural communities, increase access to healthier food options, and diversify farmer income.<sup>16</sup>

Originally developed overseas, the CSA concept had gained significant traction since its introduction to the United States in the 1980s.<sup>17</sup> By 2012, there were more than 2,600 farms in the United States with CSA programs.<sup>18</sup> For farmers, the prepayment for shares of the CSA offers accelerated cash flow, a more predictable income, and passes some of the production risks associated with farming onto the consumer.<sup>19</sup> However, economic benefits are not the only motivation for the many farmers who adopt this model; many are social activists with a desire to engage with the local community and provide accessible and affordable alternatives.<sup>20</sup>

Several commentators have praised the CSA model for providing accessible healthy produce to communities while providing an alternative to the globalized commercial food system.<sup>21</sup> To many of the members who decide to join a CSA, the concept represents a new incarnation of deeply held beliefs of American pastoralism—the pursuit of freedom, egalitarianism, and self-reliance.<sup>22</sup> Communal pushback to industrialization and urban sprawl can be seen dating back to nineteenth century American authors and artists.<sup>23</sup> The desire to find an intersection between technology and nature is referred to as a middle landscape, and has been a driving force behind conservation, promoting the idea that communities can pursue productivity and wealth through the cultivation of and access to nature.<sup>24</sup> In the 1950s, American pastoralism was a major driver for suburban sprawl, fulfilling the desire to obtain a small piece of land in the country and building the community feeling that was lacking in the city.<sup>25</sup> In the 1970s, younger communities lashed out against the once treasured suburban culture by again turning to American

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15. *Id.* at 43.

16. *See id.* at 43-45.

17. Thomas W. Sproul & Jaclyn D. Kropp, *A General Equilibrium Theory of Contracts in Community Supported Agriculture*, 97 *AM. J. AGRIC. ECON.* 1345, 1345 (2015).

18. Lydia Zepeda et al., *A Case Study of the Symbolic Value of Community Supported Agriculture Membership*, 45 *J. FOOD DISTRIBUTION RESEARCH* 195, 196 (2014).

19. *Id.* at 196.

20. *Id.* at 201.

21. Melea Press & Eric J. Arnould, *Legitimizing Community Supported Agriculture Through American Pastoralist Ideology*, 11 *J. CONSUMER CULTURE* 168, 169 (2011).

22. *Id.* at 169-70.

23. *Id.* at 170.

24. *Id.*

25. *Id.* at 171.

pastoralism.<sup>26</sup> This incarnation, known as the back-to-the-land movement, focused on rural communes driven by a rejection of suburban values and material wealth.<sup>27</sup> Suburbs comprised of supermarkets and shopping centers stood in stark contrast to communes focused on creating a living connection with nature and community.<sup>28</sup> Today, CSA farms provide a modern interpretation of the American pastoralist ideal while still allowing members to live in a technologically advanced urban or suburban society. CSA fosters this connection by replacing the anonymous market-based transactional relationship inherent in the supermarket or big box store shopping experience with a direct and personal relationship between the consumer and farmer and occasional access to nature that may include hands-on volunteering at the farm and weekly newsletters updating production and other farm news.<sup>29</sup>

In addition to a physical connection with nature, CSA also offers members local food that is often grown in a sustainable way, alleviating many of the concerns associated with modern industrial agriculture (*i.e.* environmental impact, food recalls, pesticide use, and opposition to genetic engineering).<sup>30</sup> For a growing sector of the population, knowing how, where, and by whom their food is produced is an important factor in purchasing decisions.<sup>31</sup> This trend is validated by the increasing growth and demand for organic foods and the local food movement.<sup>32</sup> While there are third-party verification programs and government standards for organic or other production practices, for a subset of consumers, the only way to ensure that a food was grown locally and in compliance with certain production practices is to directly purchase one's food from the farmer who grew it.<sup>33</sup> It is in this context that the CSA movement has met an evolving array of consumers needs

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26. *Id.* at 173; *see also*, GRACE GERSHUNY, *ORGANIC REVOLUTIONARY: A MEMOIR OF THE MOVEMENT FOR REAL FOOD, PLANETARY HEALING, AND HUMAN LIBERATION* 22-25 (2017).

27. Press & Arnould, *supra* note 21, at 173.

28. *Id.* at 174.

29. *Id.*

30. *Id.* at 174-75.

31. Hikaru Hanawa Peterson et al., *Preference of Locavores Favoring Community Supported Agriculture in the United States and France*, 119 *ECOLOGICAL ECON.* 64, 64 (2015).

32. *See id.*

33. *See id.* In a parody of this consumer effort, actors Fred Armisen and Carrie Brownstein in season 1, episode 1 of the TV show *Portlandia* interrogate the waitress with respect to the husbandry practices of the chicken served in the restaurant. Unconvinced, they leave their table and seek out the local farm to personally verify if the chicken was raised in humane manner. *See Portlandia: Farm* (Broadway Video Entertainment Jan. 11, 2011).

while capturing an increasing, although still very small, segment of food purchases.

Retailers and producers increasingly employ terms such as organic, local, and sustainable to describe how their products may fit into an idealized food system.<sup>34</sup> Often, the term organic serves as a proxy when discussing sustainability. For example, three out of four conventional grocery stores sell organic produce,<sup>35</sup> and according to the USDA Economic Research Service, sales of organics grew by \$6.6 billion between 2012 and 2014.<sup>36</sup> Consumer preferences are now beginning to evolve from purchasing organic items at a grocery store, to seeking out locally grown food directly from producers that are making use of sustainable farming practices.<sup>37</sup> Statistics illustrate the rapid growth of the local food movement. For example, farmers' markets have increased from 1,755 in 1994 to 8,144 in 2013.<sup>38</sup>

Defining sustainable, however, may be even more complex and fraught with similar legal uncertainty similar to the debate (and litigation) generated by use of a "natural" label on food products.<sup>39</sup> There is consensus that sustainable practices start at compliance with federal and state laws aimed to reduce dangerous pesticide use, excessive soil degradation, and nutrient run-off.<sup>40</sup> But, many in the local food movement view sustainable as much more than just certification of baseline regulatory compliance and seek products produced in a system intentionally designed to resist industrial agriculture and protect the farming ecosystem for future generations.<sup>41</sup> How CSA distinguishes their sustainability practices to

34. Cristina Connolly & H. Allen Klaiber, *Does Organic Command a Premium When the Food is Already Local?*, 96 AM. J. AGRIC. ECON. 1102, 1105 (2014) (summarizing consumer willingness to pay research with respect to organic foods).

35. U.S. DEP'T AGRIC., *Organic Market Overview*, <https://perma.cc/6A8W-BXT4> (archived Mar. 22, 2019) [hereinafter *Organic Market Overview*].

36. *See id.*

37. U.S. DEP'T AGRIC., AN ANALYSIS OF FOOD-CHAIN DEMAND FOR DIFFERENTIATED FARM COMMODITIES: IMPLICATIONS FOR THE FARM SECTOR, 7-9, <https://perma.cc/947M-95LM> (archived Mar. 22, 2019).

38. *Organic Market Overview*, *supra* note 35. The USDA, National Agricultural Statistics Service estimated that direct farm sales to consumers totaled \$3.027 billion with almost 115,000 farms engaged in direct marketing to consumers. USDA, National Agricultural Statistics Service, *Direct Farm Sales of Food*, at 2 (2016), <https://perma.cc/QE43-BQ3K>.

39. *See generally* April L. Farris, *The "Natural" Aversion: The FDA's Reluctance to Define a Leading Food-Industry Marketing Claim, and the Pressing Need for a Workable Rule*, 65 FOOD & DRUG L. J. 403 (2010) (discussing legal status of natural food labels).

40. G. Phillip Robertson, *A Sustainable Agriculture?*, 144 DAEDALUS J. AM. ACAD. ARTS & SCI. 76, 76-89 (2015).

41. Cynthia Abbott Cone & Andrea Myhre, *Community-Supported Agriculture: A Sustainable Alternative to Industrial Agriculture*, 59 HUM. ORG. 187, 187-8 (2000).

consumers is largely up to each individual operation; however, many CSAs have adopted the organic model, perhaps due to target customer's familiarity with this label.<sup>42</sup> While USDA organic certification is a straightforward way to distinguish production practices, many CSAs find the certification process overly burdensome, especially during the start-up stage.<sup>43</sup> As a result, some CSAs follow organic production practices but elect not to complete the formal USDA certification process.<sup>44</sup>

Due to the high degree of transparency and the localized nature of the CSA production model, the CSA operator, unlike national retail chains, has an opportunity to explain directly the production practices and adherence to organic principles. More curious consumers can simply visit the farm periodically to observe (or even participate in) the production.<sup>45</sup> As a result, formal USDA certification may not be as important in the CSA context.<sup>46</sup>

Third-party organizations also offer standards that a CSA can adopt by which it promises to adhere to certain production practices outside the USDA organic certification scheme.<sup>47</sup> One example is Certified Naturally Grown, a third-party certification which signals to consumers that the farm has adopted organic practices.<sup>48</sup> Due to the potential savings in time and money, these third party options may make more sense for some CSAs compared to the USDA organic certification.<sup>49</sup> In addition, some CSAs have taken their sustainability practices beyond organic and are employing other alternative farming practices such as biodynamics.<sup>50</sup> On its surface, biodynamic practices resemble organic methods but

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42. See K. Annabelle Smith, *For Many Small Farmers, Being Certified 'Organic' Isn't Worth the Trouble*, CITYLAB (Aug 13, 2014), <https://perma.cc/79YS-DR79>.

43. See *id.*

44. *Id.*

45. See generally *id.*

46. See Hillary Sackett et al, *Differentiating "Sustainable" from "Organic" and "Local" Food Choices: Does Information About Certification Criteria Help Consumers?*, INT'L J. OF FOOD & AGRIC. ECON. (July 2016) at 17, 19. A recent study found that consumers may prefer third party certification with respect to sustainability produced food rather than USDA certification.

47. *Who We Are*, CERTIFIED NATURALLY GROWN, <https://perma.cc/Y8D3-AZN4> (archived Mar. 22, 2019).

48. See *id.*

49. See *id.*

50. See generally M. Pechrová, *Determinants Of The Farmers' Conversion to Organic And Biodynamic Agriculture*, 6 AGRIS ON-LINE PAPERS IN ECON. & INFORMATICS 113 (2014); *Biodynamic Product Spotlight*, DEMETER ASSOCIATION INC., <http://www.demeter-usa.org/meet-farmers/product-spotlight-archives/biodynamic-csa.asp> (last visited Mar. 27, 2019) (listing CSA's practicing biodynamic farming methods).

may have a more holistic and ethical set of guidelines.<sup>51</sup> What is clear, however, is that CSA often seeks to further distinguish their operations from conventional marketing chains through certification measures, whether organic, naturally grown, or even biodynamic.

Although CSA is capturing an increased portion of the overall food budget and enjoy growing customer awareness and support, several challenges, centered on legal and economic risk, could restrict future expansion of this model. In Part II, we describe three unique CSA operations with the objective of better understanding the CSA risk profiles and identifying strategies to better manage the risk. In order to capture the full spectrum of the entrepreneurial nature of the CSA movement, we investigated a traditional produce-focused operation, a fresh cut flower entity, and a processed grain (*e.g.*, wheat flours, oats, etc.) business. In addition to in-depth interviews with CSA owners and managers, we conducted an on-line, anonymous survey of CSA members to identify profiles and their understanding of the shared-risk concept embedded within the theory of CSA. In Part III, we describe some of the current challenges faced by CSA operations with a particular focus on legal and economic risk management. Throughout this section, we integrate our survey and interview results as well as analysis of the CSA member agreements, to further illustrate the complex challenges of combining farming with high levels of customer engagement through direct marketing. In Part IV, we conclude with suggested strategies to improve CSA risk management, and thus enhance the social and economic sustainability of this evolving form of community food production.

## II. METHODOLOGY AND CASE STUDY OF THE CSAS

Attempting to operate in what can be considered a niche (although expanding) market, along with a need to dedicate considerable time and energy on customer relations while managing a hectic growing season, presents significant operational challenges to the CSA farmer. To build upon prior scholarship in this area and to better understand these challenges from both the owner/operator and consumer perspectives, the research team undertook a case study of three variations on the CSA model in the central Illinois region.

The team selected central Illinois due to researcher proximity to the farming operations, established relationships with many of the farm owner/operators, and survey participant familiarity with the University of Illinois. From a food shed perspective, central Illinois also offers unique opportunities as entrepreneurial farms are able to engage in direct marketing efforts not only with the local

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51. *What is Biodynamics?*, BIODYNAMIC ASSOCIATION, <https://perma.cc/A9HS-PGRP> (archived Mar. 23, 2019).



community but also with the broader Chicago metropolitan area. However, as the focus of this research project was on local communities, the three farms selected did not engage in marketing their CSA in the Chicago area. This project also benefited from a previous 2011 research effort that assisted in the establishment of a CSA, implementation of a shareholder agreement, and subsequent survey activities to assess consumer satisfaction. A spring 2016 member survey of the same CSA provided important data for comparison. With respect to methodology, the research team conducted semi-structured interviews with owner/operators of each CSA and a comprehensive on-line survey of CSA members. A brief description of each operation follows.

*A. Sola Gratia*<sup>52</sup>

Established in 2012 by the congregation of St. Matthew Lutheran Church in Urbana, Illinois, the farm consists of four acres of mixed vegetable production located adjacent to the church and within the city limits.<sup>53</sup> Prior to forming the CSA, the church rented the land to a farmer for corn and soybean production with proceeds donated to a world hunger organization.<sup>54</sup> In response to increased awareness of local food security issues, the congregation decided to transform the acreage into a vegetable CSA and contribute some of the harvest to a local food bank.<sup>55</sup> Organic production practices are followed but without formal USDA Certification.<sup>56</sup>

Originally structured as a limited liability company, the farm transitioned into a non-profit business in subsequent years and broadened engagement efforts beyond production to emphasize community outreach.<sup>57</sup> Sola Gratia offers a variety of activities and volunteer opportunities for both members of the CSA and

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52. The information in the following section was derived from an interview with the Director of Sola Gratia.

53. Approximately one third of the members of the CSA are members of the St. Matthew congregation. Interview with Traci Barkley, Director, Sola Gratia Farm, in Urbana, IL (Feb. 1, 2016).

54. *Id.*

55. Some congregation members purchase a CSA share and subsequently donate their allotment to the local food bank. In addition to these direct CSA member donations, the farm specifically allocated 20% of their crop to the local food bank for the first two growing seasons and, starting in 2015, allocates approximately 40% of the harvest to the food bank. *Id.*

56. The decision to use organic production practices was somewhat contested by the members of the congregation due to the fact that some of the church's members are conventional farmers; however, many that opposed the organic practices are now supportive of it. *Id.*

57. *Id.*

the community at large.<sup>58</sup> They encourage community members to visit the farm and assist with fieldwork, pick-up days, and special events, including movie nights in the off-season.<sup>59</sup> Community involvement is central to Sola Gratia's mission and volunteering helps create that connection.<sup>60</sup> Sola Gratia has partnered with a local park district and Farm Bureau office to offer day camp programs for local youth that helps them gain a better understanding of farming and the food supply.<sup>61</sup> The CSA also engages in agritourism, hosting several local community, school, and service groups as well as offering workshops that allow community members to learn food production skills.<sup>62</sup>

### *B. Delight Flower Farm<sup>63</sup>*

Delight Flower Farm (Delight), in Urbana, Illinois, has used the CSA model for their flower production since 2011.<sup>64</sup> Members receive a weekly, seasonal flower arrangement from mid-June through mid-August.<sup>65</sup> The arrangements include culinary herbs, berries, and greenery in addition to traditionally cut flowers.<sup>66</sup> Starting from a twenty by thirty foot plot of land in a yard, Delight now cultivates about four times the space at land leased from Prairie Fruits Farm, another local farm.<sup>67</sup> Originally operated as a sole proprietorship, the farm is in the process of transitioning to a limited liability corporation for risk management purposes.<sup>68</sup>

The local food movement has led consumers to desire attributes, such as local, seasonal, and sustainable, in more of their day-to-day purchases. Yet, 80% of flowers are imported.<sup>69</sup> While the local flower movement is not advancing as quickly as demand for local food, consumers are becoming aware of where their flowers originate and increasingly seek alternative, more sustainable sources.<sup>70</sup> The

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58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

63. The information in the following section was derived from an interview with one of the co-owners of Delight Flower Farm.

64. Interview with Maggie Taylor, Owner, Delight Flower Farm, in Urbana, IL (Feb. 11, 2016).

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.*

farm uses organic growing practices, but the lack of consumer willingness to pay for organic flowers has led Delight not to pursue organic certification.<sup>71</sup>

From the start, Delight acquired members by word of mouth.<sup>72</sup> Being involved in the community at places such as farmers' markets, yoga studios, and libraries helped the farm gain new members through personal connections.<sup>73</sup> In addition, other local produce farms have advertised Delight, further demonstrating the importance of integrated, community-based business development.<sup>74</sup> The CSA model was selected over traditional retail methods because it provides pre-season income to cover expenses, such as garden tools, soil amendments, bulbs, seeds, and plants.<sup>75</sup> Originally, the farm did not feel the need to use a member agreement, but as the farm expanded, so did the formality.<sup>76</sup> The current agreement defines the expectations and contains confirmation that the members are aware that they are sharing in the risks with no guarantees of quantities contents of weekly shares.<sup>77</sup> To accommodate members' busy schedules, Delight offers delivery service for an additional charge instead of picking up at the farm.<sup>78</sup>

From a sustainability perspective, Delight focuses on planting flowers that support pollinators such as butterflies and bees.<sup>79</sup> Any invasive plants found on the farm are harvested and incorporated into the weekly distribution rather than eradicated via pesticides.<sup>80</sup> For agronomic reasons, members do not have the opportunity to be directly involved with the harvesting of the flowers.<sup>81</sup>

In addition to the CSA, the farm has expanded into wedding arrangements and plans to sell at local farmers markets.<sup>82</sup> Some local businesses receive arrangements on a weekly basis during the growing season; Delight also offers

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71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

77. Delight feels that members are aware that they are sharing in the risk of the farm. The people who are members want to know about the farm and be involved. For example, in June 2015, many plants were flooded out or were too small due to it being the wettest spring on record. Members did not receive dahlias due to the flooding and the arrangements were very "green" at the start of the season. Delight handled this by keeping members informed through their blog. The members were aware that July and August are typically much more abundant and if there is a surplus, members sometimes receive the flowers. To date, there has not been a conflict with members regarding quantities or contents not meeting expectations. *Id.*

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. *Id.*

holiday wreaths, helping it maintain relationships with members of the community during the winter season.<sup>83</sup> The farm is not interested in competing in the wholesale market to area florists, but rather, continuing to expand the direct to consumer business.<sup>84</sup>

*C. Brian Severson Farms*<sup>85</sup>

Brian Severson Farms is located in Dwight, Illinois, with production consisting of a diverse array of grains, ranging from buckwheat to oats and everything in between (both non-GMO and organic).<sup>86</sup> In 2013, the farm started a grain CSA as a substitute for time-consuming sales at various farmers' markets.<sup>87</sup> Advertising is via word-of-mouth with members completing an online CSA agreement.<sup>88</sup>

Although advertised as a CSA, the business functions more like a subscription service,<sup>89</sup> members receive a guaranteed quantity of grain each week rather than a percentage of the total production.<sup>90</sup> The farm is able to use this model because grains are easily stored and do not have the perishability problems associated with fresh produce or cut flowers.<sup>91</sup> Deliveries to CSA members are weekly and to minimize management effort coincide with wholesale deliveries to local stores and restaurants.<sup>92</sup> Volunteering and agritourism is not encouraged, although members may visit the farm.<sup>93</sup>

### III. CHALLENGES TO THE CSA OPERATIONAL MODEL

Operational challenges exist in all organizations regardless of scale. As discussed below, however, the CSA movement's attempt to disrupt the existing agricultural supply chains through direct community involvement presents some

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83. *Id.*

84. *Id.*

85. The information in the following section was derived from an interview with the owner of Brian Severson Farms.

86. Interview with Brian Severson, Owner, Brian Severson Farms, in Urbana, IL (Mar. 3, 2016).

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.*

93. Mr. Severson notes that a grain operation is not as interesting or colorful as a vegetable farm, and thus he does not put an emphasis on agritourism and does not have insurance for on farm activities. *Id.*

unique difficulties. Understanding the nature of these issues provides important insights to improve the legal and business framework within which CSAs operate. To that end, the following section identifies three common business challenges that have unique aspects within the CSA model: risk management, member turnover, and owner compensation.

### *A. Risk Management*

For a CSA, risk management is a double edged sword. Originally developed to help farmers share production risk with their local community by offering 'shares' of the farm ahead of the growing season, this arrangement guaranteed a level of income independent of the success of the growing season.<sup>94</sup> The financial investment from the community helps the CSA farmer insure against crop failure by accepting non-refundable payment in advance.<sup>95</sup> While CSAs are relatively new, the idea of facilitating risk sharing by investing in production in exchange for a share of the result is known as an equity investment relationship.<sup>96</sup> CSAs fit the model of the equity relationship, except that CSA farmers rarely base the price of a share on a strict equity relation, often leaving the brunt of the risk on the farmer.<sup>97</sup> In addition to bearing the majority of the risk, the price of the share often does not adequately provide the farmer a fair or living wage.<sup>98</sup> Moreover, using the CSA framework may expose farmers to risks that require legal attention such as business structure, contracts, employment regulations when CSA members volunteer on the farm, insurance requirements, theft (particularly in CSAs operated in urban environments), and food safety.<sup>99</sup>

#### *1. Business Structure*

While selecting a business entity is not a unique risk mitigation strategy for CSA farms, its implications on a farmer's personal life and the success of the

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94. Johnson et al., *supra* note 9, at 26.

95. Mark Cannella, *Risk Sharing Implications for Today's CSA Farm*, ON PASTURE (March 3, 2014), <https://perma.cc/A2S4-3CXD>. This protection was tested during the drought of 2012 in the Midwest as the authors learned of three farms failing to deliver vegetables. One customer contacted an attorney asking about refunds for the \$560 CSA share. *See also* Johnson et al., *supra* note 9, at 27.

96. Ryan E. Galt, *The Moral Economy is a Double-Edged Sword: Explaining Farmers' Earning and Self-Exploitation in Community-Supported Agriculture*, 89 *ECON. GEOGRAPHY* 341, 344 (2013).

97. *Id.*

98. *See infra* Section III, Part vii, subpart 4, notes 166-79 (discussing owner compensation and economic sustainability).

99. Johnson et al., *supra* note 9, at 28.

business are worth noting. Within the CSA community—on both the farm operator and consumer side—there is an underlying resistance to corporate forms tied to the underlying moral economy that rejects food production solely for a profit, and rather focuses on the purpose of feeding people and establishing exchanges based in community, loyalty, and reciprocity.<sup>100</sup> Accordingly, reluctance to establish a liability shielding business entity and relying instead on the default sole proprietorship or general partnership may not be an inherently wrong business strategy given the nature of this buyer-seller relationship, but it nonetheless does expose the farm operator's personal assets to the business's liabilities.<sup>101</sup> Moreover, as these often start as small businesses on rented land, a sole proprietorship offers simplicity, low cost, and an ability to focus on production rather than corporate formalities.<sup>102</sup> How to manage this liability exposure throughout the lifecycle of the CSA business presents unique communication challenges between the CSA owner and members, especially those members who view the farmer as a personal friend so long as the produce continues to arrive in sufficient quantity and quality every week. But as is often the case and when a liability shield is most needed, it is when production is not meeting expectations due to weather or other factors and these personal relationships become strained.

## 2. Contracts and Agreements

The nature of a CSA is risky for the members; there is no guarantee that their investment ahead of the season will bring the weekly bounty they envision when signing up. Part of the problem is that without an agreement, the member may misunderstand the relationship as well as what is or should be a CSA. For example, a member buying a share in the CSA may be surprised to find the farmer selling produce at the weekly farmers market, as those shares in the member's view, should be allocated to the shareholders that exposed themselves to production risk before the growing season. Because of the uncertainty and unfamiliarity with this novel type of food distribution arrangement, it is important for CSA owners to manage expectations and explain exactly what the member can expect from their purchase of a share.<sup>103</sup> Often, the CSA's best option for expectation management is to implement a CSA member agreement—a signed document that outlines member and farmer obligations. The agreement should include information for harvest

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100. See Jack Kloppenburg, Jr. et al., *Coming in to the Foodshed*, in *ROOTED IN THE LAND: ESSAYS ON COMMUNITY & PLACE*, 113-14 (William Vitek & Wes Jackson ds., 1996).

101. See generally RACHEL ARMSTRONG ET AL., *FARMER'S GUIDE BUSINESS STRUCTURES* (2017) (ebook).

102. Interview with Maggie Taylor, *supra* note 64.

103. See Johnson et al., *supra* note 9, at 27; *CSA Introduction*, ILLINOIS DIRECT FARM BUSINESS, <http://www.directfarmbusiness.org/csa-introduction/> (last visited Mar. 23, 2019).

pickup procedures, a detailed explanation of the shared risk and reward, and how the CSA will distribute produce in both seasons of plenty and crop failures.<sup>104</sup> For example, an agreement could specify examples of shared risk situations in which weather challenges prevent harvest and therefore cancellation of a weekly produce share.<sup>105</sup>

But much like the underlying resistance to corporate forms and liability shielding discussed above, some in the CSA community adamantly oppose the formality of a written agreement, preferring instead a mode of direct personal communications with the members at the weekly produce pickup site and/or via emailed newsletters with updates on production. In some cases, CSA sign-ups at the start of the season may be as simple as writing a name on a sheet of paper and later sending in a check.<sup>106</sup> Again, there is nothing inherently wrong with this trust based system in attempting to build a community-based food system with shared responsibility. But when risk is realized and expectations not met, the lack of a formal agreement to fall back upon and to manage these expectations from the outset can lead to further problems.

All of the farms subject to this research employ a member agreement with varying levels of formality. On one side of the spectrum, Sola Gratia's agreement, while promising a twenty-four week season, includes a single sentence regarding risk: "I understand that I share in the risk and in the bounty of the farm."<sup>107</sup> Delight Flower Farm, on the other hand, which originally started with no member agreement, now clearly and specifically outlines the partnership aspect of the farm, types of weather or agronomic risk that could be encountered, and offers no guarantee of quantities or contents while promising its best efforts.<sup>108</sup> The opening paragraph of the two page document details the partnership and risk aspects.<sup>109</sup> These concepts are reinforced directly above the signature line on the contract with

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104. *Id.*

105. Johnson et al., *supra* note 9, at 27.

106. Interview with Maggie Taylor, *supra* note 64 (discussing gradual change to member agreement).

107. Member Agreement, Sola Gratia Farm (on file with author).

108. Member Agreement, Delight Flower Farm (on file with author) The risk sharing aspects of the Delight Flower Farm CSA agreement note, "A CSA is a partnership between the members and the farmers. At the core of CSA is the idea that members support their farmer by sharing in the inherent risks of agriculture (poor weather, drought, disease, early frost, crop failure and so on) and rewards (the bounty from a good season). Therefore while Delight Flower Farm will act in good faith to provide fresh, beautiful, chemical-free flowers for the 10-week season. There is no guarantee of quantities or contents of weekly shares."

109. *Id.*

a repetition of the risk aspects and that “nature ultimately determines what I receive.”<sup>110</sup>

Our survey of CSA members revealed a need to reinforce the shared risk aspects of joining a CSA. The single sentence, “I understand that I share in the risk and in the bounty of the farm” contained in the Sola Gratia membership agreement did not translate into a significant correlation between understating risk and signing an agreement of those members surveyed.<sup>111</sup> Moreover, there was a weak and non-statistically significant correlation between understanding shared risk and years of membership in a CSA.<sup>112</sup> From a farmer’s perspective, shared risk is at the core of the CSA model, and yet this survey revealed that increased educational efforts may be needed regardless of the member agreement or prior member experience with CSAs.

### 3. Employment

Often overlooked by CSA farmers, unintentional employment can be a substantial risk. Volunteers, interns, and worker shares may create employment relationships with legal implications.<sup>113</sup> The community based aspect of a CSA make unpaid internships common on CSA farms because members want to be involved and connected to their food.<sup>114</sup> However, courts have devised a test which includes the consideration of seven factors for when an intern can be paid less than minimum wage.<sup>115</sup> The test requires that the employer derives no immediate advantage from the activities of the intern, which is almost impossible in a for-

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110. *See id.*

111. A Pearson’s product-moment correlation was run to assess the relationship between whether respondents understood the risk involved with a CSA and whether respondents recall signing an agreement that described the risk involved in a CSA. There was a weak positive correlation between whether a respondent understood shared risk and whether they recalled signing an agreement that described the risk,  $r(47)=.065$ ,  $p > .665$ , understanding shared risk in a CSA explained .4% of the variation in whether people remember signing an agreement that described the shared risk.

112. A Pearson’s product-moment correlation was run to assess the relationship between how many years respondent has been a member of the CSA and whether respondents understood the shared risk involved with a CSA. There was a weak positive correlation between being years being a member of the CSAs and understanding the shared risk,  $r(56)=.068$ ,  $p > .0005$ , with years in a CSA explaining .4% of the variation in how people understand shared risk.

113. Johnson et al., *supra* note 9, at 28.

114. *See infra* Section III, Part vii, notes 134-79 (discussing turnover).

115. U.S. DEP’T LAB., FACT SHEET #71: INTERNSHIP PROGRAMS UNDER THE FAIR LABOR STANDARDS ACT (2018), <https://perma.cc/W3MC-4H9Y>.



profit business model.<sup>116</sup> CSAs (if not exempt from minimum wage under the farming exception),<sup>117</sup> however, may pay part of any wage due to interns with produce, meals, or on-site lodging.<sup>118</sup> A more common occurrence in the CSA context is the worker share, in which CSA members engage in a set number of hours of work in exchange for their CSA share. Similar to interns, worker shares may also fall under the federal labor law classification for employees, triggering minimum wage rules.<sup>119</sup>

#### *4. Insurance*

CSA farmers experience increased risk in production. Often the farm's philosophy may include limited use of chemical controls, which can lead to vulnerability from insects, weather, and other external influences.<sup>120</sup> Crop insurance is available for agricultural commodities, but a farm with diverse vegetable production often is either unable to buy crop insurance, or it is prohibitively expensive.<sup>121</sup> The CSA model itself helps farmers manage this risk by ensuring that the CSA owners collect money up front that is independent from the success of the harvest for the season.<sup>122</sup>

In addition to crop failure, the CSA model opens the farmer to personal injury liabilities that would most likely not arise in a conventional farming operation.<sup>123</sup> Volunteers and members, often with limited experience, may either work on the farm or visit the farm to pick up their share. Farming as an occupation carries a high risk of injury<sup>124</sup> that may not be obvious to the casual volunteer or CSA member, creating unique insurance challenges.<sup>125</sup> Farm liability or commercial policies, may cover visitors to the farm, but generally do not cover injuries to volunteers because, as discussed above, volunteers are considered employees, which are excluded under many policies.<sup>126</sup> Accordingly, CSAs with active volunteer or worker share programs need to explore carefully options to minimize

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116. *Id.*; see also, Johnson et al., *supra* note 9, at 27.

117. U.S. DEP'T LAB., *supra* note 115; see also Johnson et al., *supra* note 9, at 27.

118. *Id.*

119. *Id.*

120. A. Bryan Endres & Rachel Armstrong, *Community Supported Agriculture and Community Labor: Constructing a New Model to Unite Volunteers and Employers*, 43 SW. L. REV. 371, 379 (2014).

121. *Id.*

122. See *id.*

123. See Johnson et al., *supra* note 9, at 28.

124. *Id.*

125. See Johnson et al., *supra* note 9, at 28.

126. See *id.*

liability such as insurance products or waivers.<sup>127</sup> The importance of these measures is magnified if the business operates outside of a liability shielding entity such as an Limited Liability Company.

### 5. Theft

While not well documented in the CSA or urban agriculture literature, many CSAs are located within close proximity to populated areas. A quick google search and anecdotal evidence identifies several examples of CSA's falling victim to theft, including tools and equipment, as well as produce.<sup>128</sup> In one instance, a CSA farm's entire collection of power tools, including both of the farm's heavily relied on tillers, were stolen.<sup>129</sup> The farm operated on a shoestring budget, buying one "big" item or piece of equipment each summer, and with everything gone, faced financial ruin.<sup>130</sup> As an example of the power of engagement with the local community, an individual started a crowdfunding campaign on Indiegogo that enabled the farm to repurchase the equipment.<sup>131</sup> The community that the CSA helped to develop ended up coming to the farm's rescue.

### 6. Food Safety

The FDA Food Safety Modernization Act (FSMA), passed in 2011, is the most extensive overhaul of the Federal Food, Drug, and Cosmetic Act since it was introduced in 1938.<sup>132</sup> The purpose of the FSMA is to shift regulations towards prevention of foodborne outbreaks by imposing formal food safety rules on unprocessed fruits and vegetables at the farm level.<sup>133</sup> Many of the final rules have

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127. See generally A. BRYAN ENDRES ET AL., URBAN AG LAW, MODEL FARM VOLUNTEER WAIVER GUIDE, <https://perma.cc/8LNQ-S9UL> (archived Mar. 23, 2019) (discussing waivers in the CSA context); Bryan Endres & D.L. Uchtmann, *Survey of Illinois Law: The Latest Twist on the Illinois Recreational Use of Land and Water Areas Act: Clamping Down on Landowner Immunities*, 29 S. ILL. U. L. J. 579 (2005) (discussing landowner liability for injuries to visitors).

128. Steven McFaden, *Double Burglary Stuns Longtime CSA Farm*, CALL OF THE LAND, <https://perma.cc/DZX5-6X75> (archived Mar. 23, 2019); Interview with Maggie Taylor, *supra* note 64; Interview with Traci Barkley, *supra* note 53.

129. McFaden, *supra* note 128.

130. *Id.*

131. See *Help Save a Burglarized CSA – Community Farm*, INDIEGOGO, <https://www.indiegogo.com/projects/help-save-a-burglarized-csa-community-farm> (last visited Mar. 23, 2019).

132. Nicholas R. Johnson & A. Bryan Endres, *Small Producers, Big Hurdles: Barriers Facing Producers of Local Foods*, 33 HAMLINE J. PUB. L. & POL'Y 49, 77 (2012) (describing numerous legal hurdles for the local food producer).

133. Johnson et al., *supra* note 9, at 28.

exceptions or exemptions for small farms that will encompass most CSAs.<sup>134</sup> However, even though exempt, failure to implement good manufacturing practices on the farm can lead to outbreaks of food borne illnesses, costly law suits and fines if traced back. Accordingly, food safety, regardless of the applicability of regulatory mandates, is a substantial risk to the CSA operation, again which may be mitigated via liability insurance policies.

### *7. Member Turnover*

As a general principle, businesses seek to minimize customer turnover.<sup>135</sup> In the CSA model, year-to-year loss of consumers presents a significant market risk,<sup>136</sup> with 60-70% retention rates considered good. Many farms do far worse.<sup>137</sup> As a consequence of high turnover, operations must divert financial and management resources toward recruitment. CSAs frequently acquire members by word of mouth, newspaper articles, radio, and flyers distributed at local businesses.<sup>138</sup> Incentivizing current members to find potential members through a referral system can mitigate some of the sales and marketing burden.<sup>139</sup> As discussed in more detail below, the factors influencing a members' decision to rejoin include convenience, lack of choice, lifestyle, and community aspects. Accordingly, CSA operators need to recognize these factors and actively plan to minimize turnover.

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134. Lisa R. Schlessinger & A. Bryan Endres, *FDA's New Rule for Preventive Controls for Human Foods*, FARMDOC DAILY (Oct. 30, 2015), <https://perma.cc/BT8B-PP5Y>; see generally A. Bryan Endres & Lisa R. Schlessinger, *FDA Revises Definition of "Farm,"* FARMDOC DAILY (Oct. 7, 2015), <https://perma.cc/SB5L-XADG>.

135. Reducing turnover is even the subject of at least one patent application. See U.S. Patent No. US20020198782A1 (filed June 19, 2002).

136. Cannella, *supra* note 95.

137. See John Good & Aimee Good, *Keeping your CSA members*, RODALE INSTITUTE, (Jan. 7, 2014) at <https://rodaleinstitute.org/keeping-your-csa-members/>. For example, Small Farm Central found an average retention rate of 46.1% for the 2015 growing season. See Simon Huntley, *CSA: We Have A Problem*, HARIVE BLOG (July 11, 2018), <https://perma.cc/N6E2-G9C9>.

138. See Debbie Roos, *Community Supported Agriculture (CSA) Resource Guide for Farmers*, GROWING SMALL FARMS, <https://perma.cc/Y52T-FFN6> (archived Mar. 23, 2019); Megan L. Bruch & Matthew D. Ernst, *A FARMER'S GUIDE TO MARKETING THROUGH COMMUNITY SUPPORTED AGRICULTURE (CSAs)* 8 (2010), <https://perma.cc/J56N-ZR32>.

139. Jane M. Kolodinsky & Leslie L. Pelch, *Factors Influencing the Decision to Join a Community Supported Agriculture (CSA) Farm*, 10 J. SUSTAINABLE AGRIC., no. 2, 1997 at 129, 139-40.

i. Convenience

Many members leave because they find the process inconvenient.<sup>140</sup> Farms have a specified day of the week and timeframe to come to the farm or a central location to pick up their weekly share. In our 2011 member survey, 70% of recipients identified convenience and time saving aspects of the CSA as a motivation for membership. This jumped to 85% in our 2016 survey. However, the inconvenience of having to pick up a weekly share at a designated time and place is a significant reason for member turnover. Recognizing the potential inconvenience in work or family schedules, some CSAs offer a home delivery service for an additional fee.<sup>141</sup> With summer vacations often happening during the primary growing season, farms may consider offering a modified vacation share to retain these members.<sup>142</sup> Adding further flexibility for the member, but also management costs, other options include biweekly shares, half shares to minimize waste and cost, and membership sharing.<sup>143</sup> These options require a balancing at the individual farm level between the need to increase customer convenience to minimize turnover versus the increased management costs during a busy growing season.<sup>144</sup>

ii. Lack of Choice

Unlike previous generations, today's consumers are conditioned to expect ready availability of virtually any variety of fresh vegetable and fruit at any time throughout the year, often without an appreciation of seasonality or place.<sup>145</sup> Eating seasonably from a CSA's harvest can radically disrupt these notions of the food supply and may leave CSA members feeling limited in their eating options when faced with a type and quantity of food that they were not able to select themselves.<sup>146</sup> For example, a common complaint among members is too much of one vegetable or too little of another based on harvest timing.<sup>147</sup> An exchange box, or swap table

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140. Patrick McLaughlin & Christopher D. Merrett, *Community-Supported Agriculture: Connecting Farmers and Communities for Rural Development*, 13 RURAL RES. REPORT, Spring 2002 at 5.

141. Interview with Maggie Taylor, *supra* note 64.

142. Cone & Myhre, *supra* note 41, at 190-91 (discussing motivations for joining a CSA).

143. See Roos, *supra* note 138 (discussing share price and payment).

144. See e.g., Bruch & Ernst, *supra* note 138, at 10-11 (discussing management cost of customizing shares).

145. Craig J. Thompson & Cokcen Coskuner-Balli, *Enchanting Ethical Consumerism: The case of Community Supported Agriculture*, 7 J. CONSUMER CULTURE 275, 276-77 (2007).

146. *Id.* See also Cone & Myhre, *supra* note 41, at 191 (discussing "supermarket withdrawal").

147. Cone & Myhre, *supra* note 41, at 191 (discussing "supermarket withdrawal").

to trade items with other members is a simple, albeit limited means, to adjust distributions to meet member preferences with low management costs.<sup>148</sup> To enable even more choice, some farms allow members to semi-customize their produce options within certain parameters, or choose a “Box A” or “Box B” distribution.<sup>149</sup>

Most CSAs provide some level of direct or indirect consumer education about choice and seasonality via a weekly newsletter with recipes and ideas on how to prepare the items in their boxes.<sup>150</sup> This can alleviate concerns regarding consumption of excess produce or how to deal with vegetable varieties that may be unfamiliar and not commonly found in traditional grocery outlets. The weekly newsletter is also a valuable opportunity to update members on the status of the growing season, what might be available in future weeks, and otherwise reinforce the risk sharing aspects of the operation discussed above.<sup>151</sup> In addition, member satisfaction surveys can help individual farmers discover member preferences for the amount and variety of produce to better meet expectations, consumer trends, and plan for future growing seasons.<sup>152</sup>

The CSA is not a one-stop shop for household grocery needs. In response, many are developing “add-on” options for pickup at the farm or delivery site.<sup>153</sup> For an additional fee, members can order eggs, meat, flowers, honey, grains, beans, dairy products, berries, and fresh herbs from other local farms, with the CSA serving as the distribution hub.<sup>154</sup> This allows members to purchase a larger percentage of their weekly food needs through the CSA and further expands local food networks. Although CSAs are unlikely to provide the complete food needs for most households, the community feedback mechanisms foster innovation and engagement that undoubtedly will further expand the reach of CSAs in the food pathways of its members.

Eating seasonally and within the varieties provided by the CSA often entails a substantial departure from routines.<sup>155</sup> Farmers stated that the change from being a consumer to being a member of a farm brought many challenges<sup>156</sup> but also provided an opportunity to diverge from convenience oriented lifestyles, such as

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148. See generally SUSTAINABLE CONNECTIONS, FARM FRESH WORKPLACE TOOLKIT, <https://perma.cc/P9VK-KRSP> (archived Mar. 23, 2019).

149. See generally *id.*

150. See Roos, *supra* note 138.

151. See *id.* (discussing the benefits of newsletters).

152. See, e.g., Cone & Myhre, *supra* note 41, at 191 (noting that all farmers in their study actively sought shareholder input through surveys).

153. Bruch & Ernst, *supra* note 138, at 4.

154. *Id.* at 4; Roos, *supra* note 138 (identifying options for other CSA products and supplementing products from other farms).

155. Cone & Myhre, *supra* note 41, at 190-91 (discussing motivations for joining a CSA).

156. *Id.*

fast foods and microwaveable meals.<sup>157</sup> Learning how to cook with new produce options and adapt to a seasonal way of approaching meals minimizes what may at first seem to be a lack of choice and increases the likelihood of staying with the CSA.<sup>158</sup>

### iii. Lifestyle/Community Aspects

Although grounded in the community, CSAs vary in the degree of community participation. Some members just pick up their shares at the designated time/place, while other farms actively seek to involve members in the day to day operations of the farm.<sup>159</sup> Members often identify a spiritual connection to the land when they are directly involved and investing in the production.<sup>160</sup> Others view the membership as a simple economic exchange for locally grown food.<sup>161</sup> Not surprisingly, high participation in the farm correlates with a broader understanding of the CSA model and more commitment to the values that it holds.<sup>162</sup> Moreover, based on our CSA member surveys, a statistically significant positive correlation was found between CSA members that garden at home and those members that place a high value on visiting and connecting with the farm and impact turnover.<sup>163</sup> Accordingly, activities that link these two concepts may reinforce the community aspect of CSA membership. Although a community aspect is not typically one of the main reasons consumers join, efforts by the farm to build a sense of community can foster further development of the CSA.<sup>164</sup> CSA farms often hold social events on the farm, such as tours or festivals to further integrate themselves into the community.<sup>165</sup> Others make efforts to host events both on and off-farm during the off-season to maintain relationships and community engagement.<sup>166</sup>

In sum, in order to achieve commitment, the members and farmers need to share certain values to fit the CSA model. Inconvenience, lack of choice, and

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157. Thompson & Coskuner-Balli, *supra* note 145, at 284-86.

158. Cone & Myhre, *supra* note 41, at 190-91 (discussing motivations for joining a CSA).

159. *Id.* at 194.

160. *Id.*

161. See Schnell, *supra* note 1, at 558.

162. Cone & Myhre, *supra* note 41, at 194.

163. A Pearson's product-moment correlation was run to assess the relationship between whether a member gardens at home and how important visiting and connecting with the farm is to the member. There was a moderate positive correlation ( $p > .012$ ).

164. Cone & Myhre, *supra* note 41, at 191 (discussing potential for CSAs to link members into a community system and yet relative low ranking as motivation for joining a CSA).

165. McLaughlin & Merrett, *supra* note 140, at 4.

166. Interview with Traci Barkley, *supra* note 53.

lifestyle changes all play a role in member retention and sustainable CSA business models. Countering these negative influences, our survey found a significant increase in the percentage of respondents that identified knowing where their food was grown as very important (from 32 to 45%); supporting the community as a very important goal for the CSA (from 41 to 50%) and the importance of eating sustainably (from 47 to 58%). These trends identify areas of potential emphasis for retention efforts and perhaps ideas for clearer communication of how the farms can meet CSA member preferences.

#### iv. Owner/Operator Compensation

Dependence on variable cash flows from fluctuating market prices, combined with the need to finance inputs (*e.g.*, seeds, fertilizers, labor, etc.) several months before harvest often results in liquidity stress and cash flow issues for medium and small-scale direct farm operations.<sup>167</sup> The CSA model, in which the consumer purchases shares before the planting season in return for a portion of the harvest, seeks to ameliorate the timing problem.<sup>168</sup> Moreover, a fundamental pillar of the moral economy<sup>169</sup> aspects of the CSA concept is the principle of providing the farmer a fair price, thereby enabling a living wage and freedom from the commodity treadmill of industrialized production models.<sup>170</sup> Despite the growth and popularity of CSAs among consumers<sup>171</sup> and the CSA operators,<sup>172</sup> national CSA surveys and more individualized case studies repeatedly have found that CSA farmers fail to receive a fair wage more often than not.<sup>173</sup>

167. S.F. Sabih & L.B.B. Baker, *Alternative Financing in Agriculture: A Case of the CSA Method*, 524 ACTA HORT 141, 142 (2000).

168. *Id.* at 141.

169. See Kloppenburg et al., *supra* note 100, at 115 (describing the moral economy as focused on human needs in addition to the otherwise atomistic market relationships dominated by a narrow view of supply, demand and ability to pay).

170. Galt, *supra* note 96, at 348; Schnell, *supra* note 1, at 551-52.

171. See Marissa Peretz, *How Is Our Culture Changing The Way We Eat?*, FORBES (Nov. 29, 2017), <https://www.forbes.com/sites/marissaperetz/2017/11/29/is-american-culture-changing-the-way-we-eat/#5c4d1061254f>.

172. Erin Tegtmeier & Michael Duffy, LEOPOLD CTR. SUSTAINABLE AGRIC., COMMUNITY SUPPORTED AGRICULTURE (CSA) IN THE MIDWEST UNITED STATES: A REGIONAL CHARACTERIZATION 17 (2005), <https://perma.cc/KX2P-HFGJ>.

173. Cheryl Brown & Stacy Miller, *The Impacts of Local Markets: A Review of Research on Farmers Markets and Community Supported Agriculture (CSA)*, 90 AM. J. AGRIC. ECON. 1296, 1299-1300 (2008); Galt, *supra* note 95, at 353; Tegtmeier & Duffy, *supra* note 172, at 4.

Theoretically, the CSA share price should cover costs (fixed and variable), while yielding a fair return for the operator's labor.<sup>174</sup> In fact, less than half (46%) of the CSA farmers responding to a 2001 survey expressed satisfaction that share prices covered operating costs, and 48% were unsatisfied with their personal compensation from the farming enterprise.<sup>175</sup> A 2005 study of Midwest CSA farmers found similar results with only 43% reporting that the share price provided a fair wage with the majority of farmers expressing that they are overworked and underpaid.<sup>176</sup>

Despite these wage statistics, 84% of the CSA farmers surveyed expressed satisfaction most of the time, indicating that the intangible benefits associated with this alternative approach to farming and producing healthy food for customers with personal relationships may compensate for the lack of financial reward for their labor.<sup>177</sup> Nonetheless, there is substantial data indicating self-exploitation in the CSA model whereby farmers neglect the costs of their own compensation.<sup>178</sup>

But even if CSA farmers collectively value the positive lifestyle aspects of their work (*e.g.*, autonomy, relationships, agronomy) more than the economic return on labor,<sup>179</sup> one must recognize that the CSA concept exists within a broader economy subject to competition and strategic implementation.<sup>180</sup> Although the number of CSAs in the United States has grown, the statistics do not reveal the number of farms that have abandoned the CSA model or if the financial return is inadequate to sustain operations.<sup>181</sup> Thus, the stability of the CSA enterprise at both the individual farm and macro level must address the issue of share price and owner compensation/return on investment.<sup>182</sup>

#### IV. CONCLUSION: STRATEGIES FOR IMPROVING SOCIAL AND ECONOMIC SUSTAINABILITY

Community stewardship embedded in the CSA model combines elements of environmental, social and economic sustainability. Agronomic innovations, often employing organic principles, tend to enhance the environmental stewardship of

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174. Brown & Miller, *supra* note 173, at 1299.

175. *Id.*

176. Tegtmeier & Duffy, *supra* note 172, at 16.

177. Brown & Miller, *supra* note 173, at 1299; Galt, *supra* note 96, at 347.

178. Galt, *supra* note 96, at 349.

179. *Id.* at 353.

180. *Id.* at 361 (noting low barriers to entry that may erode economic rents through competition and the evolution of traditional food retailers to accommodate consumers such as delivery services).

181. Tegtmeier & Duffy, *supra* note 172, at 6.

182. Galt, *supra* note 96, at 362; Tegtmeier & Duffy, *supra* note 172, at 6.



community natural resources. However, the social and economic aspects of CSA sustainability, as illustrated by the challenges discussed in Part III, have proven more elusive. The basic transactional model of cash up front for an uncertain quantity of produce delivered at some point in the future may work for some CSAs, but may not be economically sustainable at a broader level, especially when factoring in risk, owner compensation, and increasing competition from supermarkets in the local foods/organic sector.<sup>183</sup> Accordingly, this research attempted to isolate some key macro issues in the CSA food network model to improve social and economic sustainability.

Several commentators have noted the importance of communication between the CSA farmer and members.<sup>184</sup> In general terms, this could be modeled as a hub-and-spoke network in which the farmer serves as the information hub and engages with members through newsletters and direct one-on-one communication. This certainly is an important and necessary element of CSA community building, but also places the burden on the already busy farmer to create and sustain the network. Healthy and economically vibrant networks, however, tend to foster communication in more of an array pattern with active engagement between individual community members, rather than funneling the social capital building aspects of the CSA through the farmer.<sup>185</sup> CSAs that can foster diverse cross-member communications are likely to build a stronger and more durable sense of connection and commitment that adds to the farm's resilience. Moreover, to the extent those communication networks can incorporate non-CSA members, the power of the CSA to transform the broader food system is enhanced.

In our research, the Sola Gratia CSA has, perhaps unintentionally, but nonetheless effectively, adopted this model. Originating from the vision of the church's congregation, the CSA has spread to non-church members and actively engages with groups (*e.g.*, food banks, park districts, schools) in the surrounding area through coordinated outreach activities. In doing so, the CSA was able to rely and then build on the existing social connections and communication networks of the congregation to bring new members into the CSA operation and increase its impact on the community.

In addition to rethinking strategies for creating communication networks, some CSAs could benefit from a re-conceptualization of economic risk and

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183. See Thompson & Coskuner-Balli, *supra* note 145, at 275-76 (discussing uncertainly aspects of CSA membership).

184. See Roos, *supra* note 138 (noting the importance of member education); BRUCH & ERNST, *supra* note 138, at 8.

185. Nathan Eagle et al., *Network Diversity and Economic Development*, 328 SCIENCE 1029, 1030 (2010) (finding a strong correlation between the diversity of individuals relationships and the economic development of communities).

sustainability. Production risk is front and center in the mind of most CSA operators, but, as our research revealed, poorly understood by the membership. Clearer member agreements and periodic updates/reminders in farm initiated newsletters are two primary strategies. As described above, farms have wide-variety in how this is communicated to members in their respective agreements. Poor harvests also present an opportunity to engage a multi-faceted communication network that enables members to share their experiences and engage in the farm rather than experience disappointment and lack of understanding in the risk-reward relationship.

Economic sustainability also must address liability risk. Once identified, this risk can be managed in the context of better understanding employment rules for volunteers, insurance products and liability waivers. Unfortunately, many CSAs simply ignore these potential hazards. Similarly, owner compensation as an element of economic sustainability should be addressed explicitly and communicated adequately to members that participate in this form of the moral economy.

Finally, membership turnover, rather than viewed as inevitable or a management problem could be viewed from an economic risk/sustainability perspective. Strategies to minimize turnover, through addressing the issues of convenience, product choice and community, can enhance economic sustainability by providing more stable income streams that enable longer-term planning. CSA's could expand their annual, post-season surveys to identify more precisely member motivations, trends and areas of potential emphasis in operations that would have a spillover effect on retention.

Much of the success of CSAs lies in providing an alternative food supply chain that connects consumers with local farms and the development of a vibrant food-based community. Yet in the daily grind of planning, production, harvest and distribution, the community-building aspects that lead to and support social and economic sustainability can be marginalized. Accordingly, CSAs should periodically engage in intentional resilience planning to support and expand their place in these new food networks.