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For Immediate Release

American Factoring Association Advocates for Rule Change in New York

AVILA BEACH, CA, November 17, 2022 –The American Factoring Association (AFA) recently filed comments with the Office of General Counsel, New York State Department of Financial Services regarding proposed rulemaking implementing S 5470-B (23 NYCRR 600) or Disclosure Requirements for Certain Providers of Commercial Financing Transactions. The AFA pointed out the complexities of the rule as written and possible unintended consequences and offered the organization's expertise to help revise the rule.

Filing the comments supports the AFA's mission to educate policymakers on factoring and the availability of working capital for financing America's small businesses.

"Factoring is a different transaction than the traditional commercial loans that regulatory agencies are familiar with," said Cole Harmonson, President of the AFA. "Given the difficulties in applying disclosures intended for a lending transaction to the sale and purchase of accounts receivable – a totally different form of transaction – we respectfully request the New York State Department of Financial Services consider further revision, and that they work with the AFA to craft disclosures specific to factors that will enable them to comply with the regulations."

The AFA pointed out that the inherent distinctions between factoring and the lending of money to borrowers makes the application of the regulation to factoring difficult, if not impossible, with regard to predicting amount financed, finance charge, calculating an APR and total cost of the factoring facility. The comments also emphasized the importance of uniformity of disclosures for factors who work in multiple states and pointed to California's recently finalized disclosure regulation as an example.

"Smaller factors have limited resources to devote to compliance implementation and monitoring, and uniformity would reduce their compliance burden," Harmonson said.

The AFA also urged the New York State Department of Financial Services to consider providing additional safe harbor for unintentional errors made in good faith due to the complexities they noted. Failure to take this step could lead to factors in other states refusing to do business in New York, which would have the perverse effect of reducing the availability of working capital for New York small businesses.

"We remain available for consultation and would be glad to arrange for AFA members to assist and provide more detail on the implementation issues," Harmonson said.

For more information about the American Factoring Association, please visit www.americanfactoring.org.

About the American Factoring Association

The American Factoring Association (AFA) was founded in 2009 with the sole purpose of educating the public and policymakers on the availability of working capital for financing America's small businesses and to conduct efforts in support of increasing working capital financing. It is a non-profit 501 (c) 6 corporation. The AFA has conducted over 200 meetings with various officials, including U.S. Senators and Congressmen, with the goal of educating the value that Factoring drives to the business community and economy. For more information visit www.americanfactoring.org.