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SPECIAL OFFER FOR ALL IFA MEMBERS!

We would like to offer all IFA members a free copy of the World Factoring Yearbook 2015 – the definitive review of the global factoring industry, ($220 RRP) - with every delegate place booked for RFIx Madrid 2015. To receive your free copy, quote RFIXIFA1 when booking.
FROM THE EXECUTIVE DIRECTOR

BY BERT GOLDBERG

Registration for the 2015 Annual Conference is running about 30% higher than last year. We expect this year’s event to be the largest event, attended by more commercial finance companies than any other event.

This year’s convention will offer more sessions, more speakers, more exhibitors and more networking time than ever before. On the networking side, new this year will be our speaker and social event designed for Women in Commercial Finance. Colette Carlson will be speaking on Thursday afternoon and will offer an educational and informative lecture combined with a reception. Additional networking events are our golf tournament, RMP Welcome Reception, Bibby Social, Tax Guard Dessert Reception, Culinary Culture Walking Tour, Spouse Tour, Breakout lunch for Small Factors and Transportation Factors, Closing Event at House of Blues, and a Swamp Tour. Not only do we have a multitude of events for factors of all sizes, we are continuing to run our International track, making this the number one event for those in the trade finance sector. Given all of the excitement we have planned for this year, it’s no surprise that early registration is running higher than any previous year.

Detailed conference information can be found on page 19.

The IFA has released our biennial survey of the Factoring Industry. This will be the fifth year we’ve conducted this business profile and performance survey and it is the only survey of its kind to determine exactly how the factoring industry is operating and performing. If you offer factoring, we would really appreciate you taking a moment to complete the survey. For those that do participate, you will receive a copy of the report ($500 value) as well as a report comparing your responses to other factors of similar makeup. Your responses to the survey are completely confidential and are only seen by our survey company, Industry Insights. You can find the survey online at www.factoringsurvey.com or contact Scott Hackworth at Industry Insights for more details at SHackworth@industryinsights.com.

The AFA is continuing their work in support of the factoring industry. The biggest concern that the AFA is currently monitoring is Operation Chokepoint and its effect on factors. Although Operation Chokepoint is not supposed to affect our industry, we have found that a number of members have been adversely affected. Our Lobbyists, Jones Walker, are preparing a report detailing how the indirect effect of this initiative is hurting our members. The AFA is also continuing its survey on the factoring industry and how factors benefit the US economy. If you have not participated in this survey and you are a US based factoring company, we would appreciate your assistance. You can contact the AFA at info@americanfactoring.org for more details.

Thank you for your continued support of the IFA. I look forward to seeing you in New Orleans.
The International Factoring Association’s (IFA) goal is to assist the factoring community by providing information, training, purchasing power and a resource for factors. The IFA provides a way for commercial factors to get together and discuss a variety of issues and concerns about the industry. Membership is open to all banks and finance companies that perform financing through the purchase of invoices or other types of accounts receivable.

The Commercial Factor is published bi-monthly by the International Factoring Association. To subscribe, please email info@factoring.org.

The Commercial Factor magazine invites the submission of articles and news of interest to the factoring industry. For more information on submitting articles or advertisements, email news@factoring.org, or call 805-773-0011.

The views expressed in the Commercial Factor are those of the authors and do not necessarily represent the views of, and should not be attributed to, the International Factoring Association.

**INDUSTRY NEWS**

**Bibby Financial Services Releases FastTrack**

Bibby Financial Services announced the release of a new funding option, FastTrack. FastTrack is available to businesses seeking funds of up to $100,000 at 2.99 percent. The FastTrack approval process is based solely on the credit worth of the business’s customer. Additional benefits of FastTrack include:

- Funding within three days
- Flat 90-day fee at 2.99 percent
- No additional fees
- No minimums or term agreements
- 90 percent advance rate

**Paragon Financial Group Announces Online Secure Application for Factoring Programs**

The new secure online application allows prospects to quickly and easily apply for funding programs which include invoice factoring, purchase order financing, credit protection and AR management. The online secure application reduces errors and better handles receiving accurate information from potential clients. Paragon Financial’s online secure application is targeted to companies with fast growth, startups, turnarounds, bank exiting and non or under-bankable relationships with B2B or B2G sales of $25,000-$3,000,000 per month.

**Hitachi Business Finance Ends 2014 on Strong Note**

Hitachi Business Finance, a division of Hitachi Capital America Corp., announced the addition of new offices and a record number of new clients in 2014. Hitachi Business Finance launched a government receivables division in Washington, DC. The goal is to provide working capital to businesses that provide goods and services to federal agencies and local governments or those who work as subcontractors to large government prime contractors. A new office was also opened in Atlanta to focus on the improving business climate in the southeast US. Hitachi Business Finance recently financed a $1 million asset-based lending facility to a manufacturer in Ohio and a $1 million factoring facility to a sorting and quality services facility in Michigan.

**INDUSTRY TRANSACTIONS**

**Alleon Healthcare Capital Closes a $1,500,000 Medical Accounts Receivable Funding Facility with a Sub-acute Pediatric Facility**

Headquartered in Sun Valley, CA, Sun Valley is a 45-bed pediatric sub-acute hospital dedicated to enriching the health and quality of life for children with special medical and/or therapy needs. The transaction was structured with a borrowing base made up of medical accounts receivable that are billed to government and commercial insurance carriers.

**Allied Affiliated Funding Announces Recently Closed Transactions**

- $250,000 receivables line for a California-based 3D printer manufacturer.
- $1,000,000 receivables financing facility to a Texas-based web software company.
• $600,000 receivables line for a Texas-based telecom business that provides cell phone tower maintenance services.

**Gulf Coast Business Credit (GCBC) Announces Recent Transactions**

GCBC provided a $550,000 working capital facility to a Louisiana based oil and gas servicing company which was referred by a local bank commercial lender. GCBC provided a $150,000 working capital facility to a South Texas based oilfield services company. The company was referred to GCBC by a commercial lender that could not get the company approved for an increase to their line of credit. GCBC partnered with a community bank and provided a $1 million working capital facility to a Louisiana based oilfield service company.

**Coral Capital Solutions Provides $9 Million in Financing to Call Center Provider**

Coral Capital Solutions provided a $9 million factoring facility to a provider of contact center and business process outsourcing services based in the US, and with operations in the Philippines for working capital needs and to support expansion.

**Crossroads Provides $4 Million PO Financing to Aircraft Components Manufacturer**

Crossroads Financial provided a $4 million purchase order financing facility for the benefit of a manufacturer and distributor of electronic components used in aircraft systems. Crossroads will be supporting the ongoing needs of the company as they experience rapid growth from a new product launch. Crossroads teamed up with a factor who is providing a $7.7 million AR Factoring Facility.

**King Trade Capital Announces Recent Transactions**

King Trade Capital provided a $2 million purchase order finance facility for a New Jersey based importer of men’s apparel. King Trade Capital provided a $1 million purchase order financing facility for a Maryland-based apparel designer and manufacturer.

**Crestmark Closes Fifteen Transactions Totaling Over $23 Million in the Month of December**

Crestmark secured a total of $23,225,000 in financial solutions for fifteen new clients in the month of December.

**Utica Leaseco, LLC Announces January Transactions**

• $2,000,000 Capital Lease
• $1,350,000 Capital Lease
• $1,200,000 twelve month interest only senior secured bridge loan
• $1,050,000,000 refinance and new Capital Lease

**Veritas Financial Partners Provides $2.5 Million Credit Facility to Promotional Products Supplier Based in Midwest**

Veritas leveraged its expertise in both working capital financing and real estate lending to provide a single financing solution to the borrower. It also crafted a mechanism to accommodate the borrower’s seasonal inventory needs.

**CapitalPlus Equity Provides Revolving Factoring Facilities**

• $85,000 to a landscaping contractor in Illinois
• $56,000 to a steel fabrication contractor in Texas
• $275,000 to a framing contractor in Colorado

**Bibby Financial Services Funds Sustainable Apparel Company**

Bibby Financial Services announced its funding of Naadam Cashmere, a luxury garment company offering goods made from Mongolian cashmere sourced by Nomadic herders. As a result of its partnership with Bibby, the company was able to expand its distribution model.

**First Growth Capital Provides $2.3 Million in Credit Facilities in Q4 2014**

First Growth Capital, a division of First Capital, provided $2.3 million in working capital credit facilities during Q4 2014. The various facilities are collateralized by the clients’ account receivables. The facilities include $1 million for a cellular site maintenance company, $5 million for a wireless carrier maintenance and audit services company, and $.8 million for a contract manufacturer.

**Paragon Financial Group Provides Two New Factoring Lines of Credit for $1,700,000**

Paragon Financial Group provided two new factoring lines of credit. The first is a factoring line to a cable sales company in Boston, Massachusetts for $700,000. The second financing facility to a government supplier in Sacramento, California for $1,000,000.

**DS-Concept Provides $4 Million to Multi-National Seafood Exporter**

DS-Concept Factoring provided a $4 million export accounts receivable facility to a multi-national shrimp exporter headquartered in Spain with branch locations in the US and Argentina.

**PERSONNEL**

**GCBC Welcomes John Whitaker to New Oklahoma Based Office**

Gulf Coast Business Credit (GCBC) welcomed John Whitaker as Vice President, Business Development to start-up a new office in Oklahoma. He comes to GCBC with over 23 years of experience in a variety of industries including insurance, financial services, product and brand marketing, and capital equipment sales in the healthcare and energy markets.

**Paragon Financial Group Hires Tom O’Neill**

Tom comes to Paragon with in-depth experience providing small to medium-sized businesses working capital through accounts receivable factoring and purchase order financing. He has 15 plus years B2B and B2C experience cultivating strong relationships with customers, referral sources, bankers, financial intermediaries and suppliers. In his first half decade being in the factoring industry, he helped grow the portfolio of small and medium-sized business by 50% year on year.

**Daniel Rodrigue Joins TAB Bank as National Sales Manager**

Daniel will be based in West Palm Beach, FL and will report to TAB’s Senior Vice President of Sales and Marketing, Justin Gordon. He will oversee all personnel and functions as it relates to TAB’s nationwide sales efforts. Daniel’s career in the Commercial Finance arena began with Bibby Financial Services, where he...
turned around a struggling sales unit to be a top producing sales unit within one year of service. From there, he was tapped to be the National Sales Manager with First Capital under the First Growth Capital division. Daniel has extensive knowledge and experience in developing both internal and external sales teams.

The Hamilton Group of Syracuse, NY Promotes Robert Kort to Chief Marketing Officer
Robert has been running the California office of The Hamilton Group since 2005 and will continue to conduct that operation along with his new responsibilities. He is a long-time respected member of the factoring community serving as former co-principal of Accelerated Business Credit and former VP of the creation of the California office of Bibby Financial prior to joining The Hamilton Group.

The Interface Financial Group Appoints Marcus Ferrari as US National Sales Director
From 2003-2014 Marcus served in various roles at Bibby Financial Services with his last position as Managing Director/National Director of Sales. He has a proven track record of expanding sales and profitability. At IFG, Marcus will focus on creating new channels for lead generation and helping to build US select invoice finance portfolio for the recently launched IFG Invoice Finance Marketplace Platform.

Veritas Financial Partners Adds Allan Gibbel as Business Development Officer
Allan will be based out of Los Angeles, and is responsible for sourcing and analyzing new potential business relationships. He joins Veritas after fifteen years establishing First Community Financial as a reliable finance source and has a 15 year track record in the Southern California marketplace.

Fundamental Financial Announces Addition of Vince Mancuso as Principal/Partner
Vince will develop and co-manage the Working Capital Finance group, which originates, underwrites and administers revolving lines of credit across the organization's national footprint. He is based in Austin, Texas. Vince spent his entire 22 year career in the commercial finance industry, helping companies properly capitalize their business, most recently as SVP – Portfolio Development for Far West Capital, in Austin, Texas.

Platinum Partners Credit Opportunities Fund (“PPCO”) is an asset-based investment fund providing loans to markets that are underserved by traditional sources of financing. PPCO is active in the trade finance marketplace, providing warehouse lines to established factoring and purchase order finance companies while also working directly with a variety of businesses to provide the capital necessary to finance the purchase or manufacture of their products.

Platinum Partners Credit Opportunities Fund
Platinum Credit Management LP
250 West 55th Street, 14th Floor | New York, New York 10019
Tel: (212) 582-2222 | Fax: (212) 582-2424
Email: alpha@platinumlp.com
Best Practices for your Credit Department

We’ve closed the door on 2014, so it’s time to take a look at what’s ahead in 2015 for the Global Credit Climate. So far, it looks like a mixed bag. Let’s start by examining some of the global issues so we can better understand them and put them into perspective. After that, we will go over best practices designed to help reduce risk.

BY ANTHONY ALIENGENA

First, let’s talk about the US. Judging from the guidance the US Federal Reserve (the Fed) gave in its most recent meeting, the outlook is relatively good. Simply put, after six years of rock-bottom rates, the central bank is finally indicating it may raise rates sometime in the near future. It should also be noted, however, that the Fed also said it would remain “patient”.

Another good sign for the economy domestically is that the unemployment rate has made its way down to 5.6% from a high of 10% in October of 2009. The caution here, however, is that although employment is coming back in line with desirable levels, wage growth has been stagnant. In fact, many of the jobs created are non-supervisory and pay less than the jobs which were lost in prior years.

Also, in the US, plunging oil prices are another strong source of optimism. Prices have been cut roughly in half since last summer. In some areas of the country, gasoline prices have slipped below $2 a gallon. That means consumers have more to spend on items like cars, furniture and appliances. With more money remaining in the domestic economy as disposable income, it’s a good bet that it’ll be easier for debtors to pay their bills.

The world’s third-largest economy, Japan, has fallen into a recession after putting its second-consecutive quarter of contraction in Q3. Q2 saw a contraction of 7.3% and Q3 saw a 1.9% contraction. “Abenomics,” named for Japanese Prime Minister Shinzo Abe, seems to be failing, and they are at a loss as to what to do.

Europe is not immune, either. The Eurozone is struggling with the specter of deflation, mostly due to the drop in oil prices. But even without oil, inflation there remains near 0%. Unemployment in the Eurozone was 11.5% in November. Consequently, the European Central Bank recently announced another round of stimulus. It’s a 60 billion (euro) per month “Quantitative Easing” bond buying program. The US recently ended a similar program; hopefully it will help get things
moving upwards in Europe.
Lower fuel costs should help the nations in Europe as well, since there will be more money to go around in general, but the main hope is that the US economy will continue firing on all cylinders and pull the rest of the world onto firmer footing. If this fails to happen, there will not be much to fall back on.
Since it’s always best to hope for the best but plan for the worst, here are some best practices that your credit department can implement to help insulate your portfolio from the problems that are out there.

**Best Practices**

**Monitor the Macro Credit Environment:** This can be accomplished by reading financial-focused periodicals such as the *Wall Street Journal*. Making this a daily habit will help you become aware of global issues that might impact your portfolio long before debtors in that industry begin to show the signs of stress that would show up in their credit report.

We have seen this in the recent history when the Chinese flooded the US market with cheap steel, and again when they dumped cheap furniture on the US market and drove much of the US competition out of business. More recently, the Chinese were doing the same with solar panels; the effects of this remain to be seen as the US government has imposed tariffs to offset the effects.

As mentioned earlier, the oil market is currently being flooded. Some analysts believe this is the attempt of some OPEC members to drive the US producers out of business. US production costs are much higher and simply not economical, particularly since new extraction methods such as fracking and shale oil production come in at much higher price points than traditional drilling methods. For those with a substantial amount of their portfolio tied up in this market, it is prudent to monitor the developments in the global oversupply of oil very carefully.

**Collections:** Another strong recommendation for defending against portfolio woes comes from your own collection efforts. Collections are where “the rubber meets the pavement.” It is in this very important step that Factors can become aware of pending problems with a debtor and can issue a Credit Alert to other Factors. Credit Alerts can be sent out to the community through most credit reporting companies.

---

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Learn more at [borro.com/ifa](http://borro.com/ifa) or call 888.466.2312
When your collectors are making their collection calls, there are a variety of red flags to watch for. If any of these issues arise, you should consider the credit line extended:

- The AP is on vacation and there is no one else to make payments.
- They are waiting for boss to sign the checks.
- The debtor is waiting for its customers to pay them so they can then pay us.
- The customer gives a promise date and then subsequently extends that date on later collection calls.

**Credit Alerts:** Another great way to stay out of trouble is by accessing “the collective mind”. Unless you’re particularly unlucky, you won’t likely be the first to run into trouble with a debtor. If you are tapped into a Credit Service that allows you to receive alerts from other Creditors, you will be made aware of issues others have faced before they wash up on your shores. Inversely, if you come across an issue with a debtor, you should generate an alert so other Creditors will become aware of the issue and be able to incorporate it into their decision to extend credit to that debtor.

Some examples of noteworthy issues your collectors will come across and can post an alert for revolve around bankruptcy, address changes, disconnected phone numbers, paying over notice of assignments (such as paying client directly) and many additional concerns the Credit community can benefit from knowing.

**Portfolio Monitoring:** Another important line of defense against debtors who may default is to subscribe to a Credit Service that offers Portfolio Monitoring. These services typically monitor the credit reports of debtors in your portfolio and alert you of significant changes in their payment trends. In most
systems, subscribers can tune the settings so they receive alerts set to their standards. For instance, you may want your alerts based upon your tolerance for change within your debtors’ habits.

**Portfolio Analysis:** Most credit managers run credit on a debtor when they set up the account or when a client submits a credit-increase request. But one practice worth considering is pulling fresh reports on debtors from time to time. It’s the quickest way to flag issues before they negatively impact the bottom line.

Some Credit Services offer creditors the ability to run a full analysis of their portfolio at the push of a button. A good portfolio analysis system allows users to set parameters for what type of credit report they would approve and what they would deny, which lets the credit service run the entire portfolio through those parameters so users know which of their debtors would be denied if they tried to sign up today. This can go far in helping to better manage the portfolio.

**Share with your Credit Service:**
The best way for Factors to insulate themselves from defaulting debtors is to educate them and work together. The old adage, “United We Stand, Divided We Fall.” is true here. Credit services unite creditors in a common database where they can trade experiences and minimize their losses by sharing information.

If your organization does not currently work with a credit service, think about joining one. You will quickly come to appreciate that others have posted alerts about bad credit risks and saved you from a potential loss. If your organization already is a member of a credit service, do take the time and post alerts as they come across your desk, as other members will be grateful to learn about issues you’ve experienced.

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*Anthony Aliengena is the founder of FactorsNetwork, an online, fee free, collaboration zone where Factors can come together to exchange trade experiences and help each other minimize loss. For more information, please visit www.factorsnetwork.com. Anthony can be reached by phone at 435-659-4612 or by email at anthonya@factorsnetwork.com.*
Compete Effectively: Leverage Your Credit Policy

Factors are unique in their credit risk assessments because they need to consider client credit risk in addition to the credit risk of their debtors. It’s important to ensure that the company clearly defines its credit policies and credit decision rationale, communicates it on an organization-wide basis and consistently revisits the policy to be sure it still reflects the risk appetite of the factor given the present economic environment.

BY BONNIE GERRITY

Equally important is ensuring your clients understand the unique and consistent approach to risk and how this benefits your clients in the long run.

Along with the assessment of client and debtor credit risk, the factor’s full portfolio needs to be reassessed and monitored on a regular basis with particular focus on the following:

- Industry and country risk
- Concentrations by client or by debtor
- Financial risk, fraud, and other risk indicators both internal and external

So, where do you start?

Understand your organization’s risk tolerance: This is often tied to pricing; which may vary by client, region, industry or even the overall size of the business as it relates to the balance sheet. You’ll need to consider the industries/countries where you’re doing business and competitive factors which will also have an impact on risk.

Goals of the department: It’s all about the credit metrics, such as average days to pay or estimated days slow within a certain range, percent bad debt under certain level, or average age of past due invoices. Auto-rate below a certain order value and define exception rules that require an override or intervention of a supervisor. Working directly with your management can often help you define the best combination.

Setting Pricing and Terms: Consider the industry standard as well as the individual client and the industry they are in. What is the competition doing? How much flexibility do we have, given our pricing? Your organization needs to assess your cost of financing and the risk of the overall portfolio.
Terms, on the other hand, could include some very creative ways to expand your coverage (e.g., certain risk classes can be covered by insurance as a complement to the Factored receivables). Any question that you think is relevant should be addressed with your leadership team and the organizations that can provide you the data and analytics to deliver these insights.

**Structuring a Credit Application:**
As an organization, knowing what you need to know and how consistently and efficiently you can collect this information is key. You would need to set this up in consultation with your client, whether they lead this process or allow you the flexibility to approach their customers for the additional information.

Standard credit applications include basic firmographic information, management or ownership information, bank and trade references and submission of financial statements. It is increasingly important to understand the supplier relationships of your customer as well (e.g., are they heavily dependent on a single supplier for some reason).

**Credit Line Determination:**
Decide what risk, operations and financial data elements will be considered when assessing client risk or when coming up with credit line assignments for individual debtors.

- **Business Standing:** At a minimum, years in business, ownership structure, legal name and Secretary of State filing information to ensure company is in active status and you’re selling to the correct legal name. Trade payment performance, Average High Credit (AHC), highest credit from peers, financials and public record information can also be very useful.

- **Trade and bank:** Credit line assignments may be set based on the individual order amount, high credit with your company, AHC using your company’s or your peers’ trade experiences with the customer, or based on an analysis of the financials. Some organizations may incorporate these elements into a standard scoring model to facilitate credit line assignment. In addition, you would need to better
Monitoring can be done by using an alert service offered by many credit reporting companies and by reviewing the customers’ credit line on a regular basis.

understand the banking relationship, including balances, cash, other lines, activity and borrowing against other assets, length of time in the relationship and any issues that are going to question the fiduciary role.

- **Financials:** Your organization may decide that financial statements are required to extend some minimum threshold dollar figure. In those cases, credit line assignment may be based on some percentage of the working capital, tangible net worth or net profit of the company. Cash flow and leverage are also items to be considered. Your relationship with your client will help you build a process to collect this information from private company debtors or from their banks.

**Decision Authority:** Who has the authority to approve dollar credit recommendations? This may be based on a position within the department or years with the company, possibly depending on the risk level and the size of the credit line. It may also be that certain dollar amount approvals may escalate to upper management, just as any credit extensions below a minimum level be handled through an auto-rating system.

**Continuous Monitoring:** Once the credit line is set and credit has been extended, monitoring must be put into place. This ensures any deterioration in the financial condition or the payment performance of the debtor is noticed before it’s too late. Credit2B’s Chief Credit Officer, Bob Carbonell, emphasizes that monitoring can be done by using an alert service offered by many credit reporting companies and by reviewing the customers’ credit line on a regular basis (yearly at a minimum). But, the most important alerts you can get would be through your peers that share a common information platform monitored for anti-trust. Put a regular review process in to place to send emails out or put calls in to those clients and debtors who need to update their credit application or provide updated financial information.

- Be sure to monitor both clients and debtors for any deterioration in financial strength or payment performance.

- Field exams are an important part of due diligence and can help lend insight into the operations and financial health of the client.

**Benchmarking:** This is the most valuable tool to not only pinpoint changes in how a debtor is paying, but also to determine if you’re being paid faster or slower than the peers across your entire portfolio. If you know your peers are being paid more quickly, you may be able to recover cash more quickly. Very few organizations evaluate their receivables consistently and with real automation, but the impact in dollars makes a much bigger difference on ROI than simply claiming to have the lowest write offs.

**Portfolio Analysis:** While the devil is in the details, it’s important...
to assess your overall portfolio health as well. Industry, country or debtor concentrations need to be monitored to be sure your company continues to be in alignment with its overall strategy:

• Has your portfolio begun to have a large concentration in a specific industry when you might prefer to be more diversified?
• Have you assessed concentrations by client and by debtor? Does a particular client have very few debtors where a loss would make a larger impact?
• Have you reviewed cross-portfolio exposure looking for concentrations with specific debtors?

Any policy should be approved by upper management and then reviewed on an annual basis to be sure the policy is still in alignment with the company’s overall goals. Constant assessment of the credit risk of both clients and debtors, as well as internal controls, are imperative to a successful operation.

Bonnie Gerrity is the Vice President of Product for Credit2B, a unique credit information platform that extensively serves the Factor community, including all of the majors and over 50 mid-tier Factors. The firm’s mission is to connect the experiences of trade credit granters globally around their common business customers while also integrating expansive third party risk data on those buyers. Credit2B has a dedicated team with experience in the factoring industry that can assess the unique challenges Factors face and work with clients to solve these problems. Bonnie manages a team that includes product management, credit analysts, and product operations. She was formerly a consultant in the commercial loan workout area, and credit officer with PNC/Midlantic Bank in charge of a team of 20 commercial credit analysts for loan package preparation. Earlier, she was Compliance Officer and Commercial Loan Officer for Midlantic Bank. Bonnie is a graduate of the University of Delaware, with a B.S. in Business. She can be reached at bgerrity@credit2b.com.
The Importance of Monitoring Change

One of the major fallouts of the financial crisis, called the “Great Recession of 2007-2009,” was that bank lending vanished for certain levels of businesses and industries. In the absence of the traditional bank lender willing to take normal risks, factors and non-bank ABL lenders emerged as the dominant vehicle for lending throughout this tumultuous period of American small business.

BY TONY KINNINGER

These lenders, the factoring companies of America, should be applauded for adding financial stability to the business market. Looking back, their efforts did not go unrewarded. As businesses scrambled for financing, factors had at their disposal new and exploding markets. As a result, the public image of factoring has improved significantly over the past two decades. With rates and fees becoming very competitive, the future looks bright for the factoring industry.

How does the above effect the business credit report market in this world of factoring? Credit reporting expands as factoring expands. If an individual factoring company intends to grow and be competitive, that company needs to keep up with technological developments in the industry. The credit industry must do the same. In the course of intelligent business, factors will always require an outside third party credit report.

The question is how long can a factor continue to look at page after page of irrelevant so-called credit information that has nothing to do with how a company pays its bills? Unlike consumer credit, commercial credit has too many variables to ever replace the credit office. The challenge is to provide economically priced and instant relevant credit information to the credit officer in order to make a prudent and sound decision. Automation in the credit approval process needs to proceed with caution. Automation should be integrated over time.

There are thousands of clever people out there who can and will trick the system. We certainly do not want to venture into automated credit approval when we have concentrations. Concentrations are the greatest risk faced by factors. Factoring companies have hundreds and thousands of account debtors. They all owe you money! You have initially approved their credit based on certain criteria. To the casual observer, all you need to do is wait for the checks to roll in. Not that simple! Monitoring company performance requires experience and a keen eye because these accounts are in constant motion. A law of physics tells us that all matter remains in constant motion. The same is true of your account debtors. Our Vigilante system of monitoring at Ansonia is designed to identify possible adverse change and discover most problems before they become major.

Let me tell you a story about how I learned the importance of monitoring change. When I was 16 and 17, my friends and I would go out to the desert to explore and shoot our 22’s. On this particular occasion I caught a three-foot red, white, orange, and black striped snake. With the help of a stick, I managed to get the snake into my lunch box. I brought the snake back to my house where we were living in Los Angeles. My father immediately asked me what I was going to do with the snake’s future, and wanted to know what kind of a snake it was. My response was that I did not have a plan for the snake’s future, but that it was a Coral King Snake. My father said it could be a Coral snake and one of the two are poisonous, so I should get the snake out of the house.

A friend of mine (Dave*), was coming by and we planned to hang with another buddy. I decided not to bring the lunch box because we...
were only going a short distance. I grabbed the snake below its head, got into Dave’s ’53 Chevy, and started up Western Avenue toward Hollywood. We were driving and talking. About halfway to Bill’s house, my attention went back to the snake. Somehow my grip on the snake must have relaxed because the snake had managed to extend its head and body about eight inches beyond where I was originally holding it. The snake was swiveling its head in all directions, with its little black tongue darting in and out. It suddenly stopped and took a momentary look at my hand. Without the slightest hesitation, with mouth fully extended open, it struck my hand with full force. I dropped the snake and it promptly went under the front seat of Dave’s car. I told Dave that he better pull over so I could try to retrieve the snake before it bit one of us in the leg. Panic struck! Have you ever witnessed someone driving down a busy street with their feet on the dashboard? From this incident, I learned two things: that I should bring the lunch box next time, and that the snake was not poisonous. Seriously, situations change. If we catch and study the problem early, we can prevent a little problem from becoming a big problem.

Ansonia Credit Data has been developing and testing a product over time called the “Vigilante Sweep”. This product monitors portfolios for change and trend movement. The uniqueness of “Vigilante Sweep”, is that the program anonymously tracks debtors in a single portfolio against their performance in hundreds of other portfolios. The program compares DTP within one portfolio against all others, compares total outstanding in...
The Spring Factoring Conference in New Orleans is Just Around the Corner!

BY HEATHER VILLA

The conference will kick off with the RMP Capital Welcome Reception on Wednesday evening. Companies that have become new IFA members over the previous year will also be invited to attend a New Member Reception that evening to become familiar with the association, meet industry leaders, and other first time attendees. Thursday, we will have a Bibby Social in the evening and a Tax Guard Dessert Reception later that night. Friday evening is our Closing Event at the House of Blues.

Educational opportunities include:

**Thursday Sessions:**
- **The New Normal: Leadership and Preparedness in the 21st Century**
  (Spanning a 37-year Army career, General Honoré has commanded teams through some of America’s most difficult challenges, and brings these lessons learned to deliver a most important message: See First, Understand First, Act First) – Lt. General Russel L. Honoré (Ret.), Commander of Joint Task Force Katrina and Global Preparedness Authority & CEO
- **The Current Political and Legislative Environment**
  (Using poll numbers, economic indicators, and historical data, Cook discusses today’s political and legislative environments in a balanced, non-partisan way – from the policy direction of the current administration to the Congressional agenda.) – Charlie Cook, Political Analyst and Publisher of The Cook Political Report
- **What Does Sex Have To Do With It? The Truth About Gender Intelligence**
  (Unlock the secrets of gender communication to help you—male
or female—influence, persuade and communicate more effectively with the opposite sex to ensure that your message achieves maximum understanding.) – Colette Carlson, President of SpeakYourTruth.com

**Factoring 101**
(The nuts and bolts of Factoring.) – Gail Reints, President and Owner of Sky Business Credit, LLC

**Working With Difficult Transactions**
(How it Starts Isn’t Always How it Ends) – Jay Atkins, First Growth Capital and Mike Ullman, Ullman & Ullman P.A.

**Fraud Forum: What You Don’t Know Can Hurt You**
(Hear the latest schemes experienced in the marketplace and what we can do to protect against succumbing to fraud.) - Panel

**Outlook for the Energy Industry and Opportunities for Factors**
(Covering topics such as fracking, its future and opportunities, types of energy service companies, the expansion of energy production in the U.S. and factoring oilfield trucking companies.) – Panel

**Legislative Changes and New Tendencies in Latin America**
(discussing recent legislative changes that affect Factoring in Latin America as well as the progress of the ongoing IFC-World Bank project that was designed to improve local lending and factoring laws in the region) - Panel

**Complimentary Products 101**
(Discussing PO Finance, Inventory Finance, Leasing and Equipment Finance and Unsecured Loans.) – Panel

**Doing Business in Québec**
(Explaining the legal and language challenges to work through to tap into this very lucrative market.) - Panel

**Friday Sessions:**

- **Economic Forecast: How the Economy Will Affect Factors**
  - Dr. Peter Ricchiuti, Professor at Tulane University

- **Report From The Courts**
  (Lessons to be learned from this year’s court decisions and how the courts treated IFA members) - Bob Zadek, Esq., Buchalter, Nemer

- **10 Must Have Clauses in a Canadian Factoring Agreement**
  - Martin Fingerhut, Esq., Fingerhut Global Advisors

- **Current Topics in Transportation Factoring**
  - David Jencks, Esq., Jencks & Jencks P.C.

- **Effectively Gather Information, Avoid Deception and Spot Liars**
  (Learn skills with guiding conversations by gathering information while
Our goal is to bring the entire factoring community together on one website where we can connect, communicate and collaborate.

There are no membership fees and all services are free if you share trade experience data on our CreditExchange program. FactorsNetwork develops software that will change the status quo, reduce our risk, increase our profit margins and bring the industry into the internet era.

Heather Villa is the Managing Director of the International Factoring Association. She is responsible for managing and directing the IFA’s external communications as well as managing the business affairs of the Association. She assists with event planning, speaker selection and contract negotiations for all training seminars and conferences, including the annual Factoring Conference. Heather can be reached at 805-773-0011 ext 301 or heather@factoring.org.

Continued on page 35
New Orleans—#1 Food City in America

Recently, New Orleans was ranked number one among American cities by Food and Wine magazine for its culinary delights. Travel and Leisure named it one of two American cities to make the World’s Best Cities list. ThrillList.com has New Orleans at number one for food. Condé Nast has it the fifth best city for foodies. The recent issue of Food and Wine, the reader’s choice issue, listed New Orleans as the clear number one top dining city in America.

BY ALLEN FREDERIC, JR.

Unlike some other top food cities, New Orleans has a long culinary history. New Orleans has been under several flags, with the French arriving in 1718, the Spanish in 1762, and the Louisiana Purchase completed in 1803, bringing in immigrants from Germany, Yugoslavia, and other places. The Native Americans were already here with the Choctaw and Chickasaw Indians and their food staples of corn, herbs, spices, bay leaves, and game and seafood from living off the land. The Spanish brought cayenne pepper, red picante sauce and rice, and the Spanish Paella was the forerunner of the Creole Cajun jambalaya. The Yugoslavs brought oyster cultivation; the Italians tomatoes, olives and beans; the Africans seasonings, and exotic vegetables such as squash and okra. All of the above tended to define the early Creole foods of New Orleans and south Louisiana. The original Creoles were actually the offspring of French and other European aristocrats, and the Creole food was both complex and delicate. French-Canadian exiles came to Louisiana in 1755, run out of Canada by the British, bringing with them their black iron pots and developing a one-pot slow-cooking technique referred to as Cajun cooking. Many of the Cajuns became trappers and fisherman, contributing seafood and game to one-pot cooking.

Over the years, there has been a gradual blending of Creole and Cajun such that today it’s difficult to draw the line. Some restaurants such as Restaurant R’evolution have an imaginative reinterpretation of both classic Creole and Cajun cuisines. Here is a sampling of some of the great restaurants in New Orleans.

My Top 12:

1 Galatoire’s Restaurant – 209 Bourbon Street, New Orleans, LA 70130 – 504.525.2021
It was founded in 1905 by Jean
Galatoire from France who brought his family recipes to New Orleans; famous for its fresh fish, namely pompano and trout, oysters brochette, crabmeat maison, and a variety of shrimp dishes. Gatatorie’s is a true French Creole restaurant.

2 K-Paul’s Louisiana Kitchen – 416 Chartres Street, New Orleans, LA 70130 – 504.596.2530
One of the original Cajun chefs, Paul Prudhomme, who was a chef at Commander’s Palace for a number of years, K-Paul’s is famous for its turtle soup and gumbo, various fried dishes with fried green tomatoes and shrimp with a caper dill sauce. A very creative Cajun Cuisine.

3 Emeril’s New Orleans – 800 Tchoupitoulas Street, New Orleans, LA 70130 – 504.528.9393
Owned by Emeril Lagasse, famous TV personality and chef, Emeril’s was named restaurant of the year by Esquire Magazine, with a number of other awards and James Beard nominations. It is a mesh of Creole and Cajun cooking with barbecued shrimp, Creole pasta, roasted fish, and homemade sausages.

4 La Petite Grocery – 4238 Magazine Street, New Orleans, LA 70115 – 504.891.3377
It is one of my favorites, and a James Beard finalist for three years. Pasta with turtle bolognese, crab beignets, shellfish stew, panéed rabbit with wilted greens, and butterscotch pudding. A very creative Creole cuisine.

5 Gautreau’s Restaurant – 1728 Soniat Street, New Orleans, LA 70115 – 504.899.7397
Gautreau’s was a James Beard finalist for four years. It looks like a Paris Bistro on a small residential street; specialties include duck confit with Italian sausage, pork belly with sweet potato ravioli, and pork osso buco. A romantic setting ten minutes from the French Quarter.

6 Clancy’s New Orleans – 6100 Annunciation Street, New Orleans, LA 70118 – 504.895.1111
Clancy’s is the most typical New Orleans restaurant with a great local crowd; specialties include smoked duck (a fabulous dish), crab salad, and soft shell crab (when in season). Perhaps the best selection of French Rhone wines in New Orleans.

7 Restaurant R’evolution – 777 Bienville Street, New Orleans, LA 70130 – 504.553.2277
R’evolution is a joint venture between chef John Folse, who has written nine cookbooks, and chef Rick Tramonto. It is their reinvention of the classic Cajun Creole dishes. The menu features gumbo, oyster dishes, Creole pastas, and crab beignets; a very extensive menu. It is a five minute walk from the Roosevelt Hotel.

8 Mr. B’s Bistro – 201 Royal Street, New Orleans, LA 70130 – 504.523.2078
A French Quarter restaurant owned by the Brennan family. Both casual and consistent, Mr. B’s features crab cakes, shrimp and grits, barbecued shrimp, gumbo, and all the local Creole classics.

9 Commander’s Palace – 1403 Washington Avenue, New Orleans, LA 70130 – 504.899.8221
The flagship of the Brennan family restaurants is this very grand restaurant, housed in an old plantation house in the Garden District of New Orleans. It has an extensive menu featuring oysters Rockefeller, turtle soup, and fresh fish. The gumbo is the standard bearer of Commander’s cuisine.

10 Herbsaint Restaurant – 701 Saint Charles Avenue, New Orleans, LA 70130- 504.524.4114
Chef Donald Link, a James Beard award winner, is the proprietor of Herbsaint, Peche, and Cochon, three of the top 12 restaurants in New Orleans. Herbsaint has small plates; specialties include rabbit fricassee, beef short rib, pork belly, shrimp and grits, and fresh fish. Herbsaint is a combination of French and Italian inspired southern cooking.

11 Peche Seafood Grill – 800 Magazine Street, New Orleans, LA 70130 – 504.522.1744
Chef Donald Link’s seafood restaurant that won best new restaurant for 2014 and Best Southern Chef Award from James Beard; their specialty is a whole grilled fish with raw oysters, gumbo, catfish, etc.

12 Cochon – 930 Tchoupitoulas Street, New Orleans, LA 70130 – 504.588.2123
Cochon is another of Chef Donald Link’s restaurants that specializes in all of the parts of the pig (salamis, sausages, and pork osso buco). It also has small plates featuring seafood. Cochon is a very casual, fun place five minutes from the hotel. A great place for lunch is its very casual neighbor, Butcher (also run by chef Link), which has terrific sandwiches, sausages, and salads.

Allen E. Frederic Jr. is CEO, Managing Member and co-founder of Republic Business Credit LLC, a commercial finance and factoring operation headquartered in New Orleans, Louisiana with offices in Houston and Chicago. Previously, Allen was CEO and founder of Gulf Coast Business Credit, the factoring division of New Orleans-based Gulf Coast Bank & Trust Company where he served as CEO for 11 years. Allen is currently the President of the American Factoring Association. He is a past Advisory Director of the IFA, director and member of the Executive Committee of the CFA, an instructor for the IFA, CFA, and a former instructor at the LSU School of Banking of the South. Allen can be reached by phone at 504-262-8601 or by email at afrederic@republicbc.com.
While introducing the Regulatory Accountability Act in January of this year, Representative Bob Goodlatte from Virginia stated, “A recent study suggests every family has a burden of close to $15,000 every year due to regulation. And the total cost to our economy exceeds $1.8 trillion due to regulation.”

While there have been some positive signs regarding our achieving a less regulated future, I would not like to bet on that fact. In order for this to occur, not only will Congress have to pass regulatory relief, but the President will have to sign that legislation. Unfortunately, history indicates we will continue to have additional regulations.

What will regulation look like in 2015? According to the National Federation of Independent Business, regulations rank second behind taxes as the primary concern of businesses. As 2014 came to a close, there were still over 3,000 new federal regulations in the pipeline. This amounts to about 10 new regulations every day, without any new regulations being proposed in 2015.

Combine the number of proposed regulations with the statement by the Government Accountability Office that one-third of rules issued between 2003 and 2010 did not go through public review and input, despite federal requirements for public comment, and there is great cause for concern. While many of these regulations may be worth the cost to the economy and our liberty, clearly many are not.

The American Factoring Association continues to play an important role for our industry as we continue to monitor the Justice Department’s Operation Choke Point, the Consumer Financial Protection Bureau and other forces in Washington which could have an impact our daily business lives.

In the current political climate, it is important for our industry to frame issues and state our positions. It is an unfortunate fact that 2015 in all likelihood will bring more regulation. It is important to make

Continued on page 31
The International Factoring Association is pleased to bring back this intensive **two day training course** which promises to provide the latest, **most valuable information** to help support your clients’ international business. This workshop will provide a **complete guide** to developing an in-depth understanding of the key areas of global trade and factoring from some of the **brightest and most respected leaders** in the industry.

**JW Marriott Miami, FL**  
**February 19-20, 2015**

**what you will learn:**
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- Managing Import/Export Risks
- Financing In-Transit Work-in-Progress and Finished Inventory
- International Factoring
- Reverse Factoring
- The Legal Aspects of International Factoring
- Case Histories/Examples

**speakers:**
- Tony Brown  
  Principal, The Trade Advisory
- Bryan Ballowe  
  Principal, King Trade Capital
- Romberto Escalona  
  Vice President, Branch Banking & Trust Company (BB&T)
- Parker Freedman  
  President, ARI Global
- Sheldon Kaye  
  Executive VP, Rosenthal & Rosenthal, Inc.
- Sharyn H. Koenig  
  Managing Director, Eastern Region of Export-Import Bank of the U.S.

**attendees will walk away with**
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**legal counsel:**
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WHAT’S NEW AT IFA JANUARY/FEBRUARY 2015

Our Preferred Vendors have undergone a screening and evaluation process. When you contact the Preferred Vendors, you will need to indicate that you are an IFA member to receive your benefit. If you offer a good or service to the Factoring Industry and are interested in applying for Preferred Vendor Status, please contact the IFA at 805-773-0011.

ASSOCIATIONS

The following trade associations offer member pricing for events attended by IFA members:

Colombian Association of Factoring (CAF)
Commercial Factoring Expertise Committee of China (CFEC)
International Factors Group (IFG)
Romanian Factoring Association (RFA)

CERTIFIED EMAIL

RPost
RPost’s Registered Email services allow factors to end disputes attributed to missing, misplaced or denied receipt of notification emails for notices of assignment, notices of default, borrowing base certificates, and other important notifications. It also helps speed invoice collections with proof of invoice delivery irrefutably starting the accounts receivable aging clock.

www.rpost.com/ifa

IFA Members receive a $10 discount per 100 pack. Also, the first order from each company will be doubled.

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Phone: 972-722-3700 • www.factorhelp.com
Email: dwolson@factorhelp.com

IFA Members receive a discount of 10% on their consulting fees and 5% discount on all FactorHelp products in the IFA store.

CREDIT

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IFA Member Benefits: Free VIGILANTE™ Portfolio Analysis. Try Ansonia’s unique new program for monitoring credit portfolio risk.
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Credit2B is a transformational cloud-based platform that combines third party credit information with what we call the Intelligence of the Community™, that is a network of the thousands of leading credit professionals and credit grantors that have a common interest in accessing better credit information about their trading partners. Our mission is to provide our clients better, timely, more relevant and highly accessible credit information at incredibly affordable prices. We do this through a compelling solution that leverages the power of peer network intelligence, quality bureau data, and advanced computer analytics to create an unparalleled experience.

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ePaymentAmerica
ePaymentAmerica is the nation’s leading provider of merchant services for the factoring, A/R financing, and P/O financing industries. They offer IFA members exclusive VISA, MasterCard, American Express and Discover pricing, a discount on their virtual gateway, and a discount on PCI Compliance Certifications.

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Email: factoring.program@epaymentamerica.com

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RMP Capital Corp. is a best-in-class provider of Rediscounting Lines of Credit to Independent Factoring Companies with portfolios from $250,000 to $3,000,000. Understanding the needs of the Independent Factoring Company is the driving force behind a funding program which has helped clients build their operations and grow their portfolio. With over 10-years of industry experience, RMP Capital Corp. prides itself on taking the time to understand its clients’ needs, which helps its clients realize their potential and achieve their goals. From providing capital to providing support, RMP Capital Corp has the solution for you.
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IFA Member Benefits: RMP Trade Credit will offer a 15% commission on all PO deals referred by an IFA member.

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IFA members will receive an additional 60 days added to the guarantee on all placements.

**SOFTWARE**

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IFA members will receive 10% off license fees and add-on modules. For IFA members who are currently Bayside customers: Free one day refresher course, per year, at Bayside’s training facility in Birmingham, AL.

FactorFox
FactorFox Cirrus is a cloud application for factors, their clients, brokers, lenders, and others who enter or access data. Entries can be made and reports accessed from any internet-connected computer, tablet, or smart phone. As a web-native program, there is no extra cost for setting up your account or to access your data; further, you receive three hours of free training online. FactorFox’s various versions make it suitable for nearly any size factor.
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In addition to the one-month free trial for everyone, IFA Members receive an additional two free months for a total of three free months to try the complete program.

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IFA members will receive a 10% discount off of the retail rates of their signature state and county account monitoring product.

**IFA CALENDAR OF EVENTS**

*February 19-20*
International Trade and Factoring
JW Marriott Trade, Miami, Miami, FL

*March 10*
Luncheon Meeting with NYIC
Arno Ristorante, New York, NY

*April 15-18*
Factoring Conference
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Understanding Your Factor Client’s Underlying Contracts and Controlling the Invoices — Part Three of Three

A factor’s life force is dependent upon payment by the account debtors.

While factor clients are often financially shaky, the premise behind the factoring industry is that the factor will finance the client if it has a good base of viable account debtors. However, the solvency of an account debtor is practically irrelevant when problems develop and the account debtor is now exercising recoupment or setoff claims, after things go wrong with the factor client (See Part One of this Article for review of these concepts). In fact, the financially stronger account debtors will fight harder. After things have gone wrong with the factor client, the last thing the factor wants is to fight the account debtor, with effectively one hand tied behind the factor’s back due to financing invoices which fail to give the factor any rights, or the lack of understanding of the underlying contract between the factor client and the account debtor.

For factor clients that do not have a master agreement with the account debtor, and that’s going to be the case in most deals, the factor should only fund on a set of approved invoices. As set out in Part Two of this series, we analyzed the problems associated with the purchase of a “naked invoice”. Simply put, and for the sake of review, the “naked invoice” contains no business and legal terms beyond the amount of payment, so it’s often a roll of the dice as to what happens when the factor seeks to collect. However, by using a form of approved invoices which contain provisions that track this article, the factor will be in a position of strength because it will have a contract which, although subtle, will benefit the factor. A set of approved invoices which track this article will soon be available through the IFA.

Using a form of approved invoices will work for both sale of goods or rendering of services. The reason why approved invoices will be effective, no matter what the factor is financing, is because the invoice will be the contract between the factor client and the account debtor. UCC Sec. 9-404 states in part as follows, “... unless the account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subdivisions (b) and (c), inclusive, the rights of an assignee are subject to both of the following: (1) all terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that give rise to the contract; (2) any other defense or claim of the account debtor, against the assignor which accrues before the account debtor received notification of the assignment authenticated by the assignor or the assignee.” The assignor in this statute is the factor client and the assignee is the factor, by virtue of the factor’s purchase of the invoice and the assignment of the right of collection. Under Article 9, once the approved invoices become the contract between the factor client and the account debtor, the factor now owns the account and holds the bundle of rights contained in the invoices.

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A critical part of the factor’s bundle of rights using an approved invoice, is when a dispute can be raised. The approved invoice will have a short time fuse in which the account debtor can raise a dispute concerning the quality of the goods or services. Usually these types of provisions are enforceable, are allowed in UCC Article 2, and are useful when the business transaction is such where problems can be ascertained quickly. A time limit to raise a dispute should be enforceable, especially when the business between the factor client and the account debtor is such that problems can be determined within a reasonable time. While it is difficult for a factor to get a complete waiver of claims from the account debtor outside of an estoppel letter, a properly crafted invoice can operate to waive the account debtor’s claims against the factor if not timely asserted.

Another important feature of the approved invoices are the adoption of standard boilerplate concepts, but reduced to a single page and in plain English. Among these important concepts are attorney’s fees, venue and jurisdiction provisions. Naked invoices are silent on these points. Thus, the factor would often be forced to chase an account debtor in a jurisdiction far from its home turf and, even if it won, would not typically be able to recover its costs and attorney’s fees. Use of approved invoices puts the factor in a better position if it can enforce its claim in its home jurisdiction, using its regular counsel, and the account debtor, raising a bad defense, is possibly faced with having to defend outside its home turf and be subject to attorney’s fees if it loses. While the jurisdiction and venue rules will be subject to the law where the court is located, courts often will enforce contractual jurisdiction and venue clauses, especially when the agreements are between businesses.

A time limit to raise a dispute should be enforceable, especially when the business between the factor client and the account debtor is such that problems can be determined within a reasonable time.

The key to implementing the approved invoices is simply to do it. Parties may not always like change. But the change contemplated by using approved invoices is not drastic. Businesses often sell goods or services using form invoices that have language on the back that addresses the same subject matter as the approved invoices. This means that the use of approved invoices should not be a foreign concept. If the invoices are done online, then the language in the approved invoices can easily be put into whatever software is being used, without a significant amount of brain damage. The biggest resistance will likely be asking the factor client to do something different. However, underwriting criteria changes and the factor has the right to finance acceptable accounts. And now, you as the factor, can state the approved invoices constitute a component of an acceptable account. Finally, the approved invoices can be explained as something which benefits the guarantors – meaning, that if something ever goes wrong, it’s better for the guarantor if the factor has a deeper pocket in which to collect upon the financed accounts before looking to the guarantor. (Presumably, your guaranty has waivers which address this point, but it is still a good thing to say.) Finally, you can initiate this program using approved invoices with your new clients.

For those deals in which the factor is financing sales under a master agreement, the approved invoice can still be a benefit. While, for the most part, a master agreement will govern the deal between the factor client and account debtor, it still does not hurt to use the approved invoice. It may even be considered a modification to the agreement to the extent that the approved invoices add terms which are not objected to. If there is already an attorney’s fees clause in the master agreement, that should work in favor of the factor if the factor is called upon to enforce the contract. However, whether or not the approved invoices are used in conjunction with financing a master agreement, there are several things which the factor needs to be aware of. First, the factor should be aware of the notice provision. At a minimum, the factor should give the notification letter to the address for notice in the master agreement. The factor should, of course, look to the payment section. Besides the terms of payment, which are critical, there may be provisions for progress billing, which may be applicable if the contract is for a particular job and purpose. While the master agreement will contain the usual contract boilerplate, like venue, jurisdiction and attorney’s fees, the factor should be aware of the account debtor’s rights in the event of a dispute. This will require special attention to the sections which discuss the factor client’s obligations and duties and the remedies section in case there is a breach. The factor needs to know exactly what type of deal it is financing and by understanding the duties, the account executive may be able to know

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Creating Relationships

If you are a regular member of a gym (or fitness club, as they refer to it today), January is the most interesting month of the year to be a member. At the beginning of every year, the place is so crowded that you usually have to wait in line to use the equipment. Then, within a few weeks, the crush subsides and the facility is back to normal.

I look at business from the same point of view. Just like at the gym, this time of year, my mailbox is usually full of emails, blogs and pings from contacts wanting to reconnect to see how we can “align our strategies in a mutually beneficial relationship”. Sound familiar? I’m always amazed by the emails I receive from people who do not know what factoring is and what our industry does to help businesses with cash flow. A few days ago I received a call from a mortgage broker asking what the rates were on our 15 and 30 year mortgage loans. Really? Is it that difficult to do an internet search on our company or just go directly to www.oxygenfunding.com and check us out? I cannot tell you how many emails I delete on a given day. Nothing is more annoying than having to “safely unsubscribe” from a newsletter or blog that I never wanted to receive in the first place.

Unfortunately, what many “salespeople” tend to forget is that business is about relationships. When we first started our company, we made it a point to venture out to almost every networking event imaginable. You name an event—we were there: chambers of commerce events, association chapter meetings, business start-up meet and greets and a whole gambit of others. It looked great as our sales database grew every week. At the end of the day, we would come back to our office with a bunch of business cards from people that we really didn’t know at all. First, a few dozen contacts were in, then a few hundred and finally, we just stopped counting. Many contacts would ask us to refer clients to them and they would reciprocate by sending business our way. But often I would think to myself, is it right for me to refer one of my clients to someone I just met over some appetizers and a drink? What do I really know about his business? Is he really as good as he says? On the other side of the coin, what does he really know about my business? From our perspective, the initial introduction is just step one. The next step is to reach out to your newly found contact(s) and learn more about their business.

One of the biggest challenges with networking is trying to whittle down which people you should reach out to for a second call or meeting. Let me use our company as an example. As we are a pure invoice factoring firm, our company only accepts business to business transactions. Therefore, when we come across companies that are dealing directly with consumers, such as home repair contractors or mortgage companies, we know to refer them to a colleague. This is not to say that we do not retain and reach out to these folks but rather put them in a second-tier classification for contact at a later date.

Once you’ve put your contacts in the appropriate “buckets” it’s time to reach out and see if your new contact would entertain a second call or meeting. Some of the best relationships we’ve started are where both parties benefit. For example, some of our best contacts are with local banks, brokers, tax accountants, and attorneys. In many cases, we have referred our clients to them and vice versa. But again, these relationships didn’t happen overnight. We take the time to
learn about what these people do and how they can help our clients. A crucial mistake would be referring your client to someone who is not superb in their profession and damaging to your relationship.

The very same is true when we talk to new prospects about factoring. We constantly warn them that factoring is so much more than advancing cash on invoices. Because factoring is so competitive today, many businesses are looking for the cheapest rate they will have to pay to factor their invoices. What prospects tend to forget is that the factor (assuming they do their due diligence properly) will be contacting the client’s customer to get the invoices verified and to get updates on past due amounts. If the factor treats that customer in a negative way, all of the goodwill between the client and the customer is out the window.

Creating and cultivating relationships is not easy. We like to look at relationship building as planting a garden where you are sowing seeds. Some may germinate in a few months where others may take years. I cannot tell you how many times we have received calls from people that we met years ago at some convention or networking event. The key is to get away from the “What’s in it for me?” attitude. It’s been long said that a key component of integrity is how you treat those who can do nothing for you. Much of our success has come from not only helping businesses that need our services but also finding a home for those needing financing, out of our specialty.

The key is to stay focused. Don’t get discouraged if you don’t achieve immediate results for your efforts. As they say, Rome wasn’t built in a day, and those few extra holiday pounds will usually take more than a month to lose. Now if I can only find an open treadmill! •

LEGAL FACTOR
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more details in doing its verification and even affirm the factor client’s performance in a follow up email to the account debtor to confirm the account, which may even turn into a quasi estoppel letter (the subject of a past article, available online through the IFA). Finally, the factor should understand the breach section to see what rights of deduction the account debtor may assert (see Part One of this Article, regarding recoupment and setoff rights).

While there certainly is no magic bullet that works in every single instance, using a form of an approved invoice levels the playing field and can likely give the factor the upper hand in a dispute. An approved invoice can be any invoice that contains the basic boilerplate, as it is better than financing a naked invoice. If anyone wants to obtain approved invoices consistent with this article, they will soon be available for sale on the IFA website, where the proceeds will be used to help offset the cost of the IFA Compendium project - the details of which will soon be discussed. •

AFA UPDATE
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sure our industry is represented in Washington. Without a seat at the table, it is hard to be heard. •

Founded in 2009, to provide a unified voice for the factoring industry, the AFA is dedicated to promoting and protecting the interests of the factoring community. The AFA board is made up of volunteers who devote time and their own funds to travel to Washington, DC on behalf of the factoring industry.
Mice, Elephants, and the IRS

It might just be where I’m at in life at the moment, but important lessons can be gleaned from kids’ books. For example, an interesting lesson comes from the parable of the blind mice and the elephant. Each day a different blind mouse ventures off, discovers a part of the elephant, and reports back with what was found.

BY JASON PECKHAM

A leg is perceived to be a “pillar.” An ear is a “fan.” The elephant’s back is a “cliff” and so on. It is not until one mouse puts all of the pieces together that the mice discover they have actually encountered an elephant.

There are a number of significant trends at the IRS. When each is considered separately, it might seem inconsequential. However, when the trends are taken into account as a whole, they could have tremendous consequences for lenders as well as their clients with federal tax liabilities. There are two general patterns. First, delinquencies are increasing, but the IRS is filing fewer federal tax liens. Second, additional and deep budget cuts are negatively impacting customer service (fewer employees with much less training). As such, future interactions with the IRS will likely be more difficult. Because of these trends, it is more important than ever to be vigilant and proactive when dealing with the IRS.

Delinquencies Increasing/Liens Decreasing. The number of taxpayers who owe money to the IRS — businesses and individuals with delinquencies or liabilities (money owed to the IRS after the return was filed) — is increasing. The figure rose from 10,391,000 in 2010 to 11,721,000 in 2013, a 13 percent increase (IRS Data Books). One might assume that if delinquencies are increasing, the number of federal tax liens filed should increase as well. Well, you know what they say about assumptions. From 2010 to 2014, there was a 51 percent reduction in the number of liens filed — from 1,096,376 in 2010 to 535,580 in 2014 (2014 Taxpayer Advocate Annual Report to Congress, January 2015).

The majority of the decrease can be attributed to the IRS’s “Fresh Start” program, which was implemented in 2011 and 2012 and modified thresholds (dollar amounts) for lien filings. The National Taxpayer Advocate argued in favor of the program, contending that liens interfere with taxpayers’ ability to obtain loans. The logic is that fewer liens allow for more loans, which increases collection.

Generally, there are two entities responsible for Collections with the IRS — the Automated Collection System (ACS) and the field (Revenue Officers). Since 2011, ACS is sending more accounts to the “Queue” awaiting assignment to a Revenue Officer without first making a lien determination. As of September 30, 2014, there were 3,097,401 “collectable” delinquent accounts valued at $57.7 billion sitting in the “Queue.”
avoid liens and levies in the first place. The solution to this shifting of risk is to (a) routinely monitor the taxpayer client for compliance and (b) obtain information directly from the IRS. Routine monitoring allows lenders to uncover federal tax liabilities in real time at the point of accrual, months before a federal tax lien is filed. The additional time is crucial to identify liabilities before they balloon out of control and can be addressed in a timely manner.

**Budget Cuts.** The IRS’s 2015 budget is $10.9 billion, which represents a 10 percent reduction from 2010 when the budget was $12.1 billion. With inflation considered, the 2015 budget is actually comparable to the 1998 budget. However, the IRS will process 30 million more business and individual returns than it did 17 years ago. In short, the workload awaiting assignment to a Revenue Officer (2014 Taxpayer Advocate Annual Report to Congress, January 2015). To be clear, no one is working these accounts – they are waiting to be worked. In short, there are an abundance of liabilities for the IRS to pursue and the numbers continue to increase.

**Shifting Risk.** The IRS is shifting more risk to lenders. Liabilities are increasing, which means lenders will encounter more clients with IRS delinquencies. However, the IRS is simultaneously filing fewer federal tax liens and taking longer to do it. As such, it is harder for a lender to uncover a federal tax liability through a public record search when the IRS is waiting longer to file a fewer number of federal tax liens.

Make no mistake – if the liability is large enough to be assigned to a Revenue Officer, the Revenue Officer will likely file the federal tax lien at some point. However, because (a) ACS is filing fewer federal tax liens, (b) the lien determination is increasingly being left up to Revenue Officers, and (c) it is taking longer for Revenue Officers to be assigned to cases, lenders cannot rely on public record searches to identify problems with the IRS.

The utilization of public record searches to identify clients’ federal tax liabilities and manage risk is a flawed methodology. The risk is created when the taxpayer client files a return without payment, not when the federal tax lien is filed. When the IRS files a federal tax lien is unpredictable. By the time the lien is filed, there is little, if any, time to resolve the issue before the lender loses its priority secured position.

Additionally, the IRS does not have to file a federal tax lien prior to levying bank accounts or receivables, which can threaten the existence of lenders’ clients and tie up lenders’ monies. The lender can appeal to the IRS based on “wrongful” levy provisions, but the process is time consuming and arduous. It is much easier to simply
is much greater (not to mention implementation of aspects of the Affordable Care Act, which is a separate discussion), but resources are fewer. Something has to give.

**Customer Service.** The impacts of the declining IRS budgets over the past few years are scary relative to personnel and training. Per the Government Accountability Office, approximately 75 percent of the IRS budget goes to personnel. As such, budget cuts have led to a commensurate decrease in personnel. In 2014, the IRS had about 10,400 (11 percent) fewer employees than in 2010.

Moreover, for every five people who leave due to attrition, the IRS has only hired one replacement (IRS Oversight Board, Special Report from May 2014). This attrition has disproportionately affected the divisions directly involved in enforcing tax laws or providing taxpayer services. From 2010 to 2013, approximately 39 percent of ACS’s workforce and 21 percent of Revenue Officers were lost due to attrition or reassignment (TIGTA Report, November 4, 2014).

The IRS has had to get “creative” when reducing expenses as it is reluctant to terminate employees other than through attrition. As such, the IRS has cut costs in other areas, the most concerning of which is training. From 2010 to 2013, the IRS reduced its training budget by 87 percent, from about $172 million to about $22 million (IRS Oversight Board, Special Report from May 2014). Anyone who has spoken with a representative from the IRS has likely been frustrated by the experience. Additional cuts in training will only make that situation worse in the near future (assuming they answer the call).

**Consequences of Budget Cuts.** Lenders’ clients with IRS liabilities are going to be working with an understaffed and undertrained IRS workforce. Decreased levels of customer service – unanswered phone calls, delays in processing requests, incorrect information – will make it especially difficult for taxpayers to resolve their issues with the IRS in a timely fashion.

The vast majority of Revenue Officers and Advisors are good people with difficult jobs, who genuinely want to resolve these issues. However, the inability to hire new Revenue Officers and Advisors will stretch the existing staff further, resulting in significant delays in processing Installment Agreements and subordinations of federal tax lien (Agreements and Subordinations, respectively).

Lenders will be adversely affected as well. Once a federal tax lien is filed, the lender has 45 days (at most, depending on the lender’s threshold for risk) to resolve the issue and preserve its priority lien position through an Agreement and Subordination. Every situation is different and there are exceptions to every rule, but it is already difficult to fit negotiations for an Agreement and Subordination into 45 days. Because of existing staffing issues with Advisory offices across the country, Subordinations alone typically take 30 to 45 days to obtain.

If a lender waits until the federal tax lien is filed to begin negotiations for an Agreement and Subordination, the 45 days may come and go with proposals and/or applications stuck on desks with partial or no review. Without an Agreement and Subordination from the IRS, the lender will have to cease funding and lose a client; the client will likely cease operations.

There is a two-part solution to the delays and customer services issues within the IRS – (1) be proactive and (2) ensure the client is working with a representative who understands how the IRS works and also understands the specific needs of the lender. If a lender regularly monitors compliance with the IRS, a federal tax liability will be uncovered well before a federal tax lien is filed.

Once the issue is identified, it can be proactively resolved prior to the filing of a federal tax lien. It is much easier to prevent or delay the filing of a federal tax lien than to try to cram months of work into a few weeks. Moreover, because of the backlog, delays, and the IRS’s lack of understanding of the lenders’ concerns, it is imperative that the lenders’ client work with an experienced representative who can navigate the resolution process while ensuring that the lender maintains a priority secured position.

The IRS is not the 800-pound gorilla in the room; it is the six-ton elephant (my apologies for mixing metaphors). It may take some time for the elephant to get up to speed, but once it does it can crush a lender’s client (maybe even the lender) like a grape. However, if the lender monitors its client’s compliance with the IRS and proactively addresses issues as they arise, the lender can recognize the elephant for what it is and deftly avoid getting hurt. •

**Jason Peckham, Esq.** is Vice President of Resolutions for Tax Guard, Inc. Tax Guard monitors federal tax compliance, identifies risks before federal tax liens are filed, and resolves federal and state tax liabilities. He can be reached at 303-953-6325 or jpeckham@tax-guard.com.
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• Case Studies in Latin America
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CREDIT AND FACTORING
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relation to your credit limit. In graph
form, “Vigilante” monitors a growing
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A watchful eye on those situations
can detect a Ponzi scheme in early
formation. Have you ever verified
an account using the phone number
provided by your client? Ansonia’s
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