M&A IN 2020

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THE INS AND OUTS OF M&A FOR FACTORS
BACK TO THE BASICS — NOTICE OF ASSIGNMENTS
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Spring is always one of the most exciting times at the IFA as we prepare for our biggest event of the year.

The April Factoring Conference is taking place in Nashville, which seems to be a top destination, as evidenced by our all-time record of registrants. The conference will provide an array of learning offerings with a diverse set of session topics designed to educate and empower attendees. Information sharing will be abundant at our networking events that are intended to promote professional growth and optimize career advancement. You can find out about all of our sessions and events at www.factoringconference.com and in Heather’s article on page 20.

We are excited to announce that Tom Cotton, the U.S. Senator for Arkansas will be a guest speaker at the conference this year. He will provide an update on the regulation and oversight of the finance community and any effects they may have on the factoring industry. We invite our government officials to join us so that we can educate them and attempt to prevent possible future regulation. Maintaining these strong relationships with politicians is imperative to the continued success of the factoring industry. Members of the IFA are invited to join Senator Cotton for a private breakfast and the opportunity to speak with him personally for a small personal contribution to his campaign. Contact the IFA at conference2020@factoring.org if you are interested in attending this event.

As most of you probably saw on the news, Nashville was hit hard by a tornado that ripped through the city in the early hours of March 3rd. According to the National Oceanic and Atmospheric Administration's Storm Prevention Center, it was the second most deadly tornado in the state's history. With wind speeds up to 165 miles per hour, widespread damage was apparent throughout the city. Several of the employees of the Omni Hotel, where the conference will take place, had extensive damage to their homes. Luckily they and their families were all okay. Our thoughts are with the families of the 25 people that were killed by the tornado. The Omni property was not affected, so there will not be any interference with the conference.

The other issue in the news that the IFA has been watching carefully is the Coronavirus. Economies all over the world have taken a significant hit and almost every industry has been affected by the spread of the outbreak. Worldwide, large scale conferences have been canceled or postponed. With the IFA Conference still being weeks away, we do not have any plans to cancel the event, but we are closely monitoring the situation and will wait to hear the CDC's recommendations. We are working closely with the hotel to ensure that all possible additional steps will be taken to ensure the safety and health of all of our attendees. We have purchased multiple hand sanitizers that will be at the entrance to all sessions.

We have updated our training classes online and are excited to announce the addition of some new sessions. The Credit, Underwriting and Collections Training class will be held June 27-28 in Las Vegas and will cover all of the topics necessary to successfully manage factoring portfolios. Our Niche Industry Training Class will include information on the following sectors: Energy, Medical, Cannabis and Construction. This event will take place October 19-20 and is for anyone looking to learn about factoring these specific sectors. Fraud is always an important topic in the factoring industry so we are providing the Fraud Detection & Prevention Training Class October 22-23. Learn different techniques on preventative measures to take to avoid being defrauded. For a full list of all of our 2020 events, go to at https://www.factoring.org/ifaevents.

We appreciate all of the support that everyone has given the IFA over the years. This has allowed us to continuously grow our Association while providing valuable resources and services. We hope to see you all in Nashville next month so we can continue to positively impact the factoring community.
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 IFA newsletter and website are published bi-monthly by the International Factoring Association. The weekly IFA newsletter will continue to provide pertinent and timely industry news, employment information, association events and educational announcements.

**Artis Trade Systems Adds 5Star Bank to Portfolio**

Artis Trade Systems added 5Star Bank to its supply chain finance (SCF) software platform, ArtisPay.

5Star, a community bank in Colorado Springs, CO, contacted Artis to learn about ArtisPay features and functionality, as the bank was already familiar with the associated benefits of SCF. Following the demo, 5Star decided to move forward with due diligence and a vendor management review of Artis. After qualifying as a bank vendor, Artis and SCF received BOD and bank approval in the second half of 2019. The bank is looking to launch the product with its pilot client in March of 2020.

**HubTran Makes FreightWaves’ Top 25 List**

On November 13, at the FreightWaves LIVE conference in Chicago, HubTran — creator of invoice processing automation — was named to the FreightTech 25, the 25 “most innovative and disruptive companies across the freight industry.”

In its article spotlighting HubTran, FreightWaves described the company as “at the forefront of the digital push for automating the back office.”

**Capital Now Team Continues to Pursue CAEF Certification**

Capital Now’s team has been working hard for the past 20-plus weeks to ensure the company’s entire core team is CAEF certified by spring. To this end, one Capital Now manager passed his exam several weeks ago. Currently, Capital Now has 66% of its operational and management team certified, which is the highest percentage in North America (and in the world).

Capital Now is extremely pleased with its recent CAEF certifications and is excited as other core team members become CAEF certified in the upcoming weeks, which will make them the most certified team in the world.

**GCBC Celebrates 20-Year Anniversary**

Gulf Coast Business Credit, a division of Gulf Coast Bank & Trust, celebrated its 20th anniversary as an accounts receivable and asset-based lender. This year, GCBC celebrates its anniversary by looking toward the future—continuing its tradition of service, industry best practices and social/community responsibility.

**FactorCloud’s Parent Company Named to Inc. Magazine’s Vet100 List**

FactorCloud’s parent company BAMFi has been named to the annual Vet100 list — a compilation of the nation’s fastest growing veteran-owned businesses. The ranking, created in partnership with Inc. magazine and Syracuse University’s Institute for Veterans and Military Families (IVMF), was born out of the iconic Inc. 5000 list of the fastest-growing private companies based in the U.S. Both distinctions are considered hallmarks of entrepreneurial success.

**Flig Launches Mountainside Capital**

Commercial finance veteran Joel Flig has launched Mountainside Capital to provide direct funding to companies that need the right capital solutions for their businesses. The company will offer receivables financing and other ABL products, including term loan opportunities, and will participate on transactions with other lenders.
Serial Fraudster Imprisoned for Defrauding Trucking Company Owners of $730,000
An Indiana man has been sentenced to more than four years in federal prison for a scheme that led to the collapse of a Duluth trucking company and bilked its former owners out of $730,000.

Douglas Ray Thomas, 49, entered into an agreement to purchase Northwoods Trucking in 2013, assuming control of the business but failing to compensate the sellers, according to documents filed in federal court. Within months, the company had been stripped of its assets and 16 employees were out of work.

Prosecutors said Thomas pocketed a “significant portion” of the business’ revenue, spending some on furniture and a family vacation, while failing to pay workers, vendors and taxes.

Commercial Finance Partners Sets Record with $117MM in New SBA Loans
Commercial Finance Partners has set a new record in 2019 by facilitating more than $117 million in new SBA loans for 2019.

INDUSTRY TRANSACTIONS

Austin Financial Provides $2.75MM ABL Facility to a Midwest-based Freight Transportation Co
Austin Financial Services closed a $2.75 million ABL facility with a Midwest-based freight transportation company that provides freight management and brokerage services of fresh produce and refrigerated goods for customers nationwide. Proceeds from AFS’ revolver were used to pay off the company’s existing bank line and provide new funds for working capital and to support business growth.

North Mill Provides $8MM ABL Facility for Coastal Wire Company
North Mill provided an $8 million asset-based lending facility for Georgetown, SC-based Coastal Wire Company.

The funds were used to pay off the previous lender and provide additional working capital for the company. Coastal Wire Company was founded in 1978 and manufactures fully annealed, high-strength baling, tying and specialty wire products for the recycling and galvanizing industries.

Capital Now Provides $150K Credit Facility to Alberta Oil & Gas Tools Co
Capital Now assisted an oil and gas tools company with its cash flow concerns. Capital Now was able to assist in keeping the business operating as normal.

The company knew it needed help from Capital Now to keep the ball rolling in a positive direction.

CaixaBank & Siemens Gamesa Sign First Sustainable Factoring Agreement
CaixaBank has signed the first sustainable factoring agreement in Spain with Siemens Gamesa. The operation includes sustainability criteria in the pricing policy of this short-term financing method, in line with both companies’ environmental commitment.

The inclusion of ESG (environmental, social and corporate governance) criteria means that Siemens Gamesa will be able to improve the conditions of the factoring that it pays to CaixaBank according to its sustainability rating. For Siemens Gamesa, sustainability is the backbone of its whole business model, which is why it wants to comply with ESG principles in all its decisions, including financial operations.

Capital Now Provides $100K Credit Facility to Calgary Water Management Specialist
Capital Now assisted a Calgary-based water management company with its cash flow needs. This allowed the company to stay on top of expenses, further their business in Alberta and take on more projects.

The company came to Capital Now due to a negative experience with another lender.
Pinnacle Capital Finance Provides $4.5MM Line of Credit to Furniture Manufacturer

Pinnacle Capital Finance announced the issuance of a $4.5 million line of credit to a San Francisco Bay Area design, manufacturer and distributor of indoor and outdoor modern furniture. The company supplies furniture and lighting to retail, restaurant, hospitality, rental and design companies located in the United States, Canada and South America.

The company enjoyed double digit growth and profits until new tariffs imposed by the U.S. on imports from Chinese vendors, along with a strategic product diversification plan put a strain on their balance sheet. Their existing lender was unwilling to continue their relationship.

Brookridge Funding Completes $4MM in Purchase Order Funding Facilities

Brookridge Funding completed $4.05 million in purchase order funding facilities for four new clients: $1.5 million for a Georgia provider of school security systems, $1.3 million for a New Jersey distributor of recreational equipment, $750,000 for a Kansas importer of private label sportswear and $500,000 for a Florida wholesaler of shopping carts.

The clients were introduced to Brookridge by their factors and asset-based lenders.

Versant Funding Closes $2MM Factoring Facility

Versant Funding recently closed a $2 million non-recourse factoring facility for an airplane cabin technology company.

Versant will fund receivables in almost every industry. Versant’s experience in the factoring industry enables it to provide the immediate working capital needed to help businesses grow.

BBVA and Nordex Sign Three Green Factoring Operations

BBVA has certified as green three non-recourse factoring operations from the wind turbine manufacturer Nordex. Closed in 2019 for approximately €265 million ($287.78 million), the operations will deduct invoices from wind turbine supplies that the German company will provide to the builder of various wind farms.

Through factoring, the bank directly finances the supplier, helping it to enhance its commercial offer. Thus, the bank facilitates the deferral of payment until the wind farms are operational, which is when the builder disburses all the funds. In this case, a total of 105 turbines will be installed, with a capacity to generate 379.5 MW of energy.

Capital Now Provides $50K Credit Facility to Safety Services Co

Capital Now provided a $50K credit facility to a British Columbia-based safety services company. Capital Now assisted due to cash flow concerns.

Rosenthal Provides $3MM Factoring Facility for Cady Industries

Rosenthal & Rosenthal completed a $3 million non-recourse factoring deal with Cady Industries, a specialty chemical manufacturer. Headquartered in Georgia, Cady needed additional working capital to assist with paying out the company’s minority investors. When the company’s lender, an institutional bank, was unable to offer more flexibility and capacity on its existing line, Cady turned to Rosenthal for a new financing solution.

The factoring facility allowed the client to pay out the minority investors and provided more flexibility to support future sales growth.

SSG Advises Atlantic Carbon Group Sale to White Oak Affiliate

SSG Capital Advisors acted as investment banker to Atlantic Carbon Group in the sale of its equity interests to ACG Holdco, an affiliate of White Oak Global Advisors. The sale was effectuated through an Administration proceeding in the UK and an ancillary Chapter 15 proceeding in the U.S. Bankruptcy Court for the District of Delaware.

SSG was retained by the UK administrators to conduct a comprehensive marketing process and solicit offers for the equity interests in Atlantic Carbon. A credit bid from White Oak was ultimately determined to be the highest and best offer for all of Atlantic Carbon’s equity interests.

Sallyport Provides $1.3MM AR Facility to Flower Distributor

Sallyport Commercial Finance supplied a $1.3 million accounts receivable facility to a wholesale distributor of plants and flowers. The company needed additional working capital to fulfill large orders. It was referred to Sallyport by a broker who has worked with the company in the past and felt confident that Sallyport could provide a structured solution to support its growth.

North Mill Capital Closes $3MM Revolver for Seating Concepts

North Mill Capital funded a $3 million revolving line of credit and a $500,000 equipment term loan facility to Seating Concepts. The proceeds were used to pay off the existing lender and provide additional working capital. Founded in 1980, Seating Concepts, is a manufacturer of furniture and decor for the restaurant and food service industry.

TAB Bank Provides $2.5MM Revolver to Technology Company

TAB Bank has provided a $2.5 million revolving credit facility for a technology company based in California. The new facility is extend-
Stenn Closes AR Financing for Photography Accessories Importer

Stenn International has closed a six-figure trade receivables finance program for a trading company based in New York that sources photographic paper from Canada. This new financing program is being used to free up working capital to support sales expansion.

The importer’s Canadian supplier engaged with Stenn to receive payment at the time of invoicing and shipping of goods, while the importer benefited from open account payment terms that allowed for payment at a later date. In this way, Stenn’s program provided liquidity to both parties in the trading relationship.

Huntington Provides $13.4MM Facility to Dutchland Plastics

Huntington Business Credit closed a new $13.4 million credit facility with Dutchland Plastics.

Proceeds of the facility were used to refinance existing debt and provide ongoing working capital growth financing.

Ootsburg, WI-based Dutchland Plastics a plastic rotational molding manufacturer of large consumer and industrial products.

TradeCap Partners Closes $500K PO Facility for Footwear Apparel Importer

TradeCap Partners closed a $500,000 purchase order facility for a New York-based clothing and footwear apparel importer that sells through retail channels in the U.S.

TradeCap advised the client of the pitfalls associated with providing cash deposits to overseas suppliers and structured a letter of credit to ensure quality goods were sourced in a timely manner to meet delivery dates of the client’s customer. The transaction was underwritten quickly in order to maintain the time sensitive shipping schedule of the customer. TradeCap closed the PO facility within a week and issued an irrevocable letter of credit with terms acceptable to the overseas factory. The senior lender’s partnership with TradeCap allowed it to provide a solution and further strengthen their client relationship.

SG Credit Provides $2MM to Enterprise SaaS Company

SG Credit Partners closed a $2 million credit facility for Enterprise SaaS. The Enterprise SaaS platform enables companies to prepare and oversee RFPs and other business responses with speed, accuracy and compliance. The company’s recurring revenue is $4.5 million.

SG Credit provided the company with a bifurcated loan structure consisting of a $1 million interest-only loan to refinance the existing debt and a $1 million term loan to finance the company’s growth initiatives.

Austin Financial Provides $6.3MM Facility to Meal Production Company

Austin Financial Services closed a $6.3 million AR and inventory revolver with M&E and capex term loans for a company that provides meal production & delivery service to hospitals, skilled nursing homes, long-term care facilities and catering companies throughout the country.

Proceeds from the revolver were used to pay off the company’s existing bank line, fund ongoing working capital needs and provide new capital to support the company’s expansion strategy.

Crestmark Tops $42.3MM in Funding to 112 Businesses in H2/Jan

Crestmark secured a total of $12 million in ABL financial solutions for nine new clients; Crestmark Equipment Finance provided $12.156 million in 12 new lease transactions; Crestmark Vendor Finance provided $7.47 million in 87 new lease transactions; the Joint Ventures Division provided $994,451 in financing for one client and the Government Guaranteed Lending Division provided $9.7 million in financing for seven new clients in the second half of January.

Brookridge Closes $32MM PO Funding for Equipment Distributor

Brookridge Funding completed a $32 million purchase order funding for an importer and distributor of recreational equipment. The client received very large seasonal purchase orders from a major retailer, which could not be financed within its existing asset-based lending facility.

Brookridge was able to establish an inter-creditor with the asset-based lender and pay for the merchandise as it shipped from Asia enabling the client to accept all the orders and realize the profits.

Alleon Provides $750K AR Facility to Pharmacy

Alleon Healthcare Capital closed a $750,000 medical accounts receivable financing facility with a pharmacy in Pennsylvania.

The client is a 20-year old multi-state licensed, independently owned pharmacy provider.

It approached Alleon seeking financing for its health insurance accounts receivable to restructure its debt and enable its growth plan. The three to four-week delay from date of service to receiving payment was hampering the company’s ability to onboard new patients. The company’s average patient requires seven or more medications so the upfront cost to the company per new patient is high considering the payment delay.

Iron Horse Provides $12MM Facility to Plant Nursery & Distributor

Iron Horse Credit has completed a $12 million stand-alone inventory facility to a plant
Don’t let data entry be your kryptonite. When you effortlessly automate document management and invoice processing with HubTran, you instantly start working 4x faster without mistakes. (Superhuman.) And when you’re heroically efficient, you beat funding deadlines by hours. (Bam!) You save 60% on costs. (Pow!) And you’re able to scale up without staffing up. (In a single bound.)

Pursue good vs. evil right now. Contact factors@hubtran.com for a demo, and check out your ROI. It’s time to fly.
nursery and distributor that primarily sells to home and hardware stores, big box retailers and grocery stores.

The additional capital will enable the client to purchase raw material, pay down its vendors and take on new orders to achieve its projected growth.

**Tradewind Delivers $1MM Facility to Packaging Manufacturer**

Tradewind Finance has completed a $1 million non-recourse factoring facility for a packaging manufacturer in the UAE that primarily sells to domestic big names.

The company, which produces cardboard boxes and packing tape, is allocating the funding to purchase raw materials for new orders.

**King Trade Provides $2.4MM Facility for Government Contractor**

King Trade Capital completed a $2.4 million purchase-order finance facility for a Florida-based, minority-owned government contractor.

A financial consultant, who had previously utilized KTC to finance another government contractor, contacted King Trade Capital to help its current client acquire the capital necessary to fulfill its growing contracts with FEMA.

KTC assessed the client’s abilities and ultimately proposed and quickly underwrote the finance relationship for the client to fulfill an initial $3.5 million contract.

**AmeriSource Closes $2.5MM Facility for Kitchen Counter Manufacturer**

Amerisource Business Capital closed a $2.5 million credit facility for a kitchen counter manufacturer based in New York. The proceeds are being used for working capital.

“We are pleased to welcome this new client. Following a change of ownership, the company’s bank was unable to renew its revolver. Amerisource was approached and was able to approve and close a revolving facility in under two weeks. We have enjoyed working with the new owners and look forward to our continued partnership,” said Andy Allaire, regional market manager for Amerisource.

**CBC Business Credit Names Scoggin VP of Marketing & Business Development**

California BanCorp announced that Alexandra Scoggin has joined the CBC Business Credit team as vice president of Marketing and Business Development. CBC Business Credit offers asset-based financing to a broad array of businesses. Scoggin will be based in Southern California.

Scoggin previously served as vice president of Business Development at Goodman Capital Finance. Her role entailed negotiating favorable financing proposals for new business prospects, offering lending options to achieve profitability objectives for the company and maintaining client relations. She has also worked at Bibby Financial, Continental Business Credit and Merchant Factors.

**PERSONNEL NEWS**

**Gibraltar Names Oertel SVP/BDO of Upper Midwest Region**

Gibraltar welcomed Robin Oertel to the GBC family as a senior vice president and business development officer, based out of Minneapolis, MN. Ortel will use her 20-plus years of experience to originate and execute new asset-based lending relationships in the Upper Midwest.

Ortel’s experience in business development, relationship management and field examinations provides a solid platform for delivering solutions that meet clients’ and financial sponsors’ goals. She developed this expertise working with both regulated and non-regulated institutions. Ortel joined Gibraltar following 17 years as a business development officer at Wells Fargo Capital Finance and seven years as a collateral and portfolio manager for Guaranty Business Credit.

**ACCEPt CREDIT CARDS WITH CONFIDENCE!**

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Dave Powers
540-222-3925
dave.powers@clarusdc.com

FOR MORE INFORMATION VISIT clarusdc.com/factoring/
Cohn & Dussi Add National Director of Sales and Marketing

Cohn & Dussi, a full-service law firm based in Boston, announced the addition of Robert Hann as director of National Sales and Marketing. “Bob has been influential in the creditors’ rights and commercial collection industry,” said Lewis Cohn, managing partner of Cohn & Dussi. “He is well respected by financial companies throughout the country. We are pleased to have him as a valuable member of our firm.”

Axiom Bank Appoints Scheff VP, Commercial Relationship Manager

Axiom Bank, a Maitland-based community bank, named Bryan Scheff VP, commercial relationship manager. In this role, Scheff will develop relationships with Axiom’s commercial partners in Central Florida.

Bahr Joins Triumph as EVP of Sales

Triumph Business Capital has hired Erik T. Bahr as executive vice president of sales. He will report to Geoff Brenner, chief executive officer. Bahr joins Triumph after serving as Texas regional president of Compass Real Estate, an agent-centric real estate technology company. Prior to Compass, he spent a decade respectively at Yahoo (broadcast.com) and Facebook, leading and growing business-to-business and business-to-consumer sales organizations for each.

Crestmark Launches New Financing Groups, Taps Tomasello & Heath to Lead

Crestmark has launched a Business Credit group to focus on asset-based lines of credit and a Commercial Capital group to focus on capital needs primarily secured by accounts receivable.

Steven Tomasello leads the Business Credit group, and Heath Holdbrooks leads the Commercial Capital group. Tomasello has led Crestmark’s East division for more than 10 years, and Holdbrooks has led Crestmark’s Transportation division for over five years. Under their leadership, both divisions have experienced significant growth.

Amerisource Hires Forbes to Aid ABL Expansion

Amerisource Business Capital has hired industry veteran Doug Forbes. Forbes will serve as a regional market manager based in Houston and will be responsible for new business development throughout Texas and Louisiana. He joins Amerisource with more than 30 years sales and credit experience in asset-based lending. His previous work experience includes marketing for MidCap Business Credit and Frost Capital.

Bolanos Joins Triumph Business Capital

Triumph Business Capital hired Moises Bolanos as senior vice president of Client Experience. Bolanos joins Triumph after nearly four years in a similar role at eCapital, a freight factoring company based in Southern California.

Bolanos will lead Triumph’s Client Experience team with a focus on employee engagement and training. In this newly created role, he will oversee the company’s customer service and retention goals, using a data-driven approach to track and meet established benchmarks.

Utica Equipment Finance Hires van Reede as BDO

Utica Equipment Finance, a provider of equipment-based term loans and leases to companies throughout North America, hired Francois van Reede as a business development officer. Based in Arizona, he will be responsible for sourcing and developing client and referral relationships throughout the U.S.

Over the past 25 years, Francois has worked with some of the largest banking and financing entities in South Africa, Canada, and the United States, including Barclays Bank, Nedbank, ABSA, GE Capital, ABN-AMRO Bank and Caterpillar Financial Services. He joins Utica from Sterling National Bank.

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Think you know your stuff? PROVE IT!

CERTIFIED ACCOUNT EXECUTIVE IN FACTORING

You are eligible to sit for the Certified Account Executive in Factoring exam if you have been involved in Factoring for at least two years and you are or have been in an Account Executive role, or you have managed such a position.

THE PROCESS IS EASY...

Any qualified candidate can sign-up, there is no need for employer sponsorship. Qualified candidates can schedule the exam at a supervised testing center in a nearby city and will take a 100 item, multiple choice exam.

PROUDLY DISPLAY THE CAEF DESIGNATION

The exam was not designed to be easy; many candidates report that taking the exam took every bit of the two hours allotted and not everyone who takes the exam will achieve this prestigious credential.

Candidates who pass the exam can proudly display their CAEF designation by using the CAEF logo and C.A.E.F. initials to show the world they are proficient in the field of Factoring.

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Will the M&A Tide Turn in 2020?

The M&A market entered full recovery in mid-2012, but where does it stand today? Tim Stute and T.J. Humes examine recent trends in the market, shifts in the acquirer landscape and explore the question, is now the right time to sell?

BY TIM STUTE & T.J. HUMES

The recession M&A market, roughly from mid-2008 through Q3/10, was a period when transaction multiples were at a range from a discount, to a modest premium, to tangible book value (equity) and earnings multiples were irrelevant. Over the last decade, M&A market conditions have steadily improved. Late 2010 through early 2012 presented a slow M&A market but premiums returned, expressed both as percentage of tangible book and earning assets.

We characterize the period, starting in mid-2012, as the fully recovered M&A market, which included ample deal activity. Banks and business development companies (BDCs) were the active buyers. While we labeled this period fully recovered, it was due to the recovery of deal volume to typical historical levels. But deal multiples had not yet returned to historically high levels, and we questioned whether they ever fully would.

The previous M&A peak market for commercial finance companies was, perhaps unsurprisingly, from 2004 through early 2008, ending with the advent of the Great Recession. In more recent years, we’ve seen continued improvement in the M&A market. Having already used “fully recovered,” we now needed a new label for the latest era.

Reluctant to call another peak, we use “seller-driven M&A market” to define the period of time since 2016, which has been characterized by a robust buyer universe with credit funds and strategic buyers joining banks and BDCs. Multiples have
WHERE DO WE GO FROM HERE?

To the earlier question, are we headed to a "new peak" or — to take a draconian outlook — a return to the M&A market of a decade ago? We do not see evidence suggesting a rapid drop from peak M&A market to the recession M&A that unfurled in 2008, nor do we think we are headed toward a new peak.

In recent commercial finance M&A deals, we continued to see interest from a variety of potential acquirers. Over the last two years, banks (Gulf Coast Bank & Trust, Triumph and TAB Bank), BDCs (Hercules Capital and Great Elm Capital), private credit firms (White Oak Global Advisors) and strategic buyers (North Mill Capital, Vero Business Capital and Global Merchant Fund) have made acquisitions. Recently completed deals are in the aforementioned ranges, and initial indications on active deals suggest that will continue for the near future.

However, the acquirer landscape has experienced some shifts. While the trend of multiple bidders has continued, we have seen higher bidder drop-out, and the number of buyers knocking on our door to find a platform seems to have declined slightly.

There are several potential reasons for this. The wealth of M&A activity over the last few years could mean buyer appetite has been satisfied. Additionally, since many believe a turn in the credit cycle is inevitable (and closer everyday), would-be buyers can endure the FOMO (fear of missing out) on a good acquisition rather than the stigma of making a bad one before a downturn. This is particularly true for private equity buyers, which have not been active recently and have generally only pursued bolt-on acquisitions.

Let’s not forget about the election, which will obviously result in a binary outcome for which the benefits/consequences either way are not fully known but perhaps more exaggerated than in past election years. Reading the tea leaves from recent M&A deals, it feels that we may drift toward the fully recovered M&A market in the coming months and years, but that could change on November 3.

Having more or less returned to the pre-recession peak M&A market, a natural question is whether now is the time to sell. Considering only the M&A market, the answer is quite possibly yes. However, the decision on when to sell is more complex. A company’s stage of growth, management’s commitment timeline and outside investor demand tend to drive sale decisions more than market timing. Further, a depressed M&A market typically presents the most opportunities for both organic and inorganic growth for well-capitalized commercial finance companies. This could lead to a substantially larger company down the road, even if it’s sold before the next peak.

In summary, if you have contemplated pursuing a sale in the next three to five years and have limited ability to extend beyond, it is probably worth having a discussion about pursuing a sale on an accelerated timeline. If your sale timeline is longer, now is the time to shore up capital for future growth, whether it be organic or through acquisition. •
The Ins and Outs of Acquisitions

M&A has always been a large part of the financial industry. But where does the process begin? Robert Carothers, Jr. shares the key information factors need to know when acquiring another company — or a bank — or when they want to sell to the highest bidder.

BY RITA E. GARWOOD

We see mergers and acquisitions in the news frequently these days (see page 10 for a rundown of the most recent transactions in the factoring industry). But where does the average factoring company interested in M&A begin? Robert L. Carothers, Jr., partner at Jones Walker, who focuses his practice on financial institution regulation and mergers and acquisitions, sat down with Commercial Factor to shed light on the M&A process.

PREPARING TO BE ACQUIRED

The first step in preparing for an acquisition is to address any outstanding company issues. “When you sell your company, you want it to be as clean as possible,” Carothers says. “If you have regulatory issues, litigation issues or asset quality problems, do your best to get them addressed. You don’t necessarily have to get them all completely fixed. It’s just the cleaner you are, the less issues there are for a buyer to be concerned about, the more valuable your company is going to be.”

Once your house is in order, Carothers says it’s vital to get a handle on any potential transaction costs that may be borne by the buyer, such as termination of any vendor contracts and triggering any change in control or other types of severance payments. These costs will be factored into how much an acquirer is willing to pay for your company.
Finally, consider engaging an investment banker who can help create marketing material, create a list of potential buyers and ensure you’re offered the best price possible. “If you’re going to sell your company, hiring an investment banker can be a wise decision because they have extensive experience they can bring to the table,” Carothers says.

**PREPARING TO ACQUIRE**

What if you’re on the other side of the table and want to acquire another company? Carothers says the first step is identifying a list of potential target companies. “These companies must be a good fit from a cultural standpoint,” he says. “Look at the manner in which they operate their business and the kind of products that they sell and synergies that can be created.”

Going to trade association events, like the IFA’s annual conference, is a good way to get the process started by getting to know the management teams of other companies in the industry. “Building a relationship and trust goes a long way to getting a deal put together,” Carothers says. “A lot of that can be done at trade association events where you can go to dinner and talk about what’s going on with your companies. It’s easy to plant that seed and say, ‘If you ever decide you want to sell your company let’s talk.’”

Engaging an investment banker is also a great move for factors looking to acquire since they can assist with creating a target list, help strategize on the best fit and assist with pricing the deal appropriately. “Investment bankers generally have a lot of inside knowledge about who’s looking to sell,” Carothers says.

Last, but not least, be certain that you have enough capital in place or a plan for raising the necessary capital to close the sale. “When you start talking to sellers, they look at your balance sheet, and if you don’t really have the capital to buy them or a credible plan to raise it, they might not be interested in talking with you,” Carothers explains.

**UPSIDES AND DOWNSIDES**

The bright side of acquisitions is their ability to allow a factoring company to build economies of scale faster than growing organically. “They allow you to bring in key producers that you otherwise may not have access to, which enables you to create new business relationships,” Carothers says. “It can also enable you to get into new products and business lines and diversify and grow at a faster pace and enhance profitability and franchise value in the process.”

The disadvantages of acquisitions involve due diligence, which is extremely important. “If you’re a buyer, you must understand exactly the assets and liabilities that you are acquiring and assuming as part of an acquisition,” Carothers says. “If something major is missed during the due diligence process, you bought it, and it is your liability.”

**FACTORS ACQUIRING A BANK**

Factors looking to enter the banking game must be aware of rules governing who can acquire a bank as well as the rigorous applications process involved. Ultimately, the bank’s regulator needs to approve the acquisition. “Banking is a highly regulated environment, more so than what a factoring company is used to,” Carothers says. “Banks face in-depth regulatory exams every 12 to 18 months, have limits on the types of non-banking activities they can engage in and a heightened focus on regulatory capital, asset quality, liquidity, interest rate risk and Bank Secrecy Act/anti money-laundering, to name a few.”

Getting the bank regulators comfortable with the business plan of how the factor would integrate the bank will be extremely important. Carothers says regulators will also look closely at the background of the acquiror and its principals to ensure they are comfortable with them. “They’re going to ask for and review a lot of information as part of their applications process. Be sure to have some preliminary conversations with the bank’s regulator.”

**SELLING TO A BANK**

Before deciding to sell to a bank, factors must ask if the timing is right to put the company up for sale. “Once again, that comes back to talking with an investment banking firm about what the future holds in terms of pricing for factoring companies and looking at pricing trends to see if you are hitting the top of the market, or the bottom, or somewhere in the middle in terms of timing.”

Second, it’s important to determine if shareholders of your company want stock, cash or a combination of both. Are they comfortable taking stock of a non-publicly traded company? “We have many clients who aren’t interested in anything other than either cash or public company stock because it’s liquid,” Carothers says.

Finally, be sure to determine the future roles of the factoring company’s management team in the resulting entity. Do they want employment contracts? “If a bank wants to get into factoring, it’s probably an area where they don’t have expertise, so they’re probably going to be looking to the factor’s management team on a go-forward basis to run the factoring division. They’re probably going to want those key executives around and may want them to sign employment agreements as part of the deal to ensure that they’re going to be around to help run the business.”

*Rita E. Garwood* is editor in chief of Commercial Factor.
Factors Bridge the Gap in Middle Market M&A

Middle market M&A can be complex, but factoring can simplify several aspects of the process for buyers and sellers. Sandy Garrett explores several benefits that factoring can deliver, including help with transparency, avoiding surprises, adding liquidity and improving buyer ROI.

BY SANDY GARRETT

The M&A market has been robust for over a decade and remains strong. However, with concerns about the economy, bank leverage for buyouts is tightening. This provides a great opportunity for factoring companies to become a cornerstone of the liquidity necessary for closing the financing gap between buyers and sellers.

DETERMINING PRICE

The pricing process in M&A transactions begins by multiplying EBITDA (earnings before interest, taxes, depreciation and amortization) by an agreed upon multiple appropriate for the seller’s industry. The definition of EBITDA is not hard and fast, however. Adjustments to EBITDA, such as adding back non-recurring expenses, redundant expenses or non-business-related expenses, are subject to substantial negotiation. Once EBITDA issues are resolved, a gap between sale price expectations (multiple) by seller and purchase price expectations by buyer frequently occurs. As with all M&A negotiations, sell side investment bankers’ expertise is critical in closing this delta between seller/buyer expectations.

Once a nominal price has been agreed upon, working capital requirements must be negotiated. The net price is typically reduced by outstanding debt and increased by cash. As such, enterprise value is typically calculated on a “cash free, debt free” basis. Inadequate use of leverage, overpayment for debt, unbalanced current ratios and low debt service coverage are among many balance sheet items that can reduce the selling price. Buyers try to build in protections, such as account receivable reserves, indemnification provisions and other holdbacks, all subject to further negotiations.
In middle market M&A transactions, typically $20 million to $200 million in size, buyers most often require a minimum normalized level of working capital on the balance sheet at the time of close. This supports both running the company in an orderly fashion post-close and avoids short-term liquidity issues. The working capital provision, next to EBITDA adjustments, is the most subject to abuse and negotiation. These are quite complex when addressing issues such as deferred revenue for software companies, deferred taxes, loans due to insiders, prepaid expenses and accrued interest. Once again, investment bankers negotiate with buyers about which current assets and liabilities to include and over what period.

Simplistically, working capital is determined by subtracting a business’ current liabilities from its current assets (less cash). However, this may vary substantially at any given point in time. Sellers can press customers for payments and/or use factors, thereby reducing receivables and stretch payments to vendors and increasing payables. By reducing production, the seller might reduce inventory. These, conveniently, contract working capital, thereby potentially increasing net purchase price. As receivables, payables and inventory revert to normal levels, this would affect a company’s future cash flows negatively. To get around these issues, buyers frequently negotiate working capital hurdles with investment bankers.

Working capital hurdles may get around some manipulation by averaging working capital over the latest 12 months. But adjustments may have to be made based on the type of company, such as seasonal or growth companies, which frequently require adjustment. Even though a 12-month working capital average might adjust for annual seasonality, when a transaction closes, working capital may be at an unusually high or low inflection point, providing for an excess payment to or by the seller. Growth companies have an ever-increasing working capital growth requirement, and working capital might best be averaged over the last six or three months rather than 12.

THE ROLE OF FACTORING

Factoring can play an important role that can benefit both buyers and sellers. For private equity investors, factoring is complementary to bank-leveraged financing. It is relatively risk-free when undertaken on a non-recourse basis. Factoring reduces equity invested to purchase the company and increases buyer ROI, allowing for a higher purchase price. The factoring advantage is particularly interesting for high-yield orientated private equity companies.

The know-how of a factoring company can be used by an investment banker to examine and analyze the receivables portfolio of its client, providing both buyers and sellers reduced risk of surprise in working capital assessments. Hidden risks in receivables management can be revealed to find the true value of the accounts receivable portfolio. The result is more transparency and an improved knowledge of the target company’s fair value.

Especially for turnaround finance, factoring provides leverage to buyers not otherwise available from banks. Factoring also holds the potential to reduce risk and benefit transactions heavy in foreign receivables due to the greater domestic focus of most middle market oriented PE firms.

Factoring optimizes receivables management and helps to stabilize cash flow. This is especially beneficial during the sometimes-turbulent transition period immediately following new acquisitions. The funding by a factoring company is based on the purchase of the client’s receivables, grows in parallel with turnover and does not count as debt. As such, factoring provides ongoing liquidity without stretching bank leverage that might better be used for equipment financing. Factoring provides further flexibility in uncertain economic environments, reducing risk perceived by banks, thus reducing the risk of disruption to bank term loans in the event of declining working capital coverage ratios or, worse yet, in the event of covenant violations.

Investment bankers can advise factoring to clean-up unusual receivables on the balance sheet, particularly those related to large transactions and/or extended payment terms to better credits, thereby reducing questions related to normalized working capital.

Before selling, a company can factor receivables and redeem debt and other liabilities that might otherwise be subtracted from the sales price. However, due to buyer averaging of working capital, this process should start early in the decision-making process of selling a company.

The sale and purchase of companies is a highly complex transaction frequently taking a year or more from inception to close. Judicious use of factoring is beneficial to both parties in several ways. It helps both buyers and sellers with transparency, helps both parties avoid surprises, adds liquidity, improves buyer ROI and helps investment bankers structure the gap between perceived value by seller and buyer, particularly regarding normalized working capital.

Sandy Garrett is Managing Director of Capital Formation for DBD Partners, an independent Investment Bank focused on providing strategic advice in mergers and acquisitions, financial restructuring, capital formation, and corporate finance to the middle market.
This article will bring you up to date on a few important issues on which the AFA has been advocating on your behalf with key legislators and regulators.

**CALIFORNIA SB-1235**

During the past two years, the AFA has worked diligently to address California SB-1235, which mandates onerous disclosure requirements for credit extensions to small businesses. While factors do not extend credit, the California legislature included factors as covered parties. While factors will take on some additional burden from this regulation, the AFA was successful in mitigating some of the damage to factors. This has been a very important campaign, as other states are considering similar legislation.

**CFPB UPDATE**

The AFA has spent over three years developing a very strong working relationship with the Consumer Financial Protection Bureau (CFPB), which is implementing Section 1271 of Dodd-Frank, which would require a great deal of record keeping by those businesses that are deemed to be covered. Thanks to the efforts of the AFA, the CFPB is currently considering whether factors will be covered by those reporting requirements. We are hopeful factors may not be deemed to be covered.

**BREAKFAST WITH SENATOR TOM COTTON**

We’re excited that Senator Tom Cotton will be with us in Nashville for the 26th Annual Factoring Conference. He has scheduled a fundraising breakfast for the morning of Friday, April 24, and he will speak at the IFA morning session following the breakfast. He will discuss the Congressional environment for the financial services industry and the small business community. All AFA and IFA members are welcome to attend the breakfast for a $1,000 contribution, which goes directly to Senator Cotton’s campaign. We encourage you to contribute as Senator Cotton is an extremely forceful and effective advocate for free enterprise. Thanks to his understanding of the factoring business, he has been supportive of our industry and is one of factoring’s champions on the Hill.
THE AFA NEEDS YOU

To continue to meet the needs of our membership, it’s important that every active member of the IFA, contribute generously to the AFA. This burden cannot be shouldered by only a few in our industry. Because of the number of consolidations in our industry over the past year, donations have declined slightly and we need your help. To continue having advocates working for us on the Hill, it’s critical that everyone digs deep and supports the AFA.

We also need your time and involvement. Meeting with Members of Congress of your State, attending the annual breakfast with a Member of Congress and donating directly to the candidates who are friends of our industry, and encouraging other factors to get involved and donate are additional ways you can help. The AFA has achieved many of its goals over the last 10 years. Please help us continue advocating for the factoring industry.

The goal of the AFA is to increase membership and financial support from every IFA member. We urge every IFA member to contribute to the AFA as we are in the midst of our annual membership fund drive. Currently, we have Bronze Members who have contributed as little as $500, up to Diamond Members who have contributed in excess of $10,000. This is a very inexpensive insurance policy to help protect our industry from needless regulation which will be both costly and prohibitive. Please consider supporting the American Factoring Association.

2020 Members

As of February 27, 2020

Diamond Member ($10,000+)
Accord Financial, Inc.
Apex Capital Corp
Crestmark Bank
Great Plains Transportation Services, Inc.
Gulf Coast Business Credit
International Factoring Association
J D Factors
MP Star Financial, Inc.
Sallyport Commercial Finance, LLC
TBS Factoring Service, LLC
Triumph Business Capital

Platinum ($5,000—$10,000)
Accutrac Capital Solutions Inc.
CapFlow Funding Group
eCapital LLC
FSW Funding
LSQ Funding Group
Millennium Funding
Prime Capital Group
PRN Funding
Republic Business Credit, LLC
Southstar Capital
Sunbelt Finance
Truckstop Factoring

Gold ($2,500—$5,000)
American Funding Solutions LLC
AmeriFactors Financial Group, LLC
AR Funding, Inc.
Assist Financial Services, Inc.
Bay View Funding
Commercial Finance Group
Evergreen Working Capital

FirstLine Funding Group
Gateway Commercial Finance
Goodman Capital Finance, a division of Independent Bank
Interstate Billing Service
Lenders Funding, LLC
Match Factors, Inc.
Mazon Associates, Inc.
Prime Capital Group, Inc.
Prosperity Funding, Inc.
Rioux Capital
SevenOaks Capital Associates, LLC
Sky Business Credit, LLC
Southwest Commercial Capital, Inc.
Transport Factoring, Inc.

Silver ($1,000—$2,500)
"Other (Under $500)"

The Commercial Factor | FEBRUARY 2020
WHAT'S NEW AT IFA  FEBRUARY 2020

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:

Beijing Commercial Factoring Association (BCFA)

Colombian Association of Factoring (CAP)

Commercial Factoring Expertise Committee of China (CFEC)

Ecuadorian Factoring Association (ASOFACTOR)

FCI

Romanian Factoring Association (RFA)

World of Open Account (WOA)

www.woa.community/

BROKER

Rainstar Capital Group

Rainstar Capital Group is a multi-strategy private equity firm based in Grand Rapids, Michigan that makes direct investments and provides advisory debt capital. Rainstar partners with factoring firms who have clients seeking debt capital products separate from the factoring solution for growth needs. Through its multiple lending platforms with over 250 registered lenders, Rainstar provides factoring firms’ clients debt financing product lines for commercial real estate, corporate finance, small business and equipment needs. Product lines include: Unsecured Lines of Credit, Revenue Based Lines of Credit, Revenue Based Advance, Merchant Cash Advance, Business Lines of Credit, Inventory Financing, Purchase Order Financing, Equipment Leasing, Accounts Receivables Factoring, CMBS Loans, Agency Loans, Bridge Financing, Hard Money and Commercial Contractor Credit Lines. Rainstar’s lending platform finances clients from $10k to $300M and covers all credit profiles across the listed product lines.

Kurt Nederveld: Kurt@rainstarcapitalgroup.com

IFA Member Benefit: Rainstar Capital Group will pay your IFA membership dues. Members will pay IFA directly and Rainstar will reimburse member within 30 days of payment. Members will be eligible for membership fee reimbursement if they either:

- Fund a client that was presented by Rainstar during the preceding 12-month period.
- Refer a company to Rainstar that is funded through a Rainstar funding source during the preceding 12-month period.

CERTIFIED MAIL

RMail

Go Paperless. Switch to RMail to send your important notices. RMail 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, reliably starting the accounts receivable aging clock.

www.rpm.com/ifa

IFA Member Benefit: IFA Members save $300! Subscribe to 1000 units RMail plan for only $390! (Normally $690)

COLLECTIONS

The Collection Law Group, Inc.
The Collection Law Group (“TCLG”) is a group of lawyers who collect past due commercial accounts receivables from businesses across the United States. Our collection approach has been helping finance and factoring organizations collect past due amounts more quickly and cost effectively than other approaches. Our approach combines the best of collection agencies with the best of law firms giving our clients the highest recovery amounts more quickly with less cost. At TCLG we call our approach our “Attorney Driven Approach”.

Brad Magill: bmaggill@tclginc.com

www.tclginc.com • 888-304-4347

IFA Member Discount: For the first five collection files sent to TCLG by IFA members that are $10,000 or more in amount due, TCLG will offer a reduced fee from our normal 20% contingency fee to a 15% contingency fee. Future discounts if any will depend on the volume of files and nature of the files.

VeriCore

VeriCore is the pioneer of ZERO fee collections! A ZERO fee collection takes place when VeriCore compels the debtor to pay for the cost of collection. ZERO fee collections don’t happen every time, but many IFA members have already experienced ZERO fee collections over 100 times! VeriCore is a contingent, fully licensed and bonded agency with an A+ rating with the BBB and a strong focus on compliance. Our proprietary process is designed to create constant and methodical pressure on a debtor which compels them to prioritize you at the top of their AP list. We have a national and international presence and we would relish an opportunity to show you how good we truly are.

800-433-4903 x1162

Chris Dawson: chris.dawson@vericore.com

www.vericore.com

IFA Member Discount: Contingency rate of 22% or will match the rate of any agency that is fully licensed.

CONSULTING

FactorHelp

FactorHelp has come to be regarded as the factoring industry’s premier resource provider. The information collected directly from the accounts receivable aging clock.

972-722-3700 • www.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

Ansonia Credit Data

With more than 250 Factors and over $800 billion in data, Ansonia provides Factors and ABL lenders an innovative way of managing debt and fraud risk. Our business credit reports feature current and historical days-to-pay information collected directly from the accounts receivable aging clock. Ansonia’s unique new program for monitoring credit portfolio risk.

855-ANSONIA • 855-267-6642 x.103

www.ansoniacreditdata.com

IFA Member Benefits: Free VIGILANTE™ Portfolio Analysis. Try Ansonia’s unique new program for monitoring credit portfolio risk. Call today to receive a comprehensive review of our entire portfolio.

Credit2B

Trusted by all of the majors because of the sheer volume of Factor trade and 98% third-party data coverage of active businesses in North America, Credit2B is a cloud-based platform that empowers accurate and timely decisions by connecting the experiences of trade credit grantors around their common business customers. We combine this highly valuable trade network information of approximately $700B in recent receivables with live bureau and public filing information to provide comprehensive financial risk profiles, all in real time. Our dashboard also provides Factor specific scoring, Factor client risk pools, monitoring, peer benchmarks and comprehensive trade data pack solutions for integration into your enterprise software.

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212-714-4500 • www.credit2b.com

IFA Member Benefits: Join the largest virtual factor community. Receive 10% price discounts for being an IFA member. Complimentary invitations to our hosted events in NYC.
FactorsNetwork
FactorsNetwork provides an online platform where Factors share trade experiences with each other. Members are able to pull unlimited Credit Reports as well as monitor and analyze their portfolio. Transportation Factors benefit from our CarrierMonitoring and ChameleonCatcher programs and their clients profit from our LoadBoard. We even offer a Sales Tool to help you find new clients.
435-659-4612
www.factorsnetwork.com
IFA Member Benefits: 50% cost savings for the monthly membership fee. It is normally $1,000 per month, but IFA members will pay $500 per month.

CREDIT CARD PROCESSING
Clarus Merchant Services
Clarus Merchant Services offers a custom program developed specifically for how the Factoring Industry processes their credit card transactions. Our program provides detailed reporting that allows tracking of each invoice and fee transaction for easy account reconciliation with their customers and clients. We work with each member to ensure all processing costs are covered and that they are doing so within the guidelines of MasterCard/Visa. In addition, we provide IFA members direct access to their account manager for immediate response and support.
David Powers • david.powers@claruscdr.com
540-222-3925 • www.clarusdc.com
IFA Member Benefits: IFA members that purchase the CardX program receive a one-time $200 rebate*.
*Once the member has processed a whole month using the program

ePaymentAmerica
ePaymentAmerica is the nation’s leading provider of processing services for the factoring, A/R financing, and P/C 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.
901-385-5327 • www.epaymentamerica.com
factoring_program@epaymentamerica.com
IFA Member Benefits: IFA members that purchase the CardX program receive a one-time $200 rebate*.
*Based on volume/transaction count.

FUNDING
Liquid Capital Corp.
Liquid Capital has been in the Factoring industry since 1999 and entered into a partnership with Next Edge Capital in 2015. This relationship has allowed them to pursue an aggressive growth strategy focused on the following key initiatives:
• The acquisition of A/R portfolios from Factors looking to exit the industry
  Member benefit: Trailer fees for the life of the acquired accounts
• Soliciting Factors to join the Liquid Capital network to gain access to additional capital, a robust range of working capital and trade finance products, extensive marketing and back office support
  Member benefit: Liquid will pay your IFA membership or Annual Conference registration fee for the following year.
• National referrals from existing Factors who would not normally fund this type of transaction
  Member Benefit: The referring Factor will earn an origination fee and have the opportunity to participate in the funding.
  Robert Thompson-So • 866-272-3704
  www.Liquidcapitalcorp.com
  rts@liquidcapitalcorp.com

MARKETING
50 Words LLC
50 Words is a marketing outsourcing firm for companies that either do not have a marketing department or that need to add more manpower to their existing marketing team. They serve as your dedicated marketing department.
610-631-5702 • www.50wordsmarketing.com
IFA Member Benefits: IFA Members will receive five free hours of marketing services with the purchase of any marketing service. (Offer for new clients only)

RECRUITMENT AGENCY
Commercial Finance Consultants
Established in 2002, CFC is the premier provider of human talent to the factoring industry. CFC’s goal is to provide their clients with the best available human capital and the most current industry information to assist in accomplishing their growth potential.
469-402-4000 • www.searchcf.com
dar@searchcf.com
IFA member will receive an additional 60 days added to the guarantee on all placements.

SOFTWARE
Arts Trade Systems
Arts Trade Systems offers ArtsiPay, the revolutionary Supply Chain Finance (SCF) app that allows banks and lenders to provide buyers and suppliers with a flexible, customizable, easy-to-use enterprise-grade software. ArtsiPay is a fully cloud-based software-as-a-service (SaaS). Partnering with Arts Trade endows lenders with a high-tech innovative partner with deep industry experience that will help market and grow their SCF program.
480-250-8186 • www.artistrade.net
IFA Member Benefits: IFA members will receive a 33% discount on the registration fee.

FactorFox
FactorFox has been providing factoring software to small, medium, and large companies during the last 15 years. FactorFox is beautifully designed, user friendly, and powerful. With every line of code we write, we challenge the status quo. We are continually finding ways to mitigate risk, and give our factors a competitive advantage in the factoring industry.
877-890-1897 • www.factorfox.com
IFA Member Benefits: In addition to the one month free trial for all users, IFA members receive an additional month to try out the complete software.

Finvoice
Finvoice offers traditional factoring companies and asset-based lenders a simple-to-use and comprehensive software solution to help them become a modern and efficient online lender. Finvoice came out of a passion to help small businesses who generate 67% of jobs and 50% of the world’s GDP.
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Set Your Sights on the 2020 IFA Annual Factoring Conference

Some of the best minds in the commercial finance industry will provide two full days of instruction at the IFA Annual Factoring Conference. Take a sneak peek at the schedule, which offers sessions for every experience level and ample networking opportunities.

BY HEATHER VILLA

From April 22 to April 25, 2020, attendees will gather in Nashville at the largest conference in the world exclusively designed for commercial finance professionals. Dedicated to providing the foremost educational and networking experience in the industry, the 26th Annual Factoring Conference should not be missed. The conference offers a world of endless possibilities where hundreds of industry leaders gather together to define the future of factoring and commercial finance. The 2020 IFA Annual Conference aims to prepare you and your business for the days ahead.

EXPERT-LED EDUCATION

Some of the best minds in the commercial finance industry will provide two full days of instruction, delivering expert-led education and topics for everyone. Innovative learning formats and engaging instructors allow you to align your education with your personal needs, interests and learning level. With sessions geared towards attendees with different levels of experience and positions of responsibility, this event will provide maximum educational content designed for every skill set.

Here is a look into the seminars and sessions offered.

FOR COMPLETE CONFERENCE DETAILS, PLEASE VISIT FACTORINGCONFERENCE.COM

All Experience Levels:
- Digging for Hope: Turning Wine to Water and Other Modern-Day Miracles
- Report from the Courts
- How the Economy will Affect Factors
- The Big Shift: How Customer Behavior & Technology is Changing the Future of Factoring
- Idea Exchange
- Play Factoring Jeopardy
- Supply Chain Finance
- Legal Panel
- A Look Into the Future of Factoring Technology
Management and Owners:
• Learn from History or be Doomed to Repeat It
• Roundtable for Senior Executives
• Acquisitions — Everything You Wanted to Know
• The Story of Customer Experience

Beginners:
• Factoring 101
• Technology 101 for Factors
• Factoring Essentials

Operations and Account Executives:
• Rise of Fraud in the Digital Era
• Roundtable for Operations Personnel

International:
• Canadian Legal Panel
• Risk Management in Cross-Border Factoring

Young Professionals:
• Roundtable for Young Professionals
• Young Professionals Reception

Women:
• Roundtable for Women in Commercial Finance

Small Factors:
• Roundtable for Small Factors
• Small Factor’s Breakout Lunch

Transportation:
• Current Topics in Transportation Factoring
• How Driverless Trucks Will Impact Factors
• Transportation Factoring Breakout Lunch

Additional sessions will be added to the agenda soon. Please check the Factoring Conference website for an updated schedule.

NETWORKING OPPORTUNITIES
Networking is an opportunity to expand your knowledge, learn from others, share your experiences and make valuable connections. You won’t want to miss all of the socials, activities and other networking opportunities that are available throughout the week. Learning about the industry through the experience of others is one of the best ways to avoid missteps in developing your business. Expanding your networking circle also allows you to gain resources for future business. More than 20 hours will be devoted solely to networking. Some of the events we have planned this year include:
• Triumph Welcome Reception — sponsored by Triumph Business Capital and Triumph Commercial Finance
• Thursday Evening Reception
• Thursday Night Tax Guard Dessert Reception — sponsored by Tax Guard
• Golf Tournament
• Young Professionals Reception
• IFA Chapter Reception
• Nashville Food Tour
• Breakout Small Factor’s Lunch
• Breakout Transportation Factor’s Lunch
• Closing Event at the Country Music Hall of Fame and Museum
• Idea Exchange

EXHIBIT HALL
Finding the right solution provider is essential to your organization’s success. The Factoring Conference Exhibit Hall is your one-stop destination to finding the right products and providers to help your company achieve new heights. Resources are available in many categories, including software, credit, consulting, funding, trade finance, backgrounds, credit card processing, marketing, insurance, participations, UCC, publishing, tax assistance and specialty financing. Breakfasts, lunches and breaks are held in the exhibit hall to maximize your time with the vendors and for greater networking opportunities.

ADDITIONAL TRAINING
Before the conference starts, we will be offering our Factoring Essentials Training Course with George Thorson (executive vice president, Triumph Business Capital) and Gen Merritt-Parikh (president, Allied Affiliated Funding). Legal counsel will also be provided by Jim Cretella, Esq. (attorney, Otterbourg, P.C.). If you are a new factor, an individual new to factoring, or just wish to enhance your knowledge, this add-on course will provide you with the background you need to become a successful factor.

DON’T BE LEFT BEHIND
The countdown has begun to the 26th Annual IFA Factoring Conference. Excitement is building as previous years’ records are being surpassed. Join us as commercial finance professionals from around the world gather in Nashville to prepare for the future. Stay ahead of the curve and build meaningful, long-lasting business relationships that will help your company thrive in the times ahead. Top notch educational sessions, a vibrant exhibit hall and invaluable networking opportunities make the 2020 IFA Annual Factoring Conference the must attend event of the year! •

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 at heather@factoring.org.
The International Factoring Association is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: www.learningmarket.org.

The IFA Conference is my favorite of all industry related events.

OMNI NASHVILLE, NASHVILLE TENNESSEE

APRIL 22-25

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“The World’s Largest Conference for the Commercial Finance Industry

“The Must Attend Event of the Year!”

For Anyone Involved with the Factoring & Asset Based Lending Industries
Back to the Basics —
Your Notice of Assignment

A notice of assignment may seem like a basic concept, but Steven Kurtz explains that when you take a deep dive, these documents are predicated on several complex topics, which he explains in detail so factors will be ready when a dispute arises.

For a change of pace, this article was inspired by a recent yoga class. I enjoy practicing yoga, which offers an outlet from work and keeps me flexible when I invariable fall off one of my bikes. As a pseudo-mellow Type A personality, I tend to go "all in" for work and my hobbies. But a recent yoga class that focused on the absolute basics was a refreshing break from some of the more advanced classes, and it inspired me to write about the most basic principal in factoring — the notice of assignment.

Steven N. Kurtz, Esq. has represented factors, banks and asset-based lenders on a continuous basis since 1987. He is the co-general counsel to the IFA and a founding partner of Levinson Arshonsky & Kurtz, which has offices in California and Oklahoma. He practices in the areas of commercial law, insolvency, workouts, loan documentation and trade finance, in both transactions and litigation matters. He can be reached by phone at 818-382-3434 or by email at skurtz@laklawyers.com.
LEGAL FACTOR
FEBRUARY 2020

While this initially seems like a simple topic, it actually stirs up many underlying issues. As you peel away the many layers and do a deep dive, the notice of assignment is predicated on several complex concepts.

TRANSACTIONS GOVERNED BY ARTICLE NINE
To start, pursuant to UCC §9-109, all transactions which either grant a security interest or involve the purchase of accounts, are governed by article nine of the UCC. That means, your factoring agreement requires the attachment of, and the perfection of, a security interest. These are easy concepts. You are simply granted a lien against various items of collateral (which must include accounts) and perfect against most of the collateral by filing the UCC-1 in the state in which your factor client originates, using the name exactly as reflected in the organizational documents filed in that state. (For individuals, use the name on their official identification, but don’t finance humans. Make them incorporate or file an LLC, an easy and inexpensive thing to do).

Now that you have your security agreement in place, all terms of your agreement are binding upon the debtor (your factor client) and all creditors. UCC §9-201. Once you purchase an account, under UCC §9-318, the debtor has no further legal or equitable interest in that account. Your contractual right to collect accounts both before and after default, are set forth in UCC §9-607. A well drafted factoring agreement will also contain a number of rights and protections in your favor.

Often, when you are dealing with third parties in your collection process, your rights under the factoring agreement may sometimes be questioned. Therefore, it’s important to know going into the situation, that all terms of your agreement are binding on the factor client and all its creditors (UCC §9-210), the factor client no longer has any rights in the account it sold (UCC §9-318), and you have the sole right to collect the accounts (UCC §9-607). Therefore, while third parties in a dispute with you may try to alter your basic rights, they are precluded from doing so by statute.

NOTICE OF ASSIGNMENT
Now comes your notice of assignment, which you will send to the account debtors and which will operate to cause the account debtors to pay you and not the factor client. This, of course, is governed by UCC §9-406, which provides that the account debtor discharges its payment obligations to your factor client before the notice of assignment by paying your client. Once notice is received, the payment obligation is not discharged unless the account debtor pays the factor, setting up the payment over notice problem. The form of the notice clarifies that all accounts are paid only to you, provides where the payments should be made, and further provides that the instructions in the notice cannot be changed by anyone other than you (I’m happy to give anyone my form of notice, just email me and I will send it). The UCC provides that the notice must be authenticated. That is defined in UCC §9-102(a)(7), but simply requires that the notification be signed or reduced to some tangible form. My preference is a paper letter to the accounts payable department.

The form of the notice is pretty straightforward, as long as it’s done correctly. The bigger issue is getting the notice and payment instructions locked in. Many businesses have their account payables handled online through a portal system. It is critical to make it into the portal and stay there. Once in the portal, you should make sure you have continual online access and verify that the portal is, in fact, what it purports to be. Once you are in a portal, you can usually check in on the status of your payment and ensure that you are set in the system as the party to be paid.

PAYABLE MANAGEMENT SERVICES
Some account debtors employ a payable management service (which also sets up the early pay on the payable side). The payable management service is not the account debtor, using a strict definition of account debtor in UCC §9-102(a)(2) because it is not the party obligated on the account. But you should still make sure that the payable management service has your payment information correct. Account debtors are given rights under the UCC. They always have the right to question or ask you to provide more information to support the notice of assignment. That is only fair, because the account debtor wants to make sure it pays the right person. Under UCC §9-406(c), you will need to...
respond to an account debtor’s request for more information. This can usually be accomplished with an explanation letter and a copy of your financing statement. While things sometimes get silly, most account debtors don’t request further information, but for those that do, a polite letter and a copy of the financing statement should do the trick. Sometimes, account debtors refuse to pay because the contract prohibits assignment. This position is wrong. As the factor, you simply are getting the right to purchase or finance accounts, plus the right to collect the payments. Thus, you are protected against such contractual prohibitions against assignment under UCC §9-406(d).

Now that you have sent the notice of assignment, you need to collect. There are intertwined UCC provisions which protect both you and the account debtor. Just like UCC §9-201, which provides that the debtor and creditors are bound to the terms of your security agreement, you will be subject to all of the terms of the agreement between the account debtor and your factor client. UCC §9-404(a)(1). Thus, it is important to understand the agreement between the account debtor and your client. If there is a written agreement, get a copy and read it. If there are no written agreements, and only “naked invoices,” you would be best served to get the IFA-approved invoices and use them. The IFA-approved invoices have a few provisions on the back that are not intrusive to the account debtor, or hard to use, but have good protections for you. Often your factor client will mess up or engage in bad acts, causing the account debtor to look to the factor for redress. You are not liable in tort or contract, for things your factor client may have done. But even though you are not liable for what your client may have done, things your client has done always affect your payments. Once the notice has been sent, you will always be subject to recoupment claims your account debtor has in favor of your factor client. A recoupment claim relates directly to the contract at issue between the account debtor and factor client. Once the notice of assignment is received by the account debtor, you will take subject to set-off claims in existence before the notice of assignment was received, but not subject to any set-off claims which arise after the notice of assignment is received.3

**SET-OFF CLAIMS**

A set-off claim is a claim by the account debtor which does not arise from the contract at issue, but from other dealings between the parties. Careful attention should be paid to a written contract between the account debtor and the factor client. Often the contract will address set-offs when there is a long set of dealings between the parties. The ability to enforce set-offs, based on events that happened long ago, set forth in a written agreement, will likely be enforceable against the factor under UCC §9-402(a)(1), because it is contained in the written agreement. Sometimes the account debtor and the factor client will modify the contract between them, which will often affect your right to payment. This can get tricky, and the rights of secured parties are addressed in UCC §9-405. Basically, if the modification is in good faith and performance in the agreement is ongoing, the modification will be effective against the secured party. If the contract has been performed, the notice of assignment has been received, and the only thing left to do is pay, then any modification of the contract between the account debtor and the factor client will not be binding against you, and you should have the right to collect the full amount.

Because so many things can happen, you always need to keep track of the relationship between your factor client and account debtor. You will need to know if there are any problems and always keep track of your payment. Just being in contact with the account debtor reinforces to the account debtor that you are in the picture, which means it is less likely that your payment instructions will be disregarded, and you will usually know what is happening with the relationship, providing that the parties are honest.

The UCC is a definitionally-based set of rules. Virtually every concept that we have discussed has a definition in the UCC. Moreover, the rights set forth in the UCC are intertwined, meaning that rights derived in one section can be amplified or proven through knowledge of other sections. The basic foundation of the factoring industry, the notice of assignment, touches upon a number of sections which all add up to providing you with the necessary protections. Invariably, most of you will be in a dispute relating to your notice of assignment, most typically, a payment over notice or a refusal to pay. Hopefully the concepts discussed here will be of assistance when the time comes. •

1§9-402
2§9-404(a)(1)
3§9-404(a)(2)
# 2020 UPCOMING EVENTS

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<tr>
<td>Apr 22 - 25</td>
<td>2020 Annual Factoring Conference</td>
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