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Sixteen years ago in the summer of 1999, we created the first issue of *The Commercial Factor*. I never would have guessed that the magazine would have grown to be the world class magazine and main resource for the factoring industry that it has become.

I believe this is due to the individuals that have taken the time to contribute articles and to the excellent advertisers that we have.

We are working on a major update to the IFA’s website. The site is the main resource for IFA members to learn about upcoming events and gives members the ability to network with other members. This upgrade will be a complete rewrite of the site and should be rolled out before next year’s conference.

We recently released the new IFA endorsed buyout agreements. These are provided with the goal of making buyouts easier for both the factor and the clients. In the event that there is a buyout and there is difficulty coming to agreement on terms, these party neutral agreements should make the transaction flow more smoothly. These agreements are free to IFA members and can be downloaded from the IFA store.

This year’s training courses and webinars have been extremely successful. We had multiple sellouts for our meetings and webinars, and all courses have been very well received. This October, we will be debuting two new training courses to be held in Las Vegas. Strategic Working Capital Issues for Factors and Asset Based Lenders will be held October 26-27 and How to Advance on Other Boot Collateral will be October 29-30. Both of these new courses will provide excellent learning and networking opportunities for those familiar with factoring. We are also conducting our Sales & Marketing training course October 8-9. We’ve been conducting this course since 2004 and it is always extremely successful and well received.

We have been running teleconferences and webinars on a monthly basis. These courses are provided as an easy and cost effective way for you and your staff to learn about specific factoring subjects. Upcoming webinars will be on Fraud and Successor Liability. If there are additional topics you would like to have us conduct, please contact the IFA and let us know about your ideas.

The AFA has been busy with issues surrounding Operation Choke Point and the Consumer Financial Protection Bureau (CFPB). We are continuing to monitor these issues to determine their effect on Factors. We are continuing our regular meetings in Washington DC with various law and policy makers involved with legislation that is relevant to the factoring industry.

Thank you for your support. We look forward to seeing you at a future IFA event.

BY BERT GOLDBERG
**INDUSTRY NEWS**

**Interstate Capital Announces 100% Growth in FreeFreight-Search.com Registrations**

FreeFreightSearch.com, a wholly-owned subsidiary of Interstate Capital Corporation, announced its user registrations surged 100% in the month of June 2015 over the same 30-day period in 2014. In its fiscal year ended June 30, 2015, Free FreightSearch.com registered nearly 12,000 new members, bringing the site’s users to a total of over 40,000. Members of FreeFreightSearch.com are able to search for freight, obtain fuel advances, obtain payment within 2 hours of delivery, and receive discounts on diesel fuel at participating truck stops through Interstate Capital.

**Hitachi Business Finance Launches New Responsive Website**

Hitachi Business Finance launched a new responsive website at www.hitachibusinessfinance.com. Accessible from any smartphone or tablet, the site connects current and prospective clients, wherever they may be, with helpful and insightful information relating to Hitachi Business Finance’s cash flow solutions. The new mobile website allows the company to reach a wider audience, all while its responsive design adapts its display for optimal viewing on any size/resolution screen.

**AmeriFactors Financial Group, LLC, Celebrates 25 Years of Service in Accounts Receivable Financing**

AmeriFactors Financial Group, LLC is celebrating 25 years of business in Orlando. The company, which unveiled a new logo and website to commemorate its anniversary, has also reached a new milestone: over $5 billion in fundings have been completed as of this year. Since 1990, AmeriFactors has made the delivery of asset based loans, accounts receivable financing or quick business cash advances within 24 hours a guarantee for its clientele.

**INDUSTRY TRANSACTIONS**

**Bibby Financial Services Closes 80 Deals Totaling More Than $43.3 Million in Q2 2015**

- A $7.5 million factoring facility to a Canadian skilled IT staffing firm
- A $7 million factoring facility to a packaging manufacturer based in the Midwest
- A $6.5 million asset-based lending facility to an international clothing manufacturer based in Florida
- A $6 million asset-based lending facility to an Atlanta IT staffing and consulting firm
- A $1.36 million asset-based lending facility to a Georgia-based wood truss and wall panel manufacturer
- A $1 million factoring facility to an Arizona-based manufacturer of medical supplies
- A $1 million factoring facility to the Canadian arm of a global distributor of electronic goods
Loeb Term Solutions Helps Provide Term Loan on Equipment Valued at over $3.7 Million to Midwestern Food Processor & Specialty Retailer
The client was in need of additional working capital to restructure debt and expand their operations. Loeb Term Solutions provided a term loan on the equipment valued at over $3.7 Million.

DS-Concept Provides $5 Million Factoring Facility to Trading Company in Dubai
DS-Concept Factoring provided a $5 million export accounts receivable facility to a trading company based in Dubai, UAE. The client anticipates an annual factored volume of $45 million to $50 million for the year. The client will continue to focus on their growing exports to the Middle East, Europe and USA.

Utica Leaseco, LLC Closes and Funds $800,000 Sale/Leaseback Transaction
The transaction helped provide needed working capital for a growing pharmaceutical production company.

Utica closed and funded the transaction for this private equity owned company operating in New Jersey. Utica was able to provide the needed capital by unlocking the equity that existed in the company’s production and lab equipment.

Marquette Business Credit Provides $5 Million Facility in Third Century Acquisition
Marquette Business Credit provided acquisition financing for the purchase of a creative marketing services company by Third Century Investment Associates with a $4 million revolving line of credit and $1 million cash flow term loan. Third Century Investment Associates, LP, an Atlanta-based private equity fund, provided equity for the deal. Third Century manages private equity capital for significant investments in small businesses, investing actively in partnership with operating companies and carefully selected management teams.

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For more information, contact Oscar Rombolà at (905) 603-6284 or orombola@accurtracapital-itc.com. Visit IFA Canada’s website at www.FactoringAssociationCanada.com

September 15, 2015
Transportation in Canada

October 13, 2015
Social Media Update

November 17-18, 2015
IFA Canada Annual Two Day Seminar Factoring in Canada is a two-day seminar designed to help participants understand a multitude of issues related to Factoring in Canada.

December 15, 2015
End of the Year Gathering: TBA

Meetings Location:
Mississauga Living Arts Centre
Scotia McLeod Room
4141 Living Arts Drive
Mississauga ON L5B 4B8

For more information, contact Oscar Rombolà at (905) 603-6284 or orombola@accurtracapital-itc.com. Visit IFA Canada’s website at www.FactoringAssociationCanada.com
Crestmark Helps Growing Alternative Energy Development Group with Innovative Financing Solution

Crestmark announced the funding of Alternative Energy Development Group (AEDG) LLC, and affiliated company SolarSense LLC, headquartered in Berwyn, PA, with a combination of sale and leaseback transactions. Crestmark provided sale-leaseback financing for three 500kW (AC) solar projects to deliver clean, reliable and renewable energy to the State of Vermont on a Power Purchase Agreement basis.

PERSONNEL

Michael Bucek Returns to Crestmark Bank in Transportation Division

Michael rejoined the company in early July as vice president, business development officer for the Transportation Division. He is based in Tennessee. Bucek reports to Heath Holdbrooks, executive vice president of the Transportation Division.

Transfac Capital Signs TJ Gill as National Sales Manager

TJ has over 23 years in the commercial finance industry. He recently completed a 12-month project for CV Credit Inc., quickly assembling an elite sales staff, creating a platform to support remote business development professionals, and implementing a set of strategic initiatives for the Miami-based firm.

Pam McConlogue Joins Summit Financial Resources as Vice President, Business Development

Pam joins Summit from Bibby Financial Services, where she was Vice President, Sales. She has also held key business development roles at Far West Capital, Johnson Financial Group, and JP Morgan Chase. Pam will be based in Phoenix and represent Summit in the Southwest.

Capital Business Credit Expands Regional Presence with New Senior Appointments in Los Angeles and Charlotte

Capital Business Credit LLC announced two key appointments, expanding the company’s Los Angeles and Charlotte offices. Matt Piccolo and Katherine Griffin have joined as Senior Account Executives/Vice Presidents in the Los Angeles and Charlotte offices, respectively. Matt Piccolo will report to Tri Sciarra, executive vice president and Los Angeles regional manager and Katherine Griffin will report to Malcolm Ferguson, executive vice president and Charlotte regional manager.

NORTHEAST CHAPTER EVENTS

September 24, 2015
2nd Annual Northeast Joint Golf Outing
Montammy Golf Course
Alpine, NJ

October 20, 2015
11am—3pm
2nd Annual Shark Tank Program conjunction with the NYIC
Arno Ristorante
New York, NY

For more information, contact Harvey Gross at 732-672-8410 or hgross@comcast.net

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 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
Are You Ready to Start Factoring Construction Receivables?

The construction industry has seen strong and consistent growth in the last few years in almost every market. Public and private projects are being bid in greater numbers and contractors in every trade are hiring new employees. But bank credit lines are more difficult to obtain and contractors do not have the resources to advance material and labor costs. For these contractors, factoring may be the solution.

BY BRUCE LOREN, ESQ.

There are many advantages to factor in this niche market, such as the additional security to Factors provided by lien and bond rights, and the possible reimbursement of attorneys’ fees and costs from Account Debtors. However, you must master technical knowledge of the construction industry, such as payment procedures. You must also perform additional and continuous due diligence of your client. If you are willing to take these extra steps, it can be a great time to factor construction receivables.

Here are some typical questions that I discuss with a Factor that is considering this market.

**What additional security is available to the Factor to make sure it gets paid?**

In addition to all of the typical rights under the UCC, the Factor of construction receivables has much greater rights against the Account Debtor – secured rights. If the applicable state or federal rules are followed and deadlines are met, the Factor (on behalf of its Client) will have a construction lien against the real property where the construction work is located. Or the Factor will have a claim against a solvent bonding company. Under most state laws, a claim under the lien or the bond also grants the Factor the right to reimbursement of attorneys’ fees if it prevails in a legal dispute.

**What are some of the additional notices and procedures that the Factor must follow to protect lien or bond rights?**

Most states require that your Client (or the Factor as the assignee) must give some type of notice to...
the owner, the general contractor (“GC”), and/or the bond company that the Client is providing services and materials on the project and must be paid. For example, Florida requires that this “Notice to Owner/Notice of Intent to Rely Upon Bond” be delivered to all relevant parties no later than 45 days after the first day of the Client’s work. Other states do not require a Notice to Owner, but rather require “Notice of Intent to Lien” or “Preliminary Notices.” If the notice is late, even by one day, you lose your lien/bond rights.

Then, to perfect your lien, the Client (or the Factor as assignee) must record a “Construction Lien” or “Mechanic’s Lien” within a certain time period. In Florida, the construction lien or claim against the bond must be recorded no later than 90 days after the last day of the Client’s work. Again, if you miss the deadline by one day, your lien/bond rights are lost.

These deadlines are strict. Despite the fact that your Client may have been in the industry for awhile, many contractors are not knowledgeable about protecting their rights to payment. Many contractors have no internal system in place to ensure that deadlines are complied with and proper documentation is prepared. However, if the rules are followed, these rights give the Client (and the Factor) leverage. From a practical perspective, if your Client records a lien, that lien can lead to the suspension of all funding on the project until you are paid. This leverage can be crucial.

Do factoring construction receivables require more due diligence by the Factor?

This is the greatest burden facing the Factor. The Factor must commit to a greater level of due diligence before accepting the Client and before each funding. The Factor should also generally monitor the construction projects. Because the Account Debtor (i.e., the GC) has many different contractual rights to withhold and offset payment, the Factor must conduct a detailed evaluation of the Client’s business and expertise. For example, you must know the Client’s sub-subcontractors and suppliers and make sure these parties are paid and provide construction releases. If not, these sub-subcontractors and suppliers have the right to seek payment directly against the Account Debtor, resulting in an offset against the money owed to the Factor. In essence, the Factor must have the confidence that the Client has the skills to perform the construction work.

How can the Factor conduct this additional due diligence?

We have prepared an additional questionnaire that Factors require their prospective clients to complete. For example: Has the Client been the defendant in prior litigations? Specifically, has the Client been sued for not paying its sub-subcontractors and suppliers even though the Client has been paid? Has the Client been sued for defective work or delayed work? This information is a good indicator of your Client’s future ability to perform the construction contract. On prior projects, has the Client been terminated for cause or had liquidated damages imposed due to its own delay? Again, this information is a good indicator of whether the GC will withhold or offset payments that are due to the Client/Factor.

Does the Client have all required
The Factor entered into a standard Factoring Agreement with a subcontractor, i.e., its Client.

- The Client has already entered into a standard construction contract with the GC on the project. The construction contract contained an offset provision such as: "Subcontractor’s rights hereunder are subject to the right of Contractor to offset any and all claims Contractor has against Subcontractor, whether or not arising under this Subcontract."

- The Factor sends the GC a Notice of Assignment instructing the GC to pay all receivables due and owing to the Client (i.e., the subcontractor) directly to the Factor.

- The Client submits various pay applications and/or invoices that are approved by the GC.

- The Factor is unable to obtain an "estoppel" or "no offset" letter from the GC (i.e., the Account Debtor).

- After approval by the GC and funding by the Factor, but before payment is made by the GC, the GC asserts that the subcontractor (your Client) has failed to perform in some manner.

- Despite the fact that the Factor sent the GC a Notice of Assignment, the Factor is subject to the offset provision in the construction contract. Therefore, even if the GC approved payment of an invoice that was factored, the Factor may never receive payment because of the proper offset by the GC. So, what can you do?

The Factor may try to obtain a typical "estoppel" or "no offset" letter which is signed by the GC. By having the GC sign this separate letter with each invoice, you create a direct contract with the GC, bypassing the offset language of the underlying construction contract. Each letter should enclose a copy of each invoice and should ask the GC to confirm, by signing the letter, that the enclosed invoice is in fact due and owing to the Client and will be paid to Factor “without defense, offset, or other claims.”

Realistically, having the GC sign the estoppel letter is not always an option. If the GC is unwilling to sign it, then many Factors will simply not take the extra risk and refuse to proceed. However, if you are willing to take the risk even without a signed estoppel letter, you should (at a minimum) ask the GC to confirm in an email that the invoice is correct, that the amount will be paid, and that the work was performed. While this alternative is not nearly as strong as a signed estoppel letter, it still allows the Factor some argument based upon reliance.

If the Factor is willing to take a few extra measures, the Factor can feel confident to enter this market while helping to facilitate the comeback of the construction industry.

What is the most common problem that prevents payment to Factors?

Most, if not all, construction contracts between a GC and the Factor’s Client (a subcontractor) permit the GC to offset claims against a subcontractor, even if the claims arise after approval and payment of the invoice that you factored. Offsets may include costs incurred by the GC to correct your Client’s defective work, failure of your Client to pay its employees, or failure of your Client to pay its suppliers.

It is common for counsel to become involved on behalf of a Factor that finds itself in the following situation:

- The Factor entered into a standard construction contract with a GC on the project. The construction contract contained an offset provision such as: "Subcontractor’s rights hereunder are subject to the right of Contractor to offset any and all claims Contractor has against Subcontractor, whether or not arising under this Subcontract."

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If the Factor is willing to take a few extra measures, the Factor can feel confident to enter this market while helping to facilitate the comeback of the construction industry.

Bruce Loren, Esq, and the Loren & Kean Law Firm are based in Palm Beach Gardens and Fort Lauderdale. For over 25 years, Bruce has focused his practice on construction law and factoring law. He has achieved the title of “Certified in Construction Law” by the Florida Bar. Bruce has always had the highest possible rating “AV” from Martindale-Hubbell, a company that recognizes attorneys based upon peer reviews. He represents factoring companies in a wide range of industries, including construction, regarding all aspects of litigation and dispute resolution. Bruce is uniquely equipped to combine his expertise in construction and factoring law to assist clients in this specialized area. He can be reached at bloren@lorenkeanlaw.com or 561-615-5701.
Financing Manufacturing: Expanding your Services to Fit an Industry’s Needs

If you ask anyone in factoring to list the industry segments they prefer, manufacturing is at the top of the list. Factoring receivables for a manufacturer is usually associated with less risk.

BY MARC SMITH

Typically the process is as simple as 3 steps: the manufacturer produces a widget, ships it to their customer, and their customer pays for it. In addition to phone verifications, a factor may also be able to rely on copies of purchase orders and signed shipping documents to validate invoices. Although there are always exceptions, with manufacturing I generally find that a factor does not have to worry about service issues, performance risk associated with installations, progress billing, or the various other problems that may result in an invoice not getting paid. When choosing a market, manufacturing seems like the ideal target.

The manufacturing sector has not looked promising this year, as it has trailed the general improvement in the economy. MarketWatch’s six-month outlook index dropped to the lowest level since January 2013, illustrating the overall unfavorable view of the sector, and production had been slipping since November. Nonetheless, orders for durable goods increased in June, indicating that the manufacturing sector may be on the rise, and for small- to mid-sized manufacturers, the long-term outlook is good. In Bank of the West’s recent report on US manufacturing, Chief Economist,
Scott Anderson, PhD, suggested that in combination with rising labor costs abroad, the proximity of American manufacturers to their domestic customers gives them a competitive advantage versus overseas competitors. As we all know, companies with historical challenges but strong projections are ideal candidates for factoring.

Although manufacturing may be a very desirable sector for factors, it’s sometimes hard to find the ideal client. A National Association of Manufacturers Quarterly outlook Survey for Q2 2015 found that only 5.5% of manufacturers consider access to capital a challenge. With abundant capital available for manufacturers, today’s factor faces increased competition. The competition comes not only from other factors but also from banks getting back into lending. Similarly, other new alternative financing options are increasingly available and more readily accessible, such as online small business lenders that rely on big data to approve funding overnight.

When we think about narrowing our focus into a niche, the comprehensive grasp of the chosen industry and specialization of service are generally at the forefront of the list of benefits. But when it comes to specializing in manufacturing, success may depend on expanding your services beyond opportunities fitting neatly within your “credit box”. To serve the manufacturing sector and keep abreast of the evolving alternative finance industry, factors have to evolve outside the typical comfort zone.

One aspect of financing manufacturers that factors tend to shy away from can actually be crucial to overcoming the competition for this industry and to making your own space within this niche. Many manufacturers that need A/R financing may also have a need for other ancillary services such as inventory lending, equipment lending, or purchase order financing. Many manufacturers that need A/R financing may also have a need for other ancillary services such as inventory lending, equipment lending, or purchase order financing.

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few simple changes to your product offerings, your company can evolve to meet manufacturing clients’ needs and stay ahead of the game. When a client has capital needs beyond A/R financing, you may simply provide an "overadvance" by offering more than the standard advance rate. The overadvance will sometimes even exceed 100% of the eligible Accounts Receivable. The justification or mitigation of risk for the overadvance is rooted in the fact that your factoring company has cash dominion and controls the cash. The overadvance is typically paid back using reserves generated or by reducing the advance rate for future advances. While the overadvance scenario is common and can provide you with an additional revenue stream, there may be other opportunities you are missing that would serve both you and your manufacturing client.

**Inventory Lending**

For many transactions, you may only have Accounts Receivable as collateral if another lender(s) has a first security interest in Inventory. On the other hand, for those transactions in which you have a first lien on Inventory in addition to A/R, an additional inventory accommodation can be made for your client. While most factors will not provide inventory lending per se, if your company provides a short-term overadvance for clients, then you may be inherently doing it already. In taking that overadvance one step further, attention can and should be paid to the value of the inventory in a liquidation scenario. But the true value of inventory financing lays in the future invoices to be factored and in the reserves generated by payment of those invoices, which might not have been possible without that small extra boost in working capital. Given that you know both of these amounts from historical performance, that value can be used to repay a small inventory accommodation that you may have otherwise turned away.

**Equipment Lending**

A growing manufacturer may have the need to buy a small piece of equipment and have some
Marc Smith is a Senior Vice President with Magnolia Financial, Inc., a regional Asset Based Lending and Accounts Receivable Factoring Firm located in Spartanburg, SC. Marc graduated from the College of William and Mary and later received his MBA from Emory University in Atlanta. He can be reached by phone at 864-699-8178 or via email at msmith@magfinancial.com.

unencumbered assets to pledge. In such a scenario, if the capital needed exceeds the amount for a short-term overadvance, you can take the other assets (perhaps equipment or inventory) as collateral and offer the manufacturer an extended payback period. By reviewing the historical performance of dilution, reserves, etc. you can project the likelihood of timely repayment and provide the additional accommodation.

**Purchase Order Financing**

When growth causes working capital constraints, a manufacturer may also have the need for short-term Purchase Order Financing. Most factors would not be comfortable funding stand-alone Purchase Orders, but if you can hold other collateral of the manufacturer, then an advance based on Purchase Orders becomes more palatable. As a factor, you have the unique advantage of funding the invoices generated from these purchase orders as well as cash dominion for payment of the invoices.

When faced with larger funding requests, it usually makes sense to partner with firms that are the experts in Inventory, Equipment and Purchase Order Financing. On the other hand, with properly documented and collateralized accommodations, your factoring firm can not only meet the needs of a valued customer but also create additional revenue streams that it historically may not have considered. Furthermore, when it comes to your manufacturing clients, an extra accommodation may be the only edge you have over a close competitor; I’ve seen deals lost because the prospect wanted their PO funding and A/R financing all in one house.

In the increasingly competitive world of small business financing, Manufacturing will continue to be a fundamental sector for factors, and a desirable target market. In order to remain competitive, it’s vital to consider ways to provide complete solutions to customers while minimizing the added risk. When done properly, it can be an additional revenue stream for the factor while keeping a current customer satisfied. As every factor knows, in any niche, it’s much easier to keep a current customer than to find a new one.

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Understanding the Transportation Factoring Landscape

According to the 2015 IFA Business Profile and Performance Study, transportation factoring represents the largest niche in the factoring market, in both the number of factors that provide transportation factoring services and the percentage of gross invoices funded in the most recent year. That brings increased opportunity for factors who understand and embrace the challenges facing the transportation industry. The following article provides an overview of two important landscape elements – the regulatory and economic environments – and the related information factors must know in order to be successful in this industry.

BY ERIC BELK

Regulatory Environment

Compliance, Safety, Accountability (CSA)

As the regulatory body for the trucking industry, the Federal Motor Carrier Safety Administration’s (FMCSA) main goal is to reduce crashes, injuries and fatalities involving large trucks and buses. In 2010, they introduced Compliance, Safety, and Accountability (CSA) and its data-driven Safety Measurement System (SMS) to better identify drivers and carriers with safety problems. Unfortunately, as many industry stakeholders have pointed out, the CSA system is fraught with many problems, including ambiguous BASIC (Behavior Analysis and Safety Improvement Categories) scores, inconsistent application and enforcement, and unfair targeting and penalties for smaller carriers.

Several industry groups, including the TIA, ATA, and OOIDA, have recently called upon FMCSA to remove all BASIC scores from public view until the FMCSA can implement its Safety Fitness Determination (SFD) score, which would indicate to the public whether a carrier is legally safe to operate on the nation’s highways. The FMCSA seems to be receptive to modifications, and it does appear that CSA’s impact on carrier qualification decision-making will be minimized (or eliminated) in the coming months. In May 2015, the US Senate introduced a stand-alone bill called the “Transportation Hiring and Reform Act” (THRA) which would establish clear carrier qualification standards for industry stakeholders. The bill specifies that a carrier would be considered legally safe to operate on the nation’s highways provided that it a) is properly registered with the FMCSA, b) has required insurance minimums, and c) is NOT “unsatisfactorily” rated.
Regardless of whether the THRA is passed as stand-alone legislation, modified and developed as a separate piece of legislation, or included in the long-term transportation bill, any effort by the industry to limit CSA's influence should be viewed as a positive for transportation factors and their customers who are currently dealing with carrier qualification and enforcement issues.

**Hours of Service (HOS)**

HOS regulations issued by the FMCSA govern the working hours of anyone operating a commercial motor vehicle (CMV) in the US. They were modified in July 2013 to require drivers to take two mandatory rest breaks between the 1 AM and 5 AM time period and limit the use of the 34-hour restart provision to once per week, among other things.

In December 2014 Congress eliminated these two controversial changes and mandated that the FMCSA study their effects. HOS rules reverted back to the pre-July 2013 rules for the most part. This was viewed as a major win for the trucking industry as HOS violations are one of the BASIC categories and one of the most common trucking violations. Increased HOS violations will hurt a carrier's CSA score, and may limit its ability to move freight with brokers and shippers who rely on CSA information for their carrier selection. Furthermore, increased HOS violations will result in higher insurance premiums and non-renewals for motor carriers.

Transportation factors need to be mindful that stricter HOS rules may limit their customers' performance and productivity. With each delivery requiring more time, carriers will not be able to complete as many loads, which in turn will lead to a reduction in the number of freight invoices purchased.

It's important to note the suspension of restrictive HOS rules is not permanent and the FMCSA will revisit this topic again later this year once it completes their required study.

**Minimum Insurance Requirements**

FMCSA is considering raising the minimum insurance liability requirement from its current level of $750k for general freight, which has not changed since 1985. Although a new amount has not been proposed yet, many industry insiders expect the agency to increase the required minimum liability insurance to an amount between $1m and $1.6m. This is yet another factor that will result in higher insurance premiums.
and higher operating costs. Small carriers, those who are least equipped to pay higher insurance premiums, will have a more difficult time adjusting their freight rates to cover the increased cost. As a result, many small carriers may not survive in a higher operating cost environment, and new market entrants will face an additional barrier to entry (which is not good, given the truck and driver shortage concern). For these reasons, several industry groups, such as OOIDA and TIA, are fighting against raising insurance minimums. A decision is expected later this year.

**Electronic Logging Devices, Speed Limiters and Stability Controls**

Electronic logging devices (ELDs) allow drivers and carriers to electronically monitor their logbooks and reduce the need for paper logbooks. They became a legal requirement in 2012 with the passage of the “Moving Ahead for Progress into the 21st Century” (MAP-21) bill. In theory, ELDs should provide more accurate HOS information and reduce fraudulent HOS reporting, yet the FMCSA has not listed any specific ELD requirements or compliance guidance. The agency is tentatively planning on publishing its Final Rule on ELDs on September 30, although a further delay is possible.

Also included in the MAP-21 bill were the electronic speed limiter (ESL) and electronic stability control (ESC) requirements. Essentially ESLs are devices that act as speed governors. The devices interact with a truck engine to permit the attainment of a pre-programmed maximum speed. Similarly ESCs are electronic devices that activate automatic braking to lessen large truck swerving and rollover. In theory, ESLs and ESCs would help make our roadways safer by reducing the number of speed related crashes involving large trucks.

In June, the National Highway Traffic Safety Agency (NHTSA) issued its Final Rule on ESCs. Within two years, all large trucks with a Gross Vehicle Weight over 26,000 lbs will be required to have an ESC. I also expect the agency to announce the same two-year compliance requirement for ESLs when it publishes its Final Rule in August.

What do these “electronic device” requirements mean for transportation factors? It’s definitely going to be an added operational cost for your customers, especially smaller carriers, which serve as the primary customer base for many transportation factors. Many large carriers will not have an issue complying with the electronic device requirements. Perhaps that’s one reason why ATA has been a big proponent of these requirements, whereas OOIDA and

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**FactorsNetwork**

www.factorsnetwork.com

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.
TIA are against it. Smaller carriers, those with five or fewer trucks, represent over 80 percent of all US-based carriers. They will struggle to afford and adhere to the new electronic device requirements, and will be at a natural disadvantage to larger carriers when trying to find and move freight. Regardless, these new requirements will reduce carrier productivity and performance, increase trucking operational costs, and generate an additional barrier to market entry.

**Unified Registration System (URS)**

At April’s IFA Factoring Conference, David Jencks announced in the “Current Topics in Transportation” session that the FMCSA may consider removing the motor carrier number (MC#) requirement for trucking firms later this year. This is not something new. As part of the “Unified Carrier Registration Act of 2005,” the FMCSA has been pushing toward eliminating the MC# requirement and consolidation of carrier information by utilizing their USDOT number in a single, comprehensive system called the “Unified Registration System” (URS). The FMCSA would like to implement the new URS portal on October 23, but state agencies, enforcement entities and industry service providers are not ready (and neither is the FMCSA!). As a result, I would be very surprised if anything is announced or introduced this year. Regardless, it will eventually happen, and since most transportation factors currently record, monitor, target, and verify potential and current carriers by their MC# – removing them will require transportation factors to make necessary changes to their business operations and marketing strategy. In addition, new carriers will be forced to pay more in the future for their USDOT, making it more costly for them to get their required operating authority.

**Economic Environment**

**Supply and Demand**

According to the American Trucking Association (ATA), trucks generated over $700b in revenue and moved approximately 10 billion tons of freight this past year, mainly due to a growing economy, increasing freight, and tightening capacity. For transportation factors and their customers, this was very good – each should have experienced higher revenues. 2015 is expected to be just as good: truck tonnage and freight volume, as measured by the Transportation Services Index (TSI), are up from last year’s totals. I also expect the timely implementation of some pending truck regulation and the continued truck/driver shortage issue to drive shipping rates up later this year.

**Fuel Prices**

The trucking industry also benefited from lower diesel prices in 2014. Although diesel fuel prices have seen a recent uptick, they are still lower than at this time last year. In addition, the Department of Energy forecasts the retail price of diesel to average $2.88 per gallon1. Again, this is a positive sign for the transportation industry. Lower fuel prices represent lower operating costs for truckers, resulting in higher profit margins and increased business viability.

**Operating Costs**

Increasing insurance premiums and truck/driver shortages continue to drive operating costs up for carriers. In addition, carriers will also have to contend with increasing technology, equipment, and labor costs. In fact, according to the American Transportation Research Institute (ATRI), motor carriers’ operating costs increased about 3% from ’13. 
Eric Belk is the Vice President of Match Factors, Inc., a transportation factoring company in Florence, SC, that specializes in providing simple factoring solutions to small and medium-sized trucking firms. A Certified Account Executive in Factoring (CAEF), Eric has over 20 years of industry experience. In addition, he currently serves as Professor of Business at Francis Marion University, where he has taught since 2003. Eric can be reached by phone at 843-669-9895 or by email at eric@matchfactors.com.

To ’14, and I expect to see a larger increase for the ’14-’15 period when the ATRI releases its annual findings this September.

Freight rates, though improving, pale in comparison to carriers’ operating costs. Trucking firms operate in an extremely competitive market, generating very thin profit margins. Though line-haul freight rates have increased about 5 percent from this time last year, that small increase has largely been offset by added operational costs. It’s important to note that a carrier’s total freight rate will include their line-haul rate and fuel surcharge rate. As such, a carrier may have actually seen their total rate decline from the prior year when factoring in reduced fuel surcharge rates (as a result of lower fuel prices). Small carriers will feel the brunt of this, since they rely mainly on brokers for their freight and will continue to see their profit margins squeezed.

**Conclusion**

There are additional regulatory and economic issues we could discuss, but these are the biggest challenges. They also present opportunities for savvy factors to distinguish themselves. For example, when ELDs come into play, we may well see factors offer the logging devices as part of their factoring program, or establish partnerships to offer attractive price points. Or if insurance rates skyrocket, factors could offer rebates to help their customers offset costs. Bottom line: the successful factor is the one who understands and adapts to the regulatory and economic challenges facing the industry. •

1As of May 12, 2015 DOE forecast, http://www.eia.gov/forecasts/steo/

Marketing in the Factoring Business

Let’s be real. I have been in the factoring business for 30 years, and if I had the secret to finding customers, I would not be giving those gems away for free. There have been 71 CFA annual conventions and 21 IFA conventions, and each and every one has included a session on marketing.

It’s no surprise that they are well attended. Other than the occasional professional motivational speaker giving general advice, the presenters are typically made up of factoring and financial services competitors. After so many years it’s still fun to attend these panels just to see how the panelists trip all over themselves trying to say something interesting, while giving away nothing. It’s really a talent in itself.

What’s difficult about marketing in the factoring arena is your customer doesn’t know they need you… until they need you. So is all lost? Not exactly. As little as 15 years ago, getting customers was a relatively easy task. Every factor would tell you that advertising in the yellow pages was one of the top marketing strategies. Direct mail was the other. Many old factoring companies owe their success to AT&T’s yellow pages. Back then, you had four or five

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**STEPHEN TROY**

established AeroFund Financial, Inc. in August, 1987. As its founder and Chief Executive Officer, he has established AeroFund as a prominent national finance company, which provides secured loans to small and medium-sized businesses. Stephen is the founder and chairman of AeroBank.com. AeroBank is the first national business bank to be approved by the Office of the Comptroller of the Currency to operate solely on the internet. Stephen can be reached by phone at 408-224-7080 or by email at STroy@aerofund.com.
listings for factors, and each one of them had a different specialty. If the yellow pages were a viable advertising medium, factors would take up as many pages as the local plumber. The market has become very crowded and competitive.

With the yellow pages and direct marketing no longer viable avenues to attract business, what should you do? Google? That is a fine place if you are willing to play on a level playing field with 800 of your direct competitors. You could try pay per click. Your competitors love that one. It’s a great way for them to deplete your marketing budget by continuously clicking on your ad.

How about email, that direct descendant of direct mail marketing? In the early days of the Internet, it had great promise. It became so successful that search engines and third party providers had to create spam filters to block offensive ads that would hit your inbox. Unfortunately, your legitimate emails, the ones you spent hours designing, more times than not are tossed into the same “junk folder” as the ones trying to sell you a genuine Chinese Rolex.

Google, Yahoo, and Microsoft are all making fortunes selling display ads which you can target to specific groups. When it comes to branding, these avenues are terrific for getting your name out there. If you are Coke, Pepsi, GM or Ford, these websites get your name in front of millions of your customers. As television advertising has slowly diminished with declining viewership, search engine and website advertising has exploded. Wells Fargo, Bank of America, US Bank and other super national banks with their huge budgets use these methods with great success promoting their brand and attracting customers.

**Scale is everything when you move your platform to the web, and scale is difficult when your customer doesn’t know they need you until they need you.**

Just as television has historically not been a viable advertising medium for factors, sending virtual ads to virtually anyone who has a computer hasn’t delivered a cost-effective result to the factors who have tried it.

Recently there has been a new group that has popped up: internet lenders. Merchant Cash Advance was the first, followed by online factors. Many of these companies are run by a team of 20- and 30-something’s just out of universities, with advanced analytic degrees, convinced they will revolutionize the lending business. The same story was told five years ago when the Receivable Exchange landed on the scene. They spent millions of dollars branding the company and scaring the pants off the old line lenders by creating a new online auction lending model. Fastforward to today and they are out of the factoring space, having seen fraud and a difficulty finding customers to develop scale. Scale is everything when you move your platform to the web, and scale is difficult when your customer doesn’t know they need you until they need you.

So what’s left? Everyone will tell you it’s word of mouth, not shouting on the Internet. It is getting close to your client asking for referrals, lunch with bankers, accountants, lawyers, brokers and anyone else who is close to your customer. These ideas should not be a surprise. They are the same methods that have worked for business development over the centuries. I am willing to guess that a Neanderthal once asked his neighbor in the cave next door where he could score a side of Wooly Mammoth.

That’s not to say there are not other avenues that can and may work. The world is evolving quickly. The young people who are entering the workforce are your future clients, and they are looking at the world differently. They are on Facebook, LinkedIn, Twitter and a host of other social networking sites. Unfortunately, finding them means sifting through a billion people that are not your customer. They are smart though. Every month they are inventing new ways to do things; one of those might very well be how to macro market to your customer.

If you can take your age and experience and mix it with an understanding of the mind and the habits of millennials, you will find the Holy Grail of marketing in the twenty-first century. There is a lot of competition out there; if you can figure this out, you will most certainly stand alone and have the market to yourself.

Why do I have the feeling I talked endlessly about how to market in the factoring business and still didn’t tell you anything? Maybe I should be on one of those panels. •
Q&A with TBS Factoring Service

What charities are you involved with? What causes are nearest to your heart?

TBS Factoring Service supports a variety of charities, including the St. Christopher Truckers Development & Relief Fund, the Regional Food Bank of Oklahoma, The Special Olympics, Oklahoma American Veterans, Oklahoma State Firefighters Association, Boys & Girls Clubs, Miss Wheelchair USA, and the Oklahoma City Jaycees.

Last year, we donated $10,000 to the Salvation Army to help serve the less fortunate in our community of Oklahoma City.

Our biggest ongoing commitment, and the cause nearest and dearest to our hearts, is Junior Achievement of Oklahoma.

A companywide effort, TBS Factoring Service donates time, talent, and treasure. Our CEO, Wood Kaufman serves on the Oklahoma City Region Board of Directors.

In 2014, he personally contributed more than $3,000 and TBS raised more than $10,000 through its participation in the annual JA Bowl-a-thon and golf tournament. TBS also provided approximately 20 volunteers to teach classes during 2014.

In 2015, Wood is serving on the marketing committee and the golf tournament committee and TBS will contribute more than $15,000.

The company has hosted a very successful job shadow program for 14 freshmen at Northwest Classen High School and has provided five pairs of classroom volunteers for 7-week classroom sessions.

TBS employees fielded 15 teams and raised $4,630 for the 2015 JA Bowl-a-thon, and TBS corporately donated $10,000.

On May 14, 2015, we also hosted one of JA’s first, “class visits”, where students came to the place of business for their JA In A Day.
How did you become involved in these charities?
Junior Achievement played a critical role in Wood Kaufman’s life during his formative years in Bethesda, MD, when he participated in the JA Company Program. He and several classmates, under the direction of a JA mentor, created a business plan, raised capital, sourced, manufactured and sold flashlights door-to-door, providing a return to shareholders and a lasting life lesson that set Wood on an entrepreneurial track and has informed his career to this day.
JA’s mission to inspire and prepare young people to succeed in a global economy was a perfect fit for TBS, a family business serving family businesses and ranked among the best places to work in Oklahoma.

Where do you see it making a difference?
As a JA regional board member, Wood plays an active role in shaping the organization’s policy and practice. He is also contributing to the organization’s fundraising and marketing efforts. At street level, the company-wide involvement of so many employees, both in the classroom and as mentors, touches hundreds of young lives, perhaps instilling the same kind of entrepreneurial spirit JA kindled in Wood Kaufman, who would go on to form TBS Factoring Service in 2004.

How has volunteering affected you? Has it influenced or had an affect on your business?
Our involvement with JA has energized people throughout the company. To be involved, in such a tangible way, in helping students appreciate our capitalist system, and understand where they fit, and how they contribute, as consumers, as voters, as citizens, as workers, and maybe someday as entrepreneurs, is a rare and wonderful privilege. That may not directly affect our bottom line, but it affects the way we feel about ourselves and our company. It connects us to our community and gives us a chance to practice our core values.

Why is giving back and helping these organizations important to you?
TBS is a family business and we stand for more than money. Our commitment to our community is an extension of our core values, which are:
• Respect the inherent worth of every individual.
• Strive for excellence each day.
• Value others’ time and talent.
• Act with honesty and integrity.
• Elevate the workplace through teamwork.

Do you have any corporate-wide program on volunteering/charitable giving?
Yes. TBS provides employees with paid time off to serve as Junior Achievement classroom volunteers.

How can we learn more about the charities you are involved with?
For more on Junior Achievement of Oklahoma, visit: https://www.juniorachievement.org/web/ja-ok
For more on the Salvation Army, visit: http://salvationarmyokcac.org/
For more on the St. Christopher Truckers Development & Relief Fund, visit: http://truckersfund.org/

TBS Factoring Service supports a variety of charities, including the St. Christopher Truckers Development & Relief Fund, the Regional Food Bank of Oklahoma, The Special Olympics, Oklahoma American Veterans, Oklahoma State Firefighters Association, Boys & Girls Clubs, Miss Wheelchair USA, and the Oklahoma City Jaycees.
Well, it is official. The Department of Justice internal review of the Department of Justice’s conduct in Operation Choke Point was found to be completely professional and proper. The report issued July 7, 2015, states that “Department of Justice attorneys involved in Operation Choke Point did not engage in professional misconduct.” There was no misconduct, the DOJ argues, because the “evidence does not establish that Operation Choke Point compelled banks to terminate business relationships with other lawful businesses.”

However, while no one did any wrong, the report does state that “Justice Department employees seem to disparage” certain industries and were “clearly pleased” by the effect Operation Choke Point was having on those industries. It was all just a happy accident that banks were ceasing to do business with certain of those industries.

The DOJ report does admit Operation Choke Point may have caused legitimate businesses to lose banking relationships, but that does not constitute professional misconduct, according to the DOJ report. The DOJ report contends that there was no way for the DOJ staff to know that banks would drop those industries as customers as a result of receiving the “regulatory guidance” from the DOJ.

Even though there was a published list of “high risk industries,” there was no intention to discourage banks from doing business with these specific lawful industries. As banks were not specifically compelled by the DOJ to stop working with certain industries, the DOJ did nothing wrong. The DOJ was only providing “guidance,” even as it provided a list of high risk industries to banks.

The investigation, which was in response to a request from Congressman Blaine Luetkemeyer (R-MO), was no surprise to those of us following Operation Choke Point. In an interview, the Congressman stated that he was “disappointed,” but “not surprised” by the report.

While the report may sound like something from a Saturday Night Live sketch, it is a continuing reminder of why we must continue to have a presence in Washington. Congressman Luetkemeyer has introduced legislation to end Operation Choke Point. As an industry, this is the type of action we must continue to support through the AFA.

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.
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WHAT’S NEW AT IFA
JULY/AUGUST 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)
www.cfec.org.cn

International Factors Group (IFG)
www.ifrgroup.com

Romanian Factoring Association (RFA)
www.associatiadefactoring.ro

CERTIFIED EMAIL

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 irrefutably starting the accounts receivable aging clock.

www.rpost.com/if

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

CONSULTING

12five Consulting

12five Consulting provides technology and social media consulting to the commercial finance industry. Born out of its sister company, 12five Capital, 12five Consulting understands the technological needs of the commercial finance industry, as it was their application of these tools that led to their expertise. 12five specializes in software optimization, cloud computing implementation and social media representation.

Phone: 630-270-3072 • www.12five.com
Email: ryan@12five.com
IFA Member Benefit: One free hour of initial phone consultation

FactorHelp

FactorHelp has come to be regarded as the factoring industry’s premier resource provider. Their manuals, in use on every continent of the world, are setting the industry standard, and their reputation as the one-call solution for factoring problems is growing. By consistently introducing innovative, viable products, vigilantly cultivating an extensive alliance of Strategic Partners and providing the professional expertise demanded of an industry leader, FactorHelp strives to maintain its goal of providing the unparalleled service the factoring industry expects from a solutions partner.

Phone: 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 debtor and fraud risk. Our business credit reports feature current and historical days-to-pay information collected directly from the accounts receivable departments of small and large factors, and other companies across all segments.

Phone: 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 your entire portfolio.

Credit2B

Credit2B empowers accurate and timely decisions by connecting the credit experiences of peer suppliers around common business customers. We combine this information with significant third party data and public filing information to provide a comprehensive financial view of risk, all in real time so you can make decisions quickly with up to the second information. Our dashboard also provides custom scoring, alerts monitoring, peer benchmarking and comprehensive data pack solutions for larger enterprise needs.

Phone: 201-714-4500
Website: 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.

Dun and Bradstreet (D&B)

D&B is your source for the best business insight in the world. D&B’s global database contains the deepest, broadest, most rigorously quality-assured business insight available, covering more than 210 million businesses worldwide. With this insight, D&B has been enabling companies to Decide with Confidence™ for more than 170 years.

Phone: 973-605-6344 • Website: www.dnb.com
IFA Member Benefits: New & Returning customers: receive DISCOUNTS off D&B solutions. Discount is for IFA members that are not current D&B customers or have been gone for a period of one year. Existing customers: receive discounts on other D&B solutions not under contract. (ie: Hoovers, Supply, DNBI Modules)

CREDIT CARD PROCESSING

ePaymentAmerica

ePaymentAmerica is the nation’s leading provider of processing 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.

Phone: 901-385-5327 • www.epaymentamerica.com
Email: factoring_program@epaymentamerica.com
IFA Member Benefits: Interchange Plus Pricing* Bundled Monthly Service Fee of $30.00 (includes IRS regulatory compliance, account maintenance, PCI compliance, virtual gateway & online management tool). *(Based on volume/transaction count.

DISASTER RECOVERY SERVICES

Agility Recovery

For the past 25 years, Agility Recovery has been a premier provider of onsite recovery solutions across the United States and Canada. When disaster hits, Agility will be on the scene, providing you with any, or all, of the critical elements you need to keep your business in business: power, space, technology, connectivity. Membership also includes access to a dedicated Continuity Planner and secure access to your myAgility planning portal to assist in building and maintaining your business continuity plan.

Phone: 704-341-8700 • www.agilityrecovery.com
Email: salesupport@agilityrecovery.com
IFA Member Benefits: 5% discount to each respective client’s monthly ReadySuite membership fee.

FUNDING

RMP Capital Corp.

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 client’s 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.
or access data. Entries can be made and reports to their clients, brokers, lenders, and others who enter or access the system. 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.

Phone: 866-432-2409 • www.factorfox.com

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.

**TAX COMPLIANCE**

**Tax Guard**

Tax Guard is the only tax compliance company in the U.S. that works with lenders to expose credit risks in real-time before it becomes public information. Unlike a traditional public record search for federal tax liens, Tax Guard utilizes a proprietary, patent-pending process, providing due diligence and tax monitoring reports to lenders across the United States.

Phone: 303-953-6308 • www.taxguard.com

Contact Heather Love

IFA Members will receive a 20% discount on the same-day due diligence order.

**TRANSPORTATION**

**ExecuCar**

This is a premier luxury sedan service that offers private transportation with experienced professional drivers. Whether you are heading to the airport, a business meeting or social event, ExecuCar will get you there safely, in style and comfort.

IFA Member Benefits: Save 10% on your roundtrip transportation by booking online with ExecuCar at www.execucar.com. Use the following Discount Code: CLLMC

**SuperShuttle**

SuperShuttle is the nation’s leading shared-ride airport shuttle service, providing door-to-door ground transportation to more than 8 million passengers per year. Their friendly drivers, comfortable vans and reasonable rates take the hassle out of getting to and from 33 airports in over 50 US cities and surrounding communities.

IFA Member Benefits: Save 10% on your roundtrip transportation by booking online with SuperShuttle at www.supershuttle.com. Use the following Discount Code: CLLMC

**UCC SEARCH**

**First Corporate Solutions**

First Corporate Solutions is a full service public records provider specializing in the research, retrieval and filing of public records nationwide and internationally. Their services include industry standards such as UCC, lien and litigation searching, UCC and corporate filing services, nationwide registered agent coverage and real property title searching, as well as unique solutions such as state and county account monitoring designed specifically for Factors.

Phone: 800-406-1577 • www.ficoso.com

Email: daves@ficoso.com

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

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**IFA CALENDAR EVENTS**

**August 25-27**

**Backroom Operations: Focus on Fraud**

3 Day Webinar
10am-12pm PDT

**September 10-11**

**Transportation Meeting**

Grand Hyatt Denver, CO

**September 22**

**Successor Liability**

Webinar 1pm-2pm PDT

**October 8-9**

**Sales & Marketing Training**

Planet Hollywood Las Vegas, NV

**October 26-27**

**Strategic Working Capital Issues for Factors and Asset Based Lenders**

Planet Hollywood
Las Vegas, NV

**October 29-30**

**How to Advance on Other Boot Collateral**

Planet Hollywood
Las Vegas, NV

**January 27-29, 2016**

**Presidents & Senior Executives Meeting**

Trump Ocean Club International Hotel & Tower
Panama City, Panama

**March 8**

**Luncheon Meeting with NYIC**

Arno Ristorante New York, NY

**April 13-16**

**Annual Factoring Conference**

Fairmont Scottsdale Princess
Scottsdale, AZ
Cryptocurrencies—A Peek into the Future

A cryptocurrency is a form of monetary payment that exists solely on the Internet. The most common form of cryptocurrency is the bitcoin. However, other forms of this currency exist. Unlike the traditional and more tangible currencies that most of us use, cryptocurrency cannot be physically touched. Although it lives solely on the Internet, it still has an assigned value.

Cryptocurrencies exist using peer to peer machines, or a series of computers linked together. The cryptocurrencies are kept in a form of a virtual wallet, known as an Internet wallet. The balance and verification of an Internet wallet is done through a block chain, whose purpose is to track the balance of every Internet wallet, thereby assuring that there is sufficient currency to back up the transaction and that the person on the other side is good for the deal. According to the Wall Street Journal, in February 2015, there was a $1.04 billion market cap in bitcoins, the most popular form of cryptocurrency. In addition, the IRS has recently ruled that cryptocurrencies can be used in business transactions. The use of cryptocurrency is a result of the concept known as “fintech”, the coming together of the technology and financial industries. While it’s safe to assume that most of the IFA world has not dealt with cryptocurrencies, it will only be a matter of time before this concept creeps into the mainstream of commercial finance. This article will explore some of the basic concepts behind cryptocurrencies and how we may expect it to impact the factoring and commercial finance business in the future. We will not get into the technical aspects of this concept, but good explanations of cryptocurrencies can be found on the Internet including Wikipedia.

Many industries and legitimate business people are simply not bound by international borders. One example is the garment industry, a segment in which many IFA members transact business. A typical hypothetical modern garment deal may look as follows. The company sells denim jeans. The business may reside in South Korea and the US. The fabric may be ordered from a mill in China and shipped to a contract manufacturing firm in Mexico (and likely Cuba, in the not so distant future). The goods are manufactured in Mexico and then imported into the US for the principals in the US to sell to the end users in their favorite department store. Each step of the transaction chain requires payment in a form of currency. These multiple step transactions require a currency exchange through various banks, and also include the use of letters of credit. Each process has a fee built in and one has to be a math wiz to understand and best take advantage of the currency fluctuations, all of which can affect the bottom line in this hypothetical garment business. Thus, it’s pretty easy to see why the players in this hypothetical

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Although the Silk Road was a hotbed of illegal commerce, the bottom line is that a lot of business was securely transacted, significant amounts of bitcoin money were exchanged, several people became wealthy, and virtually everyone got what they wanted.

cryptocurrency, such as a bitcoin is not backed by something tangible, will not matter as the dollar is no longer backed by gold, and that has continued to flourish as a dominant international form of currency and holds strong and stable buying power.

For cryptocurrency to work, there will need to be laws and regulations to insure the integrity of the system. In that regard, New York has just issued its first charter to itBit Trust Company, LLC, a cryptocurrency exchange firm. California is also leading the charge with the enactment of a bill entitled the Virtual Currency Bill, which just passed the California Legislature. The California Virtual Currency Bill will, among other things, add a new division to the California Financial Code, which will expressly deal with this subject. There will also be a branch set up within the California Department of Oversight, the administrative arm of California that oversees California Finance Lenders Licenses and related matters. California will soon have a comprehensive licensing scheme and regulatory body, which will oversee the virtual currency licensees. Most of the state and federal laws, which relate to electronic records and business transactions can likely accommodate virtual currency transactions, but will need tinkering. The same applies to the UCC, as modifications will be needed in order to accommodate folks who transact business using virtual currency and the granting of this kind of asset as collateral.

How will virtual currency be used in factoring and commercial finance? Most likely, it will creep into the business as a form of payment and funding requests. It might also be used much like a letter of credit is used today. Once goods are delivered and the electronic documents satisfy the conditions for release of payment, payments can be made much like a letter of credit draw. In fact, it is likely that there will be a UCC Article, which will address virtual currency transactions and payments, much like Article 5 does for letters of credit and Article 4A does with electronic payments. Existing letters of credit can also one day be backed by cryptocurrency.

While cryptocurrencies are not likely going to be a mainstay in your business in the near future, the concept will slowly make its way into the mainstream. Once that happens, you will start to see it emerge in the factoring and commercial finance world. In fact, those of you with family-owned companies, who have young daughters and sons who may step into the business, will be dealing in a financial world much different than what we are used to now, which will likely involve cryptocurrency, and people will wonder how they ever did business without it. While you should not expect to use cryptocurrency in your business now, it’s a good idea to start becoming familiar with the concept, as it will eventually find its way into your business.
I remember when I had first come up with the idea for my factoring company. As a former Chief Financial Officer of a publicly traded company, I figured this factoring thing would be a piece of cake. Nothing was further from the truth. Where do you start? First, there is no true set of factoring standards. Being an accountant for over twenty years, the industry adheres to a set of accounting standards called “GAAP” (Generally Accepted Accounting Principles) which are how CPA firms and corporations prepare and present their business income and expense, assets and liabilities on their financial statements. By having this set of rules, it provides consistency for individuals and businesses that review financial statements whether for informational or investment purposes. So what is the actual truth about the factoring industry? Anyone who works in this industry is entitled to their own opinion, therefore, I will go on record and say that the views below are only mine, based on my experiences as a broker, funder, and due diligence coordinator.

Truth #1 – Factoring invoices is not as easy as everyone thinks.

Sure, the concept and mechanics of invoice factoring are very straightforward but each deal is unique. Experience has taught us that pure vanilla factoring deals are rare. In other words, almost every deal has a “but” in it. How often do you come across the perfect client with stellar account debtors but they have a recent tax lien that has not been addressed? Or what about the well-known account debtor that the prospect just landed but refuses to verify invoices? For those of you new to the factoring game, you will find that much of closing new deals depends on your ability to work around the objections while protecting your security interest in the transaction. Here is a good example to illustrate my point. Several years ago we received an application from an apparel

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prospect that manufactured shirts for a very large account debtor. The account debtor would only acknowledge receipt of the goods but would not verify or inspect the quality of the delivery. They would only say the shipment was received and in the warehouse to be delivered to their retail outlets. Upon confirmation of payment we proceeded with funding the client’s schedule however it was at a lower advance rate and we withheld a reserve to act as a cushion for any potential issues. There are several other remedies such as credit insurance, estoppels letters and specific contract wording that can be implemented in the factoring security agreement. At the end of the day, we believe that preservation of capital takes precedent over risky deals with potential for loss.

**Truth #2 – There is no due diligence template.** So often we get calls from new factors about how we evaluate new prospects. Should we run the UCC-1 search first or should we pull a credit report? Do you send out the notice of assignments before the agreements are signed? Does my company’s name have to be on the remittance? These are just a few of the typical questions we get regarding due diligence. The best way to answer this is that you can do as much or as little as you like when it comes to your company’s due diligence policies and procedures (although we recommend that you take as much precaution as possible). Before you get started in the factoring business you will need to understand the risk and reward factor that comes with this industry. Make sure your FSA (Factoring Security Agreement) or contract is solid in that it protects your company in the event of a loss, dispute, misdirected payments, and any other legal issue that might arise between your company and the client. Secondly, make sure you have good factoring software to track factoring clients. Our personal experience has taught us that software specifically written for the factoring industry is invaluable. Our factoring software allows us to create schedules, track invoices, run reports, and have our clients access their accounts online. If we were performing these tasks manually, it would be an absolute nightmare.

**Truth #3 – Factoring is about relationships.** In other financing industries, it’s basically a “one and done” type situation. When a mortgage company closes a loan, they are on to the next deal. The same is usually true in any other type of financing arrangement. Invoice factoring is different. Unlike traditional loans, factoring companies are constantly interacting with their clients. Whether it’s funding a new invoice, rebating receipts or adjusting escrow accounts, there will always be activity between the client and factor. Talk to anyone who has been in this industry for a substantial period of time and many will have at least one tale of a deal that may have gone just a bit differently than originally intended. I like to look at my business from the other side of the coin. Obviously, there are the rewards in terms of fees and profits—there is no denying that fact. I like to focus on the client. Maybe it’s just a small local manufacturer that needed cash flow to meet payroll or a startup business that has a winning formula but no capital to fuel their growth. You funded them, giving them an opportunity to grow and potentially get their company to the next level. It is basically up to you to chart your own course if you plan on starting a factoring business. Utilize the resources that are available to you and ask lots of questions because, at the end of the day, it’s your business and your call. •
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