ALSO INSIDE:

Ten Commandments of Effective Customer Service
Account Management—Science or Art?
External Portfolio Reviews: Risk Management Skills for the Discerning Factor
TABLE OF CONTENTS
SEPTEMBER/OCTOBER 2015 | VOL 17 | No. 5

COFFEE AND THE TEN COMMANDMENTS OF EFFECTIVE CUSTOMER SERVICE
By Merry Close

ACCOUNT MANAGEMENT – SCIENCE OR ART?
By Tom Fevola

EXTERNAL PORTFOLIO REVIEWS: RISK MANAGEMENT SKILLS FOR THE DISCERNING FACTOR
By Vince Mancuso

FACTORING: THE BAROMETER OF GDP
By Moniruz Zaman

COLUMNS

WHAT’S NEW AT IFA

LEGAL FACTOR: ACCOUNT DEBTOR TRADE PAYABLE FINANCING: A POTENTIAL DISRUPTION TO THE FACTORING COMMUNITY
By Steven N. Kurtz, Esq.

SMALL TICKET FACTOR: OLD SCHOOL FACTORING
By Don D’Ambrosio

ADVERTISER INDEX

3i Infotech Ltd .......................................................... 20
Bayside Business Solutions, Inc. .................................. 5
CapitalPlus Equity ....................................................... 27
FactorFox Software, Inc. .............................................. 31
FactorsNetwork .......................................................... 19
FactorView ............................................................... 21
First Corporate Solutions .......................................... 32
International Factoring Association ..................... 16, 21, 23
King Trade Capital ...................................................... 29
Loeb Term Solutions .................................................. 9
Platinum Credit Management LP ............................. 6
RMP Capital Corp. ....................................................... 13
TaxGuard, Inc. .......................................................... 15
Utica Leaseco, LLC ..................................................... 17

2 The Commercial Factor | September/October 2015
We’ve just released the schedule for the 2016 annual conference and I’m very excited about this year’s lineup of speakers and activities. We are offering more sessions and more networking opportunities than ever before.

Not only do we have relevant educational sessions, but we have added numerous roundtables, giving all attendees the ability to network with other similar participants.

The conference will be held April 13-16 at The Fairmont Princess in Scottsdale, AZ. The Fairmont is a AAA Five-Diamond Resort and provides an ideal setting for the convention.

Some of the speaking session highlights include:

• How to Think Like a Futurist with Sheryl Connelly
• Endeavor to Succeed with Captain Mark Kelly
• The Psychology of Fraud
• Credit & Underwriting
• Economic Forecast with Barry Asmus
• Intricacies of Your Notice of Assignment
• MCA’s – Friend or Foe?
• Multiple Legal Sessions
• Face Reading
• International Track (seven sessions)
• Factoring 101 and Sales 101
• And Much More

New this year is the addition of multiple roundtables. This will give attendees the ability to network with other individuals with similar interests and backgrounds. The roundtables we have planned are:

• Roundtable for Women
• Roundtable for Senior Executives
• Roundtable for Young Professionals
• Roundtable for Attorneys
• Roundtable for Small Factors
• Roundtable for Operational Issues

We’ve also planned some excellent activities, including golf, a food tour and a tour of one of the seven natural wonders of the world, The Grand Canyon.

Additional information about the conference can be found at www.factoringconference.com

Our 2015 classes and webinars have been extremely popular, with many of them selling out. Our 2016 courses will be announced soon, and in order to avoid being disappointed, I suggest signing up early.

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

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

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

The views expressed in the Commercial Factor are those of the authors and do not necessarily represent the views of, and should not be attributed to, the International Factoring Association.
Crestmark Closes Seven Transactions in the First Half of September
Crestmark secured a total of $3,856,000 in financial solutions for seven new clients in the first half of September.

Marquette Business Credit Funds $16 Million Facility to Oilfield Steel Supply
Marquette Business Credit announced it recently funded a $16 million credit facility to Oilfield Steel Supply, LLC (“OSS”).

TAB Bank Provides Uniform Manufacturing Company with a $750 Thousand Asset-Based Credit Facility
TAB Bank provided a $750 thousand asset-based credit facility for a uniform manufacturing company located in the western United States. The facility is extended through a multi-year agreement and will provide for the ongoing working capital needs of the company.

Disabled Veteran and woman-owned government contractor.

AloStar Business Credit Enters Seven Lending Agreements
AloStar Business Credit provided more than $73 million in financing to seven companies in the first four months of 2015. The businesses were located across the country and represent a cross section of industries.

Brookridge Funding Announces the Completion of $2,250,000 of Purchase Order Funding Facilities for Three New Clients
The clients were introduced to Brookridge by their factors or asset based lenders and include: $1,000,000 for a FL distributor of HVAC machinery; $750,000 for a CA importer of household goods; $500,000 for a NJ importer of women’s clothing.

CapitalPlus Equity Provides Revolving Factoring Facility for $130,000 to Flooring Subcontractor
CapitalPlus Equity, a factoring company specializing in commercial construction, has provided a revolving factoring facility for $130,000 to a flooring subcontractor in Virginia.

CANADA CHAPTER EVENTS

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@accutraccapital-itc.com. Visit IFA Canada’s website at www.FactoringAssociationCanada.com

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The Commercial Factor | September/October 2015 5
Universal Funding Corporation Provides $1.5 Million to New Clients in August
Universal Funding provided $1.5 million in accounts receivable financing to five new clients in August. As these new relationships grow over the course of a year, Universal will provide up to $18 million in financing to these companies.

Versant Funding Closes $1 Million Factoring Facility for Toy Manufacturer Based in New England
Versant Funding recently closed a $1 million factoring facility for a toy manufacturer based in New England. The Non-Recourse Factoring Facility provided by Versant Funding allowed the company to meet its shipping window and continue its growth.

PERSONNEL
Porter Capital Names Gamboa as BDO in New York
Porter Capital Corporation announced Theresa Gamboa has joined the company as business development officer in New York. Theresa brings over 20 years of experience in the factoring industry.

Paul Alisauskas Joins Accutrac Capital as the Factoring Company’s In-House Counsel
Accutrac Capital Solutions Inc. announced that Paul Alisauskas, B.A., LL.B, MBA, has been hired as its in-house counsel. Paul’s background consists of more than 30 years in private law practice.

Veritas Financial Partners Hires Liobis as Chief Credit Officer
Antanas (Tony) Liobis has joined Veritas as Chief Credit Officer. Tony will primarily be responsible for the oversight of portfolio management and loan operations, maintaining a focus on industry-leading, best-in-class management, information and control systems and above all, preservation of capital. He brings over 30 years of asset based lending experience, holding senior level positions at various institutions.

November 5
8:00 AM – 10:00 AM
Don’t Get Primed By a Hidden Lien: A Must Attend Breakfast Seminar
Ruskin Moscou Faltischeck P.L.C.
15th Floor East Tower, RXR Plaza, Uniondale, NY

February 4, 2016
12:00 PM - 2:00 PM
Lunch and Learn: Factoring Receivable and the True Sale of the Asset
Ten Penn Center, 1801 Market Street, Suite 1100, Philadelphia, PA

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.

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Email: alpha@platinumlp.com
Coffee and the Ten Commandments of Effective Customer Service

On my way to work, I either pass by or come near 2 locations of the same national chain. I occasionally do buy a coffee from the drive thru on my way into the office. One of these locations is on my direct path and it is the first one I see. It is the most convenient one to visit. The other location requires me to skip my regular turn, go thru the stop light, make a left, then a right; it is slightly out of my way. Being a national chain, you know the product is made the same way, served in the same container, and will cost the same. Why would I go out of my way to visit the second location? Marketing might tell you the first location supplies the craving and the second location allows you to act on the impulse. I will tell you it is service.

BY MERRY CLOSE

At the most convenient location, my transaction will be handled in the usual manner. “Welcome”; “May I have your order?”; “Is the order on the screen correct?”; “Thank you. That will be <price> at the window”; an unremarkable routine transaction, one of several routine transactions that employee will make in the day before going home. I get my coffee, and I’m on my way to work.

At the out of the way location, I will hear “Welcome”; “May I please have your order?”; “Thank you.”; “Is your order correct?”; “Thank you. Please pull to the next window.” There I will be greeted with a smile. The barista has complimented my name (“Oh, how unique!”) and a blouse I was wearing. Last time I was there, the register ran out of tape. She apologized for the
delay and did not mean to keep me waiting. While she apologized for the delay, she efficiently changed the tape and had me on my way without any noticeable delay. She ended the transaction with: “Have a perfect day!” I felt like an important customer, she made me smile, and then I was ready to take on the day with a positive attitude. The barista does not have to be friendly or engaging to do her job, but she finds joy in what she is doing. It is a pleasure to stop there.

In these short transitions, my favorite barista demonstrates ten commandments of effective customer service.

1. **PATIENCE.** One of the most important things to remember when working with customers is patience. Each contact with a customer is a chance to reiterate why your brand is of value to their company. If you don’t make time to address your customers’ concerns, they will look for someone else who will. Remembering to be patient helps prevent negative thoughts from surfacing. We can all sense when the person we are speaking to is annoyed with our issue. It can lead to a negative outcome where the customer may disengage.

2. **FOLLOW UP.** I know this should go without saying. If you are not able to return a phone call within 24 hours, send an email and schedule a time to talk. I found it better to save emails for routine conversations and phone calls for when discussions are need. Emails are also useful to follow up a discussion. It is a chance to restate the conversation and expectations from the discussion, and list actions that will be taken by you and the customer.

3. **BUILD CONNECTIONS.** Look for opportunities to make customers feel honored and valued. I try to use phrases like: “I would be happy to...”, “I would be honored to...”, and “it was a pleasure...”. Make sure they are used genuinely rather than routinely. If you don’t use them in moderation, they will lose meaning and undermine your attempts to build rapport.

4. **PHRASE ANSWERS POSITIVELY.** When I have to tell a customer no, I list conditionals that would change my answer to a yes. Present different options or solutions. Customers like to feel that they have more than one choice. If I have to say “I can’t do....” I follow up with “what I can do...” or “I can recommend...”. Sometimes just letting a customer know why you can’t say yes is enough. Saying no without an explanation may leave a customer frustrated and angry. While saying no with a reason will not magically make a customer happy, it will keep the lines of communication open while you are looking for a solution.

5. **LISTEN.** I know our days get busy. Do you think the phone ringing is taking you away from your work? Avoid the temptation to multitask when you have a customer on the phone in a non-routine call. If you don’t have time to listen, schedule the call for a later time. Make sure you are asking your customer questions to fully understand their situation. I have found that restating the situation back to a customer ensures clarification. Asking questions lets the customer know you are engaged in the process.

6. **SMILE WITH YOUR VOICE.** I once worked in an office where the receptionist did not like answering the phone. She answered the phone gruffly and was in a hurry to transfer to another person. At times, she would perceive the call as an interruption to her work. Even though it was a short exchange, it set the tone of the call for the next person or department. The caller did not feel valued by the receptionist and therefore did not expect to be valued by the next person to pick up the phone. The customer might not want to work with the company anymore. Needless to say, changes were made quickly to ensure a more pleasant greeting. Try it for yourself.

7. **PROACTIVE VS. REACTIVE.** Do you contact your customer only when there is a problem on their account? Schedule regular times to talk to your customer. Find out about their current concerns. Checking in with your customer when things are going well creates a connection later when working through a problem. Let’s face it; most of our accounts have another problem just around the corner.

8. **SHARE INFORMATION AND LOOK FOR OPPORTUNITIES TO EDUCATE YOUR CUSTOMERS.** Most of my customers are very good at their business, but most did not enter the factoring industry with a talent for managing AR. I offer my view on how to make an invoice, how to organize filing, and which accounting programs can make their life easier. I let them know which of
their account debtors make good customers. I ask my customers which of their account debtors return calls or emails. Account debtors who are organized stick to their payment schedule. Of course, payments in terms is high on my list, too!

9 ACKNOWLEDGE AND APOLOGIZE WITHOUT PLACING BLAME.

Customers express frustration and anger at times. Acknowledge their frustration or anger. Resist the temptation to match their tone or volume. Interrupting a customer while they are venting can prolong a customer’s anger. Let your customer know you understand their situation. Use phrases like: “Help me understand…” After gathering facts, you can look for solutions together. If a customer is disrespectful, let them know they are being disrespectful. Give a warning of the consequences if they continue this behavior. Follow through as necessary.

10 PASSION. Think about what makes you excited about this industry. I enjoy working with my customers to overcome a challenge. I take pride in seeing how a customer, over time, has grown or improved their business.

Following these ten commandments of effective customer service has helped me build rapport and maintain relationships. I know my customers will keep coming back for superior service just like I’ll continue to drive out of my way to get a coffee and a smile from my favorite barista.

Merry Close is an account manager at Commonwealth Capital, LLC, a growing factoring company in Minneapolis, MN. Merry has been in the factoring industry for over 12 years, primarily in transportation factoring, and recently received the Certified Account Executive in Factoring (CAEF) designation. Merry is a graduate of Iowa State University. Merry can be reached at 952-469-4460 or at merry@commonwealthmn.com.
Account Management – Science or Art?

“If you can’t explain it simply, you don’t understand it well enough.” - Albert Einstein

“Painting is a blind man’s profession. He paints not what he sees, but what he feels, what he tells himself about what he has seen.” - Pablo Picasso

BY TOM FEVOLA

At first glance, the differences between Einstein and Picasso, considered widely as two of the most influential modern era men regarding their professions, might seem extreme. In reality, they were very similar in many aspects of their professional and personal lives. Both recognized the value of the other’s observations and work, and acknowledged the necessity of each. When managing factoring accounts, one must also recognize the necessity of using each type of approach.

Most readers are likely to agree that the overall landscape of the factoring industry has morphed materially over the last decade. The acquisition, servicing, and retention of clients has shifted, to the extent that working capital solutions as a whole, provided to the borrowers of today, can be further out of the “box” than many of us have previously experienced. The parameters of the “box” have started to resemble a grainy, out of focus picture of Bigfoot that requires analysis, interpretation, and often, creative thinking. Once upon a time in our industry, it was not uncommon to hear the adage: “No one will do that.” Now one must accept that most transactions can and will find a home. Risk appetites have expanded to be extremely diverse, and those lines continue to blur at a brisk pace. New factor money is consistently entering the market. Firms such as Big Mike’s Financin’ and Discount Shop are ever-present to fund those transactions, which some of us may not be able to or want to properly mitigate (No offense to Big Mike).

This metamorphosis has generated the need for many small and middle market factors to think differently about all aspects of a transaction. Managing a factoring account requires the use of various skillsets. Technical knowledge learned through training and experience gained over time are both necessary and invaluable. Also becoming more prevalent is the need for the application of artform and creative thinking. Simply calculating financial ratios and identifying a client in or out of compliance is no longer commonplace. Even major financial institutions are retaining transactions that have deteriorated, and once would have flowed downstream, so as to protect against portfolio contraction.

Managing accounts today dictates that an operations individual will often need to use both analysis and creativity to generate a decision, provide a solution or take action on an account in a specific manner. Occasionally, aspects of one of these elements may cloud what seems to be an intuitive path to solution. It is this grey and undefined area that we will focus on for account managers, portfolio/operations managers and owners alike. These overseers of accounts will be referred to collectively as AE’s for the purpose of this article.

An AE will usually find they are...
presented with the necessity to craft solutions when potentially difficult situations arise, stemming from clients that do not perform according to the box-checking mentioned earlier. This may be something of a de minimis nature such as deciding whether or not to purchase a single $39.00 Wal-Mart invoice that lacks a POD on an otherwise verified $200,000 schedule. Or perhaps it’s a substantial request for an over-advance for payroll or materials purchase to meet this week’s obligation for a specific client.

When managing a factoring account, a good operator will and should always base their initial decisions and courses of actions upon facts and circumstances after forming a hypothesis. Obtaining, reviewing and interpreting the facts and circumstances of a potential course deviation for a transaction should be done each time, no matter the expected or perceived impact. The Who, What, When, Where, Why and How must be answered. If you don’t understand, do not proceed until you do. Ask questions, research with the client, compile the data, etc. Other than rare cases, the information gained from this work will typically provide the researcher or approver with the basis for an answer or will at least point you in the right direction.

Even those requests that are considered small require a drilldown as far as possible into the transaction. The devil is always in the details so one needs to embed himself within the transaction. Continued disciplines such as this will help you understand the request and all the relevant information pertaining to the request or challenge. Not only will it help for this particular request, but it begins to fill the operator with a level of “feel” for the account that can help in future situations.

After sufficient research, you will have likely formed an opinion or decision regarding how to proceed. What does one do when the facts point in one direction, but the “feeling” points in another direction? Here is where we may need to leave the laboratory and go to the canvas. Being solutions-oriented is the first step. One must really want to find a solution to the issue at hand. A mentor once told me, “Don’t get mad at the money.” If a request comes in for a client that you just may not particularly like, or even have had a recent rough spell with, don’t let that be the sole determiner of evaluating a potentially workable request. It’s easy to point to the rules and use that as an excuse to not even consider the request. Conversely, sometimes there just isn’t a way to box something appropriately no matter how much we want to, and that’s okay too. Perhaps you are able to mitigate most of the risk, but at the end, you review it and determine collectively it’s too much risk or, based on your experiences, you feel it won’t be a good decision. It’s the work and effort to getting there that matters, which hopefully set a culture and mindset to apply to all requests received that may be of a structurally deviant nature.

When considering a request or issue, my preference is to focus on the exit strategy for that request and work backward into a solution.

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list is nearly limitless, but the point is to look for everything and anything you can use to create a strategy for a solution. Consider all of the options including concepts such as character, previous client history evaluated as a whole, pending PO’s, projects, etc.

Once you identify your colors, then you need to apply them to generate your solution. The painting at first may be ugly and you may have to change it, add or subtract to it, and modify it, but at some point, you hopefully get something that makes sense. Again, you may discover that you have answers, but you can’t justify doing it based on your feeling of one thing or another.

When done with the picture, envision a loss on the account with your solution in place as a test. If you were to get called to the carpet to explain, ask whether it was a reasonable decision based on the information and the feel of the account at the time, to proceed forward with a recommendation or an approval.

AE’s need to recognize the reality of today and the need for creative thinking to assist in curbing client attrition. Whether scientific or artful in nature, you must be able to envision how you want to manage a specific account or an entire portfolio. Singular accounts and portfolios ebb and flow over time. Using both factual data and undefined elements combined will help structure solutions to meet unique cash flow challenges. To be clear, this view is not intended to infer disregard to prudent risk management theories or practices, but rather to recognize the need that exclusively adhering to those as the sole determiner for problematic situations is not a sustainable operation in today’s environment.
External Portfolio Reviews: Risk Management Skills for the Discerning Factor

You have a client – a good client – who you’ve been working with for years. Their company may have some ups and downs, but your relationship is strong, and you are confident that if they’re ever in real trouble, they will come to you first. So when they miss a reporting deadline, it doesn’t seem like a big deal. “They’ll catch up next month,” you say, and move on to the next.

BY VINCE MANCUSO

But suddenly it’s been three months... then four, then five, and you’re still not getting the information. Six months go by before you get what you’re looking for, and sure enough, your client – your really good client – is in trouble. And now, so are you.
We’ve all been there. Reports get missed, deadlines get pushed back, and all of a sudden you’re looking at the relationship, trying to figure out how you let this sneak up on you. It’s a blow that hurts every time, and it’s a blow that always leaves you wondering what you could have done differently or better.

There are, of course, going to be things that you can’t control. Extenuating circumstances will ebb, flow, and impact your clients, regardless of the precautions you take. But what about the things you can learn to anticipate? What are the practices and systems that you can put in place in order to mitigate risk and eliminate surprises?

That’s where portfolio reviews come in. These reviews, conducted by an external party, help to provide an ongoing system of checks and balances. They are ideally conducted once a quarter, and they ensure that you are looking at your portfolio through a clear lens. Most importantly, they instill discipline. They push you to mitigate risk on a consistent and structured basis, putting you in a position to protect yourself and help your client.

A portfolio review is designed to provide an independent and comprehensive review of the portfolio at a specific point in time. Reviewers evaluate performing and non-performing facilities and assess the strengths and weaknesses they find. It serves as a channel to acknowledge performance issues that might otherwise slip through the cracks. The review is also intended to evaluate operational procedures including current credit levels; verification, confirmation, and notification policies; and, the underwriting process.

In most cases, it’s impractical to review an entire portfolio, so it’s important to agree upon a sampling of clients before the work begins. The sample selection should reflect at least 50% of the total dollar amount of the portfolio, and needs to be thoroughly diversified in order for you to understand whether a problem is specific to a client or if it is systematic. This distinction is essential as it marks the difference between having issues with a particular client and having more broad, operational problems that need to be addressed.

Once you have your client sample selected, the reviewer dives in. They analyze every element of the funding process – from remittance and concentrations to past dues and risk ratings - and offer a post-mortem analysis of any bad debt writeoffs. Reviews also test the funding process on a basic level,
ensuring that invoices, verifications, and notifications are meeting their required levels and identifying what information is coming in on the front-end of fundings. The reviews make sure that reporting and legal documentation is in compliance and that security interest/Uniform Commercial Code filings are accurate and up-to-date.

The in-depth analysis you receive on individual clients is invaluable. The reviews point out issues and force you to take a closer look. While some review processes only provide more general and overarching analyses, these give you concise assessments of what is going on with individual clients. If something has taken an irregular turn, these reviews will catch it. If some problems haven’t changed or improved from the last quarter, these reviews will remind you.

One of the huge bonuses of these reviews is that they are also an exercise in best business practices. The reviewer will take the data they’ve collected and benchmark you against other, similar companies in the industry. You won’t know exactly who you’re evaluated against, but you will know where you are on the scale, and this can be a good affirmation of what you’re doing right and where you can improve. This kind of insight is hard to come by, and allows you to dig deep not only into where you stand, but to where the industry is headed as a whole.

It’s important to note that external portfolio reviews are just like any other evaluative tool; they can help you to stabilize risk and manage operations if you use them properly and consistently, but if you institute them sporadically or don’t make any attempt to remedy the issues they raise, their value begins to sink. If issues are building from quarter to quarter and you see that they aren’t getting resolved, it may be time to reevaluate some of your broad operational procedures. There may be a gap in workflow or there may be a system or set of policies that needs to be adjusted. However, if you don’t make an active attempt to apply the knowledge that these reviews provide to you, you will be missing out on what they have to offer and letting an incredible tool go to waste.

In addition to providing ways for you to keep your own operations in check, portfolio reviews can also help to provide investors with a certain level of comfort, and demonstrate to them that you’re creating efficient and effective systems that

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Help keep your portfolio and your operations system in check. If you can point to objective and consistent evaluations of your company, you will be able to offer investors the peace of mind they need as well as a place they can look to for answers on portfolio progress on a regular basis.

Portfolio reviews may seem like a basic exercise, but their inquisitions are thorough and their scope is wide. Major issues can arise if you do not have some system in place that holds your operation accountable and regularly reviews the status of your portfolio. Instituting this kind of practice on a regular basis enhances the soundness and stability of your company, and empowers you with a self-awareness that helps your company to do more and grow stronger.

Rewind the clock on your favorite old client. They miss that first deadline, and maybe you let it slide. It’s just one month after all, and you know these guys... they’re good. You move along, and the account functions, business as usual, without any apparent issues.

Six weeks later, your reviewer comes in, and that favorite old client is, as always, in your sample selection. You think nothing of it; you do not even slightly suspect that this is the client that’s going to trip you up this quarter. When the results come back, you’re shocked.

You see that the client is experiencing some fundamental changes that are not typical of the account. Maybe their verifications have steadily declined or their funding documents have slowly become sloppy. Maybe their past due items are starting to increase or their concentrations seem to be spiking.

Whatever the case, the portfolio review has given you a clear view into this client. You are seeing things that don’t pop out in the day-to-day routine. This may seem a little jarring, but really you are still in control here, because the review has given you the perspective you need to ask the right questions. You get with your team, you discuss the account, and you hop on the phone with your client. You are eager to learn what’s going on, and you are armed with the information to help set it straight.

Vince Mancuso is a Principal and Partner of Fundamental Financial. He manages the company’s overall portfolio development strategy, which includes providing financing to factoring companies. Vince has over 22 years of commercial finance experience. Vince can be reached by phone at 512-710-6737 or by email at vmancuso@fundamental.com.

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Factoring: The Barometer of GDP

Gross Domestic Product (GDP) is the measure of the market value of all final goods and services – cars, rock concerts, donkey rides, and so on – produced in a country during a year. Usually, it is expressed as a comparison to the previous quarter or year. For instance, if the year-to-year GDP is up 3%, this means that the economy has grown by 3% over the last year. It represents the size of an economy. It impacts nearly every part of a country's economy. A growing GDP is usually accompanied by wage increases, low unemployment, and increasing corporate profits. It serves as the carefully monitored pulse of a nation's economy.

BY MONIRUZ ZAMAN

Factoring may serve as the read of an economy or GDP. If all the goods and services are invoiced in monetary value, it may give a signal of total GDP of a country; the health of the economy can be gauged. In this regard, it is to be noted that all economic activities do not go through factoring modality. But it is a proposition of measuring GDP via factoring. At the same time, there must be a robust system in the economy of registering and/or maintaining invoices factored as it happens in the developed and matured factoring markets like the UK, USA, etc. (See figure 1.)

Under this model of GDP measurement, factoring may also work as the indicator of economic growth: if the factoring volume increases, economic growth heightens and vice versa. Historically, it is observed that factoring has grown in a country when its economy has grown over the years, as it is happening in the Bangladesh economy. However, this indication may be portrayed as shown in figure 2.

Through a factoring index it can also be known in which product or service, or in which industry, a country is efficient. The production of an item which
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.
generates maximum invoices in an
 economy tells that the economy
 is proficient in that economic
 item and/or business activity. For
 instance, in Bangladesh, the modal
 invoices in all Factors are of poultry
 feeds, meaning that the economy is
 agri-oriented.

Similarly, whether the economy
 is service-oriented or manufact-
 turing (manufacturer of physical
 goods) oriented can also be known
 from the invoices generated. For
 example, Singapore’s economy is
 a more service-oriented economy
 compared to Bangladesh’s economy,
 which is a mostly labor-intensive
 economy (e.g., ready-made garment
 products).

The seasonality effect or the
 economic ups and downs are
 grasped with the movement of
 invoice generation. Invoice becomes
 the parameter of economic heyday
 or sluggishness. The investors can
 make decisions regarding which
 sectors’ shares or bonds they will
 purchase, and accordingly they
 can design, redesign, shape, and
 reshape their portfolio. Whether
 they will concentrate their invest-
 ment in high-tech industry, or
 agriculture, etc.; all of these things
 investors can know with the help
 of a factored invoices’ database.
 Factoring is also an indicator
 of financial securities’ portfolio
 management.

Factoring may work as a study
 of macroeconomy. It helps in
 measuring the value of economic
 activities done in a year. The living
 standard of people, per capita
 income, etc. are also linked with
 invoice generation and thereby the
 factoring activity. Generally, the
 greater the generation of invoices,
 the greater the economic activity,
 and the higher the income of the
 people, resulting in a higher living
 standard (as seen in comparison
 between the UK economy and
 Bangladesh economy). The genera-
 tion of invoices in the UK is higher
 than that of Bangladesh, meaning
 that the living standard in the UK is
 higher than that in Bangladesh. The
 consumption pattern of people can
 also be attributed to the concen-
 tration of invoices factored.

The employment status of a country
 may also be related to the factoring
 industry. The economy which gen-
 erates more invoices has a higher
 capacity to generate new employ-
 ment opportunities in increased
 numbers; higher invoices precede
 the higher volume of business and/
 or economic activity, demanding
 a higher number of people to be
 employed.
Even seeing the total invoices generated and factored, it can also be seen which industry in a country is growing and which one is shrinking, and thereby, it helps policymakers in formulating national economic, as well as industrial, plans. At the same time, the extent to which the industrialization has accelerated may also be known through factorization.

**Factoring is the pulse of the GDP**

The wave of economy may be assessed with the invoices generated from the activities in the economy. Seeing the growth of GDP, the growth of Factoring can be predicted and vice versa. For instance, if the present GDP growth rate of Bangladesh is around 6 percent, the growth of the factoring industry in Bangladesh may be predicted at at least 6 percent. GDP may be wrapped up with factoring. The total GDP is a crystal of invoices; the total economy is the accumulation of all invoices generated in a given year, against all the economic activities, against all the products and services produced. •

**Moniruz Zaman**

is Assistant Vice President and Head of Factoring & Commercial Business Unit at LankaBangla Finance Ltd., one of the leading factors in Bangladesh since 2008. Moniruz started his career in banking in 2003 with AB Bank Ltd., the first private sector bank in Bangladesh. In 2005, he joined Bangladesh Civil Service (BCS) Administration Cadre. In 2008, he left Civil Service and joined Factoring at LankaBangla Finance Ltd. He can be reached at munirzaman@lankabangla.com; munir_zaman2003@yahoo.co.uk or at +88 02 9883701 - 10, Extn. 833; + 88 019 24 10 21 70; + 88 017 18 78 21 73.
How would the Consumer Financial Protection Bureau (CFPB) ever have any authority to regulate factoring companies? The short answer is that under existing law, the CFPB would not have jurisdiction to regulate anyone not involved in lending to consumers. But a number of industries had assumed that they were not subject to the CFPB’s jurisdiction but were surprised to learn the CFPB disagreed. So, our industry must be vigilant.

A recent op-ed piece on HuffingtonPost.com made the argument that the CFPB needs to regulate all small business lending. This would presumably extend to small business finance and include factoring. While your first thought might be that this is not going to happen, please note, the article was written by a Former Senior Economic Policy Advisor to the Obama White House and the Small Business Administration.

Although the CFPB is an independent agency responsible for consumer protection in the financial arena, it has small businesses lending on the radar. The Dodd-Frank Act gives the CFPB authority to oversee data collection on small business loans. While the CFPB’s jurisdiction over Small Business Lending is limited, the CFPB has stated its intention to use its data collection powers to enforce fair lending laws.

The stated objective of the data collection is to motivate financial institutions to increase lending to meet the credit needs of traditionally underserved small businesses and neighborhoods. The CFPB has broad authority to collect data from depository and non-depository institutions that make small business loans. It has been stated that this should include non-banks. The CFPB feels it must understand all aspects of small business lending to get a complete picture.

If factoring companies are lumped in under this data collection rule, we would be required to provide information on clients such as race and ethnicity, revenue, size of business, action taken (such as approval and denial), type of lending, purpose of lending. The CFPB could also ask for additional information at its discretion. This could include pricing, creditworthiness, number of employees, and status of business.

The CFPB has stated it will not enforce data collection until it has issued regulations, which has yet to occur. However, 84 members of the House of Representatives recently wrote to the CFPB urging it to expedite rulemaking for data collection. In July, 19 democratic Senators and 13 democratic members of the House Financial Services Committee also made the same request. Pressure is being put on the CFPB to begin data collection.

Continued on page 25
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The IFA offers CLE credits for the Factoring Conference. Information on approved states is available at info@factoring.org or contact the IFA at 805-773-0011.
WHAT'S NEW AT IFA SEPTEMBER/OCTOBER 2015

ASSOCIATIONS

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

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www.cafec.org

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AFA UPDATE

Continued from page 22
Those of us in the factoring world need to keep a close eye on the CFPB. That is
why we continue to need the AFA more than ever. •

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
tavel to Washington, DC on behalf of the
factoring industry.

IFA CALENDAR EVENTS

October 8-9, 2015
Sales & Marketing Training
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October 21, 2015
Medical Factoring Webinar
Webinar 1pm-2pm PDT

October 26-27, 2015
Strategic Working Capital Issues
for Factors and Asset Based Lenders
Planet Hollywood, Las Vegas, NV

October 29-30, 2015
How to Advance on Alternative
Forms of Collateral
Planet Hollywood, Las Vegas, NV

November 3-5, 2015
Tools for Effectively Managing
Client Accounts
Webinar 12pm-2pm PDT

January 27-29, 2016
Presidents & Senior Executives
Meeting
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March 8, 2016
Luncheon Meeting with NYIC
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April 13-16, 2016
Annual Factoring Conference
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Indeed, with a socialist and a reality TV star in the mix, there certainly is disruption happening. There is a new financial product making its way into the marketplace, which can, when taken to its extreme, be a potential disruption to the factor’s business. That product is account debtor trade payable financing, which some people call reverse factoring. For purposes of this article, I shall refer to the product as “trade payable financing”. The disruption to the factors results because the factor finances its client who is selling goods or rendering services to the account debtor that receives trade payable financing. The factor and the trade payable finance company have competing interests at stake and, as shown below, some trade payable finance companies have gotten a head start in asserting their rights against the factors.

Trade payable financing works as follows. The typical trade payable financing client is a company that has a large accounts payable portfolio. A good candidate for trade payable financing is a company which sells a lot of consumer products or causes goods to be transported. The trade payable financing product is bumping into factors’ interest frequently in the transportation sector. The typical trade payable finance deal will have the trade payable finance company managing the accounts payable portfolio, both on the payment and operations side. The trade payable finance company agrees to pay all of the trade creditors on behalf of

Steven N. Kurtz, Esq., has represented factors, banks, and asset based lenders on a continuous basis since 1987, and he is the Co-general Counsel to the IFA. A founding partner of Levinson Arshonsky & Kurtz, with 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.
the trade payable finance client and gives the client good terms for payment, often 120 days. The trade payable finance company approaches the vendors and offers an early payment for a discount. The trade payable finance client is happy with this deal because it essentially gets a short-term loan. Instead of paying vendors on normal 30-day terms, the trade payable finance client gets a break on its cash flow by stretching its payables out to 120 days. This is, in essence, a short term loan to the trade payable finance client, but because of accounting rules, is not reported as a loan. Instead, this “off-balance sheet” transaction is reported on the books as a trade payable. The trade payable finance client is happy because it gets the benefits of a short term revolving line of credit without any interest, coupled with the fact that its ordinary trade credit terms have been stretched to 120 days. For folks who are judged in the short-term quarterly system, they look like geniuses. The trade payable finance company makes its spread just like the factor, but in reverse. It lays out the money at a discount to the vendor and gets paid the full amount due on the transaction when it collects from the trade payable finance client.

Because the trade payable finance company makes its money by paying trade payables early for a discount, there are several problems in its deal that need to be addressed. Like the factor, the trade payable finance company has to work around chargebacks. However, the trade payable finance company has gotten creative because it does not want to put the chargeback to its client, or else it risks losing business. Accordingly, the trade payable finance company has adapted to this problem by documenting around this issue. Typically the trade payable finance company will force a document down the vendor’s throat. The trade payable finance company approaches the vendor, who is the factor client, and first states that unless the vendor/factor client signs an early payment agreement, the trade payable finance company will pay the bill in 120 days. In exchange for the discounted early payment, the trade payable finance company puts in the document clauses such as the right that it can assert a defense to an invoice already paid against an invoice due in the future. The trade payable finance company sometimes puts in provisions that allow it to assert claims on behalf of other parties that it does business with, against payments to the vendor/factor client. That means if the vendor/factor client sells to both companies A and B who are each trade payable finance clients, the trade payable
finance company can assert a right on behalf of company B against a payment due to the vendor/ factor client on behalf of company A. The trade payable finance company often takes its documentation to an even higher level. Some forms of agreements provide that the vendor/ factor client’s invoice to the trade payable finance company cannot be subject to a lien and they have been known to ask for and receive signoffs from factors that allow for these transactions and release the factor’s rights. To make matters worse, in many instances, the trade payable finance company is also making finance fees off the vendor/ factor client in exchange for the early payment, so it’s making money on both sides of the equation. Not a bad way to operate.

This documentation issue presents several problems to the factor. When a factor buys an account, it takes the account subject to two different rights which operate as a defense to payment. The first right is the right of recoupment. A recoupment claim is a defense to the exact contract or invoice that the factor is financing. In other words, if there is any problem with that specific contract, the factor buys the account subject to this right. The other right that an account debtor may assert is the right to setoff. A setoff claim is as defense to payment which is based upon other dealings or contracts between the account debtor and the factor client. However, the UCC in Sec 9-404(a)(2), gives the factor the ability to cut off setoff claims. Once the factor sends out the notice of assignment letter, the factor cuts off all rights of setoff which arise after the notice of assignment letter. After the notice of assignment letter is sent, the factor only takes the invoice subject to a recoupment claim, or setoff claims in existence at the time of the notice of assignment. In the typical trade payable financing transaction, the trade payable finance company, in exchange for the early payment promise, has caused the vendor/ factor client to negotiate away certain rights and allow the trade payable finance company to raise defenses that would have otherwise expired or even raise defenses to payment that arise from third parties who are not involved with the factor.

The trade payable finance company’s deal with the vendor/ factor client effectively modifies the factor’s rights regarding its purchased accounts. If the vendor/ factor client modifies the transaction after the factor purchases the account and has sent the notice of assignment, the deal between the trade payable finance company and the vendor/ factor client can only be enforceable against the factor if it was made in good faith.

If the vendor/ factor client modifies the transaction after the factor purchases the account and has sent the notice of assignment, the deal between the trade payable finance company and the vendor/ factor client can only be enforceable against the factor if it was made in good faith. So, in all likelihood, the waiver of rights between the trade payable finance company and the vendor/ factor client may not be enforceable, but the factor is put in the position of having to litigate the claim. However, in all likelihood the agreement between the vendor/ factor client and the trade payable finance company will be binding as to invoices purchased on a going forward basis. Thus, the factor is left with a pool of purchased accounts that now have expanded rights to assert claims against paying the factor.

One solution to this problem is for the factor to not purchase those accounts. This, however, deprives the factor of the ability to earn fees. This also plays into the hands of the trade payable finance company, which does not want to deal with the factor. A better solution is for the factor to just not go along with the transaction. It should not sign any agreements with the trade payable finance company or allow the vendor/ factor client to do the same. At first, the factor can expect the trade payable finance company to make good on its promise to not pay in 120 days. If that’s the case, the factor should look at the factoring fees for taking out a deal to 120 days. It still may be cheaper for the vendor/ factor client to pay the factoring fees instead of paying the trade payable finance company, and the factor, as well as accepting the early payment discount. If the factoring fees are not less than what the vendor/ factor client would pay if it did the deal with the trade payable finance company, then some factors have made deals with their clients to address the short term increase in payment terms for the account debtor. However, if enough factors and account debtors refuse to
.transactions with the trade payable finance company on the current structure, things can slowly change—especially when the trade payable finance client is not getting credit terms from its vendors or gets reported to the credit services as a late payer.

Another issue, which needs to be addressed, is the actual notice of assignment. The factor gives the notice of assignment to the account debtor. However, the account debtor has hired the trade payable finance company to handle its trade payables and gets the off balance sheet loan. Accordingly, the dealings are now between the factor and the trade payable finance company. If a problem ever arose with respect to the notice of assignment and the trade payable finance company paid the vendor/factor client instead of the factor, where does that leave the factor and the account debtor? The account debtor has a good defense to the factor’s claim for payment over notice and will likely say that the factor waived all of its rights by acquiescing to the situation with the trade payable finance company. Thus, to avoid this problem, the factor will need to prepare a special notice of assignment to both the trade payable finance company and the account debtor which puts them both on notice of the factor’s rights, states that the factor does not care which party renders the payment, but make sure that nobody is let off the hook in the event that one of them pays someone other than the factor.

Trade payable financing is an innovative product, which provides a good benefit to the account debtor because it stretches the payables and is an off balance sheet loan. Therefore, we can expect to see an increase in this product. The factoring industry needs to understand this issue and work around it. Once the trade payable finance companies are not able to obtain concessions from the factor clients and the factors, and see their clients who hired them to manage payables get reported as late payers and start to get less trade credit, then the aggressive tactics will likely cease. The eventual result will be that the trade payable finance companies will make the bulk of their fees on the client side and make more money on vendors who do not factor, or make less fees on the deals where a factor is involved. A potential win-win working solution would be for the factors and the trade payable finance companies to agree on a structure to assert recoupment claims within a set period of time. There is room for both products in the marketplace, but the equilibrium needs to shift towards a more middle place.
Old School Factoring

I’m old school and I’m not afraid to admit it. When I started out as a young pup in the business world, the landscape was a little different. Back then, my office computer had a green monochrome screen with two floppy drives, the thermal paper fax machine bled more ink than an old fountain pen and the dot matrix printer screeched louder than a car with worn-out brakes.

I won’t reveal how far back this goes, but if you research my profile on social media, you’ll get a general idea. Fast forward to today’s workplace which, for many people, is a home office consisting of a laptop, a three-in-one printer that can fax and scan documents, and a mobile phone. In all likelihood, your current mobile smartphone is faster than any desktop computer from just a few years ago. Innovations in technology have put the world at our fingertips through the internet. We connect with almost anyone instantaneously through an email or text message, transfer funds electronically to every corner of the earth with the push of a button, and even participate in video conferences on a device as small as a smartphone.

We have all of the modern devices in our office, so why do we still consider ourselves old school? Our factoring company, like many others in our industry, checks the same boxes when it comes to the mechanics of providing cash flow to businesses. We utilize treasury services for electronic fund transfers and receipts, our factoring software provides full transparency for clients to check balances, input schedules, and run reports for accounting and information purposes. However, a byproduct of this phenomenal technology is the way we do business. Long gone are deals that are consummated with a handshake and somebody’s word. In reality, I’m kind of glad that era is gone. Try unwinding a complicated deal that’s gone south without having anything in writing. The point I’m trying to make here is that modern business is much less personal than it used to be. Today, communication is short and swift. Many new prospects typically interact with us through emails for days before they initiate the first call with our office. Here’s where our company gets back to “Factoring 101”. Once the application has been completed and the documents have been collected, there comes a time for some old school communication. This is where you get to the heart of the deal. The best way to learn about a person’s business is to simply ask and listen. It’s amazing how much information you can acquire in a single conversation just by listening to the people that own or run the company. In almost every instance, they will go into the story about how the company started, how it grew, and the challenges along the way. Just
recently, I was discussing a potential deal with a broker affiliated with our company. He went into great detail about getting the signed application, gathering the required documents, and so forth. About ten minutes into the call, I asked if he spoke with the owners at any length. He mentioned that he briefly discussed the funding process and what was required to get started. To me, this was more of an adequate answer versus the right answer. So often, we are in such a hurry to get out our words that we forget conversing is supposed to be an exchange where one person speaks and the other listens. How often in your daily life do you run into that person who never stops talking and rarely hears a single word when it's your turn to speak? How annoying is that?

Today, there are a whole new crop of funders that boast how they can get money for business owners without ever having to talk to their clients or their customers. Many companies will find this convenience a great feature since there is little intrusion in their daily operations.

We take a different perspective when it comes to our factoring business. The relationships with our clients are the cornerstone of our success. Business relationships do not start or end once the client has funded their first invoice with our company. It is a continual process that has many rewards as well as some drawbacks. The most obvious benefit is that clients who keep you informed about their business will express his or her concern about a particular issue. For example, one of the biggest concerns of many new factoring clients is having a sufficient credit line in place to accommodate their growth. Establishing the correct amount for a client is a tough decision for factors since many prospective clients may have only been in business for a short period of time or they have a poor credit history. Their concerns are justified, especially if their businesses are growing quickly and they need to cover future payroll or purchase materials. At this point, you will need to understand the transaction.

Does the deal make sense? I realize this may sound foolish, but I cannot tell you how many times there are conflicts between what the prospect says and the paperwork gathered with the application. If you cannot understand the deal flow, run it by a colleague or professional in that field who may have more experience, and continue to ask questions.

No matter what type of business you’re in there will always be someone that claims to be cheaper and faster. Being nimble while adhering to core values is a very difficult balance to maintain for many factoring companies. At the end of the day, every company has to determine the correct mix of technology, due diligence and logic to successfully navigate the choppy waters between success and failure.

A simple quote from Zig Ziglar sums it up best: “Success is not a destination, it’s a journey.” •
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