

The list of names of the stakeholders to whom the letter is addressed:

European Parliament

Krišjānis Kariņš, Rapporteur, ECON: krisjanis.karins@europarl.europa.eu
Judith Sargentini, Rapporteur, LIBE: judith.sargentini@europarl.europa.eu
Emil Radev, Rapporteur, LIBE: emil.radev@europarl.europa.eu
Ana Gomes, Shadow rapporteur, LIBE: anamaria.gomes@europarl.europa.eu
Peter Simon, Shadow rapporteur, ECON: peter.simon@europarl.europa.eu
Bernd Lucke, Shadow rapporteur, ECON: bernd.lucke@europarl.europa.eu
Monica Macovei, Shadow rapporteur, LIBE: monica.macovei@europarl.europa.eu
Nils Torvalds, Shadow rapporteur, ECON: nils.torvalds@europarl.europa.eu
Petr Ježek, Shadow rapporteur, LIBE: petr.jezek@europarl.europa.eu
Sven Giegold, Shadow rapporteur, ECON: sven.giegold@europarl.europa.eu

Council Presidency, Malta

Nancy CARUAN: nancy.caruana@gov.mt
Clinton-Domenic FLORES: clinton-domenic.flores@gov.mt
Charles ABELA: charles.b.abela@gov.mt
Terence SACCO: terence.sacco@gov.mt
David CILIBERTI: david.ciliberti@gov.mt

European Commission

Salla SAASTAMOINEN, Director, Direction “Civil and commercial justice”: Salla.SAASTAMOINEN@ec.europa.eu
Maija LAURILA, Head of Unit, Unit “Company law”: Maija.LAURILA@ec.europa.eu

Kraainem, 03 April 2017

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Re.: Proposal for a directive of the European Parliament and of the Council amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directive 2009/101/EC (COM(2016)0450 – C8-0265/2016 – 2016/0208(COD))

Dear Madam or Sir,

The EUF is the industry body and voice for the European factoring industry. The EUF's members consist of 14 national factoring and commercial finance associations (representing 15 EU-member states, namely [in alphabetic order] Austria, Belgium, the Czech Republic, Denmark, France, Germany, Greece, Ireland, Italy, the Netherlands, Poland, Portugal, Spain, Sweden and the UK) and the international factoring association FCI. In 2015, the **factoring industry in the EU provided over €168 billion of working capital financing to over 171,000 businesses**. According to the results published in the EUF White Paper "Factoring and Commercial Finance" (January 2016, cf. <http://euf.eu.com/what-is-euf/whitepaper-factoring-and-commercial-finance.html>), **mostly SMEs and principally businesses in the manufacturing, services and distribution sectors used factoring**, a financing solution with low Loss Given Default (LGD). The amount of working capital provided by the European factoring industry has to be seen in relation to the total factoring turnover, which in 2015 was over € 1.47 trillion. If you consider that the total GDP of Europe exceeded € 13 trillion, this figure represents a significant portion of the real economy within the EU. Our members account for 97% of the total European factoring market, and comprise of both regulated and non-regulated factoring companies. Over half of the factored volume conducted within the EU is generated by factoring companies that are banks or part of consolidated banking groups.

It is against this background that the EUF wishes to draw your attention to certain amendments introduced by the EU Parliament into the „Proposal for a directive of the European Parliament and of the Council amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directive 2009/101/EC (COM(2016)0450 – C8-0265/2016 – 2016/0208(COD))“ (in short: review of the 4th AML-directive) which would also affect factoring companies as obliged entities according to Art. 2 of the Directive (EU) 2015/849:

1. Threshold for determining beneficial owner

According to the report of the EU Parliament's ECON and LIBE committees dated 9 March 2017 (cf. European Parliament document A8-0056/2017), the EU Parliament is in favour of **lowering the threshold for the determination of beneficial owners to 10% (plus one share)**. Such lowering of this threshold would not only entail a **massive increase in administrative burden for inter alia factoring companies**, but it would more importantly also **go against the proportionality principle and the risk oriented approach** which lie at the heart of the 4th AML-directive. According to the opinion of the European Parliament's Committee on Development, which is part of the aforementioned EP-report, the scandal surrounding the so called „Panama Papers“ is the reason for introducing such a lower threshold (cf. p. 57 of the report). The EUF wishes to point out that the factoring industry (like many other industries) was in no way connected to the „Panama Papers“-scandal, which makes the lowering of this threshold an unreasonable and disproportionate legislative measure in relation to the factoring industry. Moreover, according to recital 18 as contained in the aforementioned EP-report, the „*threshold should be low enough to cover most situations*“ (cf. p. 14 of the report) – unfortunately, no clear reason why „most situations“ need to be covered is given. The EUF wishes to stress that the idea of a „beneficial

EU Federation for the Factoring and Commercial Finance Industry

■ Avenue Reine Astrid, 452 ■ BE-1950 Kraainem ■ BELGIUM ■ c/o FCI Belgian Branch

■ Tel: 32/2/772-6969 ■ Fax: 32/2/772-6419 ■ VAT: BE 0644.822.643

■ IBAN: BE20 7390 1349 8256 ■ SWIFT(BIC) KBC: KREDBEBB

FCI Head Office

Keizersgracht 559
1017 DR Amsterdam
The Netherlands

owner“ has always implied some form of relevant influence of this „beneficial owner“ over the company in question – with the introduction of a 10%-threshold, such relevant influence is more than questionable as shareholders with 10-25% of the shares de facto neither have any influence on the administration and management of the company, nor have a blocking minority.

The EUF therefore strongly advises to maintain the current threshold of 25% plus one share/more than 25% for determining beneficial ownership.

2. Review of information relating to beneficial owners

On pp. 27 f. of the aforementioned EP-report, the EU Parliament suggests introducing a requirement for obliged entities „to contact the customer for the purpose of reviewing any information related to the beneficial owner(s) not later than ...[one year after the date of the entry into force of this amending Directive]“. Again, this would entail a **massive increase in administrative burden for inter alia factoring companies**, in particular for those with a high number of factoring clients. However, the **added value of such a complete review** of new and existing contractual relationships within the short time period of a one year **for AML-purposes is not apparent**. This amendment suggested by the EU Parliament would also go against both the proportionality principle and the risk oriented approach as bases of the 4th AML-directive. Therefore, the EUF strongly advises that the amendments suggested by the EU Parliament in its report are not adopted in the final version of the review of the 4th AML-directive.

If you have any questions or require additional information and details about the above mentioned position of the EUF or the factoring industry in the EU, please do not hesitate to contact us.

With kind regards,



Erik Timmermans
Chairman,
EUF