To: Secretariat of the Basel Committee on Banking Supervision
Bank for International Settlements
CH-4002 Basel Switzerland

Kraainem, 6 January 2015

Re: Response to the Consultative Document on Operational risk

To whom it may concern:

We are writing in response to your request for feedback on your consultative document on the proposed changes to the simpler approaches for measuring operational risk capital. The European Union Federation (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 two international factoring associations. In 2013, the Receivables Finance industry in the EU provided over €170 billion of working capital financing to nearly 160,000 businesses, mostly SMEs. This amount of working capital has to be seen in relation to the total factoring turnover, which in 2013 was over € 1.3 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 97.5% 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 part of consolidated banking groups, which falls under the umbrella of regulatory oversight. As you know, factoring is a means of finance which is widely used especially by SMEs as it is a method of providing working capital finance to a supplier of goods and services. This is achieved by the supplier assigning and selling its accounts receivables to a factoring company. The factor will provide a range of services to its clients, including providing capital against the assignment of their receivables, accepting the risk of bad debts and collecting on past due accounts. The factor will normally charge a fee for these services and a discount for the advancement of funds against eligible assigned invoices. Factoring has been considered a stable financing alternative by many companies, particularly during the financial crisis over the last five years. Many SMEs that were unable to obtain traditional bank funding were able to so under factoring facilities, offered by independent factoring companies. Hence, the factoring industry thrived during the financial crisis, helping hundreds of thousands of SMEs throughout the EU to obtain capital. Hence, you can say factoring companies are a direct mirror of the real economy.

The EUF has concerns that the proposed changes to the Standardized Approach (SA), which will replace Gross Income (GI) with the Business Indicator (BI) as the new proxy indicator for operational risk exposure to ultimately address and remedy certain weaknesses in the current scheme and improve the estimation of capital requirements for operational risks for traditional lines of business of commercial banks, could also have an adverse effect on specialized financial services such as factoring. We believe this overall improvement should only apply to credit institutions with clear emphasis on what can be described as "traditional" lines of banking business. We believe that the planned proposed changes do not generally improve the estimation of capital requirements for operational risks of banks which offer specialized forms of financing such as factoring. For these specialized businesses, the revised SA does not accurately capture their operational risk profiles, but

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it rather presents a distorted picture and hence leads to disproportionate and inadequate capital requirements for the operational risks of such specialized banks.

Of course we acknowledge that there exists operational risk in factoring. The EUF emphasizes the need for proportionate regulatory measures, which are suitable for all encompassed forms of financing, not only traditional commercial banking. However, we also believe factoring is limited in its exposure in terms of operational risk in comparison to traditional bank activities. It is therefore our view that these specificities need to be taken into consideration when revising the SA. In fact, factoring in many jurisdictions in the EU is classified not as a banking activity but credit activity, due to its unique role in the assignment of the receivable as the underlying mechanism for early payment and because factoring companies in general are not deposit-taking institutions. Hence, we believe that it is very important for the factoring industry to engage with policy makers and lobby in favor of a separate treatment for factoring activities in terms of capital requirement. Unless the operational risk exposure of banks specialized in factoring is captured more accurately, the capital requirements for factoring will increase substantially although their operational risk position has largely remained unchanged.

A significant number of factoring companies without bank status still exists in the EU. In some markets like the United Kingdom, the factoring industry is unregulated. However in other markets like France, the factoring industry is regulated. Hence, it would also be unfair to those factoring companies that are part of consolidated banking groups from being subject to additional costs and regulatory oversight relating to operation risk where others are not. Moreover, it should be understood that factoring companies' refinancing partners are often commercial banks. Hence, the proposed changes should be waived for the factoring industry, in order not to create disincentives for banks, but rather to foster the growth of this low risk form of financing called factoring, which generally seems to be welcomed and positively supported by the EU institutions.

Lastly, we understand that you recognize that companies generating a significant portion of their income from fees have been identified as facing a disproportionately higher capital impact. You state under item 46. "A small number of banks that are highly specialized in fee businesses have been identified as facing a disproportionately high capital impact under the BI. The problem stems from the structure of the BI, which was designed to capture the operational risk profile of a universal bank and does not lend itself to accurate application in the case of banks engaged predominantly in fee-based activities. The Committee will respond to the issue if it is evidenced by the results of the new data collection exercise." It is well understood that a significant portion of a factoring company's revenue is generated from fees. Hence, we would like to raise this issue with you, to ensure again that the factoring industry is not disproportionately affected by this change.

Please let us know if you have any questions. We look forward to hearing back from you. In the meantime, if you have any questions or want additional information, please do not hesitate to ask.

With kind regards,

John Gielen
Chairman - EUF

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