To: The European Banking Authority

Kraainem, 26 October 2016

Réf: EUF/16-011

EUF Position Paper on EBA's Consultation Paper on Guidelines on Connected Clients under Article 4 (1) (39) of Regulation (EU) No 575/2013

The EU Federation for the Factoring and Commercial Finance Industry (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 chain FCI+IFG. In 2015, the Receivables Finance industry in the EU provided over €168 billion of working capital financing to over 171,000 businesses, about 85% of which are SMEs.

The EUF has carefully read and assessed the draft Guidelines on Connected Clients issued by the EBA and welcomes the opportunity to participate to the public consultation and share its comments with this Authority.

First of all, we appreciate the effort of the EBA to revise and update the CEBS Guidelines of 2009 in order to assure their consistency with the regulation that has changed in the interim. However, the factoring industry would like to inform the EBA of some significant concerns raised by the proposed approach and in particular would draw your attention to potential unwanted consequences of the Guidelines to establish connectedness based on economic dependency.

Generally speaking, the EUF would like to share its concerns about any widening of the perimeter of the "economic dependency" principle, as it would negatively affect SMEs in particular. As a matter of fact, small and medium businesses are more dependent on large corporates than vice versa, thus making lending to SMEs more capital intensive and expensive not only for factors but also for any lenders in the market and, at the end of the day, increasing costs of finance for SMEs.

Therefore, in general, we would advise the EBA, while drafting these Guidelines, to keep in mind the need to balance the fulfillment of the regulatory requirements and the need to avoid any negative impact on the financing of small and medium businesses, providing all the tools necessary to understand and detect economic dependency among clients but, at the same time, assuring that beyond that reasonable , no widening of the scope of the groups of connected clients will occur.

In particular, following the structure of your paper, we will focus on Question 08.

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Question 08: Are the situations described in the list in paragraph 23 as constituting economic dependency clear? If not, provide concrete suggestions. In particular, do you have any comments regarding the introduction of the threshold of 'at least 50%' in points c), d), f) and g)?

The EUF has carefully considered the situations listed in paragraph 23 as constituing economic dependency and finds that, in line of principle, such situations are sufficiently clear and reasonable indicators of a potential economic dependency.

That said, the EUF strongly disagrees with the application of any quantitative threshold that creates automatic constitution of economic dependency between two or more counterparties.

We highlight that the assessment of a real economic dependency (in the perspective of a substantial risk of payment failure of one client in consequence of the failure of another) can only be based upon the expert judgement of the account manager or that of the deliberative body of the institution.

Setting concentration thresholds that require automatic inclusion in the same group of connected clients would create huge groups, bigger by far than what would be reasonable and also not representing the actual risk borne by the institution. The impact on the capital requirements to operate would also be potentially disruptive for the factoring industry: trade receivables portfolios are, by nature, subject to a higher concentration than other assets. For this reason, factors usually manage the potential interconnection of risk between a client and its debtors by setting concentration limits on the outstanding receivables approved for finance.

As the 'supply chain' is expressely involved, the EUF would also like to emphasize that automatic inclusion of clients into one group of connected clients when quantitative thresholds are exceeded would also negatively impact the offer of reverse factoring and, in general, supply chain finance solutions, where a supply chain leader (usually a large corporate with high creditworthiness) acts as promoter of the financing facilities for its suppliers (usually SMEs).

Moreover, we wish to underline that the practical implementation of automatic thresholds would be substantially impossible. IT systems of the factoring companies are not designed to identify such indicators or to provide for automatic inclusion in the group of connected clients. Currently the inclusion is made manually by the account manager, following the assessment of the potential interconnection of risk. Another issue regarding the updating of such informationis that information about the indicators could be updated to different dates with regard to the relative counterparties to assess, so that the automatic assessement of the thresholds would be inconsistent.

For all the above reasons, we suggest considering the list in par. 23 as a list of triggers of the qualitative assessment by the institution of the potential interconnectedness among clients rather than as automatic indicators of economic dependency and therefore we strongly advise to amend par. 23 changing '*Institutions should deem, in particular, the following situations as constituting economic dependency*" into:

"*The assessment of interconnectedness among clients should be based upon the information available to the instititution and carried out at least in presence of one or more of the following situations*: "
At the same time, we strongly recommend to erase any reference to quantitative thresholds in points c), d), f) and g) of the list of situations, leaving to the institution the duty to set a proper level of relevance taking into account the specific circumstances of each case.

Thank you in advance for your attention and we look forward to hearing from you. In the meantime, if you have any questions or would like any additional information or details about the position of the EUF in this matter, please do not hesitate to contact Diego Tavecchia, Chairman of the Prudential Risk Committee of the EUF (contact details below).

Yours sincerely,

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Chairman,
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