

Issue 3

Spring 2012

## NEWSLETTER

### Welcome to the new edition!

Dear Members and Beneficial Owners,

It really doesn't seem like six months since we last published your Newsletter; it is quite clear that the world of Commercial Finance and Factoring does not stand still!

I am delighted that the updated Legal Study on the Legal and Regulatory environments of EU Member States (and its further comparisons with a range of relevant non EU countries) which we highlighted in the previous Newsletter has proven highly popular. I would remind you that it is available for Members to view on the website.



In October we implemented our decision to move our PR and Lobbying activity from DLA Piper - who had done a great job for us - to Euralia, a focused Brussels based agency. We have been very pleased with their enhancements in the field of stakeholder mapping; that is, identifying who is responsible for what, and where they sit within the EU institutions; knowledge that is very important in ensuring our contacts are focused and relevant. This stakeholder mapping is also visible to Members on the EUF website.

In November we published our half year survey of Industry statistical information; the data collated represented around 88% of the estimated EU turnover and indicated a turnover of €480Bn for the first six months of 2011, a figure which shows near 20% growth on the same period in 2010. It also reflects a near 9.5% GDP penetration. This is further evidence of the increasing importance of our type of funding for the development of principally SME business in Europe. Until this groundbreaking survey was produced, we were simply not in a position to argue the strength of our influence. We are looking forward to being able to publish figures for the whole of 2011 very soon and using this data to help support our message to Europe, to Legislators and Influencers.

In March this year I spoke with the management board of Leaseurope, the representative body for the leasing and automotive finance industry in Europe. They have forty years experience and it was interesting to hear how similarly the challenges they face reflect our own, for example in the field of regulation and financial control mechanisms. It will be a useful organisation with which to maintain relations.

I am particularly delighted to report that CODIX has kindly agreed to remain the EUF Sponsor for 2012; thank you to them and for their continued support.

In the body of the Newsletter you will find updates and comment from the Chairmen of the Committees and Working Groups that reflect the real activities of the EUF on the behalf of its members.

Finally, I am pleased to report that the EUF entered 2012 with over two hundred Members' Members; that means we have the privilege to represent the interests of a remarkable number of Industry providers; in fact our members represent around 97% of the total EU turnover. It is my pleasure to help the Executive Committee of the EUF to support you in your business.

**John Gielen, EUF Independent Chairman**

### Our Third Edition:

- **EUF now in its third year**
- **EUF Legal Study Update published**
- **Committee Activity updates**

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**Magdalena Wessel:**  
**Chairman**  
**Legal Committee**



**EUF: the face of the European Factoring and Commercial Finance Industry...**

**EUF Legal Committee Update from Magdalena Wessel**

Apart from working on the update of the legal study “Factoring, Receivables Finance & ABL – A Study of Legal Environments Across Europe 2011” (compare the second EUF Newsletter, September 2011), the Legal Committee has in 2011 continued to fulfil its main tasks of identifying and discussing areas of interest to the industry, investigating proposals as well as preparing and producing analyses on issues which can affect the factoring and commercial finance industry.

Since October 2011, the outsourced services of Eurialia have helped the Legal Committee to continue these monitoring and advising tasks. In the first half of 2011, the Legal Committee devoted much of its time to the amendment of the VAT-directive 2006/112/EC as the question of whether and to what extent factoring is subject to VAT is a key taxation issue for the factoring and commercial finance industry.

Furthermore, the Legal Committee worked on the EUF’s answers to the questionnaire on the Rome I-regulation (“Regulation (EC)

593/2008 on the law applicable to contractual obligations) which had been distributed to various stakeholders by the British Institute of International and Comparative Law.

During the second half of 2011, the Legal Committee focussed particularly on the Commission’s drafts for a CRD IV directive and corresponding regulation and its possible impacts on the factoring and commercial finance industry.

Moreover, the Legal Committee monitored developments with regard to e.g. plans for introducing a financial transaction tax as well as the proposal for a European Account Preservation Order in the context of the EU-wide enforcement of judgments.

The composition of the Legal Committee was amended by the addition of a new delegate: Due to the accession of the Swedish Bankers’ Association as a new member of the EUF in early 2011, the Legal Committee was pleased to welcome Mikael Hellström among its delegates in June 2011.

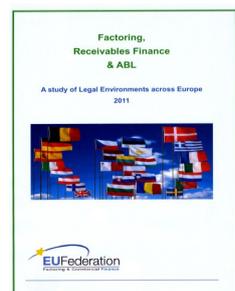
The Legal Committee therefore now consists of nine delegates representing the national factoring associations from just as many EU member states.

Currently, new developments have occurred which lead to additions to the Legal Committee’s agenda: The Commission has published its drafts for a new directive and regulation on data protection and also announced that the revised recommendations on anti money-laundering from the Financial Action Task Force (FATF) will lead to an amendment of the 3<sup>rd</sup> anti money-laundering directive 2005/60/EC in the near future.

In 2012, the Legal Committee will continue monitoring these new developments along with the aforementioned issues.

More information on the Legal Committee and its work can be found on the website [www.euf.eu.com](http://www.euf.eu.com), with exclusive information on e.g. individual meetings of the Legal Committee in the “members only”-section.

**The EUF Legal Study remains available for members to view on the website. Non members can order further copies from the EUF; See the web page for details.**



## EUf : The Accounting Issues Working Group

### Josep Selles on Creating a Position Paper on potential standardisation

The Accounting Issues Working Group is in the process of developing a position paper that may satisfactorily reflect the different sensibilities of the members regarding the possibility of standardizing the interpretation of a factoring deal on the balance sheet of our clients.

Once this exercise is completed, contacts with different entities at a European level will follow as the FEE (with whom we held our initial discussions) informed us that it may be appropriate to start conversations with other Associations as these may probably be in a better position to help us in achieving our goals.

No other issues have been reported to the Working Group at this stage but please feel free to contact me if you have any accounting issue concerns that affect business at a European level.



**Josep Selles:**  
Chairman of  
Accounting Issues  
Working Group

## EUf : The Economics and Statistics Committee

### Diego Tavecchia considers Factoring and Financing during the Credit Crunch

The European Central Bank in the recent months has stressed the fact that many European firms are now facing a credit rationing from the financial sector: according to latest figures, bank lending practices have tightened further and loan supply deteriorated in some euro area countries in late 2011.

This credit crunch actually seems to origin from the difficulties of the real economy rather than from the lack of liquidity of the credit institutions: the ECB indeed provided European banks with a huge amount of liquidity with the aim to avoid credit rationing, but during such a period of economic crisis, firms see their average payment collection period increase and their need for liquidity grows largely, while banks are more inclined to tighten their credit granting standards. This brings unavoidably to a situation of credit rationing, in particular with regard to the small and medium enterprises, which are known to be less transparent than corporates.

It is also important to note that credit rationing should be considered not only as the fact that some firms are not able to get finance from the banking sector,

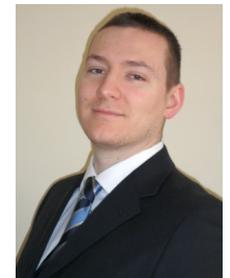
but also as the fact that firms are not able to get the whole amount of finance they need: this clearly widens the number of firms that are affected by the credit rationing.

In such a context, the role of the factoring industry can be crucial for the European economy. A wide branch of the banking literature has highlighted that credit rationing originates from the information asymmetries between the lender and the borrower about the quality of the projects that the latter wishes to finance through credit, as only they are aware of the risk actually underlying their projects, raising adverse selection and moral hazard issues. This might be considered even more likely during the descending stage of the economic cycle, where risk and information asymmetries increase and the likelihood of credit rationing for firms with poor information transparency rises.

The recourse to factoring can reduce these information asymmetries. First, factoring is a kind of asset-based and self-liquidating lending: the assigned receivables can be considered as collaterals to the finance granted and therefore reduce the risk for the lender, that can rely also on the credit merit of the (usually bigger and well known

to the factor) assigned debtors. Moreover, factoring can reduce the risk for the lender also by building a strict and long-lasting relationship with the borrower: this is a way by which the factor can observe the behaviour of its borrower (the supplier) and monitor the behaviour of the debtors (the supplier's clients).

These features of the factoring relationship are both supposed to reduce the information asymmetries between the borrower and the lender, and therefore the likelihood of credit rationing for the firms, thus increasing the probability for the firms to get finance (using factoring as an alternative source of finance with respect to the traditional bank credit) and/or to get finance at the wished amount (using factoring as a complementary to the traditional bank credit) when bank credit standards are tightened: factoring should therefore be considered as a very important tool to support and enhance the firms liquidity during the current credit crunch in Europe.



**Diego Tavecchia:**  
Chairman of  
The Economics  
And Statistics  
Committee

## NEWSLETTER

See Our Website at  
[WWW.EUF.EU.COM](http://WWW.EUF.EU.COM)

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The EUF is the Representative Body for the Factoring and Commercial Finance Industry in the EU. It is composed of national and international industry associations that are active in the EU.

The EUF seeks to engage with Government and legislators to enhance the availability of finance to business, with a particular emphasis on the SME community. The EUF, acts as a platform between the factoring and commercial finance industry and key legislative decision makers across Europe bringing together national experts to speak with one voice.



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The EUF is delighted that Codix has chosen to sponsor our Newsletter again in 2012 and we gratefully and positively acknowledge their kind support of this, the European Representative Organisation for the Factoring and Commercial Finance Industry

**The EU Federation for the Factoring and Commercial Finance Industry**