

European Commission
Internal Market and Services DG
Ms. Sarah Lynch/Ms. Emilie Truchet
BE-1049 Brussels

Brussels, 30 September 2010

Dear Madam,

The **EU Federation for Factoring and Commercial Finance (EUF)** is composed of national and international industry associations that are active in the EU. The EUF wishes to act as a platform between the factoring and commercial finance industry, and key legislative decision makers across Europe to enhance the availability of finance to business, with a particular focus on the SME community. Therefore, the EUF offers itself as a source of reference and expertise on the factoring and commercial finance industry in order to assist with the direction of existing and future finance legislation with a view to ensuring the continued provision of prudent, well structured and reasonably priced finance to businesses across the EU.

1. A short description of factoring

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 which can include:

- accepting the risk of bad debts
- collecting debts
- providing cash flow finance in respect of debts

The selection of which services will be provided by the factoring company will depend on the terms of the contract between the supplier and the factor. In most cases, cash flow finance will be provided by means of an immediate part payment of the debt by the factor upon its assignment, in return for a discount against the purchase price. Hence, factoring ultimately enables the factoring client to invest further in his business and to concentrate on its growth and expansion.

2. The Commission's Working Paper on Responsible Mortgage Lending and Borrowing and its effects on factoring and commercial finance

Although the factoring and commercial finance industry does not provide mortgage lending and borrowing, the Commission's Working Paper on Responsible Mortgage Lending and Borrowing issued on July 22nd 2010 contains terminology and definitions which could unintentionally encompass also factoring companies and would therefore very likely lead to confusion and misunderstandings.

More in particular, we would like to draw you attention to the fact that the terminology used in the Working Paper to define those institutions which are not considered as credit institutions within the meaning of Directive 2006/48/EC (i.e. "non credit institutions") could be misleading. The term "non-credit institutions" is used in the Working Paper (cf. the Glossary on p. 14) to describe both institutions granting credit but not receiving deposits and also institutions that offer a wide range of financial activities such as factoring, financial leasing, portfolio management etc. but with no link to mortgage lending and borrowing.

Although we understand that the supervisory requirement included in the Working Paper (cf. p. 12 f.) is intended to cover only institutions engaged in mortgage lending and borrowing, we believe that a clarification in this context is necessary. Otherwise, there is a high probability that the Commission's supervisory requirement for what the Working Paper currently entitles as "non-credit institutions" will in practice apply to all types of non-deposit taking institutions irrespective of their activities (i.e. mortgage or consumer credit, B2C or B2B transactions, lending or other financial activities). This would be an unintended extension of the scope of the envisaged legislative measure which would not be consistent with the EU better regulation agenda.

Therefore and for the sake of clarity, the EUF strongly advocates that the term "Mortgage Lending Financial Institutions" (MLFIs) should be used in the Commission's regulatory proposal on mortgage responsible lending and borrowing instead of the term "non-credit institutions". This would not only create a clear delineation by explicitly referring to mortgage lending but it would also lead to a synchronisation of terminologies as the term "financial institution" is used in the Directive 2006/48/EC for describing inter alia factoring companies.

The EUF is open for a discussion on this matter and would be happy to provide expertise and information in the field of factoring and commercial finance should this be required.

With kind regards

John Gielen
Chairman

