To:
The Secretariat of the Financial Stability Board
c/o Bank for International Settlements
CH-4002 Basel
Switzerland

Ref: EUF/MP/15-008

Kraainem, 26 May 2015

Ref.: EUF's response to the FSB's 1st Consultative Document on the Assessment Methodologies for Identifying NBNI G-SIFIs

Dear Madam or Sir,

The EU Federation for the Factoring and Commercial Finance Industry (EUF) is the Representative Body for the Factoring and Commercial Finance Industry in the EU. The EUF is composed of national and international associations for the factoring and commercial finance industry that are active in the EU. Its members represent over 97% of the industry turnover and include 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, who in turn represent 192 factoring and commercial finance companies. The EUF seeks to engage with Government and legislators to enhance the availability of finance to business, with a particular focus on the SME community. Furthermore, the EUF acts as a platform between the factoring and commercial finance industry, and key legislative decision makers across Europe, providing a source of reference and expertise on the factoring and commercial finance industry.

It is in this role that the EUF wishes comment on the FSB's 2nd Consultative Document „Assessment Methodologies for Identifying Non-Bank Non-Insurer Global Systemically Important Financial Institutions – Proposed High-Level Framework and Specific Methodologies" (4 March 2015) by drawing your attention to certain specificities of the factoring and commercial finance industry, thereby reiterating the viewpoints already put forward in the EUF's response to the 1st consultation in April 2014.

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Factoring and commercial finance (FCF) are generic terms for a range of asset based finance services which include factoring, invoice discounting, international factoring, supplier finance/reverse factoring and asset based lending. Due to differences between national laws, especially in civil or contract law, there are many variations on each of these product sets and the precise nomenclature varies from market to market, but all exist to provide working capital funding and financing solutions to businesses, particularly SMEs. The exact con-tent of the services provided by a FCF company will vary according to the clients' particular requirements, but all of these solutions have in common the idea that funding is offered based upon the accounts receivables cre-ated by the client company: With a factoring solution, the FCF company agrees to pay an agreed percentage of approved debts as soon as the receivables are assigned or (in some jurisdictions) pledged to it. If credit pro-tection is part of the factoring agreement, it is referred to as "non-recourse" factoring, while a factoring agree-ment where the credit risk on the debtor remains with the seller is called "with-recourse" factoring. The factoring company will often also undertake all credit management and collections work. Factoring is therefore simply a unique blend of services designed to ease the traditional problems of selling on open account terms, mainly aimed towards SMEs.

The FCF industry has enjoyed a long history with a low record of credit losses and continuous and stable growth. Factoring is one of the very few sectors within financial services whereby a financial institution purchases the asset from the client, in this case the account receivables and all underlying rights, including the right of payment by the debtor. This strengthens the scenario that the factor will be paid. Traditionally, the receivables assigned to the factoring company are generally well diversified and of a short term duration (normally under a 90 day period). Also, the financing provided to the seller is contracted on a flexible basis, often providing leeway for the FCF company to exit quickly in a deteriorating financial condition scenario, which in part explains the low loss record for the FCF industry. Moreover, FCF companies use strong credit me-trics, they benefit from their management of the receivables, enhanced credit underwriting analyses on both seller and buyer, a robust technology platform to manage the risk, along with a strategy of receivables diversification, keeping credit losses to a minimum.

When assessing the global systemic risk of FCF companies, it has to be taken into account that factoring and commercial finance has proven to be a real and frequently used alternative to the classic bank loan and has helped to alleviate much of the burden caused by the recent credit crunch, especially for SMEs. For example, in countries such as Germany and France, the number of factoring clients increased by approx. 11% and 60% res-pectively from 2008 to 2009, i.e. during the worst time of the "credit crunch" (France: 28,800 clients in 2008 to 32,200 in 2009; Germany: 5,400 clients in 2008 to 8,840 clients in 2009). Also, the total factoring turnover in the EU decreased only very slightly from 2008 to 2009 (by -2,9%), only to increase substantially in 2010 (by nearly +18% in comparison to 2009). This shows that the financial crisis did not affect the FCF industry nega-tively. Moreover, the fact that the FCF industry did not contribute to the causes of the recent financial crisis should not be overlooked: When compared with other forms of financing, which can be considered as contri-buting factors to the recent financial crisis, FCF is a low-risk form of financing, also thanks to its direct connec-tion to the real economy via the purchase or transfer of receivables for delivered goods and rendered services.

According to your 2nd Consultative Document, non-bank non-insurer global systemically important financial institutions (NBNI G-SIFIs) are "NBNI financial institutions whose distress or disorderly failure, because of their size, complexity and systemic interconnectedness, would cause significant disruption to the wider financial system and economic activity at the global level". In the view of the EUF, this general aim is both comprehensible and laudable. However, from the viewpoint of the EU FCF industry, the EUF does not agree with some of the assumptions, indicators, criteria and conclusions for the FCF industry which follow later on in the Consultative Document. The EUF would therefore like to point out the following:

In the Consultative Document, invoice financing and factoring companies are considered as finance companies and are therefore generally included in the list of NBNI financial entities whose global systemic importance is to be assessed (cf. chapter 4.1 on p. 16 of the 2nd Consultative Document). The three transmission channels for financial distress (cf. chapter 1 on p. 4 of the 2nd Consultative Document) as well as the overall applicable basic impact factors (cf. chapter 2.2 on p. 6 f. of the 2nd Consultative Document) and the indicators specific to finance companies (cf. chapter 4.3 on p. 18 ff. of the 2nd Consultative Document) which are included and explained more in detail in the 2nd Consultative Document may well be criteria which are sufficiently flexible to capture many different kinds of NBNI financial entities while still ensuring consistent results in the assessment process. However, the EUF wishes to point out that applying these criteria to the FCF industry shows the very limited amount of risks associated with factoring and other forms of commercial finance – a fact which the EUF has repeatedly referred to and backed up by statistical data over the last years. In contrast to other forms of financing, there are no "historical examples of financial distress or failures" caused by the FCF industry which "had an impact on the global financial system" (cf. chapter 2.3 on p. 8 of the 2nd Consultative Document). Therefore, neither the FCF industry as a whole nor individual factoring companies can be regarded as global systemically important. Hence, corresponding clarifications and exceptions for the FCF industry should be taken into account in the future process of assessing and regulating NBNI G-SIFIs.

More in detail, applying the transmission mechanisms basic impact factors mentioned in chapters 1 and 2 of the 2nd Consultative Document to the FCF industry provides the following picture: The failure of a factoring company only affects its factoring clients, i.e. the sellers of the receivables, who are no longer able to obtain financing in exchange for the sale or transfer of receivables. Cascading effects as described in the Consultative Document are not possible, and historical examples of the (very few) cases of insolvent factoring companies show that the majority of factoring clients manages to find other FCF partners within a relatively short period of time – this proves that substitutability is not an issue in the FCF industry. Even though national factoring markets show a relatively high level of concentration in terms of few individual companies generating a large part of the total factoring turnover, the EU factoring market with well over 500 FCF companies remains heterogeneous, some of which are either banks themselves or parts of banking or corporate groups, while others are independent. This diversity and hence a high degree of substitutability should be maintained.

Moreover, the basic impact factor of complexity does not apply to FCF companies, as these are not involved in OTC derivative contracts and are not difficult to resolve according to the FSB's factors as quoted in chapter 4.3.4 of the 2nd Consultation Document (p. 21 f.). Neither are the global/cross-jurisdictional activities of the FCF industry a sign for its global systemic importance: In 2013, only approx. 15.5% of the total factoring turnover in the EU was attributed to international/cross border factoring. As for the indicator of interconnectedness with other financial institutions and markets, FCF companies are in this respect mainly interconnected to their refi-nancing partners which often are (parent) banks. Hence, this interconnectedness is already being considered in the assessment of global systemically important banks and does not need to be taken into account twice.

The key indicator for global systemic importance contained in the Consultation Document is however the size of an institution, defined as the total number of globally consolidated balance sheet assets and off-balance sheet exposures (cf. p. 18 of the 2nd Consultation Document). In this context, it has to be taken into account that globally consolidated assets and exposures refer not to the individual company, but rather to the group/corporate level. Considering that some FCF companies are parts of banking groups and will therefore not be included in the NBNI G-SIFI, but rather in the G-SIB assessment, and that other FCF companies are parts of corporate groups whose balance sheet total assets may exceed the set threshold only because of non-financial (and non-FCF) activities in such corporate groups, the picture created by looking at the indicator "size" is likely to be skewed and to provide inadequate results.

For the aforementioned reasons, the EUF still believes that neither the FCF industry as a whole nor individual FCF companies in the EU can be considered as non-bank non–insurer global systemically important financial institutions. Any remotely possible systemic relevance or impact is already covered by the G-SIB assessment which also considers banks' interconnectedness with non-bank financial institutions. Therefore, the EUF once more stresses that corresponding clarifications and exceptions for the FCF industry should be taken into account in the future process of assessing and regulating NBNI G-SIFIs.

With kind regards,

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Chairman - EUF

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