

A PUBLICATION OF THE INTERNATIONAL FACTORING ASSOCIATION

COMMERCIAL

FACTOR

..... FEBRUARY 2019 | VOL 21 | No. 1



COMPETITION AND TECHNOLOGY

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BY TERRI BAKER



Since its inception, the IFA has grown exponentially and surpassed multiple milestones.

With less than two months to go, we are already exceeding our attendance rate from the conference in Miami at this time last year. In addition, we have over 50 exhibitors so far this year that will provide the products and services that you need all under one roof.

Due to the increase in cyber-related crimes and the effects it has already had on Factors, we have added an additional session to the conference that will focus on this issue. In the last few months, several Factors have fallen victim to this scam which involves criminals either hacking or impersonating email accounts and directing payments to a different account. This session will include a panel featuring FBI Agent John Caruthers who has over 27 years of experience specializing in cyber crimes, to teach you how to protect yourself from becoming a target. To find out more about all of our sessions this year and our conference highlights, you can read Heather's article on page 20 or visit the IFA conference website.

The IFA has been working hard over the last few months to bring relevant, valuable content to your desks at an affordable price with our webinars. We understand that not everyone can travel to training events, so we want to bring the sessions to you. There have been a variety of pertinent topics including confessions of judgment, the latest developments in Notices of Assignment and UCC-9-406, due diligence and recording factoring transactions to name a few. We have seen a record amount of attendees signing up for the webinars, so if you see a topic that interests you, sign up early before it sells out! As always, if there is a topic you would like to hear, just let us know.

We are excited to announce that IFA membership is at an all-time high! With over 490 companies now members of the IFA, we have seen tremendous growth over the last several years. As our association continues to grow, we remain focused on the needs of our members and how we can tailor our services to benefit you and your organization.

The IFA & AFA continues its efforts regarding the California bill SB 1235 that was signed into law late last year. The Department of Business Oversight (DBO) is in the process of developing regulations requiring finance companies to disclose the APR in each commercial financing transaction. The IFA / AFA along with Factors and attorneys in California have submitted their comments to the DBO on implementation strategies that will be in line with the unique methods of the factoring industry.

As you can see, the IFA has had its hands full over the last year. With less than two months to go before the 2019 conference, we are putting our final touches on the event to ensure it is a memorable one. We hope that you will be able to join us in San Diego!

A handwritten signature in cursive script that reads "Terri Baker". The ink is dark and the signature is written in a fluid, personal style.



THE INTERNATIONAL FACTORING ASSOCIATION

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The International Factoring Association's (IFA) goal is to assist the factoring community by providing information, training, purchasing power and a resource for factors. The IFA provides a way for commercial factors to get together and discuss a variety of issues and concerns about the industry. Membership is open to all banks and finance companies that perform financing through the purchase of invoices or other types of accounts receivable.

The *Commercial Factor* is published bi-monthly by the International Factoring Association. **To subscribe, please email info@factoring.org.**

The *Commercial Factor* magazine invites the submission of articles and news of interest to the factoring industry. **For more information on submitting articles or advertisements, email news@factoring.org, or call 805-773-0011.**

The views expressed in the Commercial Factor are those of the authors and do not necessarily represent the views of, and should not be attributed to, the International Factoring Association.

NEWS

INDUSTRY NEWS

HubTran Automation and Verification Products Show Strong Growth in 2018; Mobile App on Tap for 2019

HubTran grew 150% year over year and welcomed several new factor customers including Aladdin Financial, Concept Financial, Convoy Capital, Engaged Financial, England Carrier Services, Financial Carrier Services, Flash Funding, Freight Collect, Grand Financial, Gulf Coast Business Credit, Integra, Momentum Capital Funding, Phoenix Capital, Porter Billing, Rover180, Steelhead Finance, TAFS, Tetra Capital, and Thunder Funding.

HubTran introduced its Verifications product, and continued to reinvest in core automation platform for factors. They are currently rolling out HubTran's Mobile App—designed specifically for factors and fully integrated with our automation platform and Client Portal. They also closed series A financing in December, which reinforces HubTran's balance sheet and strengthens their ability to accelerate product development.

Sterling to Acquire Woodforest ABL & Equipment Finance Businesses

Sterling Bancorp, through its principal subsidiary, Sterling National Bank, agreed to acquire the asset-based and equipment finance lending businesses of Woodforest National Bank.

As of December 31, 2018, the balance of commercial loans and leases outstanding to be acquired was \$504 million, with \$339 million in asset-based loans and \$165 million in equipment finance loans. The portfolio had a weighted average yield of approximately 5.5%, and consisted 24% of fixed rate loans and 76% floating rate loans.

The acquisition will add significant origination capabilities in the Midwest and Southwest regions to Sterling's established national commercial lending platform, including a direct lending equipment finance sales and originations team. Pro forma for the acquisition, Sterling will have a combined \$1.1 billion in asset-based loans and \$1.4 billion in equipment finance loans.

The transaction consideration will be paid in cash and will result in an increase of approximately \$3 million in annual operating expenses. Closing is expected for the first quarter of 2019.

Tetra Capital Was Named One of the Best Trucking Factoring Companies For the Second Year in a Row by the FactoringClub

Over 100 factoring companies were evaluated for the awards and winners were selected based on contract terms, customer service and leadership.

You can access the full list of award recipients at <https://factoring-club.com/best-trucking-factoring-companies/>

NEWS

Axiom Bank, N.A. Appoints Two New Area Managers for Tampa and Orlando Markets

Axiom Bank N.A. hired Jennifer Waddell as Vice President, Area Manager in Orlando and promoted Dwayne Haugabrook as Vice President, Area Manager in Tampa.

In their new roles, Jennifer and Dwayne will oversee day-to-day operations and sales at each branch in their region. Jennifer has nearly two decades of banking experience. Dwayne has been with Axiom Bank for a decade.

INDUSTRY TRANSACTIONS

North Mill Capital Provides \$5,000,000 Accounts Receivable Credit Facility to Cadence Packaging Group and Garven, LLC in Minneapolis, Minnesota

The funds will be used to pay off the

previous lender and provide working capital for the company.

Cadence Packaging Group designs, produces and sells point of sale bags, boxes and packaging to retailers, while Garven, LLC designs and creates custom gift wrap and packaging accessories.

Utica Leaseco, LLC Announces Completion of Two Transactions Totaling \$750,000 During the Last Week of January 2019

Utica Leaseco completed the funding of a \$550,000 Capital Lease secured by Machinery and Equipment to a transportation company located in Texas. Utica provided the working capital needed for this important American company to continue expanding operations.

A current Utica customer, operating within the oil & gas sector needed funding quickly to purchase new equipment and expand their daily operations. Within one week of their initial request, Utica helped them un-

lock the value of their machinery and equipment with a \$200,000 capital lease, bringing their total funding to date to over \$6,200,000.

Liquid Capital Announces Recent Fundings as of January 31, 2019

- \$350,000 factor facility to an Energy Company in Naperville, IL to help expand operations
- \$250,000 factor facility to a Automotive Accessory Company in Kirkland, QC to help take advantage of supplier discounts
- \$400,000 factor facility to a Oilfield Services Company in Killdeer, ND to help meet demand for new contracts
- \$150,000 factor facility to a Logistics Company in Brownsville, TX to help fund day to day operations

Commercial Finance Partners Facilitated 16 SBA Loan Closings for December Totaling Over \$23,000,000 in New Fundings

A few sample transactions are below:

- \$4,500,000 SBA 7a for a multi-

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location optometrist office seeking to refinance debt and retire seller notes from previous acquisitions

- \$2,300,000 SBA 7a for a construction company seeking to refinance debt and obtain new equipment
- \$5,000,000 SBA 7a for a trucking company seeking to refinance vehicle debt to lower monthly payments and improve cash flow
- \$1,500,000 SBA 7a for a dentist office seeking to refinance an existing SBA loan and high interest cash advance debt

TradeCap Partners Supports Michigan-Based Government Contractor with \$635,000 Contract Award

TradeCap Partners recently closed a \$325,000 production finance facility to support a Michigan-based government contractor with a \$635,000 Fixed-Price Contract Award.

TradeCap expedited due diligence, closed and funded a production finance facility in just 5 days ensuring there were no delays in the supply chain. TradeCap's solution encompassed payments to 15+ suppliers and provided further availability to pay for direct labor associated with the manufacturing and assembly of goods being delivered under the contract. As deliveries are completed in stages, the factor will advance against resulting receivables to repay TradeCap.

With TradeCap's facility in place, working capital constraints have been eased and TradeCap's funding will bridge the 120-day manufacturing timeline.

Wells Fargo Leads \$1.3 Billion in Financing for the Acquisition of Essendant

Wells Fargo Capital Finance announced that it acted as administrative agent, lead arranger, and book runner for a \$1.2 billion asset-based credit facility and a \$125 million term loan facility in connection with the acquisition of Essendant by an affiliate of Sycamore Partners as supported by Staples Inc., which is also owned by affiliates of Sycamore Partners.

Essendant, a leading national distributor of workplace items to independent resellers, national resellers, and e-commerce businesses, announced the acquisition in September. Sycamore Partners is a private equity firm that specializes and focuses on investments in the retail, consumer, and distribution sectors.

Construction Finance LLC Provides \$500k Credit Facility to an Excavating Contractor in Kentucky

Construction Finance LLC provided a \$500k credit facility to an excavating contractor in Kentucky. This contractor had been in business for a number of years, and had a solid financial track record, but as they grew, they found themselves pinched for money.

The credit facility has allowed them to get caught up with regards to suppliers, and has given them the capital needed to complete multi-million dollar projects as quickly as possible.

Tradewind Announces \$5 MM Credit Facility for Garment Manufacturer Based in South Korea

Tradewind Bangladesh provided a \$5 million post-shipment finance facility to a garment manufacturer based in South Korea. The company sells to buyers in the US and Europe and is using the facility to meet its working capital requirements, accommodate its increasing sales on open account terms and expand its business.

After being introduced to Tradewind by one of its clients, the garment producer turned to the finance firm to help it cope with the changes in international payment terms in the export-import industry. Tradewind advanced cash to the manufacturer, allowing it to support 30-day open account terms with its customer and bridging the liquidity gap until it received payment from them. Tradewind offered 100% credit risk protection and collection services as part of its trade finance package.

ALL CHAPTERS

April 3

4:30pm-5:30pm

Chapter Meeting & Reception IFA Annual Conference

Manchester Grand Hyatt
San Diego, CA

CANADA CHAPTER EVENTS

March 5

OTA Speaker

May 7

**PO Funding & ABL—
Financial Products**

June 4

Crossborder Issues—Legal

August

**Summer Gathering—
Golf at Angus Glenn**

Meetings Location:

Mississauga Living Arts Centre
Scotia McLeod Room
4141 Living Arts Drive
Mississauga ON L5B 4B8

For more information, call Oscar Rombola at (905) 603-6284 or email orombola@accutraccapital-itc.com. Visit IFA Canada's website at www.FactoringAssociationCanada.com.

TAB Bank Provides Construction Supply Company with Operations in California and Minnesota with a \$15 Million Asset-Based Credit Facility

TAB Bank provided a \$15 million asset-based revolving credit facility for a construction supply company with operations in California and Minnesota. The new facility is extended through a multi-year agreement and will provide for the company's ongoing working capital needs.

The company is a vertically integrated manufacturer and distributor of steel infrastructure products. These

products are primarily used in the construction of roads, highways, the interstate system, and airports.

British Columbia Outdoor Retailing Business Positioned for Continued Growth with \$200,000 Facility from Capital Now Inc.

An outdoor retailing business in British Columbia recently partnered with Capital Now to cover costs associated with continued business growth. They are now able to focus on providing

services to Fire Departments, Search & Rescue, Police, E.M.S, Military, Coast Guard, General Industry, Film Industry, and others from all across North America as they have for over 50 years.

They've access to a \$200,000 credit facility in order to leverage Capital Now's rapid, common sense, business funding.

Crestmark Provides More Than \$25.6 MM in Commercial Financing to 94 Businesses in the First Half of January

Crestmark secured a total of \$11,199,163 in ABL financial solutions for 10 new clients; Crestmark Equipment Finance provided \$3,599,632 in three new lease transactions; Crestmark Vendor Finance provided \$5,268,716 in 80 new lease transactions; and the Government Guaranteed Lending Division provided \$5,600,000 in financing for one new client in the first half of January.

PERSONNEL

Bibby Financial Services Appoints New Managing Director

Bibby Financial Services US (BFS) announced that David Ciccolo is its new Managing Director for its US Factoring & Asset Based Lending (ABL) business based in Atlanta.

David brings over 30 years of experience in commercial banking, factoring and asset-based lending.

Prestige Capital Announces the Promotion of Rachel Hersh to the Position of Sales Director, North America

Rachel Hersh was recently promoted to Sales Director, North America at Prestige Capital Corp. Rachel has more than 20 years of experience in the factoring industry and will be responsible for continuing to grow Prestige Capital's footprint in North America.

Antonio Salas Joins First Business Growth Funding

First Business Growth Funding announced that Antonio Salas was hired as Vice President—Business Development. Antonio joins First Business Growth Funding with over 10 years in business development.

CoreFund Capital, LLC Appoints Bonnie Castillo as New President

On January 9, 2019, freight factoring company, CoreFund Capital, and its sister dispatch company, HardCore Dispatch Services, announced the appointment of Bonnie Castillo as president over each entity.

Formerly the Executive Vice President of CoreFund Capital, Bonnie managed the growth of the company from inception over 4 years ago. Her 20 years in in the factoring industry, which included several key positions, has brought experience and leadership to the younger subsidiary of GMA Fund, LLC. Along with freight and oilfield factoring expertise, she shares her skillfulness in sales, underwriting, process refinement and commercial credit. Bonnie's vision has helped cultivate and grow HardCore Dispatch Services, LLC.

Greg L'Herault Joins Hitachi Business Development Team

Greg L'Herault joined the business development team of Hitachi Business Finance, where he will concentrate his efforts on attracting new asset-based lending, syndication and factoring clients across the United States.

Greg will be based in Denver, CO and be responsible for scaling the company's growth plans by connecting with business owners and trusted advisors.

North Mill Capital Promotes Karen Marino to Vice President

Karen Marino of North Mill Capital was promoted to Vice President. Karen has been with North Mill Capital since December of 2015 when she started in her role as Account Executive. Karen has been working in the Commercial Finance industry for 13 years. •

NORTHEAST CHAPTER EVENTS

February 26

New Jersey Proposed New Lending Laws

Presented By: Richard Simon, Esq.—Mandelbaum Salsburg & Robert Hornby, Esq.—Chiesa Shahinian & Giantomasi PC

Offices of Mandelbaum Salsburg Roseland, NJ

February 27

Business Leaders/IFA Northeast Presentation

Yardley, PA

March 5

Annual Meeting in Conjunction with IFA and NYIC

Arno Ristorante
New York, NY

For more information, call Harvey Gross at (732) 672-8410 or hgross4@verizon.net or visit www.ifanortheast.org.

MIDWEST CHAPTER EVENTS

Events TBA

For information on upcoming events, contact:

Robert Meyers
IFA Midwest Chapter President
Republic Business Credit, LLC
rmeyers@republicbc.com



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2019

2/14 Take Notice of Your
Notice of Assignment
Webinar - 1pm - 2pm PST

3/5 Annual Meeting w/ NYIC
& IFA Northeast Chapter
Arno Ristorante, New York, NY

4/3 Factoring Essentials
Training Class
Manchester Grand Hyatt,
San Diego, CA

4/3-6 Annual Factoring
Conference
Manchester Grand Hyatt,
San Diego, CA

5/15 Chasing Account Debtors
All Over the Country
Webinar - 1pm - 2pm PDT

6/17-18 The Law & Business of Factoring
Training Class
Planet Hollywood, Las Vegas, NV

6/20-21 AE-LO Training Class
Planet Hollywood, Las Vegas, NV

9/4-6 Transportation Factoring Meeting
The Driskill, Austin, TX



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The IFA offers CLE credits for upcoming programs. For information on approved programs and states, please contact Heather Villa at info@factoring.org or 805-773-0011 ext. 301.



These training courses have been approved for CAEF credits. For information on approved programs and courses, please contact Terri Baker at 805-773-0011, ext 303.



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An Interview With: Elliot Eisenberg , Ph.D. Economic Expert, Founder of Graphs and Laughs, LLC, and 25th Annual IFA Conference Speaker



WHAT DO FACTORS NEED TO KNOW ABOUT THE ECONOMY TO PREPARE FOR THE FUTURE?

One day there's gonna be a recession and when there's a recession, accounts receivable build up. Companies don't want to pay; they pay slower. Let's extend

it from 30 to 60 (days) or 60 to 90 or whatever it is; so there becomes a need. More companies will want this service. I'm not predicting a recession in the near future, but this is something they should be thinking about, certainly, because it's going to come at some point and one of the early things firms do is they wait longer to pay.

WHAT DO YOU THINK ABOUT THE PROPOSED LEGISLATION (IN CALIFORNIA AND NEW JERSEY) AND THE POTENTIAL FOR UNINTENDED CONSEQUENCES OF INCREASED REGULATION TO ADVERSELY AFFECT FACTORS?

They're very different. This is not payday lending here and it's important that the American Factoring Association makes this pretty clear. We're providing a valuable service (factoring)—not that payday lenders aren't providing a valuable service, but it's a very different service. They shouldn't be lumped in. This is a very different thing. Firms need this money. They can't wait 60 days or 90 days. They've got to get it today. If they're willing to pay a percent or two to get that money, hey, that's great! Everyone's a winner here. These are established companies that are going to the Factors, too. These are companies that make good revenue but they just need the money faster.

DO YOU ANTICIPATE ANY OTHER THREATS TO FACTORS, LIKE FINTECH?

At some level, like everybody else, you're a victim of the economy. We're all victims of things beyond our control. The economy is good. If the economy goes into the ground, suddenly things change and your business model has to adjust. Fintech is certainly part of the horizon that's out there but the economics of it—I'm somewhat skeptical they're massively going to change. There may be a little more competition in the game with Fintech but you're basically lending money. Someone is lending someone money and the cost of money is the cost of money. A lot of Fintech has hoped to do better by offering students lower rates on their student loans. This hasn't been a massive success. There have been some successes but not nearly what they thought. This notion that Fintech was going to upset banks; this hasn't quite happened either. All this euphoria about it hasn't really turned out so far. So, it's not that I'm not concerned about it going forward. It's possible that something dramatic and disruptive will occur but it hasn't happened yet.

ARE THERE ANY MYTHS OR MISCONCEPTIONS ABOUT THE ECONOMY THAT YOU'D LIKE TO DISPEL?

I think people should be ready for the economy to slow down. The economy is absolutely terrific now. GDP growth in Q2 which is already a quarter behind us—we just finished Q3—was really, really spectacularly good and Q3 will be very good, lower, but very good and it will slow over the next 15 months. There's a cycle to things but there's also some policy decisions that have made the growth particularly strong—tax cuts in December 2017 and deficit

Get ready for a slower growth economy. Don't think that what we experienced in 2018 is the new normal.

finance and spending increases in February of 2018; both have really supercharged our economy and that stimulus will go away and GDP growth will slow. There's also other things. There's trade issues. There's monetary policy that's gonna slow down. So, get prepared for a slower growth economy. Don't think that what we experienced in 2018 is the

new normal. It was a nice period, but it's not the new normal.

WHAT ARE SOME ECONOMIC ISSUES THAT KEEP YOU UP AT NIGHT?

Emerging markets are one of them. We know that Argentina's in a world of hurt. Turkey's hurting. Their growth is slowing. Argentina's in recession. South Africa's in recession. Pakistan is now asking the IMF, just as Argentina did, for a bail out. They can't pay their bills.

So, it's possible that this emerging market problem, if Indonesia and the Philippines and Malaysia and so on become adversely affected by this, this could really slow down global growth. There are enough people in these countries—they're small economically, but larger population-wise—they could have a meaningful impact and the central



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bank here in the states has to be cognizant, and is cognizant, that if these countries suffer enough negative stuff, it could rebound and negatively affect us. That's what they're thinking of. I don't think they'll change their interest rate hiking process but they might delay it; they might halt it for awhile to see how the emerging markets are doing but that's a concern.

Another concern is corporate debt. Corporate debt is getting high. It's been very inexpensive to borrow money for a very long time because of financial repression in the form of super low interest rates by the central bank, and firms feasted on debt and now debt costs are gonna rise. This is going to, at minimum, reduce earnings. At worst, it could do a lot worse than that. And corporate debt quality has gone down. It used to be much higher but a lot of low-quality paper is being put out there so this is another area of concern.

Trade and tariffs are an area of concern, as well. They will certainly slow down growth and boost inflation, which is very negative. Trade will not drive us into a recession single-handedly; it won't. It's not big enough but it can add on to the other things that are going on and that will slow down growth.

We're running out of workers. Firms are running out of workers. Unemployment is remarkably low and population growth—our labor force growth—is very low. If you want to expand your business, it's very hard to do if you can't find people to do whatever it is that's being done, making widgets or selling mortgages or building bicycles or whatever it is. This gets harder so this will slow down growth.

There are lots of things that are slowing down growth, not to mention rising interest rates—and the Fed may raise rates too quickly, too fast or too high. That could drive us into recession, too, so there's lots of recessionary fears out there.

Europe—we shouldn't discount Europe. Britain might fall out of Europe, the EU, in a bad way, a hard Brexit. Italy's now causing problems for the EU, so the EU remains a work in progress with problems.

The emerging markets; Europe; fiscal policy becomes contractionary; monetary policy rates are rising; trade; tariffs are inflationary and growth-sapping. That's a lot and last, but not least, let's not discount complacency.

Banks are made at the best of times. Times are good and people who are now, let's say 30, have never experienced a recession. They may have heard about the last recession; they may have seen some effects. It may not have affected them personally. It may have affected their parents. But if they're working for a bank, for example, and they're making loans or working for a loan company, their loans have been good because the economy's been in a slowly improving situation for the last 8 or 9 years. But that's gonna change. Complacency itself creates the opportunity for something bad economically in the future.

Risk becomes mis-priced. Interest rates are too low because the risk is not priced properly. That leads to a credit explosion, a big boom in credit, and that's a problem.

WHAT STEPS SHOULD FACTORS TAKE TO PREPARE FOR THE FUTURE?

They should get their finances in shape, have in the back of their minds that come two years from now, a year and a half from now—it could be as early as then that we have a recession for some reason. Do things prudently. Don't bet the farm. I wouldn't go on an explosive expansion boom a year from now. That might be a bit late in the game to do that. The risk that it entails might be large.

ARE THERE ADDITIONAL CONSIDERATIONS FOR NICHE FACTORING COMPANIES?

The ones that are interest rate-sensitive are the ones that are going to be adversely affected first. So, you look at automobiles. They're going to be adversely affected. And housing-related stuff because that's how monetary policy is transmitted through the economy; it's through housing and autos on the residential side; on the commercial side, it's commercial construction. So, those projects will become less frequent. There will be less of them and some of them might not make it all of the way through. Some of the firms might not make it through the recession, so keep up on the quality of who you're working with.

WHAT DO YOU THINK THE FUTURE OF FACTORING WILL LOOK LIKE?

I wonder if factoring will become a more appealing solution for big companies. As technology improves, the ability to sell accounts receivable becomes easier. Thirty years ago, it was much more difficult to physically

move the obligations or debts or liabilities or assets, depending on which side of the balance sheet you're thinking of. I wonder if, on the flip side, that might make competition a little more heavy in the space, the Fintech guys, for example. The profit margins; increased competition is going to reduce margin. I would be fearful that I'm going to be making less of a return. Some businesses may decide it's not profitable enough to stay in this space.

WHAT ROLE WILL BLOCKCHAIN PLAY IN THE ECONOMY?

Blockchain—as distinguished from the currency—the technology is unequivocally great. The Bitcoin itself is just some stupid thing. I'm not quite sure what there is there, but the technology is just stupendous. It's spectacular and it will lower transaction costs and it will lead to less intermediation, so you're going to need fewer people involved in the process. Blockchain is cool and real. Think of it like automobiles or airplanes. Automobiles may not be a very profitable business. Auto companies, by and large, don't make a lot of money. Airlines, by and large, have not made a lot of money historically but it's transformative technology.

WHAT IS YOUR MOST FREQUENTLY ASKED QUESTION?

"When is the next recession?" is always the question. I don't think it will occur prior to 2020 but after that, anything's open. But this notion that it's a cycle—we're due—that's simplistic and stupid. It's the equivalent of saying I've been working 20 years and I'm gonna stop working for a year. That's not possible. People don't voluntarily stop working. You have bills to pay. If something bad happens to

"When is the next recession?" is always the question. I don't think it will occur prior to 2020 but after that, anything's open.

the economy, that's what causes a recession.

WHAT MISCONCEPTIONS DO PEOPLE HAVE ABOUT PREPARING FOR A RECESSION?

People think it's somewhat mechanical. Okay, we're nine and a half years in; we're gonna have a recession next year or something. People say that all the time. There's no reason for that to occur. I mean, we'll have a recession, of course—you're gonna die one day, too—but thinking about that at the inappropriate time is not productive. So, don't keep planning for it all the time. Be aware it's going to happen at some point. Be ready. Know that at least for now, it's at least a year away. That's good enough.

WHAT ELSE SHOULD FACTORS FOCUS ON RIGHT NOW?

I think the cost of money is going to go up. Interest rates are rising so funding costs are going to go up, too. Maybe you can find some cheaper funds somewhere. Maybe

you can find other funds somewhere. Will your funds go up as fast as your competitors' funds? Will their cost of funds go up faster than yours? There will be some winners and losers inevitably as interest rates rise, so that's an important thing to keep in mind, too.

WHAT CAN ATTENDEES OF THE 25TH ANNUAL FACTORING CONFERENCE EXPECT TO TAKE AWAY FROM YOUR TALK IN APRIL?

I'll reassess and, at that point, I'll give them my best guess when a recession might occur. We'll talk about what might be the drivers of that recession, what could be the causes of it, and we'll look at the general macroeconomy and try to piece it together. We'll look at the whole economy, try to make some overarching comments about stability, health, ill health, whatever, of the economy, but they'll get a good grounding of what's going on in the macroeconomy.

People are so busy in their own jobs, they don't have time to look at the big picture. My job is to help them understand the big picture. How many more interest rate hikes will there be at that point? By then, it'll be close to two and three-quarter percent by then on the Fed funds rate. How many more hikes are we gonna get at that point? Will there be one more or two more or three more hikes that year? That's an important thing to keep in mind. And they'll have fun! •

When The Sh*t Hits The Fan!

Inspiration and ideas for this column come from a wide variety of sources. After a little case of writer's block coupled with a crazy post-holiday schedule, the impetus for this article came from a social media post I ran across about an old-school punk rock band, with a song matching this article's title. Unfortunately, the reality of the factoring and ABL business is that deals will go into default, some more serious than others. This article will hopefully be of assistance if and when you are faced with this problem.

The first issue when dealing with a default is to recognize the problem. It is easy for a problem to fly under-the-radar. Common examples of an under-the-radar problem are a covenant default, a small over-advance because of an unexpected chargeback, or late financial reporting. Small unchecked problems, often lead to something bigger. Many defaults come completely out of nowhere, such as the client whose request for an over-advance, or line increase, which was turned down six months ago, morphs into the dreaded letter from the merchant cash advance lender, who is dealing with its own default, which invariably happens when someone not credit worthy takes out multiple merchant cash advance loans at 80% plus yields. Then, of course, there's the dreaded big chargeback out of nowhere, a case of bad luck, or fraud. But, the common denominator in a default situation, is that there is often something that triggered, or should have, triggered you to action. Sometimes, a problem can be addressed by communication, whether it's with your partner, team leader, portfolio manager, lawyer, etc. Collaboration and discussion with your team members are good things.

Once you know that there is a default, it's important to put the nature of the default into a category. I tend to classify defaults into three

levels, but this "measurement" is often fluid and is subjective. The first, and least serious level, is when something happens to the factor client/borrower which is beyond its control. Examples are bad luck, market changes, difficult customers, or other snafus. These kinds of examples, can fall into the not-so-serious category, and typically do not involve character issues on your factor client/borrower's part. While these "first level defaults" all result in contract breaches, these don't rise to the level of an intentional breach, rather it's just bad luck or unfortunate circumstances. The second and more serious level of a default is when the factor client/borrower actively breaches your agreement. A common example of this second level of breach is the client who takes out merchant cash advance loans without your knowledge or consent. Other examples of a second level breach are the factor client/borrower who has stopped

assigning accounts, stopped all financial reporting, or has refused to report bad news. Finally, there is the third level of a default, involving intentional wrongful conduct, such as misdirecting payments, submission of false or exaggerated invoices for funding, and other acts of fraud. The reason why categorizing the level or type of default you are facing is necessary, is because it clues you in to the action required to correct the problem. Some defaults you can work out, get back on track, and become profitable. Other deals have no chance of success. Finally, there will be deals where you are forced to take a hard and aggressive position due to the character issues on the factor client/borrower side.

Once you identify the nature of the default, there will be several things that you should be doing simultaneously, which is to take stock of the situation and make sure that your agreements and collateral are in



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place. Your documents need to be assessed. You need to make sure that your legal file is in order. This means, all contracts are executed, you have the appropriate resolutions authorizing the transaction from the factor client/borrower, any amendments are in place, and your liens assessed. Hopefully, there is some form of a due diligence or underwriting file, or at least a truthful questionnaire, which states the factor client's/borrower's situation. You will need to run lien searches to make sure that your collateral is perfected, and assess any junior liens, or determine if there are any federal or state tax liens. For collateral that is perfected by a financing statement, that will mean you run a search in the state in which your factor client/borrower is organized in, using the name exactly as it registered in your factor client/borrower's state of organization. If your lien is reflected in a proper search, then your financing statement is fine. If it is not reflected, then you need to take corrective action. For collateral not perfected by a financing statement (which would typically be registered copyrights, deposit accounts, motor vehicles that are not inventory for sale, air craft, vessels), if you have that collateral, you should perfect the lien. The initial self assessment is important, because it ensures that everything is in order and lets you know what needs to be fixed. Sometimes, a different strategy is taken when the documents or collateral perfection are not in order.

While you are assessing the state of your documents and perfection, you will also be thinking about next steps. Will this be a workout, litigation, collateral liquidation, bankruptcy, or something else? The answer to this question often depends on the level of breach, but is also a function of the amount in default and what it will take to become compliant again. If you have not already done so, you need to figure out your exit strategy. Can the

client repay you in full? Partially? Is this a deal for a new factor/lender? What is your collateral worth if liquidated? Will the account debtors come up with reasons for non-payment if the business stops? Does the business have a realistic chance of making it if you funded on limited conditions? What is the situation with the guarantors? Are there competitors, or someone out there who could possibly buy the business

as a going concern? There are a number of business considerations to take into account. If the factor client/borrower is being cooperative, now is the time to get as much information as you can, as fast as you can. Depending on the size of the deal, and if there's a chance it will continue, it is usually beneficial to put in a field examiner, or perhaps the factor client/borrower hire a reputable insolvency consultant.

Think you know your stuff? **PROVE IT!**

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LEGAL FACTOR

FEBRUARY 2019

If you are to continue your financing relationship with the factor client/borrower, at least for the time being, you should document the going forward status in a forbearance agreement. A good forbearance agreement helps both sides because it makes it clear what is expected, and the consequences if expectations are not met. The forbearance agreement should acknowledge the default, contain language that the agreements are fully enforceable according to their terms, that the collateral is perfected (even if not, because if not, it's certainly being fixed), contain one way releases in your favor, and set forth the terms of repayment, or how the defaults will be cured. The forbearance agreement is often the time to work in certain waivers that can only be obtained after a default, such as waiver of UCC foreclosure sale notices or the right to redeem collateral in a foreclosure sale. If there will be continued financing during the forbearance period, then that should be addressed and the financing documents will likely need some modification.

Many default situations will wind up in bankruptcy. Although bankruptcy issues can be the subject of a detailed program or article, here's a few things to consider. If the debtor is going to continue in business, it will file a Chapter 11 reorganization. If it is a liquidation, then it will be a Chapter 7 filing. Sometimes, a sole proprietorship in a small deal, usually in transportation, may file a Chapter 13 which is a consumer reorganization. If you are in Chapter 11, and it's friendly, then this would be the opportunity to consider debtor-in-possession financing. Debtor-in-possession, or DIP financing, will require court approval, but if done right, can be a way in which your factor client/

borrower is in a fish bowl, you have full and complete reporting, obtain court approval of your agreements, obtain certain court protections, and improve your chances of being paid. If the bankruptcy is not friendly, or you are not consulted before filing, you will need to address the automatic stay. The automatic stay essentially prevents the creditor from taking various steps to collect the debt, perfect liens, or do other things which involve taking collection steps against the bankruptcy debtor, or property of the bankruptcy debtor's estate. This is an important issue because in factoring, all transactions are set up as sales of accounts. If the bankruptcy court determines that a factoring transaction is a true sale, then the accounts which were purchased are not property of the bankruptcy estate, and the automatic stay does not apply to collection of the purchased accounts. The issue which most courts look for in this situation, is whether the factor assumed the economic risk of the account debtor's financial inability to pay, i.e., a non-recourse agreement. If the accounts are property of the estate, or if there is inventory involved that is subject to the factor's/lender's lien, then the Chapter 11 debtor will need to seek use of cash collateral from the bankruptcy court. This can be quite technical and will require that the Chapter 11 debtor provide adequate protection to the factor/lender. But no factor ever wants the Chapter 11 debtor to be allowed to collect the accounts purchased under the factoring agreement. This usually never turns out good. If the debtor in the bankruptcy has committed fraud, there are a number of bankruptcy remedies that the factor/lender will need to review. If the debtor is an individual who has committed fraud, then

there are likely objections to the individual's debt being discharged, or even objections to the entire discharge in bankruptcy. A good lawyer who understands the interplay of bankruptcy and commercial finance must be consulted.

If the defaulting factor client/borrower is not in bankruptcy, but the situation is adversarial, then litigation counsel should be consulted. However, there are number of items in your contracts that may provide self help remedies. These include, but are not limited to, redirecting the mail to ensure that all checks are received by you, initiating reverse ACH or wire transfers (this is a first thing one should do if the factor client/borrower has intercepted payments), and sending out hard collection notices to the account debtors. Surprisingly, many of the account debtors who have paid over notice freely admit this fact after being contacted by a hard notice.

While nobody ever wants to be in a default situation, it is a fact of life in this industry. Once the problem is over, or after things have calmed down a bit, it's important to play Monday morning quarterback. This is where you assess what went wrong, how it went wrong, how it got past you, what could have been done differently, or what corrective measures can be put in place. Hopefully, this will not be you going through this exercise. But, unfortunately, defaults invariably happen. Also, as one prominent well-respected industry veteran has said, you're not a real factor until you have been burned. But, let's hope that all of our transactions are happy deals!! •



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4 Ways Lenders Can Stand Out from Competitors

Competition for factors and asset-based lenders was heated last year and is predicted to further intensify in 2019. Many elements are contributing to this, including an increase in online lending, fundamental shifts changing and shrinking the retail and other important industries, new technologies impacting the transportation industry, a potential slowdown predicted in the economy, and more. At the same time, business owners have come to expect quick response and convenience and are more likely to shop around for funding. At any given time, there may be 3 to 5 lenders looking at the same deal.

BY RAUL VELARDE

WHAT CAN LENDERS DO TO SET THEMSELVES APART FROM COMPETITORS?

1 Go Digital. Offer all-digital onboarding for customers. Sound impersonal? Too extreme? This doesn't mean there's no human touch but the days when business owners have to fill out an online form for you to contact them or download and send a fillable PDF form just to get the application process started are becoming obsolete. Borrowers have many options for funding and implementing a smart all-digital application and onboarding system allows prospects to easily apply directly from your website or from a link you send to them, allowing them to conveniently interact with you and securely gather

the information you need while keeping the deal moving. Prospects are more likely to choose your company because they can more easily request credit facilities and you can capture business owners at times when it's convenient for them, when your sales or underwriting department isn't available, on evenings, weekends or anytime. In this digital age, commercial borrowers have come to expect an easy and convenient experience and the ability to simplify the process by automating it will set you apart. Further, consider implementing all-digital onboarding, which allows the borrower to upload any required documents, connect directly to their accounting systems and bank transactions to extract and analyze information, and get a quick or immediate decision. An all-digital onboarding process makes you stand out from competitors by elevating the borrower experience so you can seamlessly gather all the information you need to come up with the best solution to meet their cash flow needs and capture new clients more easily.

2 Reduce the Wait. In the Federal Reserve's most recent Small Business Credit Survey, business owners were most dissatisfied with wait times for credit decisions from banks and other traditional lenders. The dissatisfaction with wait times has created an opportunity for online lending, with the survey showing a 24% increase in online lending across all lending categories in 2017 over the prior year and each year it has been growing. This increase is more prominent among non-bank lenders. At the same time, the demand for overall financing in 2017 shrunk by 5% over 2016. This has not only created more competition, but if online lenders continue on a growth path as the Fed increases interest rates and if the U.S. economy enters a

downturn cycle, competition will further intensify. So even though the demand for financing shrank by 5%, online lending went up by 24%. Further, 40% of businesses applied to online lenders—nearly the same share that applied to large banks (49%) and small banks (47%). Also, at the last IFA Conference, over 60 factoring companies we surveyed reported that their biggest challenge is the Speed of Closing Deals and a further survey of asset-based lenders in November reported that Competition is their biggest pain point. To stand out from online competitors and respond more quickly to borrowers, lenders can take advantage of underwriting technology to help them close deals more quickly. Underwriting technology now offers platforms that automatically access 3rd party data providers (Experian, Ansonia, Dun & Bradstreet, etc.) for immediate results on applicants, provide analysis of financials, alert your team when information is missing or incomplete, file UCC's and streamline the entire process. Underwriters can get an overall picture of a borrower in minutes freeing up their time on busy work to allow them quality time to assess risk and come to a faster decision.

3 Offer e-Signature. Implement e-signature into your agreements and contracts to facilitate faster closing. Lenders can adopt many e-signature systems now available or look for a technology partner that incorporates it. Electronic signatures are legally binding and offer timestamp and identity information. Further, they let lenders streamline account openings, document routing and approvals, and increase transparency and efficiency. Electronic signatures also prevent the hassles of getting documents signed, while giving lenders time to focus on relationship building and closing deals more quickly.

4 Boost Analytics Tools. To get ahead of competitors, apply analytics tools to offer higher advance rates to better compete and win clients. Traditionally, receivables finance companies advance about 80-85% even though they could advance more, depending on the client's receivables structure and collections history. To put you in a more advantageous position, consider implementing better analytics tools to allow you to effectively analyze and predict dilution and ineligibles and be more competitive on advance rates. Some areas of the industry such as freight factoring are already doing this on an invoice basis, but this can also be done in other sectors by using better analytics.

There's no crystal ball to predict what 2019 will bring, but traditional lenders have many tools at their disposal to help them win more customers by adopting technology to set themselves apart in an increasingly competitive landscape. •



Raul Velarde is the founder and managing director of Decipher Credit Solutions, Inc., a technology

company that offers onboarding, underwriting and compliance software for the factoring and asset-based lending industries. He has held executive positions with Claro Finance and Bibby Financial Services, among others. He has taken his knowledge in the lending industry and applied an insider's point of view to help traditional lenders innovate, better compete, and thrive. He can be reached by phone at (301) 710-5447 or by email at raul@deciphercredit.com. For more information, please visit <http://go.deciphercredit.com/technologyforlenders>.



Countdown to the 25th Annual IFA Factoring Conference

From startups to some of the largest commercial finance companies in the world, the IFA Annual Factoring Conference has more representation of the commercial finance industry than any other event. Attendance numbers are surpassing previous years, which is building the excitement for the 25th annual event. Industry professionals from all over the world will come together on April 3rd -6th to discuss the latest issues, trends, and developments critical to commercial finance.

BY HEATHER VILLA

STATISTICS:

The first IFA Annual Conference was in 1995 with 35 attendees. The following chart shows the substantial growth that the IFA's conference has had and how it has transformed into an event with over 850 attendees. The IFA has developed an impressive industry-driven event that has helped thousands of companies over the past 25 years succeed in Commercial Financing. (Figure 1)

Job classifications of conference attendees are divided within the

following graph (Figure 2). More than half of all attendees are top executives or managers within each company.

This proves the importance of networking events at the conference. These invaluable opportunities provide access to some of the highest caliber of industry experts in the commercial finance industry. Sharing experiences and achievements, as well as setbacks, allows industry peers to learn and grow together. One of the main reasons why the commercial finance industry has grown to what it is

today is because of peer-to-peer networking and taking advantage of the resources to meet these individuals at events like the IFA Annual Conference.

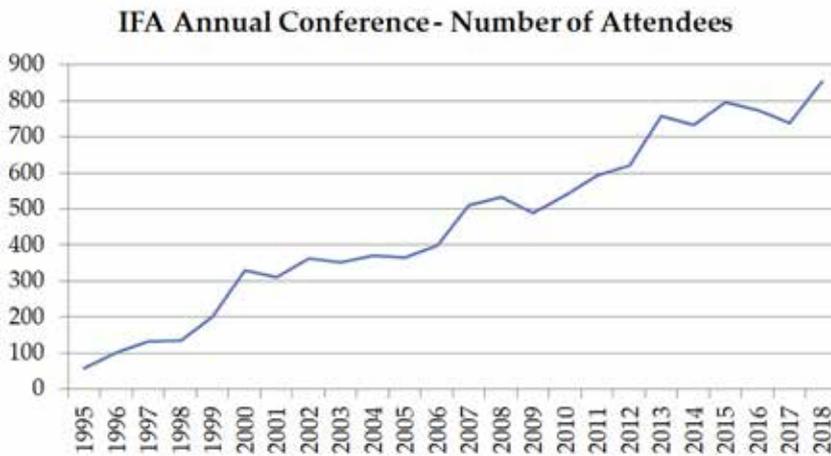
ABOUT THE CONFERENCE:

Commercial finance companies in 2019 face countless challenges. From advancements in technology, potential regulations and pressure from Fintech companies, modernization is evident in order to withstand the changes ahead. Staying abreast with these topics will allow your company to thrive in uncertain times and get ahead of the competition. Companies in all factoring sectors of the industry, from transportation to staffing to construction, will search for ways to drive profitable growth while staying within their risk limits. The 2019 Annual Factoring Conference will provide an abundance of dynamic, thought-provoking sessions that will allow you to achieve this goal.

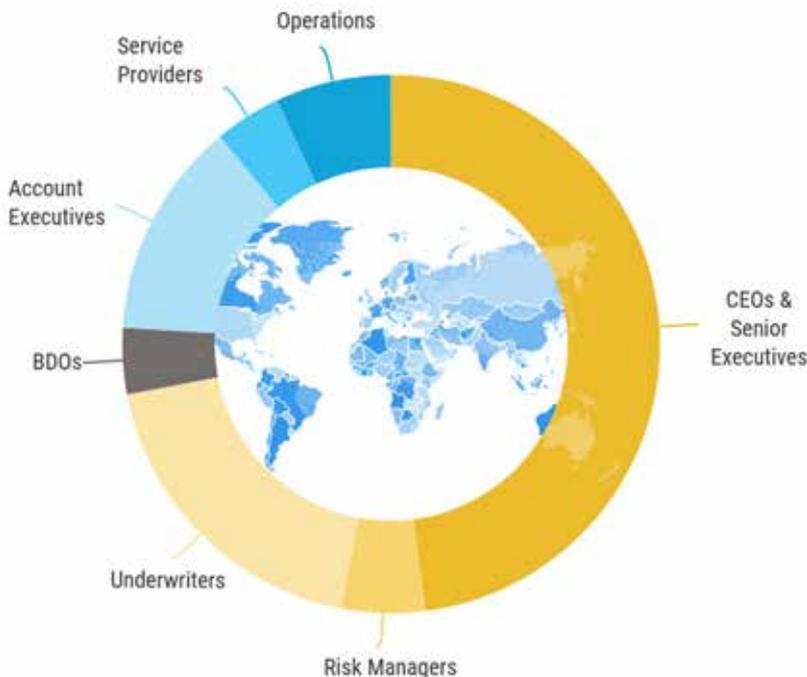
SPEAKING SESSIONS:

- **UNthink** (Erik Wahl, The Art of Vision)
- **Recognizing the Technologies and Trends Transforming Factoring** (Simon Anderson, Venture Foresight)
- **Searching in the Dark Web: Finding Fraud Online** (Cynthia Hetherington, Hetherington Group)
- **The Current Economic and Financial Outlook** (Elliot Eisenberg, Ph.D., GraphsandLaughs, LLC)
- **Blockchain—How Factors Can Utilize this Technology & Predictions for How it Will Change Factoring** (Carol Van Cleef, Esq., LeClairRyan)
- **Ignite Brilliance in Your Culture** (AmyK Hutchins, Business Strategist)

(Figure 1)



(Figure 2)



Continued on page 30

Take Your Customer Relationship Management to the Next Level

Why are so many asset-based lenders and factoring companies moving from traditional software packages to Salesforce.com? What is driving the excitement around this platform and is it deserving of all of the hype?

BY KRISTIAN DOLAN

On the surface, Salesforce.com is simply a Customer Relationship Management (CRM) software. There are many CRMs available. In fact, there are many in existence that may even be more cost effective than Salesforce.com. So, you might ask yourself, why then are so many lenders moving to Salesforce.com?

We believe Salesforce is a major disrupter in the ABL/Factoring industry. Where lenders used to be limited by a finite set of solutions, Salesforce has introduced an entirely different way of looking at enterprise software and in turn, it's opening doors for our industry to execute business in unique ways. While there are many reasons we feel that Salesforce is an innovator within the industry, let us explore our top 4 reasons in more detail:

1 Marketplace. Just like we're used to a plethora of apps available for our Android and iPhone devices, there are also thousands of apps available on the Salesforce Marketplace. In fact, Salesforce has the largest enterprise app store in the industry. Want to pull consumer credit? There are apps for that (multiple). Want to pull a business credit report? There are apps for

pulling PayNet, D&B, Experian, LexisNexis and numerous others. Want to file a UCC? You guessed it; there are multiple apps that can accomplish that, too. Need to establish pricing? Both TValue & others offer plug and play solutions compatible with Salesforce.com.

There are massive economies of scale that are driving the availability of apps on Salesforce. The power of Salesforce versus traditional software in our market is it's not limited to ABL/Factoring. Salesforce leverages the economies of scale across all industries. Because of this, we are no longer limited by what has been done within the finance industry; we are able to leverage economies of scale across all industries thanks to Salesforce and its Marketplace.

2 Open. When you begin working with Salesforce you are no longer limited to one software vendor. The Salesforce platform is open to partners across the globe. Utilize industry-specific specialists or hire offshore developers; Salesforce allows you to select your vendors based on your specific needs. Best of all, it's possible for almost anyone to become a Salesforce expert utilizing publicly accessible data and

training. What does this mean for you? Your existing staff can easily and quickly be trained to manage the solution. Salesforce allows, and even encourages, decoupling your company from the dependencies of working solely with one vendor.

3 Platform. True Configuration based product. If you want to add a new screen to manage inventory, a non-developer can do this within minutes in Salesforce. If you want to automate an email to be sent once a deal is credit approved, this can be set up within minutes in Salesforce by a non-developer. The Salesforce platform enables you to dream big and execute with little effort.

4 Future Proof. Have you upgraded your loan origination system or servicing system? If not, you are lucky. If you have, you are well aware that it can be an expensive and painful process. With Salesforce, your framework is constantly being upgraded to the latest infrastructure and functionality. Because Salesforce.com proactively does this for you, you don't have to worry about upgrading your system. This is the true power of utilizing a cloud-based tool.

5 Mobile. Almost every action you take in Salesforce is also executable in the Salesforce1 mobile app. Request credit reports, approve deals and review analytics, anytime and anywhere.

What does all of this really mean for your business? Using any CRM tool effectively should help you increase sales. Specifically, with Salesforce.com you are able to more closely concentrate on increasing sales because:

1 You are able to access your data anytime and anywhere. If you forgot your computer, no big deal, you only need your Mobile phone with the Salesforce1 app.

2 You can check where your partners or customers are in the process at any time. Pull up the mobile app and visually see where your vendors and customers are on a map.

3 Utilize Salesforce to create cohesive marketing campaigns which tie together trade shows, email marketing and social media presence. Even capture the success of these efforts and effectively measure the ROI on your marketing dollar with tracking available in Salesforce.

4 Fully integrate with Outlook to more effectively and efficiently communicate via email.

5 Create detailed reports that are accessible anywhere. Where do your deals sit in the pipeline? Which team members own the deal and what are the next steps? What deals are coming to term and might have renewal opportunities? These questions are answered via effective reporting.

Increasing Effectiveness = Better Customer Experience + Happier Internal Staff + Improved Sales. More and more lenders are taking the CRM and extending it well beyond customer service. Salesforce can be used as a full Loan Origination System. How does Salesforce.com do this?

1 You are able to maintain all of your data in one place in the cloud. Within seconds, you can see credit report data, D&B, PayNet, UCC data all on one dashboard in Salesforce.

2 You can see exactly where the deals are at in the life-cycle. I.e., have docs gone out? Are you waiting to hear back from your syndication partners?

3 Effective communication, both internally and externally. Email isn't always the most effective way to manage the workflow of a deal. Salesforce can be used to communicate exactly what is needed to fund the deal internally and externally to your customers or vendors. I.e., Salesforce has tools that can serve as a single point of reference for everyone to be kept up to date on where the deal is in the life-cycle.

4 Mobility. At the last lending conference, I ran into two of our clients within 30 minutes and they were reviewing and approving deals from their mobile phones. One joked that they used to be able to leave the office and get a break, but now there is no reason you can't enter apps, pull credit, approve deals, and generate documents all from the palm of your hand using the Salesforce1 app.

While we believe Salesforce.com is a great tool, there are considerations that need to be taken into account before making the switch:

Salesforce by itself is only a customer relationship management (CRM) system. It requires thorough planning to make it work well for your organization. The good news is, this has been done many times before and you can benefit from those with similar experiences. Talk to your peers and talk to industry experts about how to effectively implement a solution that will work best for your business.

Keep in mind; you don't need to create the perfect solution right from the get-go. This is a platform. As such, you can incrementally turn this into a robust solution over time. Start small, but with a strategic plan in place and you can quickly, effectively and affordably build Salesforce into a robust solution that works perfectly to meet your company's needs and ultimately help you better achieve your goals. •



Kristian Dolan is the co-owner and solution architect at Tamarack, a Salesforce partner who exclusively

works in commercial lending. Kristian has been working in the software industry for 20 years. He has been focused on providing loan origination solutions for the commercial lending industries for the past 15 years. Kristian can be reached by phone at 612-483-1210 or by email at kdolan@tamarackconsulting.com.



Status Report on Regulatory Changes

BY BOB ZADEK, ESQ., ATTORNEY, BUCHALTER

On behalf of the American Factoring Association, I am pleased to provide a brief report on the status of the state and federal legislative efforts underway relating to the regulation of small business financing, and the possible effect, good and bad, on the IFA membership.

California SB 1235

As you know, California passed its "first in the nation" disclosure statute requiring lenders and factors to small businesses (as defined in the statute) to disclose key financial terms. This legislation has been generally discussed in prior issues of the Commercial Factor. The statute becomes effective as soon as the

California Department of Business Oversight has enacted supporting regulations. It is expected that the regulations may not be finalized until the middle of 2020. The IFA, as well as other interested "stakeholders" have provided input, and it is far too early to determine what the final regulations will contain.

New Jersey SB 2262

Not to be outdone by California, New Jersey is working on its own financial terms disclosure statute. Hearings have been held, and the legislative committee work is progressing. It breaks down financial transactions in five categories, including factoring. The final bill will

require factors to set forth the "cost" of funds, with the specifics still a work in progress

New York AB 3638

New York's usury law provided for forfeiture of principal of a usurious loan. However certain remedies which are available to consumers are not available to corporations and other business entities. This bill seeks to extend those protections to small businesses. The significance of this legislation is the beginning of the blurring of lines between consumer lending and small business lenders. Historically, the regulatory approach between consumer and business lending was quite different. As this and other pending or enacted legislation at the state level is demonstrating, that distinction is quickly disappearing.

HR 7354—Small Business Lending Fairness Act

Senators Rubio and Brown are promoting this bill, which has been introduced into the House of Representatives as an amendment to Federal Truth in Lending Act to extend certain of its protections to small businesses. Specifically, it seeks to make the use of confessions of judgments, which are extensively used by merchant cash advance companies to the consternation of factors, illegal under most circumstances. While the content of this bill does not seem to offer a threat to factors, as stated above, this is another example of the blurring of the lines between consumer and small business lending.

New York AB 3636

This bill has just been introduced in the New York legislature, which seeks to ban the use of confessions of judgment in commercial transactions.

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- **THE IFA'S ANNUAL CONFERENCE** is the world's largest event for Factors, Asset Based Lenders & Supply Chain Finance Companies.
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Avila Beach, CA 93424 factoring.org

The takeaways from this are quite obvious:

1. Small business commercial lending will be regulated, at first by states. Thus lenders and likely factors will find various aspects of their transactions governed by state law.
2. Disclosure regulations will slightly increase transaction costs, due to the expense incident to compliance.
3. Disclosure regulations have a potential hidden cost, which the AFA must work hard to mitigate. It is possible that compliance failure by a factor could expose

the factor to litigation by a present or former client, or, even worse, class actions. This will depend on the remedies which a state statute offers to aggrieved factoring clients. Although none of the statutes or regulations presently be considered pose that risk, it is still early in the process, and states are only experimenting with legislation at this time. Who knows what will happen when class action attorneys start a lobbying effort at the state level? The AFA must be vigilant and well-funded to confront this challenge.

4. Ultimately, it is possible (likely?) that a collection of dissimilar state disclosure statutes will make compliance costs so much higher that the AFA and other affected lender groups will press for a uniform federal statute, to usurp the state statutes, thereby entering the great unknown of federal regulation.

Factors will need the AFA and its effective lobbying and legislative services more than ever, and the AFA will need its membership to support the growing cost.

Stay tuned.



2019 Members

As of February 1, 2019

Diamond Member (\$10,000+)

Accord Financial, Inc.
Apex Capital Corp
Crestmark a Division of MetaBank
D & S Factors
Great Plains Transportation Services, Inc.
Gulf Coast Business Credit
International Factoring Association
J D Factors
LSQ Funding Group
MP Star Financial, Inc.
Sallyport Commercial Finance, LLC
TBS Factoring Service, LLC
Triumph Business Capital

Platinum (\$5,000–\$10,000)

BAMfi LLC
Far West Capital
FSW Funding
Goodman Factors, a division of Independent Bank
Interstate Capital Corporation
Mickey Seeman—
Owner, Sunbelt Finance
Millennium Funding
Phoenix Capital Group, LLC
PRN Funding
Republic Business Credit, LLC
TAFS, Inc.
United Capital Funding Corp.

Gold (\$2,500–\$5,000)

American Funding Solutions LLC
AmeriFactors Financial Group, LLC
Assist Financial Services, Inc.
Bay View Funding
Commission Express National, Inc.

Diana Luoma—Sekady Capital
Durham Commercial Capital
Evergreen Working Capital
FirstLine Funding Group
Lenders Funding, LLC
Match Factors, Inc.
Prime Capital Group, Inc.
Prosperity Funding, Inc.
Rioux Capital
Riviera Finance, LLC
SevenOaks Capital Associates, LLC
SouthStar Capital, LLC
Transport Factoring, Inc.

Silver (\$1,000–\$2,500)

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AmeriTrust Capital Corp.
Brookridge Funding
Business Finance Corporation
Capital Solutions Bancorp, LLC
Cash Flow Resources, LLC
Commercial Finance Consultants
Commercial Finance Group
Commonwealth Capital, LLC
Contractors Capital Solutions
Coral Capital Solutions LLC
CV Credit Inc.
David Jencks—Jencks & Jencks, PC
David Pape—Commercial Business Funding Corporation
Factor King, LLC
Gateway Commercial Finance
J.O.B.E. Services, Inc.
K.W. Receivables
Kiran Ramasamy—Vayana Network

Levinson, Arshonsky & Kurtz, LLP
QC Capital Solutions
Mazon Associates, Inc.
Michael Ullman—Ullman & Ullman, P.A.
Nationwide Capital Funding, Inc.
New Century Financial
Orange Commercial Credit
Paragon Financial Group
Primary Funding Corporation
Spectrum Commercial Services Company
The Hamilton Group
Viva Capital Funding LLC
Xynergy Healthcare Capital LLC

Bronze (\$500–\$1,000)

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Business to Business Capital Corp.
Camel Financial, Inc.
Concept Financial Group
Entrepreneur Growth Capital
Exchange Capital Corporation
Finance One, Inc.
Firmco Business Funding
Grace Capital Resources, LLC
Greenback Capital
Integrated Logistics & Associates
MarcFunding, LLC

Other (Under \$500)

David B. Tatge, PLLC
FactoringClub
Hawaii Receivables Management, LLC
Plus Funding Group
Stonebridge Financial Services, Inc.
TradeGate Finance, Inc.

WHAT'S NEW AT IFA

FEBRUARY 2019



Our Preferred Vendors have undergone a screening and evaluation process. When you contact the Preferred Vendors, you will need to indicate that you are an IFA member to receive your benefit.

If you offer a good or service to the Factoring Industry and are interested in applying for Preferred Vendor Status, please contact the IFA at 805-773-0011.

ASSOCIATIONS

The following trade associations offer member pricing for events attended by IFA members:

Beijing Commercial Factoring Association (BCFA)

Colombian Association of Factoring (CAF)

Commercial Factoring Expertise Committee of China (CFEC)
www.cfec.org.cn

Ecuadorian Factoring Association (ASOFACTOR)
www.asofactoring.org

FCI
www.fci.nl

Romanian Factoring Association (RFA)
www.asociatiadefactoring.ro

CERTIFIED EMAIL

RMail

Go Paperless. Switch to RMail to Send your Important Notices. RMail services allow factors to end disputes attributed to missing, misplaced or denied receipt of notification emails for notices of assignment, notices of default, borrowing base certificates, and other important notifications. It also helps speed invoice collections with proof of invoice delivery irrefutably starting the accounts receivable aging clock.

www.rpost.com/ifa

IFA Members save \$300! Subscribe to 1000 units RMail plan for only \$390! (Normally \$690)

CONSULTING

FactorHelp

FactorHelp has come to be regarded as the factoring industry's premier resource provider. Their manuals, in use on every continent of the world, are setting the industry standard, and their reputation as the one-call solution for factoring problems is growing. By consistently introducing innovative, viable products, vigilantly cultivating an extensive alliance of Strategic Partners and providing the professional expertise demanded of an industry leader, FactorHelp strives to maintain its goal of providing the unparalleled service the factoring industry expects from a solutions partner.

Phone: 972-722-3700 • www.factorhelp.com

IFA Members receive a discount of 10% on their consulting fees and 5% discount on all FactorHelp products in the IFA store.

CREDIT

Ansonia Credit Data

With more than 250 Factors and over \$800 billion in data, Ansonia provides Factors and ABL lenders an innovative way of managing debtor and COMPETITION AND TECHNOLOGY risk. Our business credit reports feature current and historical days-to-pay information collected directly from the accounts receivable departments of small and large factors, and other companies across all segments.

Phone: 855-ANSONIA • 855-267-6642 x.103
www.ansoniacreditdata.com

IFA Member Benefits: Free VIGILANTE™ Portfolio Analysis. Try Ansonia's unique new program for monitoring credit portfolio risk. Call today to receive a comprehensive review of your entire portfolio.

Credit2B

Trusted by all of the majors because of the sheer volume of Factor trade and 98% third-party data coverage of active businesses in North America, Credit2B is a cloud-based platform that empowers accurate and timely decisions by connecting the experiences of trade credit grantors around their common business customers. We combine this highly valuable trade network information of approximately \$700B in recent receivables with live bureau and public filing information to provide comprehensive financial risk profiles, all in real time. Our dashboard also provides Factor specific scoring, Factor client risk pools, monitoring, peer benchmarks and comprehensive trade data pack solutions for integration into your enterprise software.

Phone: 212-714-4500

Website: www.credit2b.com

IFA Member Benefits: Join the largest virtual factor community. Receive 10% price discounts for being an IFA member. Complimentary invitations to our hosted events in NYC.

FactorsNetwork

FactorsNetwork provides an online platform where Factors share trade experiences with each other. Members are able to pull unlimited Credit Reports as well as monitor and analyze their portfolio. Transportation Factors benefit from our CarrierMonitoring and ChameleonCatcher programs and their clients profit from our LoadBoard. We even offer a Sales Tool to help you find new clients.

Phone: 435-659-4612

www.factorsnetwork.com

IFA Member Benefits: 50% cost savings for the monthly membership fee. It is normally \$1,000 per month, but IFA members will pay \$500 per month.

CREDIT CARD PROCESSING

Clarus Merchant Services

Clarus Merchant Services offers a custom program developed specifically for how the Factoring Industry processes their credit card transactions. Our program provides detailed reporting that allows tracking of each invoice and fee transaction for easy account reconciliation with their customers and clients. We work with each member to ensure all processing costs are covered and that they are doing so within the guidelines of MasterCard / Visa. In addition we provide IFA members direct access to their account manager for immediate response and support.

David Powers, Member Relationship Manger
Phone: 540-222-3925 • www.clarusdc.com
Email: dave.powers@clarusdc.com

IFA Member Benefits: Any IFA member that purchases the CardX program will receive a one-time \$200 rebate once the member has processed a whole month using the program.

ePaymentAmerica

ePaymentAmerica is the nation's leading provider of processing services for the factoring, A/R financing, and P/O financing industries. They offer IFA members exclusive VISA, MasterCard, American Express and discover pricing, a discount on their virtual gateway, and a discount on PCI Compliance Certifications.

Phone: 901-385-5327

www.epaymentamerica.com

Email: factoring_program@epaymentamerica.com

IFA Member Benefits: Interchange Plus Pricing Bundled Monthly Service Fee of \$30.00 (includes IRS regulatory compliance, account maintenance, PCI compliance, virtual gateway & online management tool.)*
**Based on volume/ transaction count.*

DISASTER RECOVERY SERVICES

Agility Recovery

For the past 25 years, Agility Recovery has been a premier provider of onsite recovery solutions across the United States and Canada. When disaster hits, Agility will be on the scene, providing you with any, or all, of the critical elements you need to keep your business in business: power, space, technology, connectivity. Membership also includes access to a dedicated Continuity Planner and secure access to your

myAgility planning portal to assist in building and maintaining your business continuity plan.
Phone: 866-364-9696
www.agilityrecovery.com
Email: andre.selvyn@agilityrecovery.com
IFA Member Benefits: 5% discount to each respective client's monthly ReadySuite membership fee.

FUNDING

Liquid Capital Corp.

Liquid Capital has been in the Factoring industry since 1999 and entered into a partnership with Next Edge Capital in 2015. This relationship has allowed them to pursue an aggressive growth strategy focused on the following key initiatives:

- The acquisition of A/R portfolios from Factors looking to exit the industry

Member benefit: Trailer fees for the life of the acquired accounts

- Soliciting Factors to join the Liquid Capital network to gain access to additional capital, a robust range of working capital and trade finance products, extensive marketing and back office support

Member benefit: Liquid will pay your IFA membership or Annual Conference registration fee for the following year.

- ABL referrals from existing Factors who would not normally fund this type of transaction

Member Benefit: The referring Factor will earn an origination fee and have the opportunity to participate in the funding.

Robert Thompson So
Phone: 866-272-3704
www.Liquidcapitalcorp.com
Email: rts@liquidcapitalcorp.com

MARKETING

50 Words LLC

50 Words is a marketing outsource firm for companies that either do not have a marketing department or that need to add more manpower to their existing marketing team. They serve as your dedicated marketing department.

Phone: 610-631-5702
www.50wordsmarketing.com

IFA Member Benefits: IFA Members will receive five free hours of marketing services with the purchase of any marketing service. (Offer to new clients only)

RECRUITMENT AGENCY

Commercial Finance Consultants

Established in 2002, CFC is the premier provider of human talent to the factoring industry. CFC's goal is to provide their clients with the best available human capital and the most current industry information to assist in accomplishing their growth potential.

Phone: 469-402-4000 • www.searchcf.com
Email: dar@searchcf.com

IFA members will receive an additional 60 days added to the guarantee on all placements.

SOFTWARE

NEW! Artis Trade Systems

Artis Trade Systems offers ArtisPay, the revolutionary Supply Chain Finance (SCF) app that allows banks and lenders to provide buyers and suppliers with a flexible, customizable, easy-to-use enterprise-grade software. ArtisPay is a fully cloud-based software-as-a-service (SaaS). Partnering with Artis Trade endows lenders with a high-tech innovative partner with deep industry experience that will help market and grow their SCF program.

Phone: 480-250-8186 • www.artistrade.net
IFA members will receive a 67% discount on the registration fee, to \$500 from \$1,500, a savings of \$1,000.

FactorFox

FactorFox Cirrus is a cloud application for factors, their clients, brokers, lenders, and others who enter or access data. Entries can be made and reports accessed from any internet-connected computer, tablet, or smart phone. As a web-native program, there is no extra cost for setting up your account or to access your data; further, you receive three hours of free training online. FactorFox's various versions make it suitable for nearly any size factor.

Phone: 866-432-2409 • www.factorfox.com
In addition to the one-month free trial for everyone, IFA Members receive an additional month to try the complete program.

Finvoice

Finvoice offers traditional factoring companies and asset-based lenders a simple-to-use and comprehensive software solution to help them become a modern and efficient online lender. Finvoice came out of a passion to help small businesses who generate 67% of jobs and 50% of the World's GDP.

Andrew Bertolina
Phone: 310-951-0596
www.finvoice.com
IFA Member Benefit: Complimentary landing page review/optimization for digital conversion. 15% discount on pricing for the first year.

HubTran

HubTran is the leading provider of back office automation technology for factoring companies. HubTran's SaaS platform streamlines invoice processing, document management, and exception handling. Customers increase productivity 4X, reduce errors and increase capacity. HubTran's innovative technology leverages Optical Character Recognition and Artificial Intelligence to simplify back office work without requiring massive investments of time in training and integration.

Tinamarie Sulpizio
Phone: 928-855-0170 • www.hubtran.com
IFA Member Benefit: 1 week trial and waived setup/integration fees

ProfitStars®

ProfitStars® is an industry-leading provider of portfolio management systems for commercial finance, and offers a common framework for factoring, asset-based lending, inventory finance, and lines of credit. Our dynamic Commercial Lending Center Suite™ incorporates all-digital loan origination, decisioning and

portfolio management workflows that save time, improve accuracy and improve the overall borrowing experience.

Phone: 205-972-8900, option 3
www.profitstars.com

IFA members will receive 10% off new ProfitStars lending solutions product purchase. For IFA members who are currently ProfitStars customers: Free one day FactorSoft refresher course, per year, at ProfitStars' training facility in Birmingham, AL.

TAX COMPLIANCE

Tax Guard

Tax Guard fills a critical gap in a commercial lender's credit risk management toolset with efficient, real-time and actionable insight into the true, non-public IRS tax compliance status of their prospects and clients. Our due diligence reports, tax compliance monitoring and resolution solutions support commercial lenders throughout every stage of the funding life-cycle.

Phone: 646-502-4478 • www.tax-guard.com
Email: Rich Porterfield;
rporterfield@tax-guard.com

IFA Members will receive ten free IRS Tax Return Transcripts within the first 30 days of service. One time offer also extended to current IFA members.

UCC SEARCH

First Corporate Solutions

First Corporate Solutions is a full service public records provider specializing in the research, retrieval and filing of public records nationwide and internationally. Their services include industry standards such as UCC, lien and litigation searching, UCC and corporate filing services, nationwide registered agent coverage and real property title searching, as well as unique solutions such as state and county account monitoring designed specifically for Factors.

Phone: 800-406-1577 • www.ficoso.com
Email: info@ficoso.com
IFA members will receive a 10% discount off of the retail rates of their signature state and county account monitoring product.

IFA CALENDAR OF EVENTS 2019

February 14

Webinar: Take Notice of Your Notice of Assignment Webinar
1pm-2pm PST

March 5

Joint Meeting with NYIC and IFA Northeast Chapter
Arno Ristorante, New York, NY

April 3

Factoring Essentials Training Course
Manchester Grand Hyatt
San Diego, CA



Current Technical Disruptions in Transportation

Change in the trucking industry has existed for years, and arguably, change continues to accelerate. The regulatory environment, fuel costs, driver shortages and economic conditions continue to vary.

BY DAVID JENCKS

These issues have a significant impact on overall industry health; however, they are not technically disruptive. Four trends are currently disrupting the trucking industry. It is important to recognize both the advantages these disruptions offer, but also realize the threats they pose to the Carrier, and thus indirectly, Factors.

1 Telematics: The integration of information and communication technology enables vehicles to send, receive and store information related to a truck and trailer via a telecommunication device.

• **The Advantages:** Complete visibility into every aspect of a tractor and trailer and load movement provides the data necessary to optimize a truck's revenue and

efficiency. The ability to monitor location, prove up actual detention time, protect against fabricated claim issues by monitoring equipment, and the like, help and protect the motor carrier.

• **The Threats:** New technologies add extra cost to the truck, which can be difficult for smaller fleets or owner-operators to absorb. No matter the size of the Carrier, it

must give consideration to the time and money it takes to install equipment, train drivers and maintenance workers.

- **The Outlook:** Carriers need to use telematics as more than just a way to stay compliant with the latest regulations. The data provided also gives information that can be used to collect more detention, defend against fabricated claims, and keep even the smallest of fleets more organized and efficient.

2 Transportation as a Service

(TaaS): The uberization of trucking is the use of app-based technologies for making the most use of empty space in available trucks. This concept is not new at all. It is a modern form of freight consolidation, pure and simple.

- **The Advantages:** For the Carrier, this is a way to potentially monetize empty miles. For shippers, it's a way to reduce costs and also guarantee freight space for seasonal or other market fluctuations in orders.

- **The Threats:** Shippers are being asked to put their load in the hands of a potentially unfamiliar carrier or driver. The threat to the Factor is immediate or near immediate payment which reduces the need for the Carrier to use a Factor or use the Factor as much.

- **The Outlook:** Shippers and brokers will look for efficiencies in freight consolidation in the most efficient ways. The question for Factors is whether such modern freight consolidation forms will accelerate current industry payment norms.

3 Last-Mile and Final Mile

Delivery: Last mile delivery is typically defined as the movement of goods from a transportation hub to the final delivery destination. The final delivery destination is typically a personal residence. The focus of last mile logistics is to deliver items

to the end user as fast as possible. The demand for both services has exploded with Amazon and other retailers chasing fast to deliver to homes and businesses.

- **The Advantages:** Carriers will see savings in time and fuel, reduced chances of delivery delays due to weather or construction, and a range of other issues that can plague longer-range delivery. Carriers can do more business and speed of return is improved.

- **The Threats:** Will a Carrier have the right type of fleet to ensure optimization of the use of the vehicles? Will the Carrier be forced to purchase more and different fleet vehicles? The challenge to the Factor is that last mile and final mile delivery invoices will be much smaller and will not come with many invoice "add ons" like fuel surcharges.

- **The Outlook:** The last mile type delivery market will continue to grow and be in demand. Carriers may diversify with a segment of their freight movements being represented by this growing business but will likely face optimization costs to do so.

4 **Blockchain:** Blockchain stores incorruptible blocks of information across a shared digital network. It could be used in trucking to create a new system of completing transactions, tracking shipments and managing fleets. A distributed ledger of records can serve as a network to safely share information and transmit payment instantly.

- **The Advantages:** An incorruptible block of information preserving all facets of a transportation movement promotes truth and fairness and can protect the Carrier. Blockchain can be seen as the method of preservation of all telematics taken in a form not subject to alteration and fraud.

- **The Threats:** The technology

platforms will have to be adopted, learned, and will come with costs. Immediate payment options may pose a threat to the need for factoring. However, the simple existence of an immediate payment option does not mean that standard industry payment terms will change; it only means that they can.

- **The Outlook:** An incorruptible, instantaneous record of all aspects of a transportation transaction will come, but technology standards first have to be resolved and agreed to by all parties to such a transaction. This is a serious challenge and one that will result in delayed implementation.

For those in the transportation industry, or for those whose business model serves the Carrier, you must remember the major disruptions that began around 2015 can be the norm within a decade. Uber did not even exist in 2008 and today their bookings are higher than the entire United States taxi industry. Technical disruptions in trucking are not the future; they are changing the face of the industry today. Factors need to understand and use the technology changes to stay relevant to their Carriers and improve their own operations. •



David J. Jencks

is an attorney and consultant to factors and lenders in the transportation

industry. He also represents brokers, carriers and forwarders. David is a member of Delta Nu Alpha, the professional fraternity involved in the education of transportation professionals. He can be reached at davidjencks@jenckslaw.com.

2019 IFA FACTORING CONFERENCE

Continued from page 21

- **Develop Your Sales Team by Overcoming Sales Challenges** (Paula Hope, Coach & Author)
- **Report from the Courts** (Bob Zadek, Esq., Buchalter)
- **Transportation Factoring** (David Jencks, Esq., Jencks & Jencks, PC)
- **Factoring 101** (Brian Center, Liquid Capital Corp.)
- **Sales 101** (Mark Baker, BAM Worldwide, LLC)
- **Unique Challenges of Factoring in Latin America** (Pedro Armada, CFE, Armada Risk Consulting)

PANELS:

- **If I Could Turn Back Time**
- **Artificial Intelligence and the Factoring Industry**
- **Comparing Bank Owned vs. The Independent Factor**
- **Supply Chain Finance**
- **Interactive Legal Panel at Lightning Speed**
- **Strategic Roles of Factors in Expanding the Frontier of Trade in the 21st Century**
- **Dealing with Canadian Litigation**

ROUNDTABLES:

- **Roundtable for Women in Commercial Finance**
- **Roundtable for Senior Executives**
- **Roundtable for Young Professionals**
- **Roundtable for Operational Issues**
- **Roundtable for Small Factors**

NETWORKING EVENTS:

- **Triumph Welcome Reception** sponsored by Triumph Business Capital and Triumph Commercial Finance
- **Golf Tournament** sponsored by Wells Fargo Capital Finance—Lender Finance Division
- **San Diego Food Tour**
- **Young Professionals Reception**
- **Chapter Receptions**
- **Thursday Reception** sponsored by Crestmark Bank, Lenders Funding and Saint John Capital Corp.
- **Tax Guard Dessert Reception**
- **Breakout Small Factor Lunch**
- Breakout **Transportation Factoring Lunch**
- **Closing Event** at Parq Restaurant & Nightclub
- **Idea Exchange**

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to describe what makes this city so special; you simply have to experience it for yourself.

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For more information and to register, go to www.factoringconference.com.



Heather Villa is the Managing Director of the International Factoring Association.

She is responsible for managing and directing the IFA's external communications as well as managing the business affairs of the Association. She assists with event planning, speaker selection and contract negotiations for all training seminars and conferences, including the annual Factoring Conference. Heather can be reached at 805-773-0011 ext 301 or heather@factoring.org.

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The IFA offers CLE credits for the Factoring Conference. Information on approved states is available at info@factoring.org or contact the IFA at 805-773-0011.

This conference has been approved for CAEF credits. For information on approved programs and courses, please contact the IFA.

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