To: Commissioner of Financial Protection and Innovation
Attn: Sandra Sandoval, Regulations Coordinator
300 South Spring Street, 15th Floor
Los Angeles, CA 90013

Ref: Public Comment to PRO 01/18 / SB 1235 Regulation Modifications on April 7, 2021

Dear Commissioner,

It is difficult for me to begin on how to appeal to what I conceive as misplaced guidance on those that want to move forward with this regulation to include non-recourse factoring companies. My mindset begins with the idea that I can't fight city hall, but being this has been 32 years of my livelihood it becomes a responsibility to speak up and say the regulation is wrong to include non-recourse factoring companies.

To begin my concerns, I can't help but thinking bureaucracy tends to have overreaching inertia when it comes to regulation and law instead of understanding the consequences. To me, it is ironic that the state that is going to initiate this law into place is the same state where Riviera began factoring over 50 years ago. My factoring experience offers that the more a state regulates the more likely it will drive small businesses away. We continue to see this with our client base and where we find our business. It is not the factoring discount driving them out of these states, but rather the cost of doing business in those states that heavily regulate, tax, and have a higher cost of living. For example, our owner operator trucking clients are far more prevalent in Texas or Tennessee than they are in California.

As you stretch the idea of a non-recourse factoring companies charging an interest rate instead of discounting an invoice why does not a supplier discount fall into this required regulation? As an example, in the trucking industry it is common for the transportation broker to offer a carrier an invoice discount for quick paying an account. Typical payment terms are 30 days in the industry, but a 1.5% financial discount is offered for quicker payment. In instances, this discount could be as quick as 24 hours. Translating this supplier discount into an interest rate for 1-day payment you would multiply 365 * 1.5% and get 547.5% interest rate. For some reason, however; this financial transaction known as a supplier discount seems to fall outside this proposed regulation as opposed to a factoring discount. The basic argument here is you can translate any service into an interest but it does not make the calculation correct. In fact, it is suggested that the proposed regulation being applied to non-recourse factoring companies to calculate an APR is just as random as requiring it on supplier discounts, or a monthly service fee being charged by a utility company.

At this time let me walk you through a step by step factoring transaction with Riviera so you can see that the depth of the service and how inappropriate it would be to assign an interest rate that is more commonly associated with a loan.

1. A factoring transaction begins with the client submitting a customer for credit approval to an account manager. A credit report is then ordered by the AM through a credit bureau, the report is evaluated, and if approved assigned a credit limit. This service is considered credit management and provides a level of expertise not often afforded to a small business. As well, the cost of a credit report can run from $5.00-$50.00 but is part of the service provided by Riviera at no additional cost to the client.

2. The invoice is submitted by the client to Riviera for factoring. At this time the AM manager begins to provide account receivable management support to the client by reviewing the invoice and contacting the client's customer (commonly known as the debtor) to verify what is required to process the bill payment. This includes the method on how the invoice needs to be sent to the customer such as email, regular mail, or a specific electronic platform used by the client. As well, what supporting documentation that is needed to be sent with the invoice such as a signed bill of lading, a purchase order, a signed time sheet for temporary staffing, lien waivers for construction related accounts, or rate confirmation sheets for trucking accounts. As you can envision, there are a number of different variables to deliver the invoice to the customer so that the payment is processed according to terms.
3. Once the invoice verification process is completed it is time to factor the invoice. While the process to this point is rather dynamic Riviera can fund an invoice within a few hours of a credit check and receipt of invoice. The factored invoice not only provides critical cash flow to the client, but is done on a non-recourse basis providing credit insurance to the client once the invoice is purchased. With emphasis, the value of the non-recourse purchase eliminates credit loss on an account, which most of the time is unaffordable to the client. Typically, the value of buying credit insurance in the market runs about 1% of the invoice, but is part of the service provided to the client by Riviera through nonrecourse factoring.
4. Once the invoice is purchased the accounts receivable management continues. The invoice is posted to an aging report through data entry and available online to our client through ROAM. (Riviera Online Account Management program). The invoice is monitored by the AM and in instances a collection call needs to be placed to the customer for payment status. If, after several inquiries to the account debtor, it is determined there is a credit issue or dispute the matter is further escalated to our legal department for resolution. As an example, just today we are submitting to our legal department an account debtor that refuses to pay over $300,000.00 in invoices we factored from a client, because they are disputing charges that were previously agreed upon. Just because we buy "legally enforceable claims" does not mean that we will ever collect those claims, and the required disclosures ignore that value inherent in non-recourse factoring. Ideally, in a perfect world an invoice is factored and paid according to terms. Once the payment is received it is processed by Riviera Finance and entered onto the aging report to conclude the transaction. It cannot be overstated the value of credit and accounts receivable expertise offered by Riviera that can provide a cost savings to the client, including not having to hire additional staff to perform this responsibility.

In closing, you may be asking what is the purpose of all this detail? In response, my attempt has been to illustrate to you that the intensive nature of nonrecourse factoring does not deserve to be thrown into a bucket of products that are associated with APR both legally and in the value of service. Riviera's factoring documents do not mention the word loan, line of credit, or interest rate yet it is being asked of us through what seems to be an unjust regulation to provide a disclosure statement that calculates an APR.

I do appreciate this selected audience allowing me the time to offer my perspective.

Michael Bartels
Vice President
Office 630-627-8750
mbartels@rivierafinance.com
17W415 Roosevelt Road

Oakbrook Terrace, Il 60181
www.rivierafinance.com