



Consiglio del 17 settembre 2013

**Punto 2 all' ODG
Comunicazioni**

**ALLEGATO 2.6.
Nota di aggiornamento sulle attività dell'EUf**





**Consiglio di Assifact
17 settembre 2013**

Nota di aggiornamento sulle attività dell'EUF

Eurostat

L'EUF, facendo seguito agli interventi già intrapresi da alcuni membri (Assifact e AEF) sulla decisione Eurostat del 31 luglio 2012, ha trasmesso nel maggio u.s. un position paper indirizzato a vari membri della Commissione Europea e ad Eurostat nel quale si evidenziavano le preoccupazioni dell'industria del factoring con riferimento alla decisione di includere nel debito pubblico i debiti delle pubbliche amministrazioni ceduti pro soluto a società di factoring.

Il 20 giugno il DG di Eurostat, W. Radermacher, ha risposto evidenziando la volontà di Eurostat di non cambiare tale decisione, ritenuta conforme alle procedure e agli obiettivi di Eurostat.

L'EUF ha replicato ribadendo nuovamente le proprie preoccupazioni per il settore e per l'economia reale, nonché le numerose problematiche applicative di tale decisione e chiedendo formalmente la revisione della stessa.

L'8 agosto è pervenuta la replica di Eurostat che ha ribadito di non essere nella posizione di cambiare la decisione.

Studio Finest sul mercato del factoring in Europa

Sono state distribuite per osservazioni alle Associazioni nazionali dei paesi inclusi nell'indagine le bozze dei capitoli sui singoli paesi. Una volta ricevuti i feedback, Finest procederà alla stesura del capitolo comparativo dei vari mercati analizzati.

Proposta di creazione di un Risk and Supervision Committee

E' stata proposta all'Excom la creazione di un Comitato in tema di Risk Management e Vigilanza con i seguenti obiettivi:

- monitorare la regolamentazione bancaria e finanziaria emanata dal Comitato di Basilea, dall'EBA e dagli altri organi dell'UE, con specifico riferimento agli effetti sull'attività di factoring;
- supportare l'Excom nell'attività di lobby, evidenziando le problematiche legate alla gestione del rischio che impattano sull'industria del factoring e suggerendo soluzioni
- comparare le caratteristiche del rischio, gli approcci di misurazione e gestione del rischio e le regole di vigilanza riguardanti il factoring fra i membri dell'UE al fine di identificare differenze e best practices.

L'argomento sarà oggetto di discussione nell'Excom del 20 settembre pv.



Legal Committee

Nell'ambito del Legal Committee è stata discussa la possibilità di stendere alcune condizioni standard di contratto a livello internazionale. E' stata quindi condotta una analisi sulla presenza di condizioni standard nei paesi membri, che ha evidenziato come nella quasi totalità dei paesi non siano presenti condizioni contrattuali standard o di riferimento. L'argomento sarà oggetto di discussione nell'Excom del 20 settembre pv.

Accounting Working Group

E' stato tenuto un incontro/conference call a Madrid il 19 giugno us nel quale sono stati condivisi modalità e tempi per lo svolgimento di un lavoro finalizzato a fornire indicazioni comuni per la derecognition dei crediti ai sensi dello IAS 39. Successivamente a tale incontro, sono tuttavia emerse posizioni, in parte già espresse, contrastanti e contrarie al proseguimento del lavoro in quanto in alcuni paesi l'incertezza sulle modalità di contabilizzazione dei crediti è considerata un vantaggio per il factor. L'argomento sarà oggetto di discussione nell'Excom del 20 settembre pv.

Economics and Statistics Committee

Sono state prodotte e pubblicate le statistiche definitive al 31.12.2012 del mercato del factoring nell'UE. All'Excom del 20 settembre pv sarà presentata una bozza dei dati al 30.06.2013, che presumibilmente sarà pubblicata nei giorni seguenti.

DIEDERT Marie-Helene (ESTAT)

From: ESTAT D2 SECRETARIAT
Sent: 08 August 2013 11:39
To: info@euf.eu.com
Cc: RADERMACHER Walter (ESTAT); BUTI Marco (ECFIN); CALLEJA CRESPO Daniel (ENTR); Werner.Bier@ecb.int
Subject: Decision of Eurostat on government deficit and debt of 31 July of 2012: The statistical recording of some operations related to trade credits incurred by government units
Attachments: 2988477_Letter to EU Federation_D2.pdf

For the attention of Mr John Gielen, Chairman

Dear Mr Gielen,

On behalf of Mr Walter Radermacher, Director-General of Eurostat, please find enclosed a letter on the above-mentioned issue.

The original will follow by surface mail.

Yours sincerely,

MARIE-HELENE DIEDERT
Secretary



European Commission
Directorate-General Eurostat
Excessive deficit procedure (EDP) 1

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EUROPEAN COMMISSION
EUROSTAT

The Director-General

- 7 -08- 2013

Luxembourg,
ESTAT-DG/WR/D-2/LFO/LPU/jl D(2013)2988477

EU Federation for the Factoring and
Commercial Finance Industry
c/o IFG secretariat
Mr John Gielen, Chairman
Avenue Reine Astrid, 452
BE-1950 Kraainem
BELGIUM

Subject: Decision of Eurostat on government deficit and debt of 31 July of 2012:
The statistical recording of some operations related to trade credits incurred
by government units

Ref.: Your letter dated 16 May 2013
Our letter D(2013)2332991, dated 20 June 2013
Your letter dated 24 July 2013

Dear Mr Gielen,

Thank you for your letter dated 24 July 2013, responding to my previous reply on the issue from 20 June 2013.

According to Regulation (EC) No 223/2009 of the European Parliament and the Council of 11 March 2009 on European statistics and Council Regulation (EC) No 479/2009 on the application of the Protocol on the Excessive Deficit Procedure annexed to the Treaty establishing the European Community, Eurostat is the statistical authority of the European Union that is responsible for the correct implementation of the ESA 95 accounting rules in the context of the Excessive Deficit Procedure.

The decisions of Eurostat are taken in full respect with the professional independence principle, which is fundamental in the field of statistics, and on the basis of international accounting standards for national accounts purposes and ESA95, which is an EU regulation¹. In addition, the decisions are taken following a procedure which foresees discussion with Member States' experts in appropriate working groups and task forces, and a consultation step to the National Statistical Authorities of all EU Member States.

¹ Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community

As already mentioned in our previous letter, Eurostat Decision of 31 July 2012 on the statistical recording of some operations related to trade credits incurred by government units was taken on the basis of the discussions in a specific task force in February 2012 and after a formal consultation of the Committee for Monetary, Financial and Balance of Payments statistics. This Committee is composed of representatives of National Statistical Institutes and National Central Banks of all Member States and of the European Central Bank, which endorsed the Decision by large majority.

While understanding your concern related to the potential impact that the decision could have on the factoring and commercial finance industry in Europe, and although this impact is not yet precisely estimated, we regret to confirm that Eurostat is not in a position to revisit this Decision.

Yours sincerely,



Walter Radermacher

For the Director General absent,
Marie Bohatá
Deputy Director General

Mr Walter RADERMACHER
Director-General
Chief Statistician of the European Union
Directorate-General Eurostat
BECH - 5, rue A. Weicker,
L-2721 LUXEMBOURG

Dear Mr Radermacher,

Thank you for your letter of 20 June 2013.

The EUF is concerned that the response unfortunately indicates that Eurostat does not fully understand the potential impact of its categorisation of PA debt as otherwise we believe the dismissal of our position would not have been so peremptory and complete.

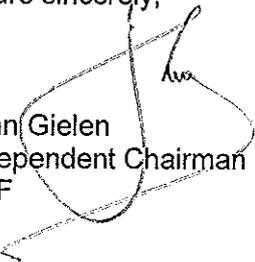
We reiterate that we believe this is a flawed approach with potential negative impact on access to funds, recovery and employment in the EU. We are therefore surprised that Eurostat would wish to be associated with such a decision.

- The assignment of a trade debt does not affect its legal status as a debt. It remains a debt and is not transmuted into a loan.
- It is the supplier not the Public Authority that is making the decision on the nature of the funding for the sale.
- Non-recourse in the context of factoring only relates to credit protection. It does not affect any rights to recourse for reasons of mal- or non performance. It is erroneous and irrelevant to afford special status to such debt.
- Any data supplied to you by PAs in this context will be mere estimation. We believe there is no satisfactory universal mechanism in place to identify whether assignments have been made on a disclosed/ non-disclosed, recourse / non –recourse basis. The data will be flawed, whilst the potential impact of the decision remains real and negative.
- The level and quality of data will in any case vary from state to state, also invalidating the level playing field argument.

The EUF formally requests that you revisit the decision. We will be happy to work with you to find a more appropriate solution to the challenge of effective classification of debt in the context of our Industry.

In what we trust will be the unlikely event that Eurostat remains unmoved, the EUF assumes that there will be an independent appeal mechanism in place to which such discussions may be referred.

Yours sincerely,


John Gielen
Independent Chairman
EUF

24th of July 2013



EUROPEAN COMMISSION
EUROSTAT

The Director-General

20-06-2013

Luxembourg,
ESTAT-DG/WR/D-2/LFO/mhd/D(2013)2332991

EU Federation for the Factoring and
Commercial Finance Industry
c/o IFG secretariat
Mr John Gielen, Chairman
Avenue Reine Astrid, 452
BE-1950 Kraainem
BELGIUM

Subject: Treatment of trade credits in EDP

Ref.: Your letter dated 16 May 2013

Dear Mr Gielen,

Thank you for your letter of 16 May 2013, as addressed to the Directorate General (DG) Economic and Financial Affairs, to DG Enterprise and Industry, to the European Central Bank and to Eurostat. I am replying to your concerns as regards the implementation of the Eurostat decision of 31 July 2012 on the statistical recording of some operations related to trade credits incurred by government units.

To begin with, we would like to bring your attention to the need for this decision. In 2012 Eurostat had taken note of some heterogeneity between Member States (MS) in the treatment of certain operations involving trade credits which constituted a source of inconsistency across Member States. In addition, in numerous countries, a significant increase in the outstanding amount of trade credits payable by government had been observed in recent years.

As it is the task of Eurostat to ensure the full comparability of government debt and deficit data across MS as well as to ensure that the debt reflects the actual obligations taken by governments, a specific Task Force was established, under the chair of Eurostat and with experts from various European countries. It should be underlined that, as customary, the decision was discussed in the appropriate framework, i.e., with the Statistical Authorities at both MS and European level (National Statistical Institutes, National Central Banks, ECB, Eurostat). The aim of this Task Force was to examine several issues related to trade credits and to propose a possible homogenous treatment of similar operations across MS.

The decision discussed in this document was taken on the basis of what was discussed in the Task Force. In accordance with procedures defined by Article 10 of Regulation 479/2009 Eurostat consulted the Committee for Monetary, Financial and Balance of Payments statistics (CMFB). The majority of this Committee agreed on the main decision, which is to reclassify a trade credit as a loan when this claim is refinanced by a financial institution without recourse. As a general policy, methodological accounting issues are only dealt with in this statistical framework and discussions are not held directly with units not part of the European Statistical System and the Statistics Directorates of the European System of Central Banks.

Secondly, the above-mentioned decision deals only with the case of refinancing of a trade credit without recourse upon the original holder and with certain renegotiations which could change the main features of an original trade credit. As a consequence of the decision, both the trade credits without recourse and certain trade credits whose nature has changed after a renegotiation, are to be reclassified, from the April 2013 EDP notification onwards, as loans, with an impact on Maastricht debt.

The rationale for Eurostat's decision is that the financial institution to which the claim is transferred, establishes an unquestionable claim on a government unit, which, by consistency, must be fully reflected in the accounts of the latter. This new claim is no longer a simple time lag directly linked to the original commercial transaction and its payment. The direct relationship between the supplier and the buyer for the trade credit is broken, and the risks pass irrevocably to the financial institution due to the non-recourse clause. Since the original link has been broken, the nature of the transaction has changed from being a trade credit with the supplier to being a loan with the financial institution. It is also to be noted that this change of classification is due to occur whether or not the government has given its approval to the factoring transaction.

In National Accounts terms, the proposed recording shows the overall economic reality of the transaction, rather than its legal form, in line with the substance over form principle. In terms of economic substance, factoring without recourse is a substitute for traditional short-term loans to buyers (government in that case), and there is no substantial difference between short term borrowing by government from a financial intermediary in order to pay cash to a supplier, and the supplier obtaining that cash itself by irrevocably transferring all economic rights and risks arising from the trade agreement to a financial intermediary. This is also consistent with the definition of trade credits AF 71 in paragraphs 5.124 to 5.127 of the ESA 95.

Eurostat took note of the mention in the CMFB opinion on this decision that several members recommended the inclusion of the entire class of trade credits in the definition of Maastricht debt. During the forthcoming revision of Regulation (EC) 479/2009¹, one may indeed consider including the entire category of trade credits in the detailed definition of Maastricht debt, in line with the final point raised in your letter. However, for the time being this is still to be discussed and Eurostat's decision of 31 July 2012 is to be applied regardless of this possibility.

We understand your concern on the potential impact of this decision on the factoring and commercial finance industry in Europe. However, Eurostat does not intend to change its statistical ruling on the classification of government debt in this respect, as it is Eurostat's mission to ensure that the debt reflects all the actual obligations taken by government in the most realistic way.

Yours sincerely,



Walter Radermacher

¹ On the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community



EUF position letter on decision of Eurostat on government deficit and debt of 31st July 2012 to stakeholders and press

The list of names of the key stakeholders to whom the letter has been sent:

European Commission:

Mr Antonio Baigorri Matamala, Head of Unit

Ms Catherine Ahsbabs, European Central Bank

Mr Carsten Olsson, Statistical Officer

Mr Daniel Calleja Crespo, Director-General

Mr Gallo Gueye, Head of Unit

Mr Inigo Urresti, Policy officer

Mr Marco Buti, Director-General

Mr Vilmos Budavari, Policy officer

Mr Walter Radermacher, Director-General

Background and introduction

The EUF comprises the national and international associations for the factoring and commercial finance industry that are active in the EU. In 2012, the total turnover of the factoring and commercial finance industry in the EU exceeded 1,200 Billion €, representing 9.36 per cent of the total EU GDP. The EUF seeks to engage with governments and legislators to enhance the availability of finance to business and brings a particular expertise in supporting the SME community. The EUF acts as a platform between the factoring and commercial finance industry and key legislative decision makers across Europe, providing a source of reference and expertise on the industry, and also on access to finance and other issues affecting SMEs.



Issue of concern

It is in the above role that the EUF has considered in detail the decision of Eurostat on government deficit and debt issued on July, 31st 2012, with regards to “The statistical recording of some operations related to trade credits incurred by government units”. We note that a specific taskforce, chaired by Eurostat and drawing on external expertise, was established to examine issues in this area in advance of this decision; to our knowledge, the industry represented by the EUF was not consulted by the taskforce. Given the direct impact it will have on the industry we are surprised and disappointed that we were not given the opportunity to contribute in advance.

The EUF wishes to formally express its serious concern about the potential impacts of this decision on the factoring and commercial finance industry in Europe. These impacts will, in turn, have potentially detrimental consequences for businesses that the industry serves, which are predominantly SMEs.

The Eurostat decision refers directly to factoring services and, in effect, states that trade credits against Public Authority (PA) units of a Member State assigned without recourse to factoring companies will now be reclassified as loans. This means trade credits will be considered as part of the public debt of that State, even if the assignee is a non banking company (until now, trade credits assigned to non banking companies were not included in the sovereign debt calculation), and will henceforth be included in the stock of government debt in the excessive deficit procedure (EDP).

This decision represents far more than a minor technical change to public sector accounting practices; it could potentially lead to businesses no longer being able to use factoring as a means of financing with regard to receivables against the public sector. In particular, this would affect negatively the availability of financing to SMEs which are already affected by the current banking/credit crisis and which are using factoring as an alternative form of financing.

In fact, the internal regulations of some countries of the EU prevent public units taking on financial debt beyond certain limits. Depending on how the decision will be recognized/implemented by individual EU Members, non-recourse trade debts assignments may need to be reclassified as loans (thereby raising their financial debt).

As a consequence of this, public units are likely to become reluctant to allow factoring and confirming operations, thereby severing a principal source of working capital financing for SMEs, in particular.

This could have a dramatic impact in a number of EU markets where the industry plays an essential role in supporting SMEs supplying PA organisations. In addition to this impact, there are also other reasons why the EUF believes that this decision should be reconsidered: first, the potential effects are not consistent with the rationale of the exercise; second, it will



affect competition between different products, and third, it will not achieve the aim of full comparability of government debt and deficit data across EU Member States.

With regard to the rationale of the decision, the EUF does not agree with the underlying premise that the assignment of an asset changes the nature of the asset itself – or, in other words, that the assignment of a trade credit turns the trade credit into a financial loan simply because of the (financial) nature of the assignee, especially not if the debtor does not enter into any new agreement with the assignee. It is also worth noting that in most countries, the debtor can raise the same disputes regarding the purchased good or service with the assignee as he could raise with the assignor - this demonstrates that a trade debt cannot be considered as a financial loan simply because of an assignment to a factoring company.

Considering the differences between national markets as stated above, the recognition of this accounting rule in the National regulations may entail significant changes in the attitude of the PA debtors regarding the assignment of their debts. As noted, these debts represent a significant share of the credit outstanding of the factoring companies in many European Countries. It is possible that this situation will in fact advantage some types of commercial finance operations (e.g. invoice discounting) to the detriment of others (e.g. non-recourse factoring), particularly in countries where PA trade debts are more often assigned to factoring companies. This would be in direct contradiction to the aim of creating a “level playing field” among EU markets.

From a technical and practical point of view, the EUF wishes to draw attention to the fact that this decision will be particularly difficult to apply in a uniform fashion across member states: indeed, the parties of a factoring contract need not always disclose the assignment to the debtor and, even if disclosed, it would not necessarily include any information about the assignment being with or without recourse. This means that it is impossible for any PA to know the exact amount of the debts assigned without recourse to the factoring companies, not speaking of invoices whose statuses (with/without recourse) change in the course of the agreement. Member States will therefore have to make estimates. Such estimates may be produced differently from country to country, with accuracy depending on the sources available and on the regulation applicable to the factoring companies. Therefore, the decision will fail its core objective of creating a reliable and authoritative basis for assessing the government debt.

Request and summary

Although the EUF understands and agrees with the need for a better quantification of government debt, the EUF underlines that this decision can only offer a partial (and biased) view of public trade debt. This will be far outweighed by the damage not only to the factoring and commercial finance industry, but more importantly to the wider economy and especially SME businesses relying on factoring as a source of liquidity.



Given the current situation, a homogeneous and unbiased treatment of the trade debt outstanding towards government units across the Member States of the EU, both consistent with the European and national regulations, and the need to assure the continued provision of working capital support to PA unit suppliers, appears to be necessary and crucial.

The aforementioned criticism of the measurement of levels of public debt is based on two main aspects of this decision: the reclassification of the trade debt of the PA unit into financial debt and the restriction of this reclassification to debts assigned without recourse to banks and financial companies.

Therefore, the EUF believes that in the interests of the EU in general, Eurostat should reconsider this decision in order to provide a homogeneous and more effective statistical representation of the public trade debt issue. The EUF suggests evaluation of the inclusion of the whole amount of the trade credits payable by government units (AF.71) in the stock of government debt in the EDP procedure regardless of the nature of any assignee and/or of any assignment.

Indeed, although the EUF is aware that the inclusion of all trade credits payable toward government units will probably entail several issues concerning the identification and the measurement of the debt for each government unit, this would be the only way to accurately measure and effectively control the amount of such debts in the future. Moreover, it seems inconsistent that a part of the trade debt would be included in the EDP government debt while the rest would not be, provided that no changes have been made to the nature of the obligation in connection with the assignment. For these reasons, should the inclusion in the stock of government debt of all trade credit payable by government units not be feasible, a total exclusion of all trade credit payable by government units would be a better alternative than only a partial inclusion based on the assignment of the credits.

This, added to the fact that a government unit is highly unlikely to be aware whether the assignment is with or without recourse, means that the decision to include only trade credits assigned to banks and financial companies is more likely to increase differences in the data recorded by EU Member States rather than reduce them.

In any case, any kind of reclassification of the trade debts (AF.71) into loans (AF.4) should be avoided, except for cases where the debtor enters a new agreement with the assignee as a consequence of the assignment (novation).

The EUF considers this to be the only way to assure the full comparability of government debt and deficit data across all EU Member States without introducing unintended negative consequences that are likely to harm SMEs and the real economy.

In brief summary, we believe that this decision will not in practice achieve the stated objectives and will bring with it significant unintended consequences for SMEs in particular.



Our concerns are significant and we would welcome the opportunity to discuss them with you in greater detail. Should you require more information or any clarification, please feel free to contact us through info@euf.eu.com. For further information on the factoring industry in the EU, please visit our website www.euf.eu.com.

With kind regards

John Gielen
Chairman – EUF

16 May 2013