**Consiglio del 17 ottobre 2016**

**Punto 7 all' ODG**
**Stato di avanzamento delle attività associative sulla regolamentazione relativa al factoring**

**ALLEGATO 7-1**
**European Central Bank - Reporting Manual AnaCredit**
**Factoring - preliminary comments**

# Reporting Manual AnaCredit
# Factoring - preliminary comments

### § 1.3 Factoring as an instrument in AnaCredit

On page 5, The document reads "factoring is not a loan". In page 6, the description of the type of instrument for reporting factoring to AnaCredit says "Trade receivables include loans [...]". Such wording appears inconsistent and could bring to misunderstandings.

Moreover, on the same paragraph the paper goes on as follows "[...] it is the factor that holds the right to receive the proceeds of transactions for the sale of goods or provision of services by the factoring company". Please note that the factor doesn't play any role in the supply by the client, but just purchase the right to receive the payment by the debtor. We believe this sentence does not make sense and should be clarified.

### §1.4.1.1 The level of granularity

On page 7, it is stated that "factoring should be recorded at the level of individual receivables (invoices) which relate to the factoring". Please note that in factoring the number of invoices managed by the institution is very high (at the level of the whole Italian industry, several millions of pieces). There could be operational burden for the institutions to produce and verify the reporting as well as for the ECB in reading and collating the figures in case the provision that "the factor should recognise as many instruments as there are invoices purchased by the factoring from the factoring client" shall be confirmed. In addition, one should remember that most factoring agreements provide the bulk assignment of receivables, so that the advance granted to the client does not refer to the single invoice but rather to the whole outstanding amount: some information are not available at the level of single invoice.

Moreover, ECB should clarify whether the reporting threshold should be verified at the level of each single invoice or of the whole position of each assigned debtor.

### §1.4.1.3 Counterparties involved and the existence of protection

On page 8, it is said that "in the case of factoring, the counterparty that is unconditionally obliged to make payments under the instrument is the firm's customer." Actually, account payables do not create any "unconditional obligation" to pay on the debtor: the obligation to pay is indeed subordinate to some conditions, i.e. the fact that the supply has been made and that it is compliant with the contractual provisions in terms of quantity and quality.

It is important to underline that any reporting on the debtor could bring to potential disputes as the latter does not sign any contract with the factoring company (except maturity operations), in particular in the case information from such reporting will be used to integrate risk centralization database.

Later in the same page, it is stated that "the reserve should be reported in the protection-received report with the type of protection being Currency and deposits." Please note that the reserve is not actually a sum available to the factor but rather a deduction from the face value of the invoices applied to the amount advanced to the client. Therefore, we understand the need to comply with the general reporting scheme (and the recourse to some convention to fulfill it), but we need to highlight that the reporting of such buffer as a "deposit" as collateral would be totally inappropriate and misleading: actually, it is usually considered as a debt of the factoring company to the client for purchasing the receivables.

**§1.4.3.2 Outstanding nominal amount**

On page 12, the document provides that "the outstanding nominal amount to be reported is the face value of the invoices purchased by the factor net of the economic discount". It is useful to clarify that not all factoring practices involve a discounting charge (anyway unknown to the debtor), while in most cases (prevalent in Italy) the calculation of the interests is made periodically (i.e. quarterly) upon the funds actually used by the client within a revolving facility made available by the factor up to a certain percentage of the value of the outstanding value of the bulk of purchased receivables. Therefore, please note that in those cases (representing probably the majority of the factoring transactions) any deduction of interests from the face value of the single invoice can be made exclusively on the basis of estimation.

**General comments on the approach**

In Italy, the factoring contract provides the purchase of receivables by the factor. Law 52/91 provides that when the assignor of the receivables is a business and the assignee a bank or a financial company, the assignor shall guarantee the receivables it sold, unless the assignee (the factor) renounce to that guarantee. Therefore, the approach proposed in the draft reporting manual for factoring appears to be fitting, in principle, to the nature of the operation.

However, we want to underline that the approach presents some pitfalls, that will become more evident in the case the information extrapolated from AnaCredit will be used to integrate existing national risk database (e.g. Bank of Italy's "Centrale dei Rischi"):

- Reporting the debtor as the counterparty of the risk could be read as a negative information by the system and increase the number of disputes as they don't sign any agreement with the factor;
- The level of granularity (single invoice) appears to be excessive and could result in huge numbers of reported instruments, with difficulties on both data reporting and data reading sides;
- It should be clarified that factoring is a financial instrument, even if for reporting purposes the relative exposures are considered as "trade receivables";
- More generally, it is of the utmost importance to provide the maximum possible level of consistency between all reporting requirements applicable to the factor: even if each reporting responds to different objectives, a general coherence of the information reported in the balance sheets, in the supervisory reporting, in the AnaCredit reporting and in the national risk central database should be assured for factoring operations.

EUROPEAN CENTRAL BANK
EUROSYSTEM

Reporting Manual

# AnaCredit – Case Studies – Factoring

June 2016

# Contents

# 1 Case studies - Factoring

## 1.1 Introduction

This case study presents certain details of AnaCredit reporting requirements as set out in the AnaCredit Regulation (ECB/2016/13) in relation to factoring.

Factoring is a method of providing working capital finance to suppliers of goods and services, and is used especially by small or medium-sized enterprises (SMEs).

Factoring transactions of credit institutions are within the scope of AnaCredit. In this context, factoring refers to a transaction where a credit institution purchases accounts receivable (i.e. invoices) from a third party.

## 1.2 Factoring

In the AnaCredit context, **factoring** is a transaction in which a firm (a service provider or a producer of goods) sells its accounts receivable, or invoices, to a credit institution, also known as a 'factor'

Factoring refers to the sale of a firm's (the "factoring client's") claims (in full or in part) recorded under accounts receivable (in the form of invoices), representing money due from the firm's customers (the buyer), to a credit institution known as a "factor".

The terms and nature of factoring differ among various industries and financial services providers. Most factoring companies purchase invoices and immediately advance money to the factoring client. Broadly speaking, factoring generally comprises the following simple steps:

- A firm performs a service or sells goods to its customer,
- The firm sells the invoice to a factor,
- The firm receives a cash advance on the invoice from the factor,
- The full payment from the customer is collected,
- The factor pays to the firm the rest of the invoice amount, minus a fee.

The firm's customer is also referred to as the account debtor.

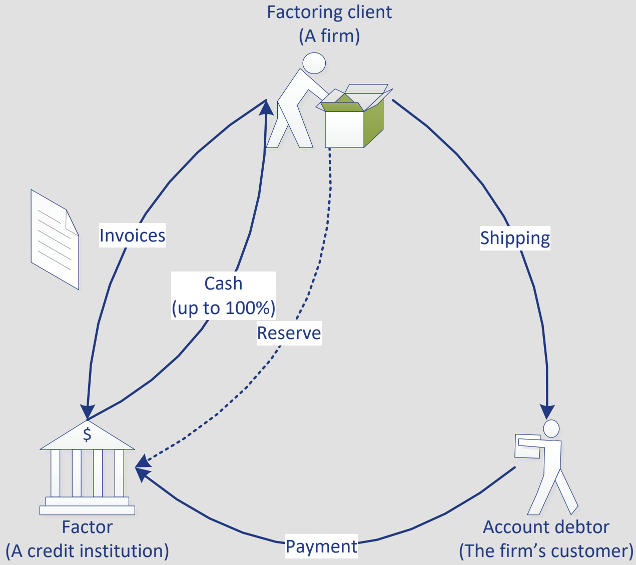
Chart 1 below presents a schematic overview of a generalised factoring transaction and the counterparties involved in the transaction.

**Chart 1:** *The workings of factoring*

Factoring is typically done so that the firm can receive cash more quickly than it would by waiting one or two months for a customer payment.

A factoring transaction always involves the *triangle* of a factor (purchaser of receivables), a factoring client (seller of receivables) and a debtor.

Basically, given a sale transaction between a firm and a buyer (a trade debt), in which the buyer acquires goods or services by the firm, a factor purchases the firm's account receivables (i.e. the original beneficiary of the receivables) at a discount (less than the face value of the receivables). The factor advances the factoring client the money up front and has stipulations about how the factor will collect the payments from the firm's customers (the buyer of the services or goods). Once the factor receives the payment from the firm's customers, the factor pays the firm the reserve balances of the invoices, minus a fee for assuming the collection risk.




The factor buys the receivables at a price which is lower than the face value of the invoice, thereby effectively charging the applicable fees and interest.

A factoring transaction typically comprises three parts: the advance, the reserve and the factoring fee.

- the advance rate is usually around 80% of the face value of the invoice; however, it can generally range from 0% to as much as 100%, depending on the industry, the firm's customers' credit histories and other criteria,
- the reserve is the remaining percentage being held back by the factor until the firm's customer submits the invoice payment,
- the factoring fee (also known as discount fee) is the actual cost of funds that is charged by the factor; the discount fee is typically in a range of a few percent; the specific rate is determined by the actual funding amount, the funding period, customer base (individual consumers versus business clients), industry risk, client credit history and billing structure,

Once the firm's customer has settled their receivable, the discount fee is then deducted and the factor transfers the remaining balance to the factoring client.

Although generally upon purchasing receivables from the factoring client the factor provides financing by paying advances to the factoring client, there are also factoring transactions without physically advancing the factoring client any funds (i.e. the factor is primarily servicing the collection of the invoices).

A factoring transaction is done on the basis of a factoring agreement. This is a contract whereby the original beneficiary of the trade receivable (the firm) transfers the receivable to the factor. This is the basic document that includes the terms and conditions as well as the subject of individual purchases.

Before accepting the invoices, the factor typically assesses the creditworthiness of the firm's customers and whether they will be capable of paying their invoices on time. The factor often manages the sales ledger and the collection of the accounts under the terms agreed by the factoring client and the firm's customers send their payments directly to the factor.

It is relevant to note that there are generally no contractual relations between the factor and the debtor; in some jurisdictions, it is not even necessary to inform the debtor of the sale of receivables and it is common that the firm's customer is left un-notified about the arrangement between the factor and the factoring client.

Furthermore, depending on the right of recourse, there are two main classifications of factoring:

- ***nonrecourse factoring*** – the factor may assume the full risk of default by the firm's customer,
- ***recourse factoring*** – this risk may be retained by the factoring client, in which case the factor is able to hold the factoring client liable if the firm's customer is unable to pay.

The right of recourse is the right of the factor to request the firm (the original beneficiary of the trade receivables) to buy back the unpaid receivable or to collect the advanced amount from the firm's bank account. In other words, in recourse factoring, the factor can have recourse to the factoring client in the event of non-payment by the firm's customer. The risk of bad debt is absorbed by the factoring client. Non-recourse factoring is an arrangement whereby the factor has no recourse to the factoring client when the invoice remains unpaid by the firm's customer. The risk of bad debt is absorbed by the factor.

## 1.3 Factoring versus financing against trade receivables

As regards the difference between factoring and financing against receivables, the important point is who keeps the receivables.

While *factoring* is purchasing receivables (the factoring client sells the receivable, gets the cash, removes it from the accounts receivable and is done with it), in *financing against trade receivables* banks typically advance against a pool of receivables (the producer of goods keeps the receivable and books the cash that it gets from the bank, which is off-set with a credit to bank financing liabilities).

Financing against trade receivables is a borrowing that involves the use of the trade/accounts receivable assets as collateral for the loan (i.e. the trade receivables – invoices – are pledged as collateral).

Factoring is not a loan – as no debt is assumed by the factoring client – it is the sale of receivables, in which it is the factor that holds the right to receive the proceeds of transactions for the sale of goods or provision of services by the factoring company.

Different types of instruments in AnaCredit

The type of instrument for factoring **is *trade receivables***

The type of instrument for financing trade receivables <u>is not</u> ***trade receivables***

Consequently, and as stipulated by the AnaCredit definition of trade receivables (which are defined in paragraph 5.41(c) of part 2 of Annex V to Implementing Regulation (EU) No 680/2014), the type of instrument suitable for reporting factoring to AnaCredit is *trade receivables*.

*"Trade receivables" include loans to other debtors granted on the basis of bills or other documents that **give the right to receive the proceeds of transactions for the sale of goods or provision of services**. This item includes all factoring transactions (both with and without recourse).*

On the other hand, in the case when financing is provided against trade receivables – i.e. the trade receivable is pledged – the type of instrument reported to AnaCredit for this financing should not be *trade receivables*. In fact, the right to receive the proceeds of transactions for the sale of goods or provision of services lies with the firm that sells the goods or provides the services. Instead, a suitable type of *loan* should be reported, which depending on certain characteristics of the financing, may be: *Revolving credit other than overdrafts and credit card debt*, *Credit lines other than revolving credit* or *Other loans*. In this case, the financing (the loan) is not a *trade receivable* but the collateral to be reported in AnaCredit is a *trade receivable*.

## 1.4 Basic facts about factoring in the context of AnaCredit

Factoring transactions by credit institutions are in scope of AnaCredit

AnaCredit focuses on credit granted by credit institutions to non-financial corporations and other legal entities. Consequently, credit institutions which have specialized in factoring are subject to AnaCredit-reporting duties.

Factoring by institutions other than credit institutions <u>not</u> subject to AnaCredit

On the other hand, factoring provided by factoring companies which are not credit institutions is not subject to reporting to AnaCredit.

**No less stringent requirements for factoring**

Once reported to AnaCredit, factoring is subject to the same requirements as any other instrument reported to AnaCredit. This means that there are no data attributes that are not required in the specific case of factoring.

### 1.4.1 Factoring as an instrument in AnaCredit

Observed agents are institutional units of credit institutions (or foreign branches of credit institutions) which are reporting agents

Trade receivables (i) *purchased by observed agents* or (ii) *purchased by other legal entities and serviced by resident observed agents* fall into the scope of AnaCredit and must be reported to AnaCredit, on condition that they fulfil the general criteria triggering the reporting obligation at a given reporting reference date, as explained in Section 3.5 - Criteria triggering the reporting obligation.

Note that the particular conditions to be verified are:

- the debtor condition – as referred to in Article 4(1)b, and
- the reporting threshold – as referred to in Article 5

The other conditions – the type of instruments and the conditions in Article 4(1)a(i)-(iv) – are assumed to be automatically fulfilled for such trade receivables.

### 1.4.1.1 The level of granularity

Factoring to be reported at the level of individual receivables

In factoring, any trade receivables reported to AnaCredit as an AnaCredit instrument should be recorded at the **level of individual receivables** (invoices) which relate to the factoring.

More specifically, the factor should recognise as many instruments as there are invoices purchased by the factor from the factoring client, each giving the factor the right to receive the proceeds of underlying transactions for the sale of goods. The fact whether those invoices are sold to the factor in one or multiple purchases is not relevant in this respect.

Lower level of granularity when trade receivables are pledged in financing against trade receivables

It is noted that in the case of financing against trade receivables (as opposed to factoring), whereby trade receivables are pledged, *trade receivables* are reported as a type of protection (not an instrument) and the level of reporting thereof is not required to be so granular as in the case of factoring. In fact, it is sufficient to report a pool of trade receivables (irrespective of the actual number of claims in the pool) as single protection Trade receivables with a protection value being the value of the total pool.

### 1.4.1.2 The type of instrument

Factoring to be reported as *Trade receivables*

As explained in section 1.3 above, the type of instrument for factoring is *Trade receivables*.

This type of instrument applies to all factoring transactions, both with and without recourse.

Moreover, in the context of AnaCredit, the type of instrument *Trade receivables* is exclusively reserved for factoring transactions. Accordingly, any instrument which is a loan secured with trade receivables (i.e. the trade receivables are pledged not sold) mustn't be tagged as *Trade receivables*.

### 1.4.1.3 Counterparties involved and the existence of protection

For each instrument reported, AnaCredit requires a certain number of counterparties to be reported along. Specifically, it is mandatory that for each instrument it is known who acts as (i) the creditor, (ii) the debtor and (iii) the servicer. Optionally, in case a certain type of protection is provided, also the protection provider has to be reported.

**Creditor**

Pursuant to Article 1(11), counterparty is a creditor to an instrument if it bears the credit risk of the instrument and the counterparty is not a protection provider to the instrument.

The factor is the creditor to the instrument

The factor that buys (and collects) account receivables is the creditor to the factoring transaction.

**Debtor**

Pursuant to Article 1(12), counterparty which has the unconditional obligation to make repayments arising under the instrument is a debtor to the instrument.

The firm's customer (the account debtor) is the debtor to the instrument

Accordingly, in the case of factoring, the counterparty that is unconditionally obliged to make payments under the instrument is the firm's customer.

**Servicer**

Pursuant to Article 1(14), counterparty responsible for the administrative and financial management of the instrument is a servicer to the instrument.

The factor is typically the servicer to the instrument

In the context of AnaCredit, the administrative and financial management is typically carried out by the factor.

**Protection provider**

Pursuant to Article 1(13) the counterparty that grants protection against a contractually agreed negative credit event and that bears the credit risk of the negative credit event is a protection provider.

The factoring client is a protection provider to the instrument

In the case of factoring, protection (if any) is chiefly provided by the factoring client. Sometimes there may be additional protection providers.

**Protection**

Pursuant to Article 1(24), an assurance or coverage against a negative credit event is protection to the instrument.

In the case of factoring, there are multiple types of protection provided to secure the instrument.

The reserve is protection

To start with, the reserve (if any) held back by the factor is considered protection to factoring. This applies to both recourse and nonrecourse factoring.

More specifically, if the firm's customer does not pay or pays only a part of their debts (i.e. a negative credit event occurs), the factor uses the reserve held as collateral to cover the difference. The reserve may not be sufficient to cover the difference.

In fact, the reserve amount effectively serves as collateral (i.e. cash on deposits) to the factoring transaction. The reserve should be reported in the protection-received report with the type of protection being *Currency and deposits*.

**Question for NEWS:** This reserve is certainly in held by the factor. Do you agree to consider the reserve as cash on deposits? Or, is it more appropriate, in your opinion, to consider this reserve a financial guarantee by the factoring company? Or the preferred treatment may depend on the details of the factoring contract?

It is noted that the reserve may be established for multiple receivables of the factoring client at once. Typically, the factor buys a portfolio of receivables at once and establishes the advance, the reserve and the factoring fee on the basis of the combined face value of these receivables.

Note that the amount of reserve may be zero under factoring with recourse because the right of recourse guarantees the factor that any unpaid debts that may turn out to be irrecoverable will be reimbursed.

In recourse factoring, the conditional liability of the factoring firm is protection

In addition, in case of recourse factoring, whereby the factor is able to hold the factoring client liable if the firm's customer is unable to pay, the factoring client is considered to provide a guarantee to the factor. In particular, in the case no or insufficient payment by the firm's customer (i.e. on occurrence of a negative credit event), a claim vis-à-vis the factoring client would arise for the amount in excess of the reserve (if any).

In effect, in case of recourse factoring, the instrument is secured by a guarantee of the factoring client (the seller of goods or the service provider). The existence of recourse in factoring should be reported in the protection-received report with the type of protection being *Financial guarantees other than credit derivatives*.

Finally, it is explained that there may be another explicit form of protection. Such protection is expected to be treated following the general rules of reporting to AnaCredit.

**Box 2:** *Factoring client - debtor or protection provider?*

For the purpose of AnaCredit, in the general case, the distinction between the debtor and the protection provider to an instrument is based on who bears the unconditional obligation to make payments under the instrument.

In particular, debtor means the counterparty that is unconditionally obliged, whereas any counterparty that is conditionally obliged (i.e. on occurrence of a certain negative credit event) is the protection provider.

For instance, in the case of unsecured loan, the debtor is the customer that is granted the loan. This customer continues to be the debtor also in the case when the loan is secured by a third party financial guarantee, although it is the guarantor who assumes the ultimate risk of the loan.

The same distinction is made in the specific context of factoring and it is irrelevant whether or not there is recourse, ensuring thus a homogenous treatment of debtors and protection providers across various types of instruments.

More specifically, by analogy to the treatment proposed for loans, whereby the debtor is the counterparty that is unconditionally obliged to make payments, irrespective of whether or not the loan is secured by a third party guarantee, it is the firm's customer (the account debtor) that is unconditionally obliged to make payments is the debtor, irrespective of whether or not there is recourse, and therefore, the factor should consistently report the firm's customer as the debtor to the factoring.

The factoring client, who sells the trade receivables to the factor, should be reported as the protection provider.

#### 1.4.1.1 No trade receivables from natural persons in AnaCredit

As in the general case, factoring to which the debtor is a natural person mustn't be reported to AnaCredit.

The reservation holds valid whether or not there is recourse (on a legal entity).

### 1.4.2 High-level example of reporting factoring to AnaCredit

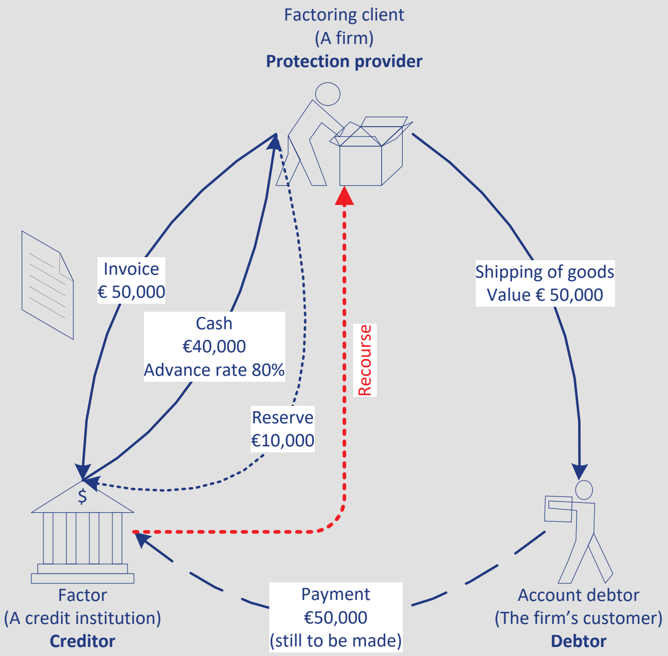
Examples 1 below illustrates how a recourse factoring transaction should be reflected when reported to AnaCredit.

**Example 1:** *Essential elements of recourse factoring when reporting to AnaCredit*

In this example, factoring refers to the sale of a firm's (the factoring client's) claim recorded under accounts receivable (in the form of an invoice), representing money due from its customer (a legal entity), to a credit institution referred to as the factor.

The example relates to the case of recourse factoring, where the risk of non-payment by the customer is retained by the factoring client.

Specifically, the factoring client bills its customer and sells the right to receive the proceeds (in the amount of €50,000) of the sale transaction to the factor. The factor then advances to the factoring client (the firm) 80% of the face amount of the invoice. For the sake of simplicity, there is no factoring fee. The other 20% is retained as the reserve. The payment by the firm's customer is still to be received by the factor.




The essential elements of the factoring to be reported to AnaCredit by the respective reporting agent in relation to the reporting reference date should comprise the following:

- ✓ An instrument, tagged *Trade receivables* as `type of instrument`,
- ✓ An outstanding debt of €50,000, recorded under the `nominal outstanding amount`,
- ✓ A creditor being the factor,
- ✓ A debtor being the firm's customer (the account debtor),
- ✓ A servicer being the factor,
- ✓ Protection securing the instrument being the reserve, tagged *Currency and deposits* as `type of protection`,
- ✓ Protection securing the instrument being the existence of recourse, tagged *Financial guarantees other than credit derivatives* as `type of protection`,
- ✓ A protection provider of the *Financial guarantees other than credit derivatives* being the factoring client (the firm),
- ✓ A protection value of €10,000 in relation to the *Currency and deposits,*
- ✓ A protection value of €40,000 in relation to the *Financial guarantees other*

*than credit derivatives,* being the difference between the outstanding debt and the reserve,

- ✓ An indication that there is recourse, recorded under `Recourse`

Note that if in the example the purchase regarded multiple invoices (on the basis of a single factoring agreement), then the reserve amount, typically established at the combined level, would need to be allocated to individual invoices (i.e. to the individual instruments). Similarly, the value of the *Financial guarantees other than credit derivatives* would need to be distributed across the multiple invoices.

A similar example could be drawn up in the case of non-recourse factoring, where the factor assumes the full risk of default by the customer. By analogy, non-recourse factoring, will comprise the same essential elements, the only differences being:

a) the absence of the *Financial guarantees other than credit derivatives* type of protection and the related protection value, and
b) an indication that it is an instrument with no recourse.

### 1.4.3 Other elements specific to factoring

#### 1.4.3.1 Legal final maturity date

The legal final maturity date for a factoring instrument (invoice) is the date by which the debtor (the account debtor) to the instrument has to make the payment in full.

This date is part of the payment terms agreed between the firm (the factoring client) and the account debtor.

#### 1.4.3.2 Outstanding nominal amount

As defined in the AnaCredit regulation, the outstanding nominal amount is the principal amount outstanding excluding accrued interest. The factoring contract specifies both the face value of the invoices, the factoring fee and, possibly, a reserve. The factoring fee can be further split between a management fee due to the financial services provided by the factor, and the financial intermediation discount reflecting the different value of money across time and the credit risk born by the factor by entering in to the factoring contract. The outstanding nominal amount to be reported is the face value of the invoices purchased by the factor net of the economic discount. Whenever the management fee and the financial intermediation discount cannot be disentangled, the outstanding amount

In order to illustrate the calculation of the outstanding nominal amount, suppose that example 1 above is modified as follows. The factoring client bills its customer in the amount of €50,000. The factor advances 80% of the invoices' face value (€40,000) to the factoring client, a reserve is created for 10% of the invoices' face value and a factoring fee is issued for another 10%, where half of it is the management fee and another half is the financial intermediation discount, each of them totalling €2,500 (=50,000*10%/2).

On the basis of the modified example, the outstanding nominal amount to be registered is €47,500 the face value minus the financial intermediation discount.

For the sake of completeness, note that in this example there are two protections, a a €45,000 'financial guarantee other than credit derivatives' covering the advanced payment and the factoring fee, and a 'currency and deposits' accounting for €5,000.

**Question for NEWS:** do you agree that the factor should perform this calculation and report the outstanding nominal amount as resulting from the calculation? Or do you find it more appropriate to ask for the 'ingredients' of the calculation (the face value of the invoice, the annual interest rate and the tenor) and to perform the calculation centrally, in the same way across various reporting factors, once the data is sourced to AnaCredit?

**Note that the basis of the calculation requires that a certain implicit interest rate is derived** using the inception/settlement date (when the invoices were bought, the final maturity date, the outstanding nominal amount and the face value of the invoice.

### 1.4.3.3 Accrued interest

At any given reference date, the accrued interest is to be calculated using the implicit interest rate defined in the point above. At the legal final maturity date, the accrued interest should be equal to the face value of the debt minus the outstanding nominal amount.

**Question for NEWS:** Similar to the question raised in relation to the nominal outstanding amount: do you find it more appropriate when only the 'ingredients' are reported to AnaCredit, and on the basis thereof, the nominal outstanding amount, the accrued interest are derived centrally by the AnaCredit system, ensuring that this derivation is done consistently across all observed agents? Or do you prefer when the derivation is applied by reporting agents and the results are submitted to AnaCredit?

### 1.4.3.4 Amortisation type

The amortisation type of factoring instruments is typically bullet as payment of principal and – implicit – interests are normally paid at the legal final maturity date of the invoices purchased. However, other types of amortisation types are not to be excluded.

### 1.4.3.5 The interest rate

Pursuant to Article 6(1), the reporting agent of the factor is required to report the interest rate of the factoring.

For the purpose of reporting factoring to AnaCredit, it is the interest rate charged by the factor to the factoring client.

It is explained that the interest to be reported is the annualised agreed rate or narrowly defined interest rate in accordance with Regulation (EU) No 1072/2013 of the European Central Bank (ECB/2013/34). Accordingly, the interest rate to be reported to AnaCredit should cover no other charges than interest payments.

Therefore, it is relevant to consider that the factoring fee rate is not necessarily the interest rate to be reported, as it may cover other charges that the factor may apply. Usually factors are able to separate interest rate and other payments, i.e. the factoring fee is generally composed of several elements, of which interest payments are one.

In factoring, trade receivables are typically purchased at a discount, which is referred to as the factoring fee/ discount fee. The factoring fee is the actual cost of funds that is charged by the factor and is typically in a range of a few percent of the receivable(s). The specific factoring fee is determined by the actual funding amount, funding period, applied interest rate, type of debtor (individual consumers versus business clients), industry risk or client credit history and billing structure. Example 2 below illustrates how the factoring fee may be built up.

**Example 2:** *The factoring fee and the interest rate*

A factoring agreement is made between the factor and the factoring clients. The relevant agreement terms are:

- The face value of the invoice (purchased in the factoring): €100,000;
- The advance rate: 80% of the face value,
- The advance payment: €80,000,
- The interest rate (annually): 10%,
- Payment tenor: 2 months,
- Preparatory/management fee: 1% of the face value,

1. Calculation of the interest amount:

   €80,000 x 10% x 2 months / 12 months = €1,333

2. Calculation of the factoring preparatory fee:

   €100,000 x 1% = €1,000

The factoring fee in this example is determined to be €2,333; (€1,333 + €1,000).

The preparatory fee may for instance cover costs incurred in relation to the assessment of creditworthiness of the account debtors.

Following the example, the (annualised) interest rate to be reported to AnaCredit is 10%.

**Note for NEWS:** If the reporting agents are required to report the data after performing the calculation (see the question above), it may be relevant to update the example of the interest rate accordingly. In case the option is preferred whereby only the ‘ingredients’ are required from the factor, no adjustments need to be made to the example.

### 1.4.3.6 Off-balance sheet amount

Off-balance sheet amount should be reported ‘not applicable’

For any factoring, the off-balance sheet concept does not apply and, accordingly, the off-balance sheet amount to be reported to AnaCredit should generally be reported as “not applicable” or any other equivalent value (to be decided).

This emerges from the fact that receivables purchased by the factor don’t entail the right for the account debtor to use or withdraw funds up to a pre-approved limit.

Although often in factoring the factor uses “debtor limits” which set the maximum sum of receivables against one debtor which the factor will purchase from the factoring client, these limits do not grant the debtor (i.e. the account debtor of the purchased receivables) the right to use of withdraw funds.

#### 1.4.3.7 Counterparty reference data

Given the fact that there is generally no contractual relation between the factor and the debtor, some of the counterparty reference data (i.e. data on the debtor) required for AnaCredit-reporting is not available to factors as they lack any legal or contractual basis for obtaining this information from the debtor.

Therefore, it is reasonable to assume that the factor may not be able to report the full set of data attributes relating to the debtor in factoring. In any case, reporting agents of factors should be able to report at least the following data attributes in relation to debtors in factoring:

- Legal Entity Identifier (LEI)
- National identifier
- (?)Head office undertaking identifier
- (?)Immediate parent undertaking identifier
- (?)Ultimate parent undertaking identifier
- Name
- Address: street Address: city/town/village
- Address: county/administrative division
- Address: postal code
- Address: country
- Legal form

Any other counterparty reference data attributes that are not listed above may be reported to AnaCredit as “not available”, if this information is not available to the factor.

**Question for NEWS:** do you agree to follow such an approach (which is less stringent) in relation to the counterparty reference data, or do you find it necessary that factors report debtors to factoring according to the general requirements for debtors in AnaCredit? If the less stringent approach is to be followed, do you consider the 3 higher level undertaking identifiers to be available?

### 1.5 International factoring

In a specific case of international factoring, two factors may be involved. Foreign factoring companies are predominantly owned by larger banks.

In case of international two-factor non-recourse factoring, the full risk of non-payment of receivables is assumed by the foreign factor.

The following example indicates the workings of an international factoring. In this example, the foreign factor is referred to as the import factor.

**Example 3:** *International two-factor factoring*

1. The exporter (a legal entity in country A) signs a factoring contract with the Export Factor (a bank in country A). The Export Factor purchases all approved trade receivables from the exporter.
2. The Export Factor selects counterparty, the so-called Import Factor (a bank in country B) in the country to which the goods are to be shipped (country B). These receivables are then assigned to the Import Factor.
3. At the same time, the Import Factor investigates the credit standing of the buyer (a legal entity in Italy) and approves the invoices.
4. Once the goods have been shipped, the Export Factor advanced 80% of the invoice value to the exporter.
5. Once the sale has taken place, the Import Factor collects the full invoice value and makes sure the funds are swiftly forwarded to the Export Factor who in turn pays the exporter the rest of the money due.
6. If, after 90 days past the due date, an approved invoice remains unpaid, the Import Factor will pay 100% of the invoice value under guarantee.

Note that the Import factor secures the payment under this two-factor system purchase by giving a guarantee (100% insurance).

Given the assumptions, the factoring is reflected in AnaCredit as follows:

- The Export Factor is the creditor
- The buyer of the goods is the debtor
- The Import Factor is a protection provider
- The protection provided by the Import factor is the guarantee
- The exporter is a protection provider

The protection provided by the exported is cash on deposits amounting to 20% of the invoice value