Alternative Structures - PO Financing, Factoring & MCA

BUSINESS BORROWING BASICS

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Meet the Faculty

Panelists

Jennifer Draffkorn - Rosenthal Capital Group

Harvey Gross - HSG Services Inc.

Michael Weis - Weis & Burney, LLC

Moderator

Jacqueline Brooks - Duane Morris LLP

Alternative Structures - PO Financing, Factoring & MCA

- Purchase-order financing (P/O financing) is a type of asset-based loan designed to extend credit to a company that needs cash quickly, to fill a customer order. A company may operate with such a small amount of working capital that it cannot afford to pay the cost of producing a customer's order. P/O financing enables such a company to not turn away business, by borrowing from a lender using the purchase order itself as collateral to support a loan.

- Factoring is one of the oldest forms of business financing. Note that the term is "financing" rather than "loan" because factoring is not actually a loan. In a typical factoring arrangement, the company needing financing makes a sale, delivers the product or service and generates an invoice. The factor (the funding source) then purchases the right to collect on that invoice by agreeing to pay the company in need of financing the amount of the invoice minus a discount.

About This Webinar

Alternative Structures - PO Financing, Factoring & MCA *(cont'd)*

- MCA lending is, in summary, an advance on a company's sales. Financing through a merchant cash advance (MCA) is used mostly by companies that accept credit and debit cards for most of their sales, typically retailers and restaurants. The concept is this: funder purchases a portion of the company's future credit card receivables for a discounted lump sum. The MCA funder receives the purchased credit card receivables as they are generated either by taking a percentage of the company's daily credit card proceeds or by debiting a certain amount of funds from the company's bank account. Depending on the risk profile of the company, it can be a more expensive form of financing for a business compared to other types of financing.

- What these three things have in common is that they are each a type of "alternative lending." Alternative to what? To the type of loan a company can get from a "regulated" commercial bank. This webinar explains these types of financing arrangements, what to consider before entering into them, and provides some tips on how to negotiate them.

About This Series

Business Borrowing Basics

- Many companies, and most of any size, use borrowed funds as part of their capital structure. Depending on the nature of the business, its size, time in business, whether it has adequate collateral, and other factors, a business has myriad options when borrowing funds.

- This webinar series provides a guided tour of the various borrowing options available to businesses, from both a business and legal perspective. Learn the advantages and disadvantages of different types of loans, how to select the right loan for your business, how to negotiate terms, and what happens in the event the loan is defaulted upon.

Episodes In This Series

#1: What Kind of Loan?

Premiere date: 3/12/25

#2: Basic Concepts Applicable to All Borrowers & Lenders

Premiere date: 4/9/25

#3: Dealing With Defaults

Premiere date: 5/14/25

#4: Trade Finance Basics

Premiere date: 6/18/25

#5: Alternative Structures, PO Financing, Factoring and MCA

Premiere date: 7/16/25

Episode #5
Alternative Structures - PO Financing, Factoring & MCA

Each Financial Poise Webinar is delivered in Plain English, understandable to investors, business owners, & executives without much background in these areas, yet is of primary value to attorneys, accountants, & other seasoned professionals. Each episode brings you into engaging, sometimes humorous, conversations designed to entertain as it teaches. Each episode in the series is designed to be viewed independently of the other episodes so that participants will enhance their knowledge of this area whether they attend one, some, or all episodes.

What is Factoring?

- Financial transaction in which business (the client) sells its invoices, or receivables, to third-party financier known as a "factor"
- Factor then collects payment from the business's customers
- Also known as "accounts receivable financing," and "invoice factoring"

Factoring vs. Asset-Based Lending

- Factoring is a *type* of asset-based financing, often confused with asset- based lending
- An asset-based loan is a loan or line of credit that secured using company assets as collateral
  - ➢ Collateral used for reserve is usually accounts receivable, inventory, equipment, etc.
- Factoring is a type of business financing in which a factoring company purchases accounts receivable for immediate cash payment from the factor
  - ➢ May look like revolving line of credit, but is actually a receivables sale

Factoring vs. Asset-Based Lending

(cont'd)

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- When to consider factoring v. asset-based loans
- Asset-Based Lending
  - ➢ Rapid business growth – good product or service with high leverage
  - ➢ Troubled companies – could be helpful for a turnaround plan
  - ➢ Slower process
  - ➢ Business has history and credit rating

Factoring vs. Asset-Based Lending
(cont'd)

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- Factoring
  - ➢ Valuable financing tool for a broad range of companies who need working capital immediately to finance growth, eg textile and clothing manufacturers
  - ➢ Troubled companies – could also be helpful for a turnaround plan, gives immediately liquid cash
  - ➢ Quicker process
  - ➢ Real time monitoring vs. monthly reporting (ABL)

Factoring – Basic Structure

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Factoring company *purchases* business's accounts receivable.

Notification letter to customer (**if** notification factoring)

Business receives an initial advance from the factoring financier ("Factor") - *usually* about 80% of the amount of an invoice purchased by the Factor.

When accounts receivable is collected or paid by the customer, remaining 20% (*less a fee*) will be paid to client

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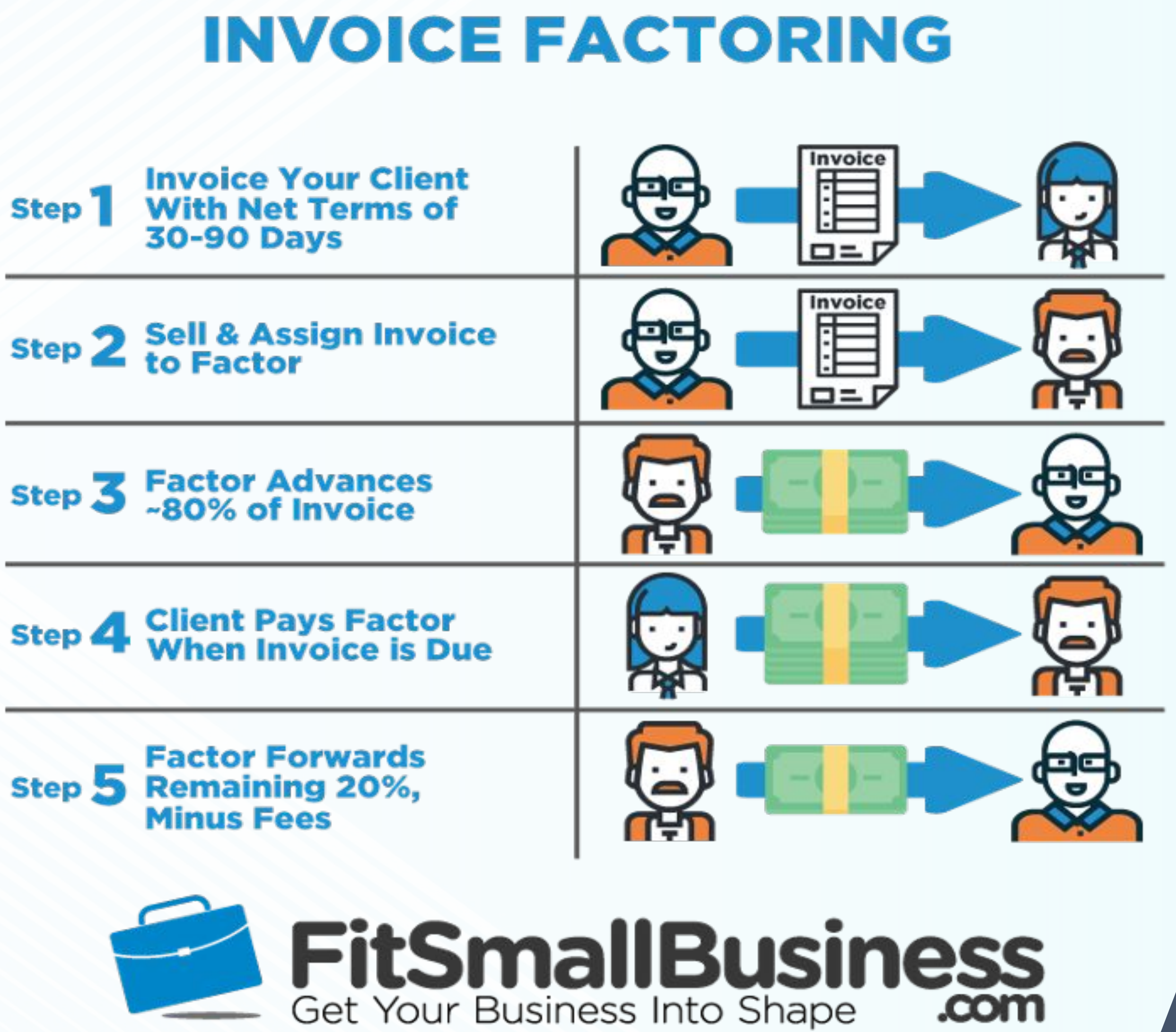
Factoring – Basic Structure

Note: reference to "Client" here is to the customer of the Factor's client. That is, the customer of the entity that is factoring its receivables. This is despite the fact that the more common convention is to refer to client's customer as the "Customer" and to refer to the Factor client as the "Client" (that is, the Client of the Factor).



Factoring – How it Works

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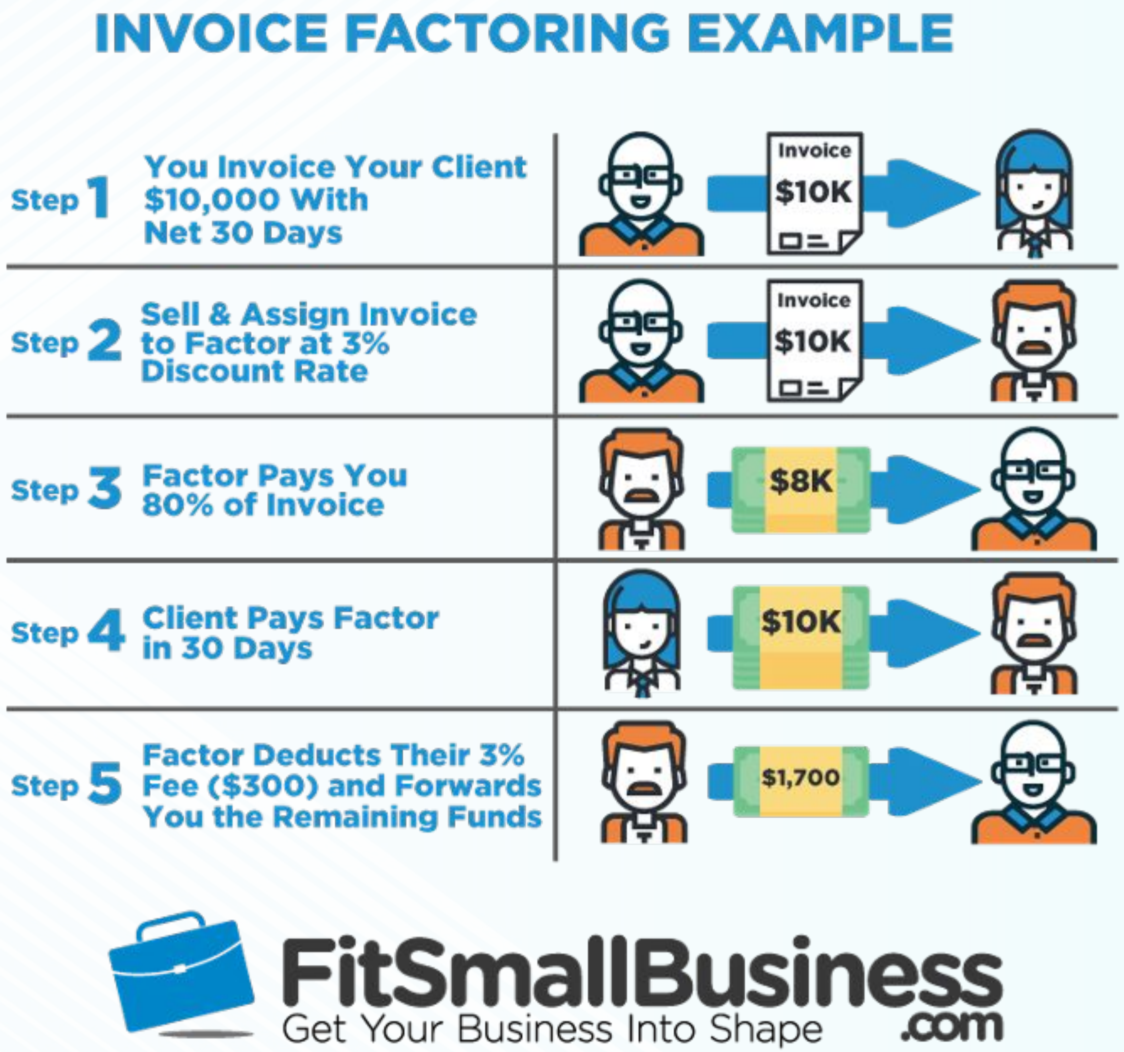

Factoring – How it Works

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- Company invoices customers in the ordinary course of its business
- Identifies need for immediate cash
- Company/prospective client applies for factoring
- Factoring company (the "factor") conducts diligence relating to recoverability of accounts receivable & customers' creditworthiness
- Parties enter into factoring agreement governing terms of relationship
- Factor funds to company at agreed amount of discount from invoices purchased (often 80%)
- Customers pay invoice directly to factor, or to separate trust account held in name of company

Factoring Application Process

- Clients must submit applications for factoring, usually including:
  - ➢ Accounts receivables/ payable aging report
  - ➢ Articles of organization or incorporation
  - ➢ Invoice information
  - ➢ Company history
  - ➢ Target markets
  - ➢ Current clients
  - ➢ Billing process
  - ➢ Current and expected revenues, etc.

Factor Considerations & Due Diligence for Applications

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- Each factor has set specific requirements for eligibility

- Common *minimum* requirements

  - Actual business operations – sole proprietorships and partnerships included;
  - Commercial or government customer base
  - Good customer credit
  - Profit margins typically above 10% (varies based on the factor)

Factor Considerations & Due Diligence for Applications *(cont'd)*

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Applicant should not have any liens or encumbrances on accounts receivable;

- Includes IRS tax liens: factor could work with a company that has an IRS tax lien if an established payment plan is in place

Applicant not in bankruptcy (unless part of DIP financing)

Applicant subject to background check

Considerations – Non-Recourse vs. Recourse Factoring

Presuming Client application is approved, considerations for factor as to whether agreement will be recourse or non-recourse

Recourse Factoring		
Most common	Client agrees to pay "bad debts" in full to the factor	If reserve falls short of total "bad debts," factor is entitled to reimbursement in full by client

Considerations – Non-Recourse vs. Recourse Factoring *(cont'd)*

Non-Recourse Factoring

Factor may set off the sum retained as a reserve, if any, against any "bad debts" that may arise

Factor not entitled to be reimbursed by the originating company (client) if the total of "bad debts" exceeds the amount of reserve.

Notification vs. Non-Notification Factoring

- The factor *typically* will require the company to notify its customers about its invoice financing arrangement, typically via a notice of assignment. The company asks its customers to pay all future receivables to the factoring company.

- In non-notification factoring, the customers are not notified that the company sold and assigned the receivables.

- Factoring is primarily handled on a notification basis.

Benefits of Factoring

- Faster process than traditional lending
- Not a loan, so no negative effect on debt-to-equity ratios of company
- Fewer disclosure requirements, due diligence process vs. bank loan
- Mitigates risks that would otherwise require issuance of personal guarantees. It is common for the factor to require personal guarantees
- Factor shoulders Client's administrative and bookkeeping burden, reducing Client overhead

Challenges of Factoring

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- Challenges & drawbacks:
  - ➢ Requires discounting accounts receivable for benefit of factor
  - ➢ Typically more expensive than traditional loan
  - ➢ Customer payments directed to factor bank account
  - ➢ Requires assignment of invoices to factor – may affect customer relations

Purchase Order Financing – Pre-Sold Inventory Finance Solution

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- Client receives PO from customer, but Client does not have sufficient working capital to pay its supplier/vendor to fill the order
- Should the Client reject the order? No – it has options
- Short-term transactional financing potentially one-off or intermittent that allows a company to purchase finished goods for known sales opportunities
- Equity alternative for companies that want to achieve sales and profits that would otherwise be unattainable without diluting ownership or losing operational control
- Put another way: Bridge financing that works in concert with a company's existing financing facility (i.e., ABL, factoring, traditional lines of credit, etc.)

Purchase Order Financing – Pre-Sold Inventory Finance Solution *(cont'd)*

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- Example of a PO financing transaction:

  - Company X receives a large PO from customer
  - X's supplier needs to be paid up front, but X's customer won't pay X's invoice until 60-90 days after it receives goods from X
  - Creates a classic working capital gap: without money, X risks losing the order and customer confidence
  - Enter a PO financier, who has cash and can pay X's supplier directly, bridging the gap and facilitating the sale

Who Commonly Used PO Financing?

- Distributors
- Wholesalers & Distributors
- Resellers
- Importers or Exporters of finished goods
- Outsourced manufacturers
- Light manufacturer or Assembly business- very limited at most due to the WIP components

PO Financing – The Players

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- Client (business in need of incremental working capital)
- Factor
- PO financier
- Supplier
- Customer

PO Financing vs. Traditional Bank Loan

- Traditional lender will impose strict loan requirements and would likely be reluctant to do the loan at all

- Unlike a traditional lender, PO financier advances funds for the purchase of goods or inventory–not a loan–focusing on Client’s customers’ credit, and Client’s ability to execute.

PO Financing vs. AR Factoring / Invoice Factoring

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- Accounts Receivable ("AR") factoring or Invoice factoring are similar concepts to PO financing but are different in several key ways
- AR factoring is a purchase and sale transaction under which the lender (AKA "Factor") advances funds to a client for a percentage of the client's already invoiced accounts receivable
- AR factoring does not take place until after goods have been provided to a client's customer and an account receivable has been created
- PO financing occurs before a client has paid its supplier and fulfilled customer order

PO Financing Mechanics – Overview

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- Client reaches out to PO financier & submits financing application
- PO financier conducts due diligence & verifies PO
- PO financier pays the supplier for the goods the business needs to fulfill the purchase order
- PO financier collects payment directly from Client’s customer by factors of invoices or advance collected funds and Client is paid the difference less fees.

Mechanics – Logistics of the Transaction

- PO Financier will require borrowing applicant to be financially transparent, and at minimum submit the following during a full application period —

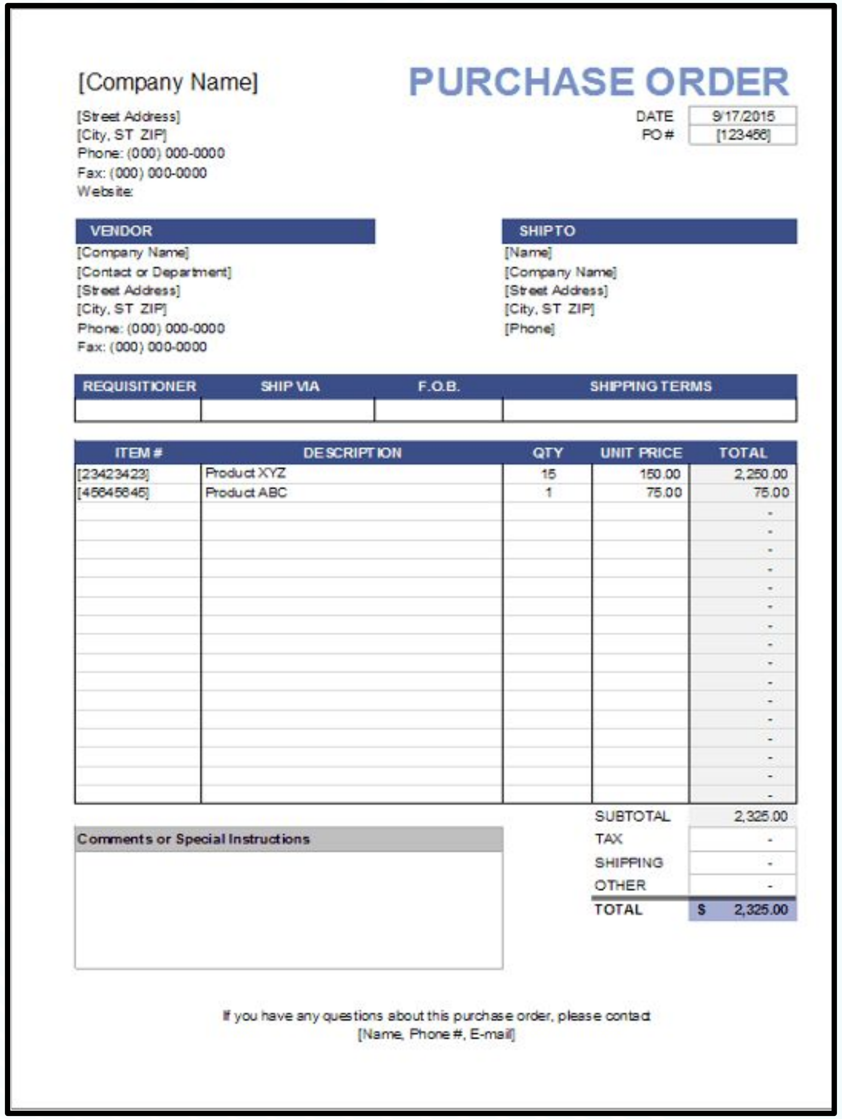
  - PO from customer
  - Supplier invoice
  - Client's PO to the supplier
  - Information on profits on transactions
  - Client business history
  - Client balance sheet and income statement
  - Customer credit information

Once application submitted, PO financier will determine whether to fund

Mechanics – Logistics of the Transaction

Sample Purchase Order Form

Source: https://www.accountingcoach.com/balance-sheet/explanation/4



[Company Name]

PURCHASE ORDER

[Street Address]
[City, ST ZIP]
Phone: (000) 000-0000
Fax: (000) 000-0000
Website:

DATE 9/17/2015
PO # [123456]

VENDOR	SHIP TO
[Company Name]	[Name]
[Contact or Department]	[Company Name]
[Street Address]	[Street Address]
[City, ST ZIP]	[City, ST ZIP]
Phone: (000) 000-0000	[Phone]
Fax: (000) 000-0000	

REQUISITIONER	SHIP VIA	F.O.B.	SHIPPING TERMS

ITEM #	DESCRIPTION	QTY	UNIT PRICE	TOTAL
[23423423]	Product XYZ	15	150.00	2,250.00
[45645645]	Product ABC	1	75.00	75.00
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-

Comments or Special Instructions

SUBTOTAL	2,325.00
TAX	-
SHIPPING	-
OTHER	-
TOTAL	$ 2,325.00

If you have any questions about this purchase order, please contact
[Name, Phone #, E-mail]

Mechanics Funding Mechanisms

- PO financier will perform due diligence to determine whether Client is a good candidate
- Due diligence includes investigating Client's financial statements and to determine if able to execute on transactions
- PO financier will also investigate supplier to ensure delivery of goods to Client
- PO financier will also analyze creditworthiness of Client's customer involved in the transaction
- Product Quality control is key!
  - Quality control of goods subject to PO financing is essential to ensure a supplier's conformance with production requirements necessary for a satisfactory transaction
  - PO financing usually requires inspection certificate by acceptable independent third-party inspection company. Charges for the inspection are borne by the client since they will negotiate the rates directly with the inspection company

Mechanics Funding Mechanisms
(cont'd)

- PO financing companies tend to accept either straight resale or light production (limited) transactions for pre-sold goods
- PO will generally need to have profit margin of at least 20% depending upon the percentage advanced to the supplier and if the related invoice was being factored.
- PO also cannot be for consignment/guaranteed sale
- Most financing sources only handle transactions of a minimum size (example, $100K)

Mechanics Funding Mechanisms

cont'd

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Typical funding options for PO financing

- Letters of Credit
- Documentary Collections
- Purchase Guarantees
- Cash on delivery or cash in advance

The Purchase Order Funding Process
Supplier makes sale and obtains a purchase order from a customer

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The Process **with** A/R lender on the back-end:

- PO Finance Company underwrites the A/R lender approves customer credit.
- PO Finance Company funds acquisition of goods related to sale. PO Finance Company begins collateral monitoring process.
- Supplier completes product.
- Supplier ships product to customer.
- A/R Lender advances funds to supplier net of amounts due PO Finance Company.
- Customer remits payment to the A/R Lender.
- Supplier receives net proceeds.

The Process without A/R lender on the back-end:

- PO Finance Company underwrites supplier's transaction, customer credit, and obtains credit insurance (if applicable).
- PO Finance Company funds acquisition of goods related to sale. Company begins collateral monitoring process.
- Supplier completes product.
- Supplier ships product to customer.
- Invoice sent to customer.

Cost of PO Financing

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- Costs differ based on transaction, terms of advance, and other circumstances
- Financing rates typically based on “utilized funds” (outstanding funds needed to pay suppliers)

Example:

- Client owes supplier $50,000, so PO financier’s borrowing rates will be based on $50,000 transaction size.

- Examples of PO financing borrowing fees:
  - After 30 days, the usual fee structure is 1% per 10 -day period until collection from the customer

Cost of PO Financing *cont'd*

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- Fees for PO Financing are high if comparison to traditional lenders
- But by comparison traditional lenders will not typically provide the same type of financing, unless willing to provide overadvance
- Compared to other options, PO Financing may actually be much "cheaper":
  - Raising equity (permanent, requires ceding share of business)
  - Mezzanine debt (potentially more costly relative to absolute cost, including warrants, amortization, etc.)

Advantages of PO Financing

- Client able to fulfill customer orders quickly without using its own capital or going cash flow negative
- Enables businesses to grow sales much faster than their balance sheet would otherwise allow
- Can facilitate ability to service large jobs/sales, fueling growth
- Flexible–adapts to Client's business cycle & size of orders financed
- Client doesn't need to have excellent credit because the factor focuses on customers' credit
- Easier to obtain that institutional bank lending

Disadvantages of PO Financing

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- High borrowing fees (in comparison to traditional financing)
- Client should have sufficient profits or incremental sales to benefit
- Client's suppliers must accept a letter of credit, purchase guarantee, or wire transfer based on a "payment against documents" scenario
- More difficult to underwrite for manufacturers or businesses assembling on site.
- Funds generally used only to pay suppliers (not operating expenses)

Introduction to Merchant Cash Advance

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- Threshold Matter: Old School v. New School MCAs?
- Once, the MCA industry was essentially *credit card factoring*
- Thus, MCA financing was limited to companies that accepted credit cards from customers (the use of the term “Merchant” is vestigial evidence of this since credit card companies have long referred to those who accept their credit cards as such)
- Over time, MCA industry participants figured out that they could *apply the same discipline* they applied to underwrite and police credit card merchants, to other vendors who do not accept credit cards, esp. given the ability to debit bank accounts via ACH

Introduction to Merchant Cash Advance

Financial Poise Webinars

- Merchant cash advance ("MCA"): form of short-term business financing
- Business owner ("merchant") sells portion of future revenues (historically was daily credit card sales) to MCA provider in exchange for immediate cash
- MCA provider provides lump sum of cash to business as advance against % of business's future sales
- Payments back typically made on "fixed" amount basis or on percentage of receipts basis

Repayment

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- Repayments are not made by the merchant directly. Rather, upon obtaining a cash advance, the merchant is required to instruct its merchant processor (or bank) to route a specified percentage of sales *directly (or ACH cash on deposit)* to the funder on a *daily or weekly basis*

- Obtaining repayment directly from the processor (or bank) reduces the funder's risk and enables them to provide approvals broadly, even to business owners with weaker credit

Who Uses MCAs?

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- Historically small, new businesses (*less than a year old*), with high volume of credit/debit transactions per month, including:
  - Retailers
  - Restaurants
  - Bars
- But debit ACHs long allowed for a far greater variety of merchants to use MCA

MCAs vs. The Daily Debt Loan

Financial Poise Webinars

- As the MCA industry grew, several funders recognized the need for a short-term business loan that could accommodate a broader range of industries, underwrite all forms of revenue, and provide clients with the predictability of a fixed daily payment
- A common name for this arrangement is the *daily debit loan*
- MCAs have proliferated in this era of excessive liquidity

Impact of COVID-19 on Alternative Lending

- Tremendous supply-chain disruptions
- Businesses pivoting to PPP loans
- Pre-payment structures
- Borrowers are not typical distributors – many businesses are using alternative lending to purchase PPE
- Family-office/hedge funds are dabbling in the space

Questions or Comments?

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Meet The Faculty

Jacqueline Brooks - JABrooks@duanemorris.com

Jacqueline Brooks is a partner in the Corporate Practice Group at Duane Morris LLP. She concentrates her practice in general business and commercial law. She counsels clients in mergers and acquisitions, commercial finance, private offerings of debt and equity securities, governance matters, commercial transactions, and shareholder derivative matters, including shareholder demand responses and special committee issues. Jacqueline has experience representing public companies, privately owned and managed companies, nonprofit organizations and start-up companies and provides general counsel to these organizations regarding various corporate matters. Read More

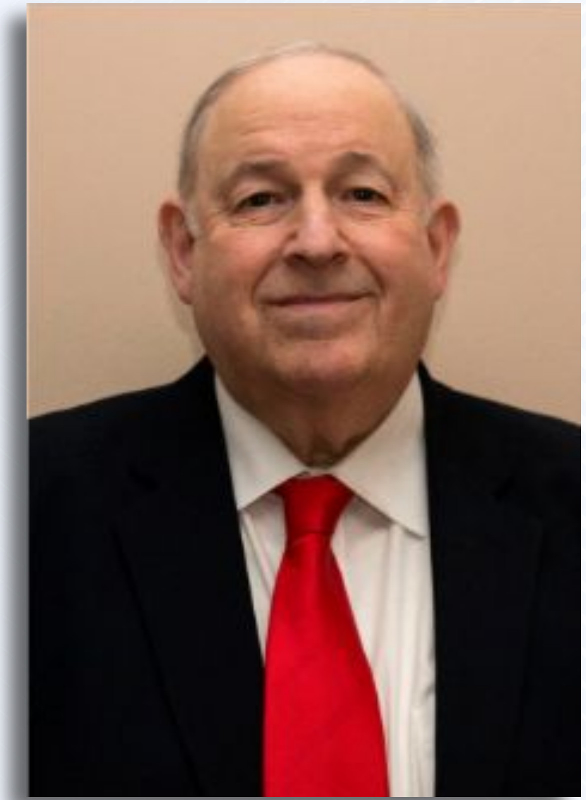
Jennifer Draffkorn - JDraffkorn@rosenthalinc.com

Jennifer Draffkorn joined Rosenthal Capital Group in 2016 at the inception of the newly created PO Finance division and currently holds the position of senior vice president and portfolio manager with the Purchase Order Finance business line for Rosenthal, the largest privately held factor and commercial finance company in the United States.

Her career began working in the apparel wholesale, import and distribution industry and experience gained here transitioned into work in the fields of commercial and alternative financing. With over 25+ years of experience in the financial services industry, she is known for her expertise in providing international trade and purchase order finance solutions for her clients. In 2021, Jennifer was recognized by Secured Finance in their annual Women in Secured Finance issue.

In this constantly evolving lending niche, Jennifer takes a personal interest to stay current with international supply chain issues. Read More.

Harvey Gross - info@instituteofcredit.org



Harvey Gross is the founder and president of HSG Services Inc. He was formerly a vice president with Bank of America for over 30 years. He served as wholesale credit manager, wholesale team leader, and account executive. Gross supervised in sales, marketing, and insolvency recoveries. He was the past chairman of the Turnaround Management Association New Jersey Chapter and is currently a board member. Gross is also the executive director of the So Cal Chapter of IFA. This year makes 60 years in Factoring for Gross.

Michael Weis – mweis@weisburney.com

Michael is a Corporate and Commercial Transaction Lawyer at Weis Burney, LLC.

He has handled the negotiation and closing of hundreds of complex corporate and commercial real estate transactions both domestically and internationally. Michael's clients span a number of industries including manufacturing, distribution, real estate, health care, food and beverage, technology, and professional services. Armed with a wealth of knowledge and experience in corporate, real estate, and finance matters, including being a Certified Public Accountant since 1985, Michael helps his clients succeed personally and in business. His corporate experience includes all aspects of mergers and acquisitions, securities, and corporate governance.

Michael's legal career spans three decades. He focuses on mergers and acquisitions, "Outside General Counsel" representation, commercial finance, securities, real estate, tax and estate planning, and administration matters. Prior to joining Firsel Ross & Weis, Michael's practice included 10 years at a boutique firm in Chicago where he served as chair of the firm's business and transactional practice. Additionally, Michael was General Counsel for a long-term care organization. He began his legal career with a Chicago-based corporate and securities law firm, where he was an associate and then a partner.. Read More

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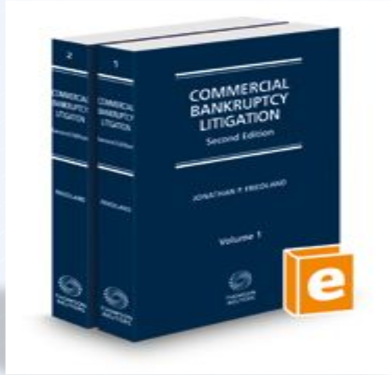

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