SBA Policy Notice

TO:	All SBA Employees	**CONTROL NO.:**	5000-1195
SUBJECT:	Small Business Jobs Act of 2010: New Dealer Floor Plan Pilot Program	**EFFECTIVE:**	2/10/2011

On September 27, 2010, President Obama signed the Small Business Jobs Act of 2010 (the "Small Business Jobs Act") (Pub. L. 111-240). Section 1133(a) of the Small Business Jobs Act authorized a new, expanded Dealer Floor Plan (DFP) Pilot Program. This new DFP Pilot will be effective February 9, 2011 and will remain available until September 30, 2013.

Under the new DFP Pilot, SBA is implementing a 7(a) loan guaranty product targeted to retail dealers of new and used titleable inventory, including but not limited to automobiles, motorcycles, boats (including boat trailers), recreational vehicles and manufactured housing (mobile homes). The key features of the new DFP Pilot are set forth below. More detailed guidance is set forth in a procedural guide ("DFP Procedural Guide"), which is available on SBA's DFP website at http://www.sba.gov/content/dealer-floor-plan-financing-program-0. The Guide is located at the bottom of the page as a pdf attachment at http://www.sba.gov/sites/default/files/DFP%20Procedural%20Guide%20(2-9-2011).pdf

Key Features

- Maximum guaranty of 75%;
- Minimum loan amount of $500,000 and maximum loan amount of $5,000,000;
- Maximum advance rate of 100% for both new and used inventory;
- Minimum loan maturity of 1 year and maximum loan maturity of 5 years (the expiration of the pilot on September 30, 2013 will have no effect on any DFP line of credit approved by SBA on or before that date);
- DFP lines of credit will be revolving lines of credit;
- Loan proceeds may be used for the acquisition of titleable inventory for retail sales, to refinance existing floor plan lines of credit with another lender, or to replace existing floor plan lines of credit with the participating lender. Proceeds may also be used to pay the SBA guaranty fee;
- Repayment of these lines will occur as the acquired inventory is sold, with interest paid monthly;
- Maximum interest rates will be the same as allowed under SBA's standard 7(a) loan program;
- Collateral must be secured by a first lien on all titleable inventory acquired with the proceeds of the DFP line of credit. This lien may be perfected by obtaining either (i) the titles to the inventory reflecting no prior liens, or (ii) a first perfected security interest in all titleable inventory acquired with any portion of the proceeds from the DFP line of credit (additional collateral to be taken in accordance with the lender's existing policies and procedures governing floor plan financing);

- Lenders may charge the borrower the same fees allowed under SBA’s standard 7(a) loan program with the exception of the extraordinary servicing fee (SBA will allow lenders to charge an extraordinary servicing fee that is higher than the 2% allowed by Agency regulations at 13 CFR 120.221(b) provided the fee meets certain conditions);
- DFP lines of credit may not be sold on SBA’s secondary market, but may be included in participating lender financings or other conveyances, including securitizations, participations and pledges, provided the lender complies with 13 CFR 120.420 through 120.435;
- Lenders with an executed Loan Guaranty Agreement (SBA Form 750) may participate in the DFP Pilot;
- Lenders with at least $1 billion in floor plan lines of credit in their current portfolio may qualify for delegated authority under the DFP Pilot, such lenders will be required to sign a separate Supplemental Guaranty Agreement (any delegated authority the lender has as a 7(a) lender, such as Preferred Lender Program (PLP) or SBA Express authority, will <u>not</u> apply to the DFP Pilot);
- In addition to their 1502 reporting on all SBA-guaranteed loans, lenders will be required to report quarterly on disbursement and collection activity on DFP Pilot Program lines of credit using SBA Form 1502R;
- Under the DFP Pilot, SBA will allow the lender to make demand on SBA to honor its guaranty if the borrower is in default on any financial covenant for more than 30 calendar days and the default has not been cured. If a lender discovers that the borrower is in a sold out of trust (SOT) situation, the lender may request that SBA honor its guaranty 30 calendar days after discovery of an SOT situation that has not been cured during the 30 day period. If a lender discovers an unremedied adverse change in the financial condition, organization, management, operation, or assets of the Borrower, the lender may request that SBA honor its guaranty 30 calendar days after discovery of the unremedied adverse change.
- Liquidation of the titleable inventory securing the DFP line of credit will be required prior to making demand on SBA but the lender will not be required to liquidate all additional business personal property securing the line prior to making demand;
- Additional documentation, such as floor check reports, monthly manufacturer’s dealership financial statements and monthly reconciliations of the lender’s floor plan inspection reports with the dealer’s financials, will be required with any request for SBA to honor its guaranty. Delegated lenders also will be required to provide a copy of the lender’s credit memo with any guaranty purchase request;
- As part of the purchase review process, SBA will review the lender’s compliance with its existing floor plan financing policies and procedures, as well as its compliance with the DFP Federal Register Notice and the Procedural Guide. Also, if proceeds of the DFP line are used to replace a same institution debt floor plan line and the borrower defaults within 90 days of initial disbursement, SBA may deny liability on its guaranty of the DFP line; and
- As part of its ongoing lender oversight activities, SBA’s Office of Credit Risk Management (OCRM) will review, evaluate and approve the floor plan lending policies, procedures and practices of each lender participating in the DFP Pilot, as well as any reports the lenders provide to SBA.

Regulatory Waivers

Pursuant to the authority provided to SBA under 13 CFR 120.3 to suspend, waive or modify certain regulations in establishing and testing pilot loan initiatives for a limited period of time, SBA is waiving or modifying as appropriate the following regulations, which otherwise apply to 7(a) loans, for loans made under the DFP Pilot only:

- 13 CFR 120.221(b) (limit on the extraordinary servicing fee);
- 13 CFR 120, Subpart F (secondary market regulations);
- 13 CFR 120.520(a) (when a lender may make demand on SBA to honor its guaranty); and
- 13 CFR 120.524 (when SBA is released from liability on its guaranty).

A full discussion of the regulations being waived or modified can be found in the Notice published by SBA in the Federal Register on February 9, 2011 (76 FR 7098).

All other provisions of the Small Business Act applicable to the 7(a) loan program apply to the DFP Pilot. Unless waived or modified in the above noted Federal Register Notice, all regulations applicable to the 7(a) loan program apply to the DFP Pilot. All standard operating procedures applicable to the 7(a) loan program that are not superseded by any provision of the Federal Register Notice or the DFP Procedural Guide apply to loans made under the DFP Pilot.

Questions

Questions on the new DFP Pilot Program may be directed to the Lender Relations Specialist in the local SBA district office. The local SBA district office may be found at http://www.sba.gov/about-offices-list/2.

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Karen G. Mills
Administrator