

## What's new in this version?

### Version 2009.4, released July 8, 2009

This section highlights the major differences between version 2009.3 and version 2009.4 of the Boilerplate and Wizard. This listing can also be found during operation of the Wizard in the “What’s New” section of the 7a Wizard Help topics, which is available from the 7a Wizard menu.

Version 2009.4 changes reflect the new authorization provisions applicable to the Dealer Floor Plan Pilot Initiative (DFP).

### Loan Information Section

The SBA 7a Authorization Wizard Loan Information panel has been modified as follows:



The Wizard panel options above will permit the user to select 1) only the 501 Recovery Act option, 2) only the 502 Recovery Act option, 3) the 501 Recovery Act option and the DFP option, 4) the 501 and 502 Recovery Act options, or 5) only the DFP option. Paragraphs which are not relevant to the selected options are automatically hidden, and paragraphs relevant to the selected options are automatically added. **Caution:** Once DFP is selected and the Loan Information section, or other sections, is(are) completed, unchecking the DFP option will not remove all DFP options and can corrupt your document. If DFP must be removed, abandon the current authorization and begin a new authorization.

### General Loan Information Section

The first sentence of this section has been modified to reflect the selection made by the user on the above Wizard panel.

The sentence containing the new options reads:

"SBA approves, under Section 7(a) of the Small Business Act as amended [~~OPTION-~~, as well as Section(s) [~~SELECT-501, 502, or 501 and 502~~] of the American Recovery and Reinvestment Act of 2009,] [~~or DFP, or 501 and DFP only-~~ and the Dealer Floor Plan Pilot Initiative as published in the Federal Register on July 6, 2009 (74 FR 32006),] Lender's application, received [~~Date Accepted~~], for SBA to guarantee [~~Percent Guaranteed~~] % of a loan ("Loan") in the amount of \$[~~Loan Amount~~] to assist:"

### E. Contingencies, E.2. and E.6

Two additional options, both Option B, have been added for Dealer Floor Plan Pilot Initiative Loans as follows:

2. Having and complying with a valid SBA Loan Guarantee Agreement (SBA Form 750), any required supplemental guarantee agreements between Lender and SBA, and any Notices published in the Federal Register or issued directly by SBA which provide guidance on the Dealer Floor Plan Pilot Initiative;
  
6. Making initial disbursement of the Loan no later than [**number of months - default is 6**] months from the approval date of this Authorization, and making final disbursement in time for all repayments to be concluded by Loan maturity, unless either date is extended by proper SBA procedures;

### **F. Note Terms, F.1., F.2 and F.3**

Paragraph F.1. has been modified with the inclusion of "This is a revolving Loan." for DFP Loans. In addition, three additional paragraphs, F.2., F.3. and F.4., have been added specific to DFP Loans:

2. Lender will have no obligation to advance funds under this Note if Lender determines:
  - a. There is any default as defined in this Note;
  - b. There has been an unremedied adverse change in the financial condition, organization, management, operation, or assets of Borrower which would warrant withholding or not making any further disbursement;
  - c. Borrower has used Loan funds for unauthorized purposes; or
  - d. Borrower has not complied with Lender's conditions for disbursement or other agreements.
3. At no time may the outstanding balance exceed the amount of the Loan.
4. **Extraordinary Servicing Fee:**

Lender may charge additional extraordinary servicing fees provided that the fee charged is reasonable and prudent based on the level of extraordinary effort required to adequately service the floor plan line. In addition, if the Lender currently provides floor plan financing to its customers, the Lender may not charge higher fees for its SBA-guaranteed floor plan lines of credit than it charges for its similarly-sized, non-SBA guaranteed floor plan lines of credit. SBA's guarantee does not extend to extraordinary servicing fees and, at time of guarantee purchase, SBA will not pay any portion of such fees.

### **F.6, Repayment Terms**

The information box relating to Interest Rates and Peg Rate Rules has been modified by removing the sentence referring to the Peg Rate Rules. The following sentence has been deleted in its entirety:

13 CFR 120.214(c), Peg Rate Rules. Loans using the SBA's Optional Peg Rate cannot be sold in the secondary market.

An additional Payment Term Option has been added in the F. Note Terms section specifically for DFP Loans, as follows:

Borrower must pay interest on the disbursed principal balance every month beginning one month from the month [**SELECT (same as in F.1.)**—this Note is dated—**OR**—of initial disbursement on this Note]; monthly interest payments must be made on the [**SELECT**—\_\_\_\_ calendar day, first calendar day, second calendar day, etc., same day as the date of this Note, same day as the date of initial disbursement on this Note] in the month it is due.

Borrower must make additional payments as follows:

- a. Principal payments of at least the percentage of the sale proceeds equal to the percentage of the cost financed under the line must be made upon receipt of proceeds from the sale of inventory.
- b. **Curtailment:** The principal advance on each asset financed by this line must be reduced by [**Percent**] % for each full 30-day period it remains in inventory, as shown on inventory reports provided to the Lender before each disbursement, and at least monthly.

If the loan is a DFP Loan, the following paragraph is removed from the Authorization in its entirety:

"Lender must adjust the payment amount at least annually as needed to amortize principal over the remaining terms of the note."

In addition, the Loan Prepayment paragraphs and the Subsidy Recoupment Fee paragraphs will be removed in their entirety if the loan is a DFP Loan.

### **G. Use of Proceeds**

If the Loan is a DFP Loan, Use of Proceeds options 1-19 and 21 will not be available for selection. Two new options have been added to the Use of Proceeds list, Options 22 and 23. Option 20 is unchanged and may be used when the Loan is a DFP Loan. Use of Proceeds options 22 and 23 (new) will only be selectable on DFP Loans.

Option 22 reads as follows: (for no refinancing of any previous floor plan line)

22. Loan proceeds may only be used for the acquisition of titleable inventory for retail sales. Repayment of this line will occur as the acquired inventory is sold.

Option 23 reads as follows: (for refinancing previous floor plan line)

23. \$[**Amount**] to be used to refinance a floor plan line of credit with [**Lender's name**].

When Option 23 is used (once or more than once), the following paragraphs will appear:

Prior to initial disbursement, Lender must ensure that:

- a. Collateral for any Loan that is being refinanced is transferred to secure this Loan.
- b. Any outstanding receivable that would have been applied to pay down any refinanced loan will be applied to pay down this Loan in the same percentage.

Subsequent disbursements must be used for the acquisition of titleable inventory for retail sales. Repayment of this line will occur as the inventory acquired as a result of the act of refinancing or inventory acquired directly with the Loan proceeds is sold.

The existing paragraph for non-DFP Loans has been modified for DFP Loans by deleting the last two sentences, as follows:

From (for non-DFP Loans):

"All amounts listed above are approximate. Lender may not disburse Loan proceeds solely to pay the guarantee fee. Lender may disburse to Borrower, as working capital only, funds not spent for the listed purposes as long as those funds do not exceed 10% of the specific purpose authorized or \$10,000.00, whichever is less. An Eligible Passive Company may not receive working capital funds."

To (for DFP Loans only):

"All amounts listed above are approximate. Lender may not disburse Loan proceeds solely to pay the guarantee fee."

#### **H. Collateral Conditions (H.4, H.5, H.6, H.7)**

All existing Collateral Conditions are available for non-DFP Loans and DFP Loans. However, four new mandatory paragraphs for DFP Loans have been added as follows:

4. Collateral must include a first perfected security interest in all titleable inventory acquired with any portion of the proceeds from the SBA-guaranteed floor plan line of credit.
5. If the Borrower has more than one floor plan line then the inventory supported by each line is to be separately accounted for and the sale proceeds (or at least the percentage of the sale proceeds equal to the percentage of the cost financed under the line) of any inventory acquired with any portion of the floor plan line guaranteed by SBA must be used to reduce the balance on that line. In addition, if there are multiple floor plan lines with multiple floor plan creditors the borrower must have appropriate delineated inter-creditor agreements to enable proper security interest perfection. Lender must obtain and retain copies of the inter-creditor agreements in its loan file.
6. Title must be assigned to Lender for each vehicle for which a title is previously recorded.
7. A complete inventory of all vehicles, including the VIN, securing the line must be obtained prior to any disbursement, and at least monthly.

#### **I. Additional Conditions, Books, Records and Reports (I.11 (Certifications and Agreements)).**

##### **I.11.c.(2)(b) Books, Records, and Reports**

A new option for DFP Loans only (monthly financial statements for dealerships) has been added to the above section. The paragraph now reads:

"(b) Furnish [~~OPTION~~–compiled–~~OR~~–reviewed–~~OR~~–audited] year-end statements to Lender within [~~number of days, default is 120~~] days of fiscal year end [~~Option-DFP only~~–and monthly manufacturer's dealership financial statement (for dealers of new inventory) or monthly financial statements (for dealers of used inventory) no later than 7 days after the end of the previous month];"

All other aspects of the Authorization remain the same.

### ***More Information***

See **Appendix C** at the end of this document for a list of Frequently Asked Questions