

Small Business Borrower/Investee Certification for Use of Proceeds

These assurances reference Section 3005(e)(7) and Section 3011(c)(2) of the Small Business Jobs Act of 2010.

Legal name of borrower or investee: _____

The borrower or investee hereby certifies the following to the lender or investor:

_____ The loan or investment proceeds will be used for a “business purpose.” Business purpose includes, but is not limited to, start up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes: activities that relate to acquiring or holding passive investments, such as commercial real estate ownership and the purchase of securities; and lobbying activities, as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.

_____ The loan or investment proceeds will not be used to:

- a. repay a delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority; or
- b. repay taxes held in trust or escrow, e.g. payroll or sales taxes; or
- c. reimburse funds owed to any owner, including any equity injection or injection of capital for the business’ continuance; or
- d. to purchase any portion of the ownership interest of any owner of the business.

_____ The borrower or investee is not:

- a. an executive officer, director, or principal shareholder of the lender; or
- b. a member of the immediate family of an executive officer, director, or principal shareholder of the lenders; or
- c. a related interest of any such executive officer, director, principal shareholder, or member of the immediate family.

For the purposes of these three restrictions, the terms “executive officer”, “director”, “principal shareholder”, “immediate family”, and “related interest” refer to the same relationship to a lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

_____ The borrower or investee is not:

- a. a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business; or

- b. a business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company Community Development Financial Institutions; or
- c. a business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or
- d. a business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution); or
- e. a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.

_____ Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this Certification, Principal means the following:

- a. if a sole proprietorship, the proprietor;
- b. if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and
- c. if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity.

Legal Name: _____

By: _____

Authorized Signatory

Name: _____

Title: _____

Date: _____