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A Practical Guide to Aircraft Financing

This information has been prepared by Plane Data, Inc. to help you better understand what items are needed to protect your financial institution's position in aircraft financing.

Credit Worthiness: Lenders are quite adept in determining the borrower's credit worthiness. However, the purchasers of aircraft usually receive financing because they represent the most credit worthy customers to the bank. Consider the fact that the typical aircraft owner holds a technical/professional/managerial position, has a net worth in excess of \$100,000, owns a home with an average value of \$200,000, has an average household income of at least \$87,000 and owns a car - 60% own two or more cars. To most financial institutions, this would represent a very credit worthy individual.

Collateral Worthiness: It is surprising to know that some financial institutions have no idea how much their collateral is worth - in fact, some institutions have no idea if the aircraft even exists or what condition it may be in. **A thorough physical inspection and appraisal by a competent company is essential to aid in the evaluation process for collateral purposes.** The financial institution should obtain an inspection and appraisal prepared by professionals who know the factors that make up the current behavior of the used aircraft market. **The appraisal company should also be able to provide certified appraisal reports and a detailed inventory of aircraft equipment and systems and be completely impartial and unbiased to the deal itself.**

Aircraft Appraisal: The aircraft appraisal is a valuable tool. To the lender, the appraisal documents the value and the condition of the aircraft and supports the lenders collateral position in the aircraft loan. The professional aircraft appraiser must acquire all the facts about the aircraft in question and be able to attest that all the accessories that the financial institution intends to lend on actually exist in the aircraft. **A certified "Sealed Certificate of Appraisal" will assist the financial institution by supporting the loan portfolio for examination by the loan committee and/or bank examiner and by substantiating the nature and the value of the aircraft as it relates to collateral.**

Title Search: The key concern to a lending officer considering an application for a loan secured by a U.S. registered aircraft is the current title and lien status. **The information in the Aircraft Title Search will enable the loan officer to determine the present recorded ownership and lien status of the aircraft being financed.** Similar to a real property transaction, the identity of the current recorded owner and all competing claimants against the recorded title must be known before all documents necessary to perfect priority of the loan, can be drafted. Furthermore, a preliminary title search should be initiated to verify that the loan will achieve priority when recording all documents.

When refinancing an existing loan, an Aircraft Title Search should be ordered. This search will disclose the liens presently affecting the aircraft that must be discharged prior to any refinancing. Once the liens are determined, it would be best to request that the present lien holder forward their completed lien release documentation (FAA form 8050-41).

Title Insurance: The same principles common in real property are used to protect the position of both the owner and lender. **If there are any questions or concerns regarding the title, the lender should require the borrower to furnish an aircraft title insurance policy insuring the priority of the lender's security interest and the ownership of the borrower.** In the event of a defect in title, an intervening lien, or any mistake insured against by the policy, the company is required to perfect the title. Failing this, the company is required to pay the amount of its policy or any lesser amount required to clear the title.

The availability of aircraft title insurance also enables the lender to make a loan in situations where the title company elects to "write over" a cloud on the title.

Insurance Worthiness: The insurance for some reason is the most often overlooked protection for the lender. **The time to find out whether your collateral has sufficient coverage or that the insurer has not become a casualty in today's failing insurance companies is before any incident occurs.** If the financial security covered by the current insurance becomes in doubt, there is no reason that substitute, or additional, insurance cannot be acquired during the life of the loan. Be sure the insurance specifies "in flight" along with "ground" coverage or similar phraseology.

A periodic review of the insurance coverage is important to ascertain that a financially sound insurer still backs the insured security named on the insurance document you obtained. If financial stability becomes a problem during the life of the loan, the loan documents must have clear provisions in them to allow you, as the lender, to require a substitution of insurers, preferably at the borrower's expense. A failure to act by the borrower should also be described as one of the events of default.

Documentation: Aircraft loans are generally evidenced by a Promissory Note, secured by a Security Agreement or other security device approved by the lending institution. The aircraft must be completely described on the security instrument and original ink signatures are required on all documents.

Security Agreement: A repossessed aircraft without the aircraft and engine log books is simply not worth as much as it would be with the log books. **When creating your security interest in the aircraft, also create and describe a security interest in the aircraft's airframe and engine log books and attach the Certified Appraisal Analysis Inventory Sheet as an addendum in the "Description of collateral being mortgaged". The Certified Appraisal Report detailing the condition and contents of the aircraft along with its records is the most detailed description of the aircraft the bank will ever possess.** The inventory sheet gives descriptive proof of the equipment and accessories within the aircraft that relates to value and can be added protection for the lender in instances of default or foreclosure. Not specifying a security interest in the log books will leave the financial institution to convince a judge that the definition of "Aircraft" includes the log books. Most judges, unless knowledgeable about aviation, will not agree.

In situations where lenders are financing a propeller driven aircraft with engines of 750 horsepower (or greater) or jet aircraft with engines of 1800 pounds of thrust (or greater) each, separate liens should be filed on the engines and propeller by make, model, and serial number. Including this data on the standard security agreement will establish an enforceable lien on the engines and propellers so described, separate from the airframe.

There is also no substitute for periodic personal inspections of the collateral, the log books, other maintenance records or the general operations of the borrower. Make sure the loan documents state an allowance for liberal inspections with or without notice.

The financial institution should also make provisions in the loan documentation that requires continual maintenance of adequate insurance and "Airworthiness" throughout the life of the loan.

Aircraft loans generated from dealers should bear the dealer's signature on the Assignment with Recourse, duly notarized. If the names appearing on the Application for Registration as applicant(s), on the Bill of Sale as purchaser(s) and on the Security Agreement as debtor(s) are not exactly the same and all signatures are not in ink, the transaction will be rejected in whole or in part by the FAA.

In general, the following documents should be completed

- Aircraft Bill of Sale, FAA Form 8050-2
- Aircraft Registration Applications, FAA Form 8050-1
- Lender's Security Agreement

In the event that there is a previous Security Agreement filed against the aircraft, it will be necessary to obtain from the prior lender a Release, FAA form 8050-41 and file it, in order that priority of the new encumbrance may be achieved.

Repossessions: At such time as there is a default on the loan secured by an aircraft, an immediate right to repossess accrues to the lender. Repossessions may be affected either by making arrangements to fly the aircraft away or in many instances, by simply chaining the aircraft down.

Once the physical repossession is accomplished, the lender may then opt to sell the aircraft to realize the balance due on its loan. The procedures for sale must meet the criteria for a "commercially reasonable sale" as defined by the courts.

Some repossessions may involve fraud on the part of the borrower. It is not uncommon during a repossession to find that avionics have been removed and sold or that log books are no longer available. The result of these actions can mean that the financial institution cannot realize the full value of the sale - and in some cases may mean that the institution takes a significant loss on the sale. The Certified Aircraft Appraisal can assist the financial institution legally by providing the necessary detailed documentation of the aircraft and its systems that would be required for any successful legal action against the borrower.

Summary: The comments and suggestions in this document should trigger several questions and a review of your business operations and the documentation currently being used. This document is not exhaustive but should assist in better protecting your position in aircraft financing.

Plane Data, Inc. has been helping banks and financial institutions all over the United States with their aircraft financing needs since 1992. The President, Mike Simmons, is an NAAA (National Aircraft Appraisers Association) Senior Appraiser and has been involved in hundreds of aircraft transactions over a wide variety of aircraft including Business Jets and Helicopters.

Plane Data, Inc. can assist in making your financial institution's aircraft financing virtually risk free and capturing a larger share of the aircraft financing market. Plane Data, Inc. can perform or assist in providing the following services:

- Market Analysis of Aircraft
- Title Searches
- Assistance in Clearing Clouded Titles
- Certified Aircraft Appraisal
- Filing Documents with the FAA

Call Plane Data, Inc. at (800) 895-1382 for more information about the products and services you need to be more successful in aircraft financing.