



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

October 8, 1986

Office of General Counsel

GC/HMU:sg
4680

John M. Cholakis, Esq.
General Counsel and Vice President of Legal
Information Services
New York State Credit Union League, Inc.
Box 15021
Albany, NY 12212

Dear Mr. Cholakis:

This is in response to your letter of June 16, 1986, concerning Section 701.20(g) of the NCUA Rules and Regulations (12 C.F.R. §701.20(g)). Section 701.20(g) requires that "any proposal for reduced [fidelity bond] coverage must be approved in writing by the NCUA Board at least twenty days in advance of the proposed effective date of the reduction." You asked for clarification as to when the approval of the Board is required.

Approval by the NCUA Board (or its delegate) pursuant to Section 701.20(g) applies in three circumstances:

- (1) If a credit union desires to reduce the minimum coverage required (set forth in the table) in subsection 701.20(d) of the regulation.
- (2) If a credit union is required by Section 701.20(e) (cash on hand or cash in transit) to increase its minimum coverage and seeks a reduction from the required increase in coverage. (However, if a credit union has obtained increased coverage as required by Section 701.20(e) of the regulation, and the factors requiring the increased coverage no longer exist, it may reduce such coverage, without NCUA Board approval).
- (3) If a credit union has obtained additional coverage as required by the NCUA Board (or its delegate) pursuant to Section 701.20(i).

FOIA file. Vol III, B, 5 - Section Bond Reg

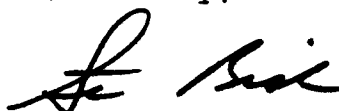
John M. Cholakis, Esq.

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For your information, the copy of Section 701.20 of the NCUA Rules and Regulations enclosed with your letter is outdated. Section 701.20 was amended in 1984. The amended regulation appears in the February 1985 edition of the NCUA Rules and Regulations.

I hope that we have been of assistance.

Sincerely,



STEVEN R. BISKER
Assistant General Counsel

HMU:sg

§ 701.13 Financial and statistical and other reports.

(a) Each operating Federal credit union shall file with the National Credit Union Administration on or before January 31 and on or before July 31 of each year a semi-annual Financial and Statistical report on Form NCUA 5300 or the current revised Forms FCU 109 (a, b, c) (with Supplement), as instructed, as of the previous December 31 and June 30. These Forms are furnished to all Federal credit unions by the Administration, and copies may be obtained from any Regional Office.

(b) When it is deemed necessary or desirable and upon written notice from the Board or Regional Director, Federal credit unions shall file, in accordance with instructions contained in such notice as to time and place, such financial or other reports as of such date or dates as shall be prescribed in such notice.

Sec. 106, 92 Stat. 3683 (12 U.S.C. 1756), sec. 202(a)(1), (2), 92 Stat. 3681, 3682 (12 U.S.C. 1782(a)(1), (2)), sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

46 FR 21988, Apr. 15, 1981]

§ 701.14—701.18 [Reserved]

§ 701.19 Retirement benefits for employees of Federal credit unions.

(a) A Federal credit union may make provision for reasonable retirement benefits for its employees and for officers who are compensated in conformance with the Act and the bylaws, either individually or collectively with other credit unions. In those cases where a Federal credit union is to be a plan trustee or custodian, the plan must be an individual retirement account maintained in accordance with the provisions of Part 724. Where the trustee or custodian is to a party other than the Federal credit union, the employee benefit plan must be maintained in accordance with the applicable laws governing employee benefit plans and such rules and regulations as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other Federal or state authority exercising jurisdiction over such plans.

(b) No Federal credit union shall occupy the position of a fiduciary, as defined in the Employee Retirement Income Security Act of 1974 and rules and regulations promulgated thereunder by the Secretary of Labor, unless provision has been made for appropriate liability insurance as provided under section 410(b) of the Employee Retirement Income Security Act of 1974.

(40 FR 25582, June 17, 1975, as amended at 48 FR 55423, Dec. 13, 1983)

§ 701.20 Fidelity bond and insurance coverage for Federal credit unions.

(a) *Scope.* This part provides the requirements for fidelity bonds for Federal credit union employees and officials and for general insurance coverage for losses caused by persons outside of the credit union (protection for losses due to theft, holdup, vandalism, etc.).

(b) *Review of coverage.* The board of directors of each Federal credit union shall, at least annually, carefully review the bond and insurance coverage in force in order to ascertain its adequacy in relation to risk exposure and to the minimum requirements fixed from time to time by the NCUA Board.

(c) *Minimum coverage; approved forms.* Every Federal credit union will maintain bond and insurance coverage with a company approved by the NCUA Board. Credit Union Blanket Bond Standard Form No. 23 of the Surety Association of America plus Faithful Performance Rider (revised to May 1950) is considered the minimum coverage required and is approved. Credit Union Blanket Bond Forms 576, 577, 578, 579, 580 and 581 are also approved. Any other form must receive the prior written approval of the NCUA Board. The above approved bond forms provide faithful performance coverage for all employees and officials. Federal credit unions have the option of only providing faithful performance of trust coverage for the financial officer elected by the board of directors. The financial officer is the individual charged with the responsibilities of the financial officer set forth in Article VIII, Section 5 of

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the Federal Credit Union Bylaws. Fidelity bonds must provide coverage for the fraud and dishonesty of all employees, directors, officers, and supervisory and credit committee members.

(d) *Minimum coverage amounts.* The minimum amount of bond coverage required will be computed based on the Federal credit union's total assets. The following table lists the minimum requirements:

Assets	Minimum bond
\$0 to \$10,000.....	Coverage equal to the credit union's assets.
\$10,001 to \$1,000,000.	\$10,000 for each \$100,000 or fraction thereof.
\$1,000,001 to \$50,000,000.	\$100,000 plus \$50,000 for each million or fraction thereof over \$1,000,000.
\$50,000,001 to \$295,000,000.	\$2,550,000 plus \$10,000 for each million or fraction thereof over \$50,000,000.
Over \$295,000,000.....	\$5,000,000.

It is the duty of the board of directors of each Federal credit union to provide adequate protection to meet its unique circumstances by obtaining, when necessary, bond and insurance coverage in excess of the above minimums.

(e) *Increased coverage, cash on hand or in transit.* When either of the following amounts exceed a Federal credit union's minimum coverage limits as specified in paragraph (d) of this regulation, the minimum coverage limits for that Federal credit union will be increased to be equal to the greater of the following amounts within thirty days of the discovery of the need for such increase:

(1) The aggregate amount of the daily cash fund (change fund plus maximum anticipated daily money receipts) and food stamps (if any), on the Federal credit union's premises, or

(2) The aggregate amount of the Federal credit union's money and food stamps (if any) placed in transit in any one individual shipment.

For purposes of this section, the term "money" shall include currency, coin, banknotes, Federal Reserve notes, revenue stamps and postage stamps.

(f) *Increased cash coverage; exception.* Paragraph (e) notwithstanding, the increase in coverage will be required where a Federal credit union

temporarily increases its cash fund because of an extraordinary event which reasonably cannot be expected to recur.

(g) *Reduced coverage; NCUA approval.* Any proposal for reduced coverage must be approved in writing by the NCUA Board at least twenty days in advance of the proposed effective date of the reduction.

(h) *Deductibles.* (1) The maximum amount of deductibles allowed are based on the Federal credit union's total assets. The following table sets out the maximum deductibles:

Assets	Maximum deductibles
0-\$100,000.....	No deductibles allowed.
\$100,001-\$250,000.....	\$1,000.
\$250,001-\$1,000,000.....	\$2,000.
Over \$1,000,001.....	\$2,000 plus 1/1000 of total assets up to a maximum deductible of \$200,000.

(2) A deductible may be applied separately to one or more insuring clauses in a blanket bond. Deductibles in excess of those shown in this section must have the written approval of the NCUA Board at least twenty days prior to the effective date of such deductibles.

(3) No deductible will exceed ten percent of a Federal credit union's Regular Reserve unless the credit union creates a segregated Contingency Reserve for the amount of the excess. Valuation allowance accounts, e.g., allowance for loan losses, may not be considered part of the Regular Reserve when determining the maximum deductible.

(i) *Additional coverage.* The NCUA Board may require additional coverage for any Federal credit union when, in the opinion of the Board, current coverage is insufficient. The board of directors of the Federal credit union must obtain additional coverage within thirty days after the date of written notice from the NCUA Board.

(12 U.S.C. 1761a, 1761b, 1766 (a) and (h), 1789(a)(1))

[49 FR 30681, Aug. 1, 1984]

§701.13 Financial and Statistical and other reports

(a) Each operating Federal credit union shall file with the National Credit Union Administration on or before January 31 and on or before July 31 of each year a semi-annual Financial and Statistical report on Form NCUA 5300 or the current revised Forms FCU 109 (a, b, c) (with Supplement), as instructed, as of the previous December 31 and June 30. These Forms are furnished to all Federal credit unions by the Administration, and copies may be obtained from any Regional Office.

(b) When it is deemed necessary or desirable and upon written notice from the Board or Regional Director, Federal credit unions shall file, in accordance with instructions contained in such notice as to time and place, such financial or other reports as of such date or dates as shall be prescribed in such notice.

§701.14 Deleted May 1982

§701.15 Deleted June 1979

§701.16 Deleted December 1981

§701.17 Deleted December 1981

§701.18 Deleted December 1981

§701.19 Retirement Benefits for Employees of Federal Credit Unions.

(a) A Federal credit union may make provision for reasonable retirement benefits for its employees and for officers who are compensated in conformance with the Act and the bylaws, either individually or collectively with other credit unions. In those cases where a Federal credit union is to be a plan trustee or custodian, the plan must be an individual retirement account maintained in accordance with the provisions of §721.4. Where the trustee or custodian is a party other than the Federal credit union, the employee benefit plan must be maintained in accordance with the applicable laws governing employee benefit plans and such rules and regulations as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other Federal or state authority exercising jurisdiction over such plans.

(b) No Federal credit union shall occupy the position of a fiduciary, as defined in the Employee Retirement Income Security Act of 1974 and rules and regulations promulgated thereunder by the Secretary of Labor, unless provision has been made for appropriate liability insurance as provided under section 410(b) of the Employee Retirement Income Security Act of 1974.

§701.20 Surety bond and insurance coverage for Federal credit unions.

(a) The board of directors of each Federal credit union shall, at least semi-annually, carefully review the bond and insurance coverage in force in order to ascertain its adequacy in relation to the exposure and to the minimum requirements fixed from time to time by the Board.

(b) All surety bonds must provide faithful performance-of-duty coverage for any officer or employee while performing any of the duties by the treasurer as prescribed in the Act, the Bylaws, or Rules and Regulations of the Administration.