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 holding a certificate of authority from the Secretary of the Treasury. Credit Union Blanket Bond Standard Form No. 23 of the Surety Association of America (revised to May, 1950) is considered the minimum coverage required and is approved. Credit Union Blanket Bond Forms 581 and 582 are also approved. Any other basic bond forms, and all riders and endorsements which limit the coverage provided by approved bond forms, must receive the prior written approval of the NCUA Board. Fidelity bonds must provide coverage for the fraud or dishonesty of all employees, directors, officers, and supervisory and credit committeee members. Notwithstanding the foregoing, effective January 1, 1990, all bonds must include a provision, in a form approved by the NCUA Board, requiring written notification by surety to the Board:

(1) When the bond of a credit union is terminated in its entirety; or

(2) When bond coverage is terminated, by issuance of a written notice, on an employee, director, officer, supervisory or credit committee member.

Said notification shall be sent to the Secretary of the NCUA Board or designee and shall include a brief statement of cause for termination.

(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, no 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.

[49 FR 30681, Aug. 1, 1984, as amended at 54 FR 18470, May 1, 1989]

§ 701.21 Loans to members and lines of credit to members.

(a) *Statement of scope and purpose.* Section 701.21 complements the provisions of section 107(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) authorizing Federal credit unions to make loans to members and issue lines of credit (including credit cards) to members. Section 107(5) of the Act contains limitations on matters such as loan maturity, rate of interest, security, and prepayment penalties. Section 701.21 interprets and implements those provisions. In addition, § 701.21 states the NCUA Board's intent concerning preemption of state laws, and expands the authority of Federal credit unions to enforce due-on-sale clauses in real property loans. Also, while § 701.21 generally applies to Federal credit unions only, its provisions may be used by state-chartered credit unions with respect to alternative mortgage transactions in accordance with 12 U.S.C. 3801 *et seq.*, and certain provisions apply to loans made by federally insured state-chartered credit unions as specified in § 741.203 of this chapter. Part 722 of this chapter sets forth requirements for appraisals for certain real estate secured loans made under § 701.21 and any other applicable lending authority. Finally, it is noted that § 701.21 does not apply to loans by Federal credit unions to other credit unions (although certain statutory limitations in section 107 of the Act apply), nor to loans to credit union organizations which are governed by section 107(5)(D) of the Act and § 701.27 of this part.

(b) *Relation to other laws*—(1) *Preemption of state laws.* Section 701.21 is promulgated pursuant to the NCUA's Board's exclusive authority as set forth in section 107(5) of the Federal Credit Union Act (12 U.S.C 1757(5)) to regulate the rates, terms of repayment and other conditions of Federal credit union loans and lines of credit (including credit cards) to members. This exercise of the Board's authority preempts any state law purporting to limit or affect:

(i)(A) Rates of interest and amounts of finance charges, including:

(*1*) The frequency or the increments by which a variable interest rate may be changed;

(*2*) The index to which a variable interest rate may be tied;