

§ 701.38

12 CFR Ch. VII (1–1–23 Edition)

Treasury General Account, and a U.S. Treasury Time Deposit—Open Account shall be considered deposits of public funds. Funds held in a TT&L Remittance Account and a TT&L Note Account shall be added together and insured up to a maximum of \$250,000 in the aggregate. Funds held in a Treasury General Account and a U.S. Treasury Time Deposit—Open Account shall be added together and insured up to a maximum of \$250,000 in the aggregate.

(d) Funds held in a TT&L Remittance Account, a TT&L Note Account, a Treasury General Account, and U.S. Treasury Time Deposit—Open Account are not subject to the 60-day notice requirement of Article III, section 5(a) of the Federal Credit Union Bylaws.

[54 FR 18471, May 1, 1989, as amended at 78 FR 4030, Jan. 18, 2013]

§ 701.38 Borrowed funds.

(a) Federal credit unions may borrow funds from any source; provided that:

(1) The borrowing is evidenced by a written contract, such as a signed promissory note, that sets forth the terms and conditions including, at a minimum, maturity, prepayment, interest rate, method of computation of interest, and method of payment; and

(2) The written contract and any solicitation with respect to such borrowing contain clear and conspicuous language indicating that:

(i) The funds represent money borrowed by the Federal credit union; and

(ii) The funds do not represent shares and, therefore, are not insured by the National Credit Union Administration.

(b) A Federal credit union is subject to the maximum borrowing authority of an aggregate amount not exceeding 50 percent of its paid-in and unimpaired capital and surplus. Provided that any Federal credit union may discount with or sell to any Federal intermediate credit bank any eligible obligations up to the amount of its paid-in and unimpaired capital (12 U.S.C. 1757(9)).

[86 FR 11072, Feb. 23, 2021]

§ 701.39 Statutory lien.

(a) *Definitions.* Within this section, each of the following terms has the meaning prescribed below:

(1) *Except as otherwise provided by law or except as otherwise provided by federal law* is a qualifying phrase referring to a federal and/or state law, as the case may be, which supersedes a requirement of this section. It is the responsibility of the credit union to ascertain whether such statutory or case law exists and is applicable;

(2) *Impress* means to attach to a member's account and is the act which makes the lien enforceable against that account;

(3) *Member* means any member who is primarily, secondarily or otherwise responsible for an outstanding financial obligation to the credit union, including without limitation an obligor, maker, co-maker, guarantor, co-signer, endorser, surety or accommodation party;

(4) *Notice* means written notice to a member disclosing, in plain language, that the credit union has the right to impress and enforce a statutory lien against the member's shares and dividends in the event of failure to satisfy a financial obligation, and may enforce the right without further notice to the member. Such notice must be given at the time, or at any time before, the member incurs the financial obligation;

(5) *Statutory lien* means the right granted by section 107(11) of the Federal Credit Union Act, 12 U.S.C. 1757(11), to a federal credit union to establish a right in or claim to a member's shares and dividends equal to the amount of that member's outstanding financial obligation to the credit union, as that amount varies from time to time.

(b) *Superior claim.* Except as otherwise provided by law, a statutory lien gives the federal credit union priority over other creditors when claims are asserted against a member's account(s).

(c) *Impressing a statutory lien.* Except as otherwise provided by federal law, a credit union can impress a statutory lien on a member's account(s)—

(1) *Account records.* By giving notice thereof in the member's account agreement(s) or other account opening documentation; or

(2) *Loan documents.* In the case of a loan, by giving notice thereof in a loan