SECURING FOUNDATION FOR CREDIT UNION STRENGTH THE ASIAN CREDIT UNION/COOPERATIVE

REGULATORS ALLIANCE (ACCRA) September 07, 2012 By DR. EMMANUEL M. SANTIAGUEL

Chairman, Cooperative Development Authority Republic of the Philippines

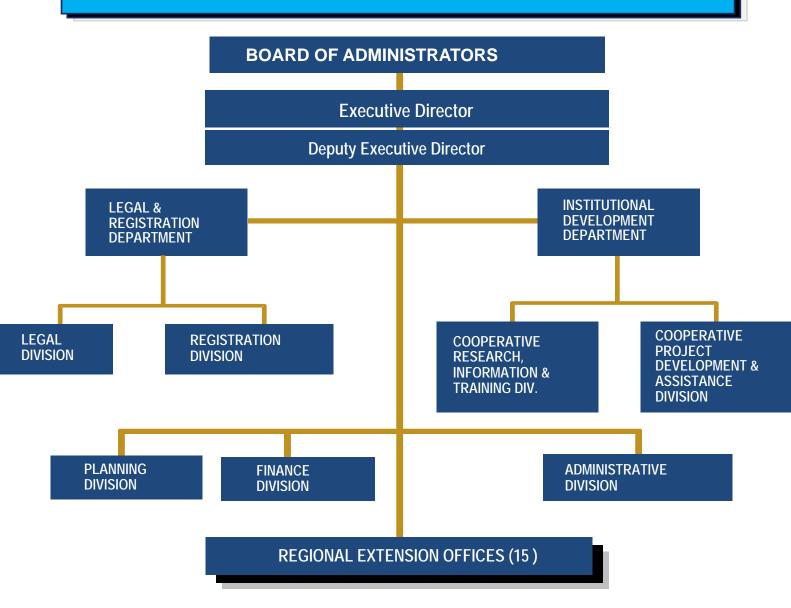
I. BRIEF BACKGROUND

The Cooperative Development Authority (CDA) was created by virtue of Republic Act 6939 as derivative of the provision of Article 15 Section VIII of the Philippine Constitution. It was created under the Office of the President to promote cooperatives as an engine of growth and uplifting the socioeconomic conditions of the Filipinos through social justice and people empowerment. However, due to the registering power of the CDA, it was administratively transferred to the Department of Finance as its mother agency by virtue of Executive Order No. 332 issued by the previous President.

Generally, the main CDA power focuses on regulatory and developmental aspect. The primary inherent power of CDA is to register, mandate the submission of reports from cooperatives, and to some extent perform a quasi-judicial functions as required by Republic Act No. 9520, otherwise known as the Philippine Cooperative Code of 2008. The second on the other hand is the function of the Authority to create conducive environment for growth and development through provision of technical assistance, project and standard development, among others.

CDA as a government agency has ostensible expectation to reach the end-goal of making cooperatives an efficient and effective business organization attending to the social and economic needs of members. It has the responsibility of making cooperatives' safe and sound to protect the interest and welfare of members, and the public in general.

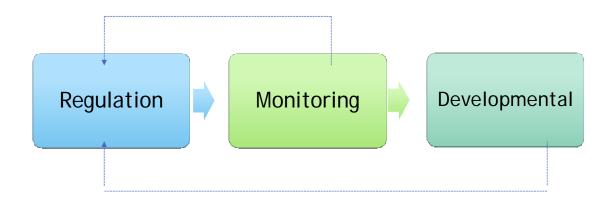
CDA ORGANIZATIONAL STRUCTURE



<u>CDA Vision</u> "An efficient and effective regulatory agency working towards the development of a viable, sustainable, socially responsive and globally competitive cooperatives."

<u>Mission</u> "Ensure the safe and sound operation of cooperatives". **Core Values: ExCITe** "Excellence, Competence, Integrity and Teamwork

II. REGULATION FRAMEWORK



Consultative efforts with primary cooperatives, government and non-government organizations and other stakeholders are given due consideration prior and during the post-implementation of the guidelines and circulars issued by the Authority. The completed staff work submitted by key officials of CDA (both the Central Office and the Extension Offices), in order to effectively implement its mission, are also used as inputs by the BOA prior the formulation of policy.

Basically, regulation is undertaken to a) implement the provision of laws, rules and regulations; b) enhance fairness, accountability, competence, integrity and transparency among cooperatives; c) provide model framework for adoption and implementation of cooperatives; d) formulate standards as regulatory tool for CDA and management tool for cooperatives; and e) adopt best and proven practices for reference and guidance of cooperatives.

These regulations are all anchored and guided by RA 9520, and collaborative with other Government agencies, to ensure the safe and sound operation of cooperatives in order to protect the interest of members and the public in general, particularly:

- 1. Chapter XII Cooperative Banks
- 2. Chapter XV Credit Cooperatives
- 3. Chapter XVI Financial Service Cooperatives
- 4. Rules and Regulations Implementing Certain Provisions of The Philippine Cooperative Code of 2008 (RA 9520): Rule 12 Financial Service Cooperatives
- 5. Bangko Sentral ng Pilipinas Circular No. 682 Rules and Regulations for Cooperative Banks
- 6. Bureau of Local Government Finance (BLGF) Memorandum Circular No. 31-2009 Exemption of Cooperatives from payment of Local Taxes, Fees, and Charges
- 7. Joint Rules and Regulations Implementing Articles 60, 61 and 144 of Republic Act 9520 in Relation to RA No. 8424 or the National Internal Revenue Code as amended

To appraise the effectiveness of regulation, the Authority monitored the cooperative compliance in every circular issued. The Authority gathers information to determine why cooperatives failed to comply with the regulations and the causes significantly affecting their non-compliance. Factors within the control of the Authority are carefully studied and considered to polish the policies issued.

Findings in monitoring are also considered in the developmental undertakings of the Authority. Strategies utilized are partnerships, networks, and linkages to address issues and concerns conflagrating the sector. Coordinative efforts to policy makers in terms of lenient interpretation of provisions of law are also carried out in helping cooperatives. These were all undertaken to create an environment conducive to the development of cooperatives.

The results of regulations made by the Authority through the monitoring conducted are being considered for the developmental programs of the Authority. Focuses are either in a form of provision of technical assistance or partnership to assist cooperatives complies with the regulations. International tie-ups, through attendance to international regulators conferences to learn best practices that had been proven effective to other countries, are also consented when the opportunity warranted.

III. CDA INITIATIVES

A. National and Local Taxation

The intent of RA 9520 in requiring every cooperative a Certificate of Tax Exemption is to protect this entity from the wrongdoings of government, individuals and other entities exploiting cooperatives as haven of tax-It is also one way of streamlining the sector to the business environment away from the underground economy where cooperatives are allegedly ensued. However, despite of the clear provision of the "Joint Rules and Regulations Implementing Article 60 and 61 of RA 9520", as inked by both the CDA and BIR, things did not go as smoothly as it should be. Most of the cooperatives are required by the Revenue District Offices of BIR to submit requirements not within the purview of the signed Implementing Rules and Regulations (IRR). The government in-charge in the collection of national revenues requires cooperatives to submit the cooperative's list of members and their corresponding Tax identification Number (TIN) and paidup capital, and other documentary requirements. The non-submission by cooperatives of these requirements impedes the release of the certificate of tax exemption from the BIR and is currently confronted of being taxed and assessed.

In order to address the problem and level-off with the BIR, the Authority requested the assistance of the members of the "Joint Congressional Oversight Committee on Cooperative (JCOCC)". In response

to the request, the JCOCC scheduled consultations all over the Philippines and spearheaded the conduct of forum where BIR and CDA acted as participants and resource persons. In all forums, it was made clear that BIR should adhere to what is being required by the IRR. Should same problem occurs, the members of the Committee enjoins affected cooperatives to file their complaint to their office so that a "class suit" will be initiated by the Committee against the BIR personnel who circumvent RA 9520 and its Implementing Rules and Regulations.

B. Re-aligning the Functions of the Cooperative Development Council.

It can be gleamed from E.O. 95 that the mandate and responsibilities of the Cooperative Development Council focused in two facets. One is essentially coordinating and harmonizing the implementation of various cooperative development plans, programs and projects. The other is operationalizing and monitoring the Cooperative Medium Term Development Plans (CMTDP). However, observations on the undertakings of council unveiled that it had somewhat competes and supplants the functions of federations and/or union and the Local Government Units. A careful study was made by the Authority on the matter and the BOA concurred that it is incumbent upon the Authority to make a clarificatory issuance, thus, the naissance of MC 2011-02, also known as the "Simplified Policy and Rationalized Guidelines in the Organization and Structure of CDCs". The memorandum is clear that CDC, of whatever level and category, shall not engage in educational undertakings for the sector nor act as training provider, but rather confined itself to the functions required by EO 95.

C. Strengthening the Partnership with Local Government Units (LGUs).

It can never be denied that the Authority cannot perform all rightful demands of the sector due to limited number of personnel. To date, the ratio of CDA employees against the number of cooperatives registered under the new Code is 1:75 or 1:100 if equated to the number of field personnel incharge in the promotion and development of cooperatives at the grassroots' level. The disparity made it difficult for the agency to reach every single cooperative and address the problems besetting their organization.

Above premise induced CDA to recognize the importance of Local Government Units in cooperative development, With the manpower complement of LGU, the Authority can multiply itself in mobilizing vast number of cooperatives in its regulatory and developmental undertakings.

This is the very reason why Extension Offices of CDA are instructed to enter into a Memorandum of Agreement (MOA) with LGUs in its undertakings; why LGUs are included among the prospective training provider because it has an identical goal in mind with CDA.... assisting its constituents through cooperativism.

D. Partnership with Government Agencies.

CDA is one of the gamut government organizations considering cooperatives as vehicle of uplifting the lives of Filipinos. To harmonize and maximize the CDA resources, it initiated partnership with some government agencies. These partnerships include:

- a. With the Department of Agriculture (DA): Farmers organizations, like cooperatives, are also partners of DA in implementing its plans and programs on supply-value-chain. Collaborative effort to be linked by both CDA and DA is the "On-Line Marketing Hub". It has the vision of providing a 24-hour assistance to cooperatives on marketing, advertising and promoting its products and services with the help of technology as means of delivering such service;
- b. With the Department of Agrarian Reform (DAR): The importance of Agrarian Reform Cooperatives in achieving the DAR's vision of land to the landless and sustainable support services to its beneficiaries is the core support to be given by cooperatives. Backed by a multibillion funds it tied-up with CDA to deliver the most needed support services of cooperatives....capacity building, promotion, advertisement, marketing assistance, amongst others. Soon enough the two (2) government agencies will ink a Memorandum of Agreement to jointly implement the "Capacity Development Program for Agrarian Reform Beneficiaries".
- c. With Bangko Sentral ng Pilipinas (BSP): Integrating cooperative banks to sustainably meet the demands of the banking sector are the focus of the partnership. It tied-up with CDA to revise the model articles of cooperation and bylaws to attune with RA 9520 and the circulars issued by BSP. More so, work gears on the amalgamation, merger and consolidation of cooperative banks to further strengthen its organization and compete with the demands of the market. BSP also worked with CDA to ensure compliance of cooperatives to the Truth in Lending Act.
- d. With the Government Financing Institutions (GFIs): GFIs are also called upon by the CDA to join the agency in implementing the provision of the law in providing a blanket loan at an interest rate not higher than low-cost housing among registered and capable housing cooperatives. Through a series of meetings, the primary cooperatives and the cooperatives banks are consulted on the matter and crafted the guidelines for consideration of the GFIs. GFIs appreciated the effort and currently considering the guidelines drafted by the sector. Soon enough a policy will be released for approval and implementation of the latter.

e. With Office of Transport Cooperatives – Department of Transportation and Communication (OTC-DOTC): To help in capacitating transport cooperatives, both government agencies joined hands in creating the Joint Monitoring Committee for Transport Cooperatives. Apart, from settling disputes between and among cooperatives, other programs of the Authority and OTC dwelled to maximizing both resources by complementing its plans and programs.

E. Performance and Social Audit

Article 53 of R.A. 9520 and Rule 8 of its Implementing Rules and Regulations mandates cooperatives to draw up regular reports of its program of activities, including those in pursuance of their socio-civic undertakings, showing their progress and achievements at the end of every fiscal year. These include the submission of Performance Audit Report and the Social Audit Report. By 2013, the Authority will mandate the full implementation of the provision of this law. Thus, in consultation with the stakeholders, it draws up a friendly tool that will assert the level of accomplishments of cooperatives. Both instruments were subjected to pilot testing to measure its effectiveness. And recently, the BOA approved the nationwide consultation for information and dissemination with the sector. Both tools are not just for compliance of what is mandated by law. It is also envisioned as management tool to assess the level performance of cooperatives for their look-out and consideration.

F. Manual of Rules and Regulations

In the year 2008, the CDA through the collaborative efforts of its mother agency, other government agencies, and the federations and unions of cooperatives, drafted a compendium that aim to address the following issues conflagrating the cooperative sector, to wit: a) poor governance and management; b) entrenched leadership and untrained employees; c) not competitive products and services; d) absence of internal controls; e) stagnant membership base and market ignorance; and f) lack of prudential rules and regulations. It is envisioned that the manual is necessary to ensure the safety and soundness of the institution and to improve and strengthen their operations and compliance to these rules and regulations. However, before it was implemented, a cooperative who will be affected by the manual challenged the CDA in court. As a consequence of the case filed, the court issued a Temporary Restraining Order (TRO) until it weighs the effect it may construe to cooperatives. Nonetheless, sometime in February 2012, the court dismissed the case on the ground that it is already moot and academic with the enactment of RA 9520.

It was ruled that the petition of said cooperative is already unnecessary because some of the provisions of the manual are already embedded in the Code. Right now, the Manual of Rules and Regulations is now under review and being capsulized to give more emphasis and reiterate best practices and standards indicated in the manual for cooperatives reference and guidance and soon will be issued in the form of Memorandum Circulars under the following Special Provision Titles:

- a. Article 3 Qualification and Disqualification of BODs and Key Management Officers
- Article 4 Compensation of Directors and Committee
 Members and the Minimum Content of Code of Ethics and Governance
- c. Article 6 All provisions in Capitalization except the Actions Required for Critically Undercapitalized and the Proceedings on Receivership and Liquidation;
- d. Article 7 All provisions on Deposit and Borrowing Operations;
- e. Article 8 All provisions of Loans and Investment except the "Truth in Lending Act" Disclosure Requirements;
- f. Article 9 All provisions of Internal Control; and
- g. Article 11 All provisions except Branching of SCCs. The provision of Supervision and Examination will be revised to include and harmonized the Inspection function of CDA.

G. Truth in Lending Act

The Truth in Lending Act was enacted into law last October 31, 2008 to establish a comprehensive and centralized information system for the collection and dissemination of fair and accurate information relevant to, or arising from, credit and credit-related activities on all entities participating in the financial system. This is intended to address the need for reliable credit information concerning the credit standing and track record of borrowers. And cooperatives, being engaged and participating in credit activities are covered by this law. The CDA, as government agency in charged in the promotion and development of cooperatives will take the cudgel of disseminating the information needed by law for cooperatives to be compliant. CDA issued Memorandum Circular No. 2012 – 05 – Rules Implementing the Truth in Lending Act to inform cooperatives of their obligations under the law.

H. Participation in the Formulation of Laws on Credit Surety Fund

The CDA has continuously worked with the Congressmen in the formulation of laws on Credit Surety Fund to strengthen the participation and access of cooperatives in the services of the Government Financing Institutions (GFIs) in the absence of facilities that will back-up their loans. The Credit Surety Fund is envisioned to be a trilateral organization composes of cooperatives, LGUs, banks, individuals and private organizations to be registered with CDA but under the supervision of the Bangko Sentral ng Pilipinas (BSP). It aimed to pool funds of participating entities with the goal of backing-up the loan, or serve as collateral, once a member of the same entity access the credit facility of funds. With a self-built in internal control systems and procedures, embedding the best known

practices in insurance and lending, the law intends to support the program as initiated and supported by BSP.

I. <u>Self-Regulation/Deputation of Cooperatives</u>

CDA issued Memorandum Circular No. 2011–23 – Guidelines for the Deputation of Federations as Supervisors of the Financial Service Cooperatives (FSC) and Cooperatives with Savings and Credit Services (SCS) to address one of the problems that beset cooperatives.

This guideline aims to institutionalize the conduct of supervision and examination of cooperatives to ensure its safe and sound operations. In so doing, the Circular recognizes the principle of subsidiarity as stated in Article 2, R.A. 9520, under which the cooperative sector will initiate and regulate within its own ranks the promotion and organization, training and research, audit and support services relating to cooperatives with government assistance when necessary.

Conclusion:

Much is still to be accomplished and to be done before the cooperative movement in the Philippines reach its full potential, but we can positively declare that Cooperative Development Authority (CDA) is right on its track in implementing the provisions of R.A. 9520. Right now, the Authority is promulgating policies to foster a conducive environment for the growth and empowerment of cooperatives. It live to its constitutional mandate of making cooperatives as a practical vehicle for promoting self-reliance and harnessing people power towards the development of viable and responsive economic enterprises and attainment of social justice. Such is our long-term vision bringing about a strong cooperative movement that is free from any conditions that might infringe upon the autonomy or cooperative organizational integrity.