



Republic of the Philippines
OFFICE OF THE PRESIDENT
COOPERATIVE DEVELOPMENT AUTHORITY
827 Aurora Blvd. Service Road, Brgy. Immaculate Conception, Quezon City
Telephone Nos. 725-2107 • 725-3764 • Telefax: 721-5323
www.cda.gov.ph

MEMORANDUM CIRCULAR NO. 2012-01
Series of 2011

TO : ALL CONCERNED

SUBJECT : RULES OF PROCEDURE GOVERNING THE CONDUCT OF INVESTIGATION OR INQUIRY BY THE COOPERATIVE DEVELOPMENT AUTHORITY (CDA)

DATE : DECEMBER 9, 2011

WHEREAS, Section 6, Article XII of the 1987 Constitution of the Republic of the Philippines provides that:

“Sec. 6. The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands.” (underscoring supplied)

WHEREAS, Article 34 (4) of Republic Act (RA) No. 9520 authorizes the CDA to call a special meeting of the cooperative for the purpose of reporting to the members the result of any examination or other investigation of the cooperative affairs;

WHEREAS, Section 3 (o) of RA 6939 empowers the CDA to exercise such other functions as may be necessary to implement the provisions of cooperative laws, i.e. conduct such hearing or inquiry;

WHEREAS, Section 3 (m) of RA 6939 empowers the CDA to adopt rules and regulations for the conduct of its internal operations;

WHEREFORE, premises considered, the Board of Administrators hereby adopts and promulgates the following rules:

**RULE I
GENERAL PROVISIONS**

Section 1. Title – These Rules shall be known as the *“CDA Rules of Procedure Governing the Conduct of Investigation or Inquiry.”*

Section 2. Application – These Rules shall apply to the conduct of investigation or inquiry by the CDA for the purpose of ascertaining whether or not such acts which constitute fraud, irregularity or anomaly were committed by the concerned parties in the cooperative.

The conduct of investigation or inquiry may be based on:

1. The complaint from any member or officer of a cooperative; or
2. The complaint from any government agency; or
3. The final report of inspection or examination conducted by the CDA on the cooperative.

Section 3. Definition of Terms – For purposes of these Rules, the following terms shall mean as:

1. **CDA** – refers to the Cooperative Development Authority.
2. **Cooperative** – refers to the cooperative duly registered with the CDA pursuant to RA 6938, as amended by RA 9520 and RA 6939.
3. **Complaint** – refers to a verified statement of a complainant alleging the commission or omission of certain acts which constitute as fraud, anomaly or irregularity by any officer in a cooperative, subject to Sec. 2, Rule II, of this Rules.
4. **Complainant** – refers to any member or officer of a cooperative or any duly authorized representative of a government agency vested with jurisdiction over the matters sought to be investigated.
5. **Member of Cooperative** – refers to any member of a cooperative subject to a complaint.
6. **Officer of Cooperative** – refers to a natural person holding a position as identified by Article 5 (11) of RA 9520 or the by-laws of a cooperative.

7. **Fraud** – an act or omission calculated to deceive or breach a legal duty, trust or confidence justly reposed, resulting to loss or damage to another or by which an undue advantage is taken from a person or member of cooperative.
8. **Irregularity or Anomaly** – refers to any act or omission which may not necessarily constitute a fraud but may: (a) directly or indirectly result to financial loss to the cooperative; or (b) a violation of RA 9520, its implementing rules and regulations, or articles of cooperation or by-laws of a cooperative.
9. **Investigation or Inquiry** – refers to a fact-finding inquiry or ascertainment of facts to determine whether or not the allegations in the complaint or findings in the final report of examination or inspection may be subject to an administrative, civil or criminal action.
10. **Final Report of Examination or Inspection** – refers to the document duly approved by the Board of Administrators or its duly authorized representative or a regional director of CDA containing the written statement or narration of findings and recommendations as a result of the examination or inspection conducted by the CDA in a cooperative.
11. **Board of Administrators** – refers to the policy-making body of the CDA.
12. **Regional Director** – refers to the person who actually performs the duties and responsibilities of a director of an extension office of the CDA, whether in a permanent or in acting capacity.
13. **CDA Extension Office** – refers to the duly established regional/extension office of the CDA.
14. **Investigator** – refers to the CDA officer, employee or agent duly authorized by the CDA to conduct the investigation or inquiry in a cooperative pursuant to these Rules, whether solely or as a team.
15. **Examiner / Inspector** – refers to any officer or employee of CDA, whether individually or in a team, conducting an examination or inspection on the cooperative.

Section 4. Nature of Proceedings – The conduct of investigation shall be non-adversarial and shall not adhere to technical rules of procedures of the Rules of Court.

The proceedings under these Rules shall be confidential. Disclosure of such findings may be made when they are subject of an administrative, criminal or civil action.

The CDA shall exercise jurisdiction over complaints involving violation of RA 9520, related laws, its IRR or any CDA issuances and may initiate the proper action against those responsible for the acts or omission before the appropriate authority.

Section 5. Scope – The conduct of investigation or inquiry shall be limited to the particular act or omission subject of a complaint or a final report of examination or inspection.

RULE II INITIATORY ACTS

Section 1. Authority to Conduct Investigation or Inquiry – Before the conduct of investigation or inquiry under these Rules, the same shall be conducted only upon prior authorization by the Board of Administrators acting on the recommendation in a Final Report of Examination or Inspection based on any adverse finding therein or based on a complaint filed before the CDA.

The Board of Administrators may delegate the power mentioned in the immediately preceding paragraph to the CDA Regional Director in a special order to be issued for this purpose.

Section 2. Complaint – The complainant shall file a complaint in such form as hereto attached as Annex A and shall contain the following information:

- a) The full name and address of the complainant;
- b) The full name and address of the cooperative and the names and sufficient information for the identification of the directors, officers or employees who appear to be responsible for the acts or omission constituting fraud, irregularity or anomaly subject of the complaint;
- c) A narration of the relevant and material facts showing the fraudulent, irregular or anomalous acts or omission;
- d) A sworn statement that the complainant has not commenced any action, proceeding for mediation and conciliation, or filed any claim involving the same issues before any judicial or quasi-judicial authority;
- e) A sworn undertaking that if the complainant should thereafter learn that an action or claim has been filed or is pending, the same shall be reported within five (5) days therefrom to the CDA; and
- f) The documents or affidavits supporting the allegations in the complaint.

The Complaint may be prepared in English or in Pilipino.

The complaint may be dismissed when any of the foregoing requirements is lacking. However, a report from a government agency of any fraud, irregularity or anomaly furnished to the CDA and accompanied by a written request for the conduct of an investigation or inquiry shall be deemed a valid complaint. The CDA may, at its discretion, order the conduct of a prior examination upon the receipt of such written request/complaint before proceeding with the investigation or inquiry.

Section 3. Filing of Complaint – The complaint shall be filed before the CDA Extension Office having jurisdiction over the region where the principal office of the cooperative is located.

In cases involving cooperative branches located outside the area of jurisdiction of the CDA Regional/Extension Office where the principal office is located, the complaint may be submitted to the CDA Regional/Extension Office where the concerned branch is located. The CDA Regional/Extension Office receiving the complaint shall forward the same to the CDA Regional/Extension Office having jurisdiction over the principal office of the cooperative. The latter, at its discretion, may directly conduct the investigation/inquiry or delegate the same to the former. The result of the investigation shall be forwarded to the CDA Regional/Extension Office having original jurisdiction.

Complaints involving cooperative banks, insurance cooperatives, and electric cooperatives directly supervised by the CDA Central Office shall be filed with the latter.

Section 4. Action on the Complaint – The CDA shall commence the investigation or inquiry within fifteen (15) days from the approval of the Board of Administrators or the CDA Regional Director when such power is delegated to the latter pursuant to Section 1 of this Rule, upon finding that the complaint is sufficient in substance and in form.

Section 5. Effect of Withdrawal of Complaint – The withdrawal by a complainant of his or her complaint shall not result in an outright dismissal. The investigation or inquiry may proceed when there is sufficient basis or merit in the allegations in the complaint or when there is documentary evidence that would tend to prove the acts or omissions complained of, even if the complaint is withdrawn.

Section 6. Effect of Mediation and Conciliation – The pendency of a mediation and conciliation proceeding or the subsequent filing of a complaint for mediation involving the same parties and the same subject matter of the investigation shall cause the suspension of the conduct of the investigation/inquiry, except if the subject matter is non-mediatable. The settlement/compromise agreement arrived at by the parties as a result of mediation shall be submitted to the investigator, and the same shall cause the termination/dismissal of the proceedings. In the event of non-settlement, the complainant shall inform the

investigator whether they shall proceed with the investigation or in the alternative, opt for submission of the controversy for voluntary arbitration.

Section 7. Effect of Report of Inspection or Examination – The CDA may, on its own, order the conduct of investigation or inquiry on the basis of adverse findings contained in the Final Report of Inspection or Examination conducted by the CDA's duly authorized representatives, when such adverse findings constitute a violation.

The Final Report of Inspection or Examination shall contain the following:

- a) The names of the cooperative and the directors or officers or employees who appear or tend to be responsible for the commission of such fraud, irregularity or anomaly;
- b) Narration of relevant and material facts showing the fraudulent, irregular or anomalous acts or omissions.

RULE III CONDUCT OF INVESTIGATION OR INQUIRY

Section 1. Notice to Conduct Investigation or Inquiry – A notice to conduct an investigation or inquiry shall be served to the cooperative through any of its officers. It shall be served at least three (3) days before the date of the investigation.

Refusal to receive, acknowledge or accept the said notice shall not prevent the conduct of the investigation.

Section 2. Contents of Notice – The notice shall contain the following information:

- a) The names of the investigators authorized by the CDA;
- b) The specific act or omission stipulated in the complaint; and
- c) The names of officers, directors or employees to be investigated and the specific area of investigation.

Section 3. Authority of Investigator/s – The investigator/s shall have the following power or authority during the conduct of the investigation as authorized by the CDA:

- a) To enter the premises of the office of the cooperative during working hours and in the presence of the officers or employees of the cooperative. In the absence of such officer or employees, the investigator/s may secure the presence of any other officer or employee to witness the entire proceedings;

- b) To examine, take and preserve testimony of any person in relation to the subject of the investigation;
- c) To inspect any pertinent document or record of the cooperative pursuant to the purpose of the investigation; and
- d) To secure certified true copies of any document necessary for the conduct of the investigation and/or the preparation of the investigation report.

Section 4. Period of Investigation – As far as practicable, the conduct of investigation shall be completed within thirty (30) days from the day the investigator/s commenced the conduct of investigation.

Section 5. Manner of Investigation – The investigator/s may conduct the investigation preferably within the office premises of the cooperative. However, in the event of perceived risks (security or otherwise), in the area where the office of the cooperative is located, or to remove any doubts on the partiality, or due to fortuitous events, the investigation may be conducted in office of the CDA, or any government office convenient for such purpose or any other place deemed by the Authority to be suitable for the conduct of the investigation. When the investigation is held outside the office of the cooperative, the investigator/s shall issue a notice or order for the production of the necessary documents or other evidences material to the ascertainment of the acts or omission complained of.

RULE IV REPORT OF INVESTIGATION OR INQUIRY

Section 1. Content of the Report of Investigation or Inquiry – The result of the investigation or inquiry shall be in writing and signed by the investigator/s who conducted the investigation. It shall contain the following information:

- a) A brief statement of the complaint;
- b) A Narration of facts;
- c) A statement of the findings (including the acts or omission constituting a violation of pertinent provision of RA 9520, its IRRs or other applicable laws or penal laws);
- d) The basis for the findings and the law upon which they are based (including copies of documents); and
- e) The recommendation.

Section 2. Submission of the Report – The report of the investigation or inquiry shall be submitted by the CDA Regional Director to the CDA Board of Administrators, through the Legal Division. When the recommendation calls for the filing of a criminal action for

violation of RA 9520 cognizable under Article 140 thereof, the BOA may refer the same to the Legal Division for appropriate action.

Section 3. Action on the Report – The BOA may approve, modify, or disapprove the recommendation contained in the Investigation Report, as reviewed by the Legal Division, and may direct a re-investigation in accordance with the provisions of these Rules.

RULE V CHARGES

Section 1. Filing of Necessary Action – When the Investigation Report contains a recommendation for the filing of criminal or civil action, the Legal Division upon concurrence of the CDA Board of Administrators shall initiate the filing of the complaint before the appropriate Judicial, Quasi-Judicial, or other appropriate government agency.

RULE VI FINAL PROVISIONS

Section 1. Repealing Clause – Any rule, regulation, circular or other issuance by the CDA that is inconsistent with these Rules are hereby repealed or modified accordingly.

Section 2. Separability Clause – Any portion or section of these Rules or the application thereof to any person or circumstances is held invalid by the competent authority, the other provisions hereof or their application shall not be affected thereby and shall remain valid.

Section 3. Effectivity – These Rules shall take effect fifteen (15) days after publication in the Office of the National Administrative Registry (ONAR) or Official Gazette.

Approved per Board of Administrators Resolution No. 411-A, s-2011 dated December 14, 2011.

By the Board of Administrators:


EMMANUEL M. SANTIAGUEL, Ph. D.
Chairman

"Annex "A"

Republic of the Philippines)
_____) s. s.

AFFIDAVIT

I, _____, single/married, ____ years old, presently residing at _____ under oath, do hereby depose and state that:

1. The name and address of the complainant;
2. State the incident being complained of, where and when;
3. Described how the incident happened;
4. If known, state the name of the person/s (officers or employees) who are alleged perpetrator of the incident and their positions in the cooperative;
5. If known, state why the incident happened;
6. State the identity of the witnesses to the incident or the persons who may be able to attest thereto;
7. state the documents that may prove the incident and attach copies thereof to the affidavit;
8. (Manifestation) I have not commenced any action or filed any claim involving the same issues before any authority, judicial or quasi-judicial body to the best of my knowledge. If there is similar case or action, disclose the status of the same. Provide the following information: judicial or quasi-judicial body where the action is filed, nature of action, parties, date of filing of action.
9. (Manifestation) If I should thereafter learn that a similar action has been filed or is pending before any judicial or quasi-judicial body, I undertake to report that fact within five (5) days therefrom to the CDA;

10. (Manifestation) I am executing this affidavit to attest to the truth of the foregoing and for whatever legal purpose it may serve.

11. at the moment, affiant further sayeth naught.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 20__ in _____, Philippines.

Affiant

SUNSCRIBED AND SWORN TO before me this _____ day of _____ 20__ in _____, Philippines, with the affiant exhibiting his/her Community Tax Cert. No. _____ issued on _____ at _____.

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of 20 _____



LRD

**EXCERPTS FROM THE
MINUTES OF SPECIAL MEETING
OF THE CDA BOARD OF ADMINISTRATORS HELD ON DECEMBER 14, 2011
Imperial Palace Suites, Timog, Quezon Avenue, Q.C.**

PRESENT:

Hon. Emmanuel M. Santiagué, Ph.D.	- Chairman/Presiding Officer
Hon. Felicitas S. Acosido, Ph.D.	- Administrator
Hon. Nelson B. Alindogan	- Administrator
Hon. Paisalin P.D. Tago	- Administrator
Hon. Irma A. Villanueva	- Administrator
Hon. Pendatun B. Disimban	- Administrator
Hon. Manuel C. Lapeña	- Administrator

ALSO PRESENT:

Dir. Orlando R. Ravanera	- Acting Executive Director
--------------------------	-----------------------------

RESOLUTION NO. 411-A, s-2011

Upon motion of Adm. Pendatun B. Disimban duly seconded by Adm. Manuel C. Lapeña, be it **RESOLVED** as it is hereby **RESOLVED** to approve the following Memorandum Circulars, to wit;

1. Rules of Procedure Governing the Conduct of Investigation or Inquiry by the Cooperative Development Authority;
2. Guidelines on Inspection and/or Examination of Cooperatives; and
3. Rules of Procedure Governing Voluntary Arbitration before the Cooperative Development Authority.

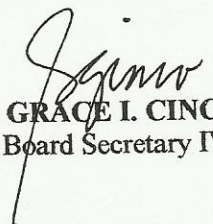
APPROVED.

XXX

XXX

XXX

This is to certify that the foregoing is true and correct from the minutes of the CDA Board of Administrators' Special Meeting.


MARY GRACE I. CINCO
Acting Board Secretary IV

ATTESTED:


EMMANUEL M. SANTIAGUEL, Ph.D.
Chairman