



MEMORANDUM CIRCULAR NO. 2012-20
Series of 2012

TO : ALL CONCERNED

FROM : THE OFFICE OF THE CHAIRMAN

SUBJECT : UNIFORM INTERPRETATION OF ARTICLE 37 OF R.A. 9520

DATE : OCTOBER 25, 2012

PREFATORY STATEMENT

The introduction of the Code gave rise to various interpretations of some of its salient provisions which led confusion among officers and members of the cooperative sector. One of the most controversial provisions is Article 37 thereof, which speaks of the composition and term of the Board of Directors. To quote in verbatim, the Article states that:

"Unless otherwise provided in the By-laws, the direction and management of the affairs shall be vested in a board of directors which shall be composed of not less than five (5) nor more than fifteen (15) members elected by the general assembly for a term fixed in the by-laws but not exceeding a term of two (2) years and shall hold office until their successors are duly elected and qualified, or until duly removed for cause."

The phrase unless otherwise provided in the by-laws, created misguided interpretations. To some, the provision as to term is limitless depending upon the discretion of the cooperative concerned, yet to others the term is limited only to two (2) years. Henceforth, a uniform interpretation from the Authority over the foregoing provision is necessary.

STRICT INTERPRETATION AND ITS RATIONALE

The abovesited Article is clear and leaves no room for further interpretation. Notwithstanding the phrase, "Unless otherwise provided in the by-laws, xxx" , the spirit of the law is to provide for a maximum term of office of a member of a Board of Directors which is two (2) years. The intent is anchored on the reality that the two year period is a sufficient time allotted for a Director to discharge in full his or her functions and responsibilities based on cooperative principles, existing laws and rules of the Authority. Moreso, the limitation on the term is to eradicate the would be ill-practices of a Director once the period is extended.

However, this strict interpretation does not apply to electric cooperatives which opted to register under the Authority. Considering the peculiar circumstances faced by electric cooperatives possessing expansive membership and expensive and impractical mode of electing members of the Board of Directors, a relaxation for such application is imperative.

Please be guided accordingly.

Approved: Per Board of Administrator's Resolution No. 217, Series of 2012.



EMMANUEL M. SANTIAGUEL, Ph. D.
Chairman