



MEMORANDUM CIRCULAR NO. 2012-18

Series of 2012

TO : ALL CONCERNED

SUBJECT : GUIDELINES ON THE MERGER AND CONSOLIDATION PROCEDURES FOR COOPERATIVES

DATE : July 19, 2012

Pursuant to Articles 21 and 22 of the Philippines Cooperative Code of 2008, otherwise known as RA 9520 and Rule 5 of its IRR, the Authority hereby promulgates the following Guidelines on Merger and Consolidation.

SECTION 1. TITLE. This issuance shall be known as the **"GUIDELINES ON THE MERGER AND CONSOLIDATION PROCEDURES FOR COOPERATIVES"**.

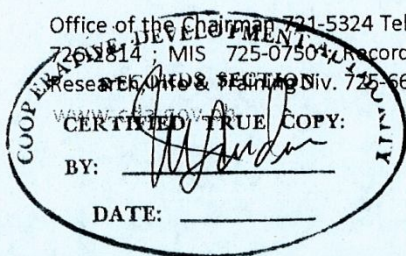
SECTION 2. LEGAL BASIS. The legal basis for these Guidelines are Articles 21 and 22 RA 9520, quoted as follows:

a. *"Art. 21. Merger and Consolidation of Cooperatives. –*

Two (2) or more cooperatives may merge into a single cooperative, which shall be either one of the constituent cooperatives or the consolidated cooperatives.

No merger or consolidation shall be valid unless approved by three-fourths (3/4) vote of all members with voting rights, present and constituting a quorum of each of the constituent cooperatives at separate general assembly meetings. The dissenting members shall have the right to exercise their right to withdraw their membership pursuant to Article 30.

*(3) The Authority shall issue the **guidelines governing the procedure** of merger or consolidation of cooperatives. In any case, the merger or consolidation shall be effective upon the issuance of the Certificate of Merger or Consolidation by the Authority.*



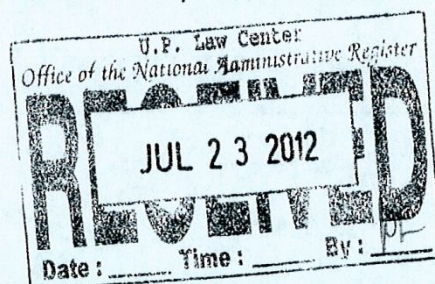
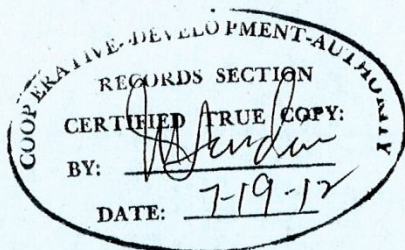
Art. 22. *Effects of Merger and Consolidation.* – The merger or consolidation of the cooperatives shall have the following effects:

- (1) *The constituent cooperatives shall become a single cooperative, which in case of merger shall be the surviving cooperative, and in case of consolidation, shall be the consolidated cooperative.*
- (2) *The separate existence of the constituent cooperatives shall cease, except that of the surviving or the consolidated cooperative.*
- (3) *The surviving or the consolidated cooperative shall possess all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a cooperative organized under this Code;*
- (4) *The surviving or the consolidated cooperative shall possess all the assets, rights, privileges, immunities and franchises of each of the constituent cooperatives; and*
- (5) *The surviving or the consolidated cooperative shall be responsible for all the liabilities and obligations of each of the constituent cooperatives in the same manner as if the surviving or consolidated cooperative had itself incurred such liabilities or obligations. Any claim, action, or proceeding pending by or against any such constituent cooperatives may be prosecuted by or against the surviving or consolidated cooperative, as the case may be. Neither the rights of creditors nor any lien upon the property of any of such constituent shall be impaired by such merger or consolidation."*

b. Rule 5 of the Implementing Rules and Regulations for Certain Provisions of the Philippines Cooperative Code of 2008 xxx (emphasis supplies)

SECTION 3. COVERAGE.

All duly registered cooperatives belonging to the same category, except Cooperative Banks and Financial Service Cooperatives shall be covered by these Guidelines.

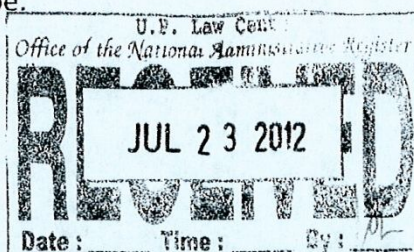
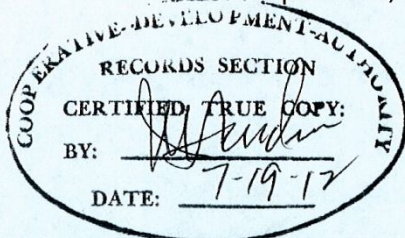


SECTION 4. DEFINITION OF TERMS.

- a. **Consolidation** - shall refer to a union of two or more existing cooperatives belonging to the same category to form a new cooperative called the consolidated cooperative.
- b. **Merger** - shall refer to a union of two or more existing cooperatives belonging to the same category whereby the surviving cooperative, retaining its identity, absorbs one or more constituent cooperative/s.
- c. **Constituent Cooperatives** - shall refer to the cooperatives, which are parties to the merger/consolidation.
- d. **Surviving Cooperative** - shall refer to the cooperative which survives and continue the business of the combined cooperative in case of merger.
- e. **Consolidated Cooperative** - shall refer to the new cooperative created after the termination of the old cooperative in case of consolidation.
- f. **Authority** - shall refer to the Cooperative Development Authority.
- g. **Third Party** - shall refer to any person natural or juridical, who or which shall be adversely affected in case of merger or consolidation.

SECTION 5. EFFECTS OF MERGER. The merger of cooperatives shall have the following effects:

- 1) The constituent cooperatives shall become a single cooperative which, in case of merger, shall be the surviving cooperative.
- 2) The separate existence of the constituent cooperatives shall cease.
- 3) The surviving shall possess all the assets, rights, privileges, immunities and franchises of each of the constituent cooperatives;
- 4) The surviving cooperative shall possess all the assets, rights, privileges, immunities and franchises of each of the constituent cooperatives; and
- 5) The surviving shall be responsible for all the liabilities and obligation of each of the constituent cooperatives in the same manner as if such surviving had itself incurred such liabilities or obligations.
- 6) Any claim, action or proceeding pending by or against any such constituent cooperatives may be prosecuted by or against the surviving cooperative, as the case may be.



- 7) Neither the rights of creditors nor any lien upon the property of any such constituent cooperatives shall be impaired by such merger.

SECTION 6. EFFECTS OF CONSOLIDATION. The consolidation of cooperatives shall have the following effects:

- 1) The constituent cooperatives shall become a single cooperative which, in case of consolidation, shall be the consolidated cooperative;
- 2) The separate existence of the constituent cooperatives shall cease, except the consolidated cooperative;
- 3) The consolidated cooperative shall possess all the assets, rights, privileges, immunities and franchises of each of the constituent cooperatives;
- 4) The consolidated cooperative shall possess all the assets, rights, privileges, immunities and franchises of each of the constituent cooperatives; and
- 5) The consolidated cooperative shall be responsible for all the liabilities and obligation of each of the constituent cooperatives in the same manner as if such consolidated cooperative had itself incurred such liabilities or obligations.
- 6) Any claim, action or proceeding pending by or against any such constituent cooperatives may be prosecuted by or against the consolidated cooperative, as the case may be.
- 7) Neither the rights of creditors nor any lien upon the property of any such constituent cooperatives shall be impaired by such consolidation.

SECTION 7. POLICY DECLARATION

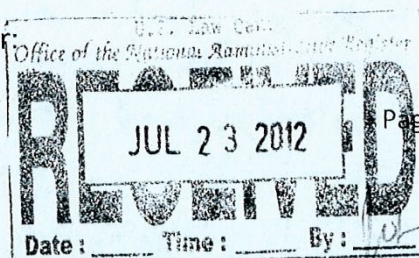
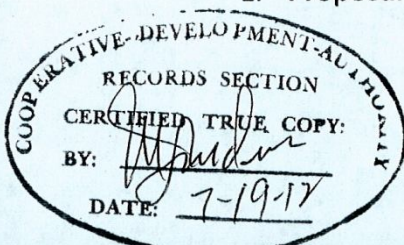
No merger or consolidation shall be valid unless approved by three-fourths (3/4) vote of all members with voting rights, present and constituting a quorum of each of the constituent cooperatives at separate general assembly meetings. The dissenting members shall have the right to exercise their right to withdraw their membership pursuant to Article 30.

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SECTION 8. PROCEDURE.

A. Initiation Phase.

1. **Proposal to Merge or Consolidate**, either:



- 1.a By the Board of Directors or
- 1.b By at least 10% of the member

2. Approval of the Proposal to Merge or Consolidate

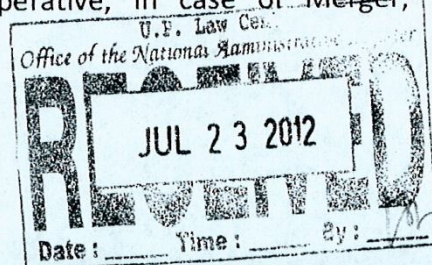
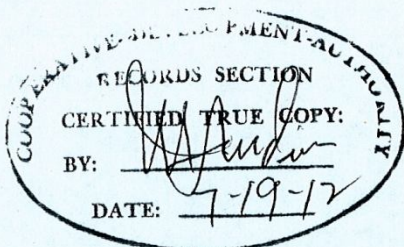
- 2.a Approval of the proposal of merger/consolidation by at least majority of the member of each of the constituent cooperative with voting rights, present and constituting a quorum in separate general/representative assembly meetings called for the purpose.
- 2.b Appointment/election by the general assembly of representatives to the joint committee to draft the Plan of merger/consolidation.

3. Formulation of the Plan of Merger/Consolidation

- 3.a Formulation of the plan of merger/consolidation by the joint committee composed of the representatives of the constituent cooperatives.

3.a1. Contents of Plan of Merger or Consolidation. The Plan of Merger or Consolidation shall include the following:

- i. Statement of Purpose of such Merger or Consolidation;
- ii. The Registered Names, Addresses and Registration/Confirmation Numbers, Contact Details and Respective Areas of Operation of the Constituent Cooperatives;
- iii. The Proposed Amendments to the Surviving Cooperative's Articles of Cooperation and By-laws, in case of Merger and, with respect to Consolidation, the Proposed Articles of Cooperation and By-laws;
- iv. List of Members of each Constituent Cooperatives showing their Share Capital Contribution duly certified by the respective Board Secretaries and attested by the respective Board Chairpersons;
- v. The Name, Address and Area of Operation of the Surviving Cooperative, in case of Merger, the



- Proposed Name, Address and Area of Operation, in case of Consolidation;
- vi. Feasibility Study indicating the Viability and Sustainability of the Merging/Consolidating Cooperatives;
 - vii. The Audited Financial Statements as of the immediate preceding year including the schedule of assets, liabilities and capital of the merging or consolidating cooperatives; and
 - viii. Package Benefits of the Management Staff to be affected by the Plan.

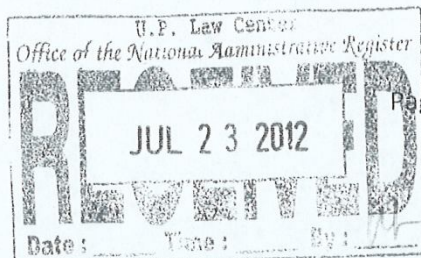
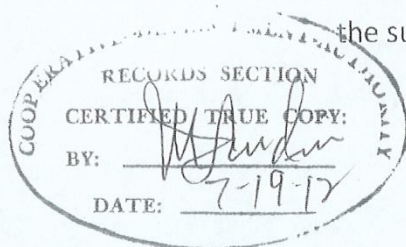
4. Presentation and Approval of the plan of merger/consolidation or any amendments thereto

- 4.1 The plan of merger/consolidation prepared by the joint committee composed of representatives from each of the constituent cooperatives shall be submitted for approval to the members of each constituent cooperative at separate general/representative assembly meetings duly called for the purpose;
- 4.2 Notice of such meeting shall be given to all members of the respective cooperative, served either personally or by registered mail with return card or electronic means within the period as indicated in the by-laws.
- 4.3 Required votes to approve the plan of merger or consolidation, or any amendment thereto. The affirmative vote of members representing at least $\frac{3}{4}$ of all members with voting rights, present and constituting a quorum from each of the constituent cooperatives at a separate general/representative assembly.

SECTION 9. FORMULATION OF THE AMENDMENTS TO THE ARTICLES OF COOPERATION AND BY-LAWS, IN CASE OF MERGER AND FORMULATION OF NEW ARTICLES OF COOPERATION AND BY-LAWS, IN CASE OF CONSOLIDATION.

9.1 MERGER

- I. Creation of a Joint Committee composed of representatives from each of the constituent cooperatives to draft the necessary amendments to the existing Articles of Cooperation and By-laws of the surviving cooperative.



- II. Drafting and finalization of the amendments to the existing Articles of Cooperation and By-laws of the surviving cooperative.
- III. Presentation of the proposed amendments to the constituent cooperatives.
- IV. Rights of dissenting members.
- V. Approval of the amendments to the Articles of Cooperation and By-laws by the constituent cooperatives.

9.2 CONSOLIDATION

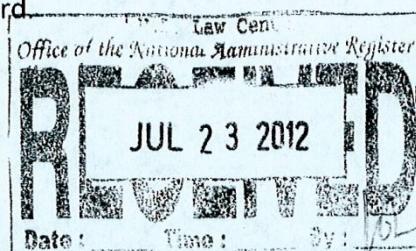
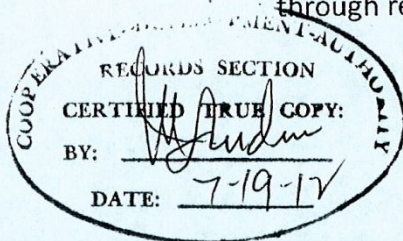
- I. Creation of a Joint Committee composed of representatives from each of the constituent cooperatives to draft the new Articles of Cooperation and By-laws of the consolidated cooperative.
- II. Drafting and finalization of the new Articles of Cooperation and By-laws of the consolidated cooperative.
- III. Presentation of the new Articles of Cooperation and By-laws to the constituent cooperatives.
- IV. Rights of dissenting members
- V. Approval of the new Articles of Cooperation and By-laws by the constituent cooperatives who will comprise the consolidated cooperative.

9.3 ATTESTATION OF THE ARTICLES OF COOPERATION AND BY-LAWS

- a. Merger - The Amended Articles of Cooperation and By-laws if applicable shall be attested by the Incumbent Directors of the surviving Cooperative.
- b. Consolidation - The New Articles and By-laws shall be signed by the Cooperating Directors.

SECTION 10. ANNOUNCEMENT OF THE MERGER OR CONSOLIDATION

1. Posting in at least 3 conspicuous places in their respective areas of operation or Publication in a newspaper of general circulation once a week for 3 consecutive weeks.
2. Publication may also be supplemented by radio and television announcements or any other electronic means of communication.
3. Notice to the creditors and investors announcing merger or consolidation to be sent by the Officers of the merging or consolidating Cooperatives through registered mail with return card.



SECTION 11. OBJECTION OR OPPOSITION BY A THIRD PARTY TO THE PLAN OF MERGER OR CONSOLIDATION

1. A third party may file an objection or opposition to the plan of merger or consolidation within fifteen (15) days after the date of posting or from the last day of publication.
2. The objection or opposition of the plan of merger shall be filed with the Authority, which shall decide the case within sixty (60) days from receipt of said objection or opposition
3. If objection or opposition is meritorious, in order not to prejudice the interest of the third party, the Authority will cause the deferment or disapproval of the registration of the merger or consolidation.

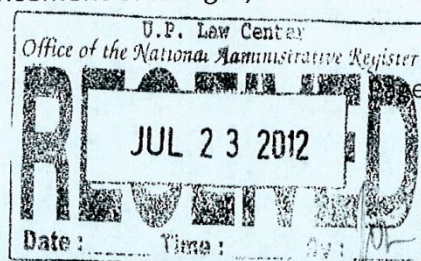
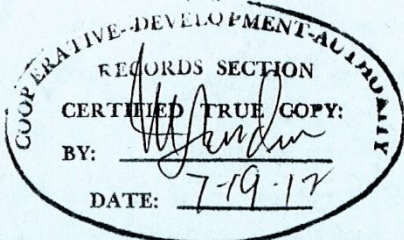
After the lapse of the period to file an objection/opposition and no opposition/objection has been filed or after all objection/Oppositions have been resolved, the cooperative can file its application for registration.

SECTION 12. FILING OF THE APPLICATION FOR REGISTRATION WITH THE AUTHORITY.

Aside from the regular documentary requirements, except for the Certification of Pre-Membership Education Seminar (PMES), the Officers of the merged or consolidated cooperatives shall file with the Authority the following additional requirements for registration:

A. For Merger

1. The Original Certificate of Registration of the absorbed cooperative;
2. The General/Representative Assembly resolutions of both constituent cooperatives approving the Plan of Merger duly certified by the Secretaries and attested by the respective Chairpersons;
3. The excerpts from the minutes of the general/representative assembly meeting stating among others the approval of the Merger;
4. Certification of the Secretaries duly attested by the Chairpersons of the constituent cooperatives that there was a quorum and the required number of votes for the approval was met;
5. The approved Plan of Merger and all its attachments as required.
6. The proposed amendment to the Articles of Cooperation and By-laws of the Surviving Cooperative, if necessary;
7. Surety Bond of Accountable Officers;
8. Proof of Publication/Posting of the Announcement of Merger;



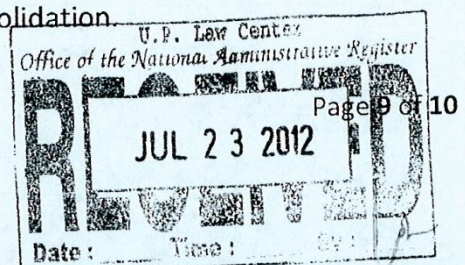
9. Proof of Notice to Creditors;
10. Written Agreement to settle Obligations
11. The original Certificate of Registration of the Surviving Cooperative;
12. Favorable endorsement from the concerned government agency if necessary/applicable; and
13. Registration fee in accordance with the Schedule of Fees prescribed by the Authority.

B. For Consolidation

1. The Original Certificate of Registration of both constituent cooperatives;
2. The General/Representative Assembly resolutions approving the consolidation of the cooperative duly certified by the Secretaries and attested by the Chairpersons of the Consolidating Cooperatives;
3. The excerpts from the minutes of the General/Representative Assembly meetings of the Consolidating Cooperatives with their respective attendance sheets duly certified by the Secretary and Chairperson or Presiding Officer;
4. Certification of the Secretaries duly attested by the Chairpersons of the Constituent Cooperatives that there was a quorum and the required number of votes for the approval was met;
5. The approved Plan of Consolidation and all its attachments as required;
6. The Economic Survey;
7. The proposed Articles of Cooperation and By-laws of the Consolidated Cooperative;
8. Surety Bond of Accountable Officers;
9. Proof of Publication/Posting of the announcement of consolidation;
10. Proof of Notice to Creditors;
11. Written Agreement to settle Obligations;
12. The original Certificates of Registration of the Consolidating Cooperatives;
13. Undertaking to Change Name in the event that another cooperative has acquired prior right to the use of the proposed name; and
14. Registration fee in accordance with the Schedule of Fees prescribed by the Authority.

SECTION 13. ISSUANCE OF CERTIFICATE. Once the registration requirements are complied with the Authority shall issue:

1. The Certificate of Merger, in case of merger or
2. New Certificate of Registration in case of consolidation



3. The Certificate of Registration of the original cooperatives shall be surrendered to the Authority.

SECTION 14. REPEALING CLAUSE

All guidelines, circulars, or similar issuances that pertain to Merger and Consolidation are hereby repealed.

SECTION 15. SEPARABILITY CLAUSE

If any provision of these Guidelines is held to be unconstitutional, the other parts hereof shall continue to be in full force and effect.

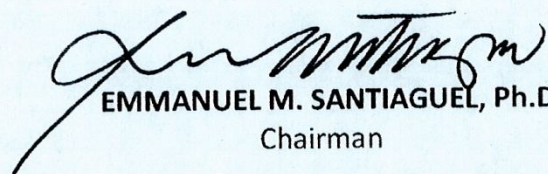
SECTION 16. EFFECTIVITY

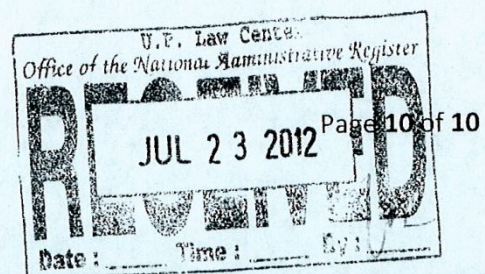
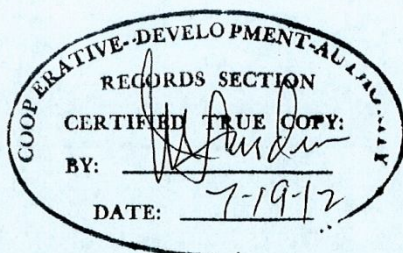
This Memorandum Circular shall take effect fifteen (15) days following its approval by the Board of Administrators and after its publication in the Office of the National Administrative Registry (ONAR) or the Official Gazette.

Approved on July 13, 2012 per Board Resolution No. 168 s.2012
dated _____.

For the Board of Administrators

By:


EMMANUEL M. SANTIAGUEL, Ph.D.
Chairman





**EXCERPTS FROM THE
MINUTES OF REGULAR MEETING
OF THE CDA BOARD OF ADMINISTRATORS HELD ON JULY 13, 2012
6/F CDA Board Room 827 Aurora Boulevard, Bgy. Immaculate Conception, Cubao, Q.C.**

PRESENT:

Hon. Emmanuel M. Santiaguel, Ph.D.
Hon. Felicitas S. Acosido, Ph. D.
Hon. Nelon B. Alindogan
Hon. Paisalin P.D. Tago

- Chairman/Presiding Officer
- Administrator
- Administrator
- Administrator

ALSO PRESENT:

Dir. Orlando R. Ravanera

- Acting Executive Director

RESOLUTION NO. 168, s-2012

Upon motion of Adm. Nelon B. Alindogan, duly seconded by Adm. Felicitas S. Acosido, be it RESOLVED as it is hereby RESOLVED to *approve the following GUIDELINES, to wit:*

1. **POLICY GUIDELINES FOR THE ESTABLISHMENT OF COOPERATIVE'S SATELLITE OFFICE;**
2. **GUIDELINES ON THE MERGER AND CONSOLIDATION PROCEDURE FOR COOPERATIVES;**

APPROVED.

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

MARY GRACE I. CINCO
Acting Board Secretary IV

ATTESTED:

EMMANUEL M. SANTIAGUEL, Ph.D.
Chairman

