

COOPERATIVE INNOVATION

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SOME CHALLENGES AND OPPORTUNITIES

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Effective Member Communication

Conflicting Duties: Duty of Confidentiality v. Disclosure to Members



EFFECTIVE MEMBER COMMUNICATION

Why Worry About Confidentiality?

- **Proprietary information**
- **Inconsistent or incomplete information can lead to misinformation**
- **Securities laws, antitrust laws, privacy laws**
- **Third party confidentiality agreements**

Effective Member Communication

What is Confidential Information?

- **Trade secrets, pricing and customer information, etc.**
- **Strategic plans in process**
- **Board deliberations and negotiations on important or sensitive topics**
- **Traditional equity coops v. “new generation” coops**

Effective Member Communication

Some Securities Law Concepts

- **Consistent, timely disclosure of financial and other important information**
- **No selective disclosure**
- **Answering member questions**

Effective Member Communication

Some Suggestions to Handle These Conflicts

- **Establish board and management policies**
- **Use a website**
- **Discuss and reach consensus on major matters**
- **Avoid third party confidentiality agreements**

Alternatives to Attract Capital

- **Member Capital**
 - Permanent capital – fast, limited pool
 - Revolving capital – slow, expectation of revolvment
- **Use of Joint Ventures**
 - A new or discrete activity v. the core business (or entire business)
 - Operating coop v. start-up enterprise

Alternatives to Attract Capital

- **Preferred Stock or Similar Interests**
 - CHS Preferred Stock Program
 - 8% dividend limitation
 - Investor's rights
- **Long-Term Debt**
 - Leverage member relationships

Alternatives to Attract Capital

- **Consolidate with other coops**
- **Expand the definition of patron**
- **Convert to an LLC or C-Corp**

Alternatives to Attract Capital

Decision-Making Framework

- **Each situation is unique**
- **Identify goals and examine all the options**
- **Focus on:**
 - **Potential for conflict**
 - **Decision-making/Governance**
 - **Exit Strategy**
 - **Preserving the patronage relationship**
 - **Preserving political and social aspects of coop enterprise**