

# Governance Considerations for New Retail Food Cooperatives

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**T**he Uniform Limited Cooperation Association Act (UCLAA) and a variety of state statutes have provided new financing flexibility for organizers of food cooperatives. In addition, these business forms present governance considerations. Organizers of retail food cooperatives considering using the LCA form of organization should carefully consider and clearly articulate their decisions on the appropriate distribution of decision-making authority within the cooperative.

The second and third cooperative principles adopted by the International Cooperative Alliance speak to governance and capitalization of cooperatives. (See [www.ica.coop/coop/principles.html](http://www.ica.coop/coop/principles.html).)

## Second Principle: Democratic Member Control

“Co-operatives are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary co-operatives members have equal voting rights (one member, one vote) and co-operatives at other levels are also organized in a democratic manner.”

## Third Principle: Member Economic Participation

“Members contribute equitably to, and democratically control, the capital of their co-operative.”

Retail food cooperatives in the United States have struggled to find suitable legal forms for their incorporation that enable them to implement the cooperative principles and realize the benefits of cooperation for their owners. In some states, specific laws provide explicitly for cooperative corporations. In other states, the only organizational options are traditional corporate forms, and in those states, retail food cooperatives often used corporate (for-profit and not-for-profit) business forms and instituted governance practices to effectuate the cooperative principles. While some co-ops organized themselves using the law of another state, in other cases tax laws, capitalization options or other considerations made this option undesirable.

Organizers of retail food cooperatives face the difficult issue of a choice of business form at the same time they are searching for sources of capital investment to launch their enterprise. In 1844,



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the Rochdale Pioneers were successful in forming a retail food cooperative because their organizing documents required members to invest an amount equivalent to one week's wages in the cooperative. Adequate capital and strong fiscal policies enabled the Rochdale cooperative to succeed in an exceptionally challenging marketplace. Modern cooperators expect to invest substantially less in their cooperative but typically have expectations and dreams that are no less ambitious than the Pioneers, whose organizing documents stated, “The objects and plans of this Society are to form arrangements for the pecuniary benefit, and the improvement of the social and domestic condition of its members.”

Given the high amount of capital needed to operate a competitively viable cooperative, many organizers of food cooperatives are quite reasonably looking closely at the capitalization options allowed by the LCA business form. In addition, just as there is flexibility for including a variety of capital investment forms in these cooperatives, there is a tremendous amount of variability in the amount of governance flexibility provided by the state laws that have been adopted to allow the formation of LCAs.

This level of complexity is not new to organizers for food cooperatives. Just as cooperatives using the not-for-profit business form are required to attend to the details of their governance to ensure that the cooperative principles are implemented, cooperatives using the LCA form must ensure that their governance reflects balanced representation of all interests in the cooperatives.

Cooperative democracy relies for its success on active participation and fair representation of those who benefit from the cooperative. As Laddie Lushin's article in this issue of *Cooperative Grocer* notes, the UCLAA and its progeny provide a range of ways to structure the representation of patron and nonpatron investors in a cooperative.

Cooperative organizers using an LCA form should clearly articulate the ways their cooperative balances patron and nonpatron interests in a manner consistent with the cooperative principles.

**Fairness:** In a cooperative, the success of all investors is linked, regardless of the magnitude of their economic contribution. Governance of the cooperative therefore should recognize this interdependence by

ensuring that decision-making power is equitably distributed among stakeholders. Statutory defaults and options related to the establishment of the board of directors should be carefully considered to achieve the goals of the cooperative.

**Democracy:** Beyond the “one member one vote” principle, democracy requires active participation and engagement with issues that affect an organization. Cooperative organizers should consider and document the ways that their organizational structure supports cooperative democracy in their organization's formation.

**Equitability:** The contributions of all investors in a cooperative should be fairly apportioned, so that all the participants in the cooperative feel that the investment allocation and governance responsibility is equitable. Equitable is not the same as equal, and cooperative organizers should strive for honest and transparent governance systems to avoid misunderstandings.

Organizers of food cooperatives should bring their best judgment to bear when choosing a business form for their incorporation. Only the organizers and the co-op's owners know best how to balance the risks and hopes of launching a new enterprise toward success. By drawing heavily from the advice of excellent legal and financial advisors, and holding true to the ICA's cooperative principles and its members' needs and expectations, the cooperative can chart a path to cooperation and success using a wide variety of business forms. The choice, indeed, is perhaps less important than the process for choosing, since as Mr. Lushin's article persuasively demonstrates, reasonable minds can differ about how the cooperative principles are implemented. It is indeed this ability to discuss and disagree that is one of the foundations of cooperation, and it makes cooperative businesses a powerful forum for social change. ■