



LEGAL GAZETTE

GOVERNMENT ISSUANCES: JANUARY - FEBRUARY 2024



DEPARTMENT OF HUMAN SETTLEMENTS AND URBAN DEVELOPMENT



DEPARTMENT CIRCULAR NO. 2024-005

February 14, 2024



Codification of Requirements, Rules, Regulations, And Procedure to streamline and standardize the Housing And Real Estate Development Regulation And Homeowners' Associations and Community Development

CODIFICATION OF REQUIREMENTS, RULES, REGULATIONS, AND PROCEDURE TO STREAMLINE AND STANDARDIZE THE HOUSING AND REAL ESTATE DEVELOPMENT REGULATION AND HOMEOWNERS' ASSOCIATIONS AND COMMUNITY DEVELOPMENT

Pursuant to RA 11201, PD 957, as amended, BP 220, RA 7279, RA 10884, as amended, and other related laws, the Department of Human Settlements and Urban Development (DHSUD) hereby issues, adopts, and promulgates the following:

WHEREAS, Republic Act No. 11201 (RA 11201) transferred the regulatory functions of the then-Housing and Land Use Regulatory Board (HLURB) to the Department of Human Settlements and Urban Development (DHSUD), which functions comprise, among others, the issuance of permits, licenses, certificates and clearances, and the conduct of monitoring and imposition of sanctions, under the Housing and Real Estate Development Regulation and Homeowners Associations and Community Development mandates;

WHEREAS, there is a need to standardize the application of housing regulatory laws to all developers, may it be a private or public project. Hence, all government agencies engaged into housing project, including all the attached agencies of DHSUD shall comply with the provision of the Department Circular, mandatorily;

WHEREAS, the issuance of these permits, licenses, certificates and clearances and the conduct of monitoring and imposition of sanctions are the core regulatory functions of the DHSUD through its respective Regional Offices, pursuant to RA No. 11201, as implemented under Sections 24 and 25 of the Implementing Rules and Regulations (IRR) of RA 11201;

WHEREAS, Section 13.9 of the IRR of RA No. 11201 provides for a remedy to applicants or those opposing the application but aggrieved by the denial or grant, respectively, of such permits, licenses, certificates or clearances, and to those aggrieved by the imposition or non-imposition of sanctions by the Regional Director;

WHEREAS, in order to streamline and standardize the housing and real estate development regulation and homeowners' associations and community development, all administrative issuances, rules and regulations or part thereof inconsistent with the provisions of this Circular are hereby repealed or modified accordingly;

WHEREAS, this Department Circular shall take effect fifteen (15) calendar days after its publication in a newspaper of general circulation and a certified true copy hereof furnished the Office of the National Administrative Register of the University of the Philippines Law Center in accordance with Sections 3 and 4 of Book VII, Chapter 2, of Executive Order No. 292, Series of 1987;



SECURITIES AND EXCHANGE COMMISSION



SEC MEMORANDUM CIRCULAR NO. 2, SERIES OF 2024

February 6, 2024



2024 Filing of Annual Financial Statements and General Information Sheet

I. ANNUAL FINANCIAL STATEMENTS

1. All corporations, including branch offices, representative offices, regional headquarters and regional operating headquarters of foreign corporations, whose fiscal years ended on 31 December 2023, shall file their AFS through the SEC Electronic Filing and Submission Tool (eFAST). The deadlines for filing of the AFS shall be in accordance with the following schedule, depending on the last numerical digit of their SEC registration or license numbers:

SUBMISSION DATES	LAST DIGIT OF SEC REGISTRATION/LICENSE NUMBER
April 29 , 30 May 2,3,6,7,8,9,10	1 and 2
May 13,14,15,16,17,20,21,22,23, 24	3 and 4
May 27,28,29,30,31/ June 3,4,5,6,7	5 and 6
June 10,11,13,14,17,18,19,20,21	7 and 8
June 24, 25, 26, 27, 28/July 1,2,3,4,5	9 and 0

Please see attached calendar schedule

II. GENERAL INFORMATION SHEET (GIS)

1. All corporations shall file with the Commission, through eFAST, their GIS within 30 calendar days from:

- (a) For Stock Corporations, the date of actual annual stockholders' meeting;
- (b) For Nonstock Corporations, the date of actual annual members' meeting;
- (c) For Foreign Corporations, the anniversary date of the issuance of their respective SEC licenses.

III. SEC FORM FOR APPOINTMENT OF OFFICERS (FOR ONE PERSON CORPORATIONS ONLY)

Within 15 days from the date of issuance of the OPC's Certificate of Incorporation or within 5 days from when the change was reflected (MC No. 7 s. 2019).

Access here: [SEC MC No. 2](#)

SEC MEMORANDUM CIRCULAR NO. 2, SERIES OF 2024

February 6, 2024 (Continuation)



2024 Filing of Annual Financial Statements and General Information Sheet

IV. ALL REPORTS

- All corporations, both stock and nonstock, are required to file their annual reportorial requirements through eFAST, formerly known as the Online Submission Tool (OST) and which may be accessed at <https://efast.sec.gov.ph/> following the deadline specified in Item 1 in the case of AFS submissions. All filers of GIS and AFS, regardless of the number of reports to be filed with the Commission, shall be accommodated through eFAST.

Other reports not yet accepted through eFAST may be submitted through email at ictdsubmission@sec.gov.ph. Submission of reports over the counter and/or through mail or courier under the SEC Express Nationwide Submission (SENS) facility shall no longer be accepted.

Any problem encountered in the enrollment and submission of AFS and GIS in eFAST shall be accommodated through the email addresses and telephone numbers provided in the SEC Contact Center posted at <https://www.sec.gov.ph/contact-us/>

AFS FILING SCHEDULE FOR 2024

For corporations whose fiscal years ended on 31 December 2023, their annual financial statements (AFS) shall be filed in accordance with the following schedule depending on the last numerical digit of their SEC registration or license numbers, except as otherwise provided in SEC Memorandum Circular No. 2, Series of 2024:

April 2024						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
21	22	23	24	25	26	27
28	29	30				
	1 & 2	1 & 2				
May 2024						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
	1 & 2	1 & 2	1 & 2	1 & 2	1 & 2	
12	13	14	15	16	17	18
	3 & 4	3 & 4	3 & 4	3 & 4	3 & 4	
19	20	21	22	23	24	25
	3 & 4	3 & 4	3 & 4	3 & 4	3 & 4	
26	27	28	29	30	31	
	5 & 6	5 & 6	5 & 6	5 & 6	5 & 6	
June 2024						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
	5 & 6	5 & 6	5 & 6	5 & 6	5 & 6	
9	10	11	12	13	14	15
	7 & 8	7 & 8	7 & 8	7 & 8	7 & 8	
16	17	18	19	20	21	22
	7 & 8	7 & 8	7 & 8	7 & 8	7 & 8	
23	24	25	26	27	28	29
	9 & 0	9 & 0	9 & 0	9 & 0	9 & 0	
30						
July 2024						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
	9 & 0	9 & 0	9 & 0	9 & 0	9 & 0	
7	8	9	10	11	12	13

Access here: [SEC MC No. 2](#)



ANTI-MONEY LAUNDERING COUNCIL



AMLC Reso. No. TF-76 January 12, 2024



Targeted Financial Sanctions in Relation to Anti-Terrorism Council Resolution No. 52 (2023): AMLC Resolution No. TF-76 Series of 2024

TARGETED FINANCIAL SANCTIONS IN RELATION TO ANTI-TERRORISM COUNCIL RESOLUTION NO. 52 (2023)

The public, covered institutions as defined under Section 3 (c) Republic Act No. 10168, otherwise known as the Terrorism Financing Prevention and Suppression Act of 2012 (TFPSA), in relation to Section 3(a) of RA No. 9160 or *The Anti-Money Laundering Act of 2001*, as amended (AMLA), and all relevant government agencies, including the Land Transportation Office, Land Registration Authority, Registry of Deeds, Maritime Industry Authority, and the Civil Aviation Authority of the Philippines are hereby informed that the Anti-Money Laundering Council (AMLC), consistent with the Philippines' international obligations to comply with binding terrorism-related resolutions, including United Nations Security Council (UNSC) Resolution No. 1373 pursuant to Article 41 of the United Nations Charter, issued Resolution No. TF-76, Series of 2024, embodying a Sanctions Freeze Order to take effect immediately against **Ma. Augusta Divinagracia Araneta** pursuant to her designation as a terrorist individual by the Anti-Terrorism Council (ATC) by virtue of ATC Resolution No. 52 (2023) dated 25 October 2023, and directed the freezing without delay of the following property or funds, including related accounts, belonging to the abovementioned designated terrorist individual:

- a. property or funds that are owned or controlled by the subject of designation, and is not limited to those that are directly related or can be tied to a particular terrorist act, plot, or threat;
- b. property or funds that are wholly or jointly owned or controlled, directly or indirectly, by the subject of designation;
- c. property or funds derived or generated from funds or other assets owned or controlled, directly or indirectly, by the subject of designation; and
- d. property or funds of persons and entities acting on behalf or at the direction of the subject of designation;

All the above covered institutions and relevant government agencies are directed to submit to the AMLC a written return, pursuant to, and containing details required under Rule 16.c of the Implementing Rules and Regulations of the TFPSA.

Any person, whether natural or juridical, including covered persons, private companies, government owned or controlled corporations, and government agencies and instrumentalities who:

1. deals directly or indirectly, in any way and by any means, with any property or fund that he knows or has reasonable ground to believe is owned or controlled by the individuals designated under Anti-Terrorism

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Targeted Financial Sanctions In Relation To Anti-Terrorism Council Resolution No. 52 (2023)

Council Resolution No. 52 (2023), including funds derived or generated from property or funds owned or controlled, directly or indirectly, by such designated individual; or

2. makes available any property or funds, or financial services or other related services to said designated individual,

shall be prosecuted to the fullest extent of the law pursuant to TFPSA.

All covered institutions are mandated to submit as Suspicious Transaction Reports all previous transactions of the designated persons within five (5) days from effectivity of the Sanctions Freeze Order.

All persons, organizations, associations or groups of persons whose property or funds, including related accounts, are frozen are hereby informed that they may avail of the remedies under Republic Act No. 11479, otherwise known as the Anti-Terrorism Act of 2020, its Implementing Rules and Regulations, and under the TFPSA and its Implementing Rules and Regulations.

A copy of this *Targeted Financial Sanctions in Relation to Anti-Terrorism Council Resolution No. 52 (2023)* may be viewed and downloaded from the AMLC website: www.amlc.gov.ph.

ADVISORY ON FRAUDULENT AND SPURIOUS CERTIFICATES OF ISSUANCE OF FREEZE ORDERS DIRECTED TO COVERED PERSONS

The Anti-Money Laundering Council (AMLC) has noted the inquiry it has received from a concerned citizen, regarding the [PRINT](#) authenticity of a certain Certification dated 08 December 2023, directed to a certain bank, purporting that the AMLC has issued a freeze order against two (2) accounts registered with them, after an alleged finding of probable cause for violation of the Terrorism Financing Prevention and Suppression Act of 2012.

After scrutinizing the aforementioned inquiry, the AMLC discovered an alarming scheme wherein a scammer deploys a deceitful and counterfeit Certification to make it appear that the accounts of specific individuals and/or entities have been subjected to a freeze order issued by the AMLC.

Upon meticulous examination of the subject certification and thorough cross- referencing with the AMLC records, it has been unequivocally ascertained that the certification in question is indeed spurious.

The AMLC denies the issuance of the fraudulent and spurious document denominated as Certification dated 8 December 2023, issued to a certain bank. Any document and/or certification of similar tenor is not genuine, nor authorized by the AMLC.

We hereby caution the public to disregard any emails, letters, or documents of similar nature, as these are confirmed to be fraudulent. The AMLC strongly advises individuals to promptly report such deceptive activities to the relevant law enforcement authorities.

If you have fallen victim to scammers or come across any fraudulent emails, letters, or information related to scams resembling the aforementioned or other deceptive schemes where individuals claim association with the AMLC or its Secretariat, kindly reach out to the



BUREAU OF INTERNAL REVENUE



REVENUE REGULATIONS NO. 1-2024

January 15, 2024



Further amends Section 2, Sub-section 4.109-1(B)(p) of RR No. 4-2021, as amended by RR No. 8-2021, to implement the adjustment of the selling price threshold of the sale of house and lot, and other residential dwellings for Value-Added Tax exemption purposes.

SECTION 1. SCOPE. – Pursuant to the provisions of Sections 244 and 245 of the National Internal Revenue Code (NIRC) of 1997, as amended, these Regulations are hereby promulgated to further amend Section 2, Sub-section 4.109-1(B)(p) of Revenue Regulations (RR) No. 4-2021, as amended by RR No. 8-2021, by adjusting the selling price threshold of the sale of house and lot, and other residential dwellings, currently at Three Million One Hundred Ninety-Nine Thousand Two Hundred (Php3,199,200.00) Pesos, for value-added tax (VAT) exemption purposes.

The adjustment is prescribed under Section 109 (P) of the NIRC of 1997, as amended, that "every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index, as published by the Philippine Statistics Authority (PSA)."

SECTION 2. ADJUSTED AMOUNT. – Taken into account the Consumer Price Index (CPI) values for 2023 as published by the PSA, the new price threshold, for sale of house and lot and other residential dwellings for VAT-exemption purposes, rounded up is **Three Million Six Hundred Thousand (Php3,600,000.00) Pesos** from the current threshold amount of Php3,199,200.00, computed using the following formula:

$$\text{New Threshold} = \text{Current Threshold} \times \frac{\text{CPI (2023)}}{\text{CPI (2021)}}$$

SECTION 3. AMENDMENT. – Section 2, sub-section 4.109-1(B)(p) of RR No 4-2021, as amended by RR No. 8-2021, is hereby further amended to read as follows:

"Provided, That beginning January 1, 2021, the VAT exemption shall only apply to sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business; sale of real

*property utilized for socialized housing as defined by Republic Act (RA) No. 7279, as amended, and, sale of house and lot, and other residential dwellings with selling price of not more than Three Million One Hundred Ninety-Nine Thousand Two Hundred (P3,199,200.00) Pesos, as adjusted to **Three Million Six Hundred Thousand (Php3,600,000.00) Pesos** using the 2023 Consumer Price Index values to take effect beginning **January 1, 2024: Provided, further, That every three (3) years thereafter, the amount stated herein shall be adjusted to its present value using the Consumer Price Index as published by the Philippine Statistics Authority (PSA)."***

REVENUE MEMORANDUM CIRCULAR NO. 11-2024

January 22, 2024



Clarifies the tax treatment of lease accounting by lessees under Philippine Financial Reporting Standard 16 in relation to Sections 34(A), 34(K), 106, 108, 179, 194 of the Tax-code, as amended, RR No. 19-86, as amended, and RR No. 02-98, as amended.

PART I. OVERVIEW OF PFRS AND TAX TREATMENT

Particulars	PFRS		Taxation	
	General approach ¹	Lease exemption ²	Lease	Conditional sale
1. Depreciation of Right-of-use asset	Generally recognized as expense.	Not recognized.	Not allowed as deduction.	Depreciation of leased asset can be claimed as deduction from gross income.
2. Interest on lease liability	Generally recognized as expense.	Not recognized.	Not allowed as deduction.	Interest on lease liability can be claimed as deduction from gross income.
3. Rent expense	Generally not recognized.	Recognized on a straight-line basis over the lease term.	Allowed as deduction from the gross income.	Not recognized.

Particulars	PFRS		Taxation	
	General approach ¹	Lease exemption ²	Lease	Conditional sale
4. Gain or loss on lease modification	Recognized in profit or loss at the time of modification.	Not recognized but may affect the amount of rent expense to be recognized in the subsequent period/s.	Not included in the determination of taxable income.	Does not apply to leases that qualify as conditional sale.
5. Initial direct costs paid/incurred by lessee	These are included in determining the cost of the ROUA. Accordingly, they are recognized as depreciation expense over the term of the lease.	Recognized as an outright expense.	Recognized as an outright expense during the period that the same is accrued or paid.	Recognized as an outright expense during the period that the same is accrued or paid.

REVENUE MEMORANDUM CIRCULAR NO. 24-2024

January 22, 2024



Ceases the payment of Annual Registration Fee pursuant to Republic Act No. 11976 (Ease of Paying Taxes Act)

For the information and guidance of all internal revenue officials, employees and others concerned, this Circular is issued to advise all business taxpayers that **effective January 22, 2024**, the Bureau of Internal Revenue (BIR) will cease collecting the Annual Registration Fee (ARF) from business taxpayers. This is in compliance with Republic Act No. 11976, otherwise known as the "Ease of Paying Taxes Act." As a result, business taxpayers are exempt from filing BIR Form No. 0605 and paying the Five Hundred Pesos (PHP 500.00) ARF (for new business and annual renewal).

Business taxpayers with existing BIR Certificate of Registration (COR) that includes the Registration Fee will retain its validity. These taxpayers may choose to update / replace their COR at their convenience. This can be done by surrendering their old COR at the Revenue District Office where they are registered **on or before December 31, 2024**.

All Revenue District Offices (RDOs) are directed to post the Advisory (Annex A) in all BIR offices and official social media pages of the BIR and RDOs.

All concerned are hereby enjoined to be guided accordingly and give this Circular as wide a publicity as possible.

ADVISORY

To All Concerned Taxpayers, Revenue Officials, and Employees:

Please be advised that **effective January 22, 2024**, the Bureau of Internal Revenue (BIR) will cease collecting the **Annual Registration Fee (ARF)** from business taxpayers. This change complies with Republic Act No. 11976, the "Ease of Paying Taxes Act." As a result, business taxpayers are exempt from filing BIR Form No. 0605 and paying the Five Hundred Pesos (PHP 500.00) ARF on or before January 31 every year.

Business taxpayers with existing BIR Certificate of Registration (COR) that includes the Registration Fee will retain its validity. These taxpayers may choose to update / replace their COR at their convenience. This can be done at the Revenue District Office, where they are registered on or before December 31, 2024, by surrendering their old COR.

Kindly take note of these changes for your compliance.

Issued on January 8, 2024, in Quezon City, Metro Manila.

FIRB ADVISORY 003-2024

February 19, 2024



FIRB Advisory 003-2024 (Investment Capital Threshold Increase) - Circularizing FIRB Resolution No. 003-24, which increased the investment capital threshold for projects delegated to the IPAs from Php 1 billion and below, to Php 15 billion and below.

SECTION 1. SCOPE. – Pursuant to the provisions of Sections 244 and 245 of the National Internal Revenue Code (NIRC) of 1997, as amended, these Regulations are hereby promulgated to further amend Section 2, Sub-section 4.109-1(B)(p) of Revenue Regulations (RR) No. 4-2021, as amended by RR No. 8-2021, by adjusting the selling price threshold of the sale of house and lot, and other residential dwellings, currently at Three Million One Hundred Ninety-Nine Thousand Two Hundred (Php3,199,200.00) Pesos, for value-added tax (VAT) exemption purposes.

The adjustment is prescribed under Section 109 (P) of the NIRC of 1997, as amended, that “every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index, as published by the Philippine Statistics Authority (PSA).”

SECTION 2. ADJUSTED AMOUNT. – Taken into account the Consumer Price Index (CPI) values for 2023 as published by the PSA, the new price threshold, for sale of house and lot and other residential dwellings for VAT-exemption purposes, rounded up is **Three Million Six Hundred Thousand (Php3,600,000.00) Pesos** from the current threshold amount of Php3,199,200.00, computed using the following formula:

$$\text{New Threshold} = \text{Current Threshold} \times \frac{\text{CPI (2023)}}{\text{CPI (2021)}}$$

SECTION 3. AMENDMENT. – Section 2, sub-section 4.109-1(B)(p) of RR No 4-2021, as amended by RR No. 8-2021, is hereby further amended to read as follows:

“Provided, That beginning January 1, 2021, the VAT exemption shall only apply to sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business; sale of real

*property utilized for socialized housing as defined by Republic Act (RA) No. 7279, as amended, and, sale of house and lot, and other residential dwellings with selling price of not more than Three Million One Hundred Ninety-Nine Thousand Two Hundred (P3,199,200.00) Pesos, as adjusted to **Three Million Six Hundred Thousand (Php3,600,000.00) Pesos** using the 2023 Consumer Price Index values to take effect beginning **January 1, 2024: Provided, further, That every three (3) years thereafter, the amount stated herein shall be adjusted to its present value using the Consumer Price Index as published by the Philippine Statistics Authority (PSA).”***

FIRB ADVISORY 003-2024

February 19, 2024 (Continuation)



RESOLVED, FURTHER, *That* all applications for tax incentives already endorsed by the IPAs to the FIRB, through the FIRB secretariat, at the time of the approval of this Resolution, with investment capital of Fifteen billion pesos (P15,000,000,000.00) and below, shall be returned to the concerned IPA for their appropriate action, subject to the existing procedures of the IPAs.

RESOLVED, FURTHER, *That* the FIRB, together with the IPAs, retains the power to monitor the compliance of all registered business entities (RBEs) of their performance commitments as conditions for the grant of tax incentives, regardless of the amount of investment capital.

RESOLVED, FURTHER, *That* the IPAs shall include approved projects with investment capital of Fifteen billion pesos (P15,000,000,000.00) and below in their monthly report to the FIRB secretariat using the prescribed monitoring template.¹

RESOLVED, FINALLY, *That* nothing in this *Resolution* shall affect the existing power and authority of the FIRB, as provided under Section 297(E) of the NIRC, as amended, to cancel, suspend or withdraw the enjoyment of tax incentives of all RBEs, regardless of the amount of investment capital.

This *Resolution* may be signed in any number of counterparts, each of which, when duly executed and sent by facsimile or electronic transmission to the Secretariat, shall be valid and effectual as if executed as an original, but all the counterparts (including counterparts sent by way of facsimile or electronic transmission) shall together constitute one and the same document.

Adopted by the Board via *ad referendum* on 02 February 2024.



NATIONAL PRIVACY COMMISSION



NPC Circular No. 2024-01

January 26, 2024



Amendments to Certain Provisions of the 2021 Rules of Procedure of the National Privacy Commission

WHEREAS, Section 7 of the DPA provides that the National Privacy Commission (NPC) is charged with the administration and implementation of Republic Act No. 10173 or the Data Privacy Act of 2012 (DPA), which includes ensuring the compliance by personal information controllers (PIC) with the provisions of the Act, and carrying out efforts to formulate and implement plans and policies that strengthen the protection of personal information, sensitive personal information, and privileged information (collectively, personal data), in the country in coordination with other government agencies and the private sector;

WHEREAS, under Section 9 of the Implementing Rules and Regulations of the DPA (IRR), the NPC is mandated to, among others, develop, promulgate, review, or amend rules and regulations for the effective implementation of the DPA;

WHEREAS, Sections 12 and 13 of the DPA enumerate the various criteria for lawful processing of personal data which includes the consent of the data subject;

WHEREAS, consent of the data subject refers to any freely given, specific, informed indication of will, whereby the data subject agrees to the processing of personal data about or relating to him or her, and evidenced by written, electronic, or recorded means. Consent may also be given on behalf of the data subject by an agent specifically authorized by the data subject to do so;

WHEREAS, consent is the most commonly used criterion for processing personal data and the NPC has determined the need to further elaborate on its concept and usage;

WHEREFORE, in view of the foregoing, the NPC hereby issues this Circular to provide guidelines on the use of consent as a lawful basis for processing personal data.

GENERAL DATA PRIVACY PRINCIPLES

SECTION 3. *Transparency.* – A PIC shall ensure that the data subject is aware of the nature, purpose, and extent of the processing of personal data. This includes the risks and safeguards involved, the identity of the PIC, the rights of the data subject, and how these rights can be exercised. Transparency empowers the data subject to make informed choices, and where applicable, to have reasonable control over the processing of their personal data, and to hold a PIC accountable based on the information provided at the time the data subject gave their consent.

SECTION 4. *Legitimate Purpose.* – Prior to the commencement of the processing activity, a PIC shall determine and declare the specific purpose of processing and shall ensure that such purpose is not contrary to law, morals, good customs, public order, or public policy.

SECTION 5. *Proportionality.* – A PIC must ensure that the proposed processing of personal data is adequate, relevant, suitable, necessary, and not excessive in relation to a declared and specified purpose.

SECTION 6. *Fairness.* – A PIC shall ensure that personal data is processed in a manner that is neither manipulative nor unduly oppressive to the data subject.

NPC Circular No. 2024-01

January 26, 2024 (Continuation)



ELEMENTS OF CONSENT

SECTION 7. *Freely given.* – A data subject must have a genuine choice and control over their decision to consent to the processing of their personal data.⁹

SECTION 8. *Specific.* – A PIC must ensure that the data subject provides specific consent to the specific and declared purposes of the processing of personal data.

Consent must be granular. In cases where personal data is processed for multiple but unrelated purposes, a PIC shall present to the data subject the list of purposes and allow the data subject to select which purposes they consent to, instead of requiring an all-inclusive consent to the processing for multiple purposes.

SECTION 9. *Informed.* – A PIC should provide to the data subject all relevant information that is necessary for the data subject to make an informed decision.¹³ Such information must be easily understood by an average member of the target audience to ensure that the data subject has sufficient understanding of what they are consenting to.¹⁴

SECTION 10. *An indication of will.* – Consent must be expressly given through a clear assenting action that signifies agreement to the specific purposes of the processing of personal data as conveyed to the data subject at the time consent was given.¹⁵

SECTION 11. *Evidenced by written, electronic, or recorded means.* – A PIC must ensure that the consent obtained from a data subject is evidenced by written, electronic, or recorded means. Any of the three formats may be adopted by a PIC. There is no preference among the different formats.

OBTAINING CONSENT

SECTION 12. *General Considerations.* – A PIC shall obtain the consent of the data subject in a manner that complies with all the requisites for valid consent.¹⁶ A PIC may also acquire consent from a data subject's lawful representative, or an agent specifically authorized for that specific purpose.

WITHDRAWAL OF CONSENT

SECTION 13. *General Considerations.* – Consent can be withdrawn at any time and without cost to the data subject, subject to certain limitations as may be provided for by law, regulation, or contract. Should a data subject choose to exercise the right to withdraw consent to the processing and if there is no other lawful basis justifying the continued processing, a PIC is obliged to stop the processing without undue delay, terminate any processing activity including the provision of services relying on that consent, and delete the personal data.

GUIDELINES ON SPECIFIC PROCESSING ACTIVITIES

SECTION 14. *Direct Marketing.* – Processing for direct marketing purposes may require consent in certain instances.

SECTION 15. *Data sharing.* Where data sharing is based on consent, a PIC shall ensure that the data subject is provided with specific information regarding the data sharing arrangement and that the data subject specifically and knowingly consents to such data sharing and the purpose of the data sharing arrangement.

SECTION 16. *Research.* Processing of personal data for research purposes shall comply with the requirements of applicable laws, regulations, and ethical standards,²¹ including but not

NPC Circular No. 2024-01

January 26, 2024 (Continuation)



SECTION 17. *Publicly available information.* The fact that the data subject provided personal data in a publicly accessible platform does not mean that blanket consent has been given for the use of their personal data for whatever purposes. Any processing of publicly available information must still find basis under Sections 12 and 13 of the DPA.

SECTION 18. *Profiling and automated processing.* A PIC shall inform the data subject of the existence and specific details of the profiling or automated processing of personal data before its entry into the processing system of the PIC, or at the next practical opportunity.

MISCELLANEOUS PROVISIONS

SECTION 19. *Consent as an essential element of contracts.* – The processing of sensitive personal information through a contract between a PIC and a data subject is understood to be processing based on consent of the data subject under Section 13 (a) of the DPA as long as the contract entered into complies with the requirements for consent under the DPA.

SECTION 20. *Waiver of the rights of the data subject.* – A waiver by a data subject of his or her data privacy rights, including the right to file a complaint, is void.

SECTION 21. *Period for validity of consent.* – Generally, consent remains valid as long as the information communicated in relation to the scope, purpose, nature, and extent of the processing remains and still holds true.



Reference Disclaimer:

The SHDA Legal Gazette is provided in good faith and all reasonable efforts have been employed to ensure its accuracy. However, SHDA does not guarantee any loss caused by relying on this reference material.