



Republic of the Philippines  
NATIONAL PRIVACY COMMISSION

**PRIVACY POLICY OFFICE  
ADVISORY OPINION NO. 2020-047<sup>1</sup>**

10 November 2020



Re: **DISCLOSURE AND PUBLICATION OF BENEFICIAL OWNERSHIP BY THE PHILIPPINE EXTRACTIVE INDUSTRY TRANSPARENCY INITIATIVE (PH-EITI)**

Dear 

We write in response to your request for an advisory opinion seeking guidance on whether the Philippine Extractive Industry Transparency Initiative (PH-EITI) may publish personal data of beneficial owners of oil, gas, and mining companies, in line with an international campaign to counter or prevent the use of anonymous shell companies to hide or launder money and conceal potential conflicts of interest within the extractives sector, and how publication of this BO information can be done while complying with data privacy laws, such as the Data Privacy Act of 2012<sup>2</sup> (DPA).

We understand that the PH-EITI will require extractive companies to furnish it with copies of their Beneficial Ownership (BO) Declaration which forms part of the revised General Information Sheet<sup>3</sup> (GIS) submitted to the Securities and Exchange Commission (SEC). The BO Declaration contains the full name, specific residential address, date of birth, nationality, tax identification number (TIN), among others.

We understand further that the PH-EITI will also require these companies to consent to the publication of their BO information in the Sixth PH-EITI Report by accomplishing a company waiver.

<sup>1</sup> Tags: publication of beneficial ownership; legal obligation; law or regulation; general data privacy principles.

<sup>2</sup> An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this Purpose a National Privacy Commission, and for Other Purposes [Data Privacy Act of 2012], Republic Act No. 10173 (2012).

<sup>3</sup> Securities and Exchange Commission, Amendment of SEC Memorandum Circular No. 17, Series of 2018, on the Revision of the General Information Sheet (GIS) to include Beneficial Ownership Information ("*2019 Revision of the GIS*"), Memorandum Circular No. 15, series of 2019 [SEC M.C. No. 15-2019] (Jul. 26, 2019).

*BO Declaration; personal data; lawful processing;  
legal obligation; law or regulation; publication*

Personal information may be processed pursuant to Section 12 (c) of the DPA, which allows processing that is necessary for compliance with a legal obligation to which the personal information controller is subject. While the processing of sensitive personal information may find basis in Section 13 (b) of the DPA which recognizes processing based on existing laws and regulations.

In relation to the above, the Philippines, through Executive Order (E.O.) No. 79<sup>4</sup> (2012), committed its support and participation to the Extractive Industries Transparency Initiative (EITI). The Department of Environment and Natural Resources (DENR) was mandated to ensure that mechanisms are established to operationalize the EITI in the mining sector, in consultation and coordination with the mining industry and other concerned stakeholders.<sup>5</sup>

Subsequently, the PH-EITI was created through Executive Order (E.O.) No. 147 (2012).<sup>6</sup> Section 5 (a) of the said EO states that the PH-EITI Multi-Stakeholder Group (MSG) has the power to “ensure the commitment of the different stakeholders to the implementation of EITI.” Thus, PH-EITI has the obligation to ensure that the Philippines implements the EITI standard among the members of the mining industry and other concerned stakeholders.

With the updating by the EITI of its standards in 2019,<sup>7</sup> participating countries to the EITI were required to publicly disclose beneficial ownership information:

“Information about the identity of the beneficial owner should include the name of the beneficial owner, the nationality, and the country of residence, as well as identifying any politically exposed persons. It is also recommended that the national identity number, date of birth, residential or service address, and means of contact are disclosed.”<sup>8</sup>

The PH-EITI, as the implementing arm of the 2019 EITI standards here in the country, committed to require the public disclosure of beneficial ownership information from the extractive industries. As such, these regulations concerning the implementation of the EITI standards may constitute as lawful bases for processing BO information from the extractive industries.

*General data privacy principles; proportionality;  
transparency; privacy notice*

It is worthy to note that the processing of personal and sensitive personal information (collectively, personal data), even if allowed under specific circumstances under the DPA, must still adhere to the general data privacy principles.<sup>9</sup> Specifically for the principle of proportionality, this requires that the processing of personal data shall be adequate, relevant,

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<sup>4</sup> Office of the President, Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mining Resources, Executive Order No. 79 [E.O. No. 79] Jul. 6, 2012.

<sup>5</sup> *Id.* § 14.

<sup>6</sup> Office of the President, Creating the Philippine Extractives Industry Transparency Initiative, Executive Order No. 147 [E.O. No. 147] Nov. 26, 2013.

<sup>7</sup> Extractive Industries Transparency Initiative, EITI 2019 Standard, available at <https://eiti.org/document/eiti-standard-2019#2-5> (last accessed 10 Nov 2020).

<sup>8</sup> *Id.* § 2.5 (d).

<sup>9</sup> Rules and Regulations Implementing the Data Privacy Act of 2012, § 18 (c)

suitable, necessary, and not excessive in relation to a declared and specified purpose and that personal data shall be processed only if the purpose of the processing could not reasonably be fulfilled by other means.

We note that the purpose of publication is to ensure transparency and accountability in the extractive industries, and possibly deter illegal activities, such corruption, money laundering, tax evasion, etc. We thus advise that the publication should contain only the information necessary to achieve this purpose.

We note that required minimum information includes the name, nationality, and country of residence. With this, there is a need to carefully assess if the publication of sensitive personal information, such as the TIN and date of birth, which is a variation of age, is necessary and proportional to the purpose.

Finally, the beneficial owners should be adequately informed that their personal data will be made publicly available pursuant to these laws, regulations, and international standards and commitments, in keeping with the principle of transparency and upholding their right to be informed. This may be done through a privacy notice.

This opinion is based solely on the limited information you have provided. Additional information may change the context of the inquiry and the appreciation of facts. This opinion does not adjudicate issues between parties nor impose any sanctions or award damages.

For your reference.

Very truly yours,

**(Sgd.) RAYMUND ENRIQUEZ LIBORO**  
Privacy Commissioner