

**Office of the President  
of the Philippines  
Malacañang**

**MEMORANDUM CIRCULAR NO. 15**

**UPDATING THE INVENTORY OF EXCEPTIONS TO THE RIGHT TO  
ACCESS OF INFORMATION UNDER EXECUTIVE ORDER NO. 02, (S. 2016)**

**WHEREAS**, pursuant to Section 4 of Executive Order (EO) No. 02, (s. 2016), the Office of the President (OP) issued a Memorandum circularizing the inventory of exceptions to the right to access information under EO No. 02 (Inventory of Exceptions) on 24 November 2016;

**WHEREAS**, Section 4 of EO No. 02 directs the Department of Justice (DOJ) and the Office of the Solicitor General (OSG) to update the Inventory of Exceptions as the need to do so arises and the OP to accordingly circularize the same;

**WHEREAS**, Section 1 of Memorandum Circular (MC) No. 49, (s. 2018), created the Inter-Agency Freedom of Information Exceptions Policy Committee (IA-FOI-EPC), with the DOJ and the OSG as co-chairs, to review the Inventory of Exceptions and periodically update the same to reflect changes in existing laws and jurisprudence;

**WHEREAS**, On 16 September 2021, MC No. 89, (s. 2021) was issued circularizing the updated Inventory of Exceptions;

**WHEREAS**, the IA-FOI-EPC, through IA-FOI-EPC Resolution Nos. 2021-002 and 2022-001, proposed further updates to the Inventory of Exceptions;

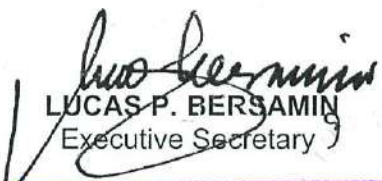
**NOW THEREFORE**, the attached updated Inventory of Exceptions is hereby circularized for the guidance of all government offices and instrumentalities covered by EO No. 02 and the general public.

The foregoing list of exceptions shall be without prejudice to existing laws, jurisprudence, rules or regulations authorizing the disclosure of the excepted information upon satisfaction of certain conditions in certain cases, such as the consent of the concerned party or as may be ordered by the courts.

In evaluating requests for information, all heads of offices are enjoined to ensure the meaningful exercise of the public of their right to access to information on public concerns.

**DONE**, in the City of Manila, this 17<sup>th</sup> day of **March** in the Year of our Lord, Two Thousand and Twenty-Three.

By authority of the President:

  
LUCAS P. BERSAMIN  
Executive Secretary



## Exceptions to Right to Access of Information

For the guidance of all government offices and instrumentalities covered by EO No. 02 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:<sup>1</sup>

1. Information covered by Executive privilege;
2. Privileged information relating to national security, defense or international relations;
3. Information concerning law enforcement and protection of public and personal safety;
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused;
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers;
6. Prejudicial premature disclosure;
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
8. Matters considered confidential under banking and finance laws, and their amendatory laws; and
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

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<sup>1</sup> These exceptions only apply to governmental bodies within the control and supervision of the Executive department. Unless specifically identified, these exceptions may be invoked by all officials, officers, or employees in the Executive branch in possession of the relevant records or information.

For the implementation of the exceptions to the right of access to information, the following provide the salient details and legal bases that define the extent and application of the exceptions.

1. Information covered by Executive privilege:
  - a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;<sup>2</sup> and
  - b. Matters covered by deliberative process privilege, namely:
    - i. advisory opinions, recommendations, resolutions, minutes of meetings, and deliberations comprising part of a process by which governmental decisions and policies are formulated; intra-agency or inter-agency recommendations or communications during the stage when common assertions are still in the process of being formulated or are in the exploratory stage; or information pertaining to the decision-making of executive officials;<sup>3</sup> and
    - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;<sup>4</sup>
2. Privileged information relating to national security, defense or international relations:
  - a. Information, record, or document that must be kept secret in the interest of national defense or security;<sup>5</sup>

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<sup>2</sup> This exception may only be invoked by the President and his close advisors. The extent of the privilege is defined by applicable jurisprudence: *Senate v. Ermita*, G.R. No. 169777, 20 April 2006, 488 SCRA 1; *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, G.R. No. 180643, 4 September 2008, 564 SCRA 152; *Akbayan v. Aquino*, G.R. No. 170516, 16 July 2008, 558 SCRA 468; and *Chavez v. PCGG*, G.R. No. 130716, 9 December 1998, 299 SCRA 744.

<sup>3</sup> *Akbayan v. Aquino*, *supra*; *Chavez v. NHA*, G.R. No. 164527, 15 August 2007; and *Chavez v. PCGG*, *supra*; *Sereno v. Committee on Trade and Related Matters of the National Economic Development Authority*, G.R. No. 175210, 01 February 2016, 780 PHIL 1-18; and *Department of Foreign Affairs v. BCA International Corporation*, G.R. No. 210858, 29 June 2016. The privilege of invoking this exception ends when the executive agency adopts a definite proposition.

<sup>4</sup> Section 3(d) Rule IV, *Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees* (Rules on CCESPOE). Drafts of decisions, orders, rulings, policy decisions, memoranda, and the like, such as resolutions prepared by the investigating prosecutor prior to approval for promulgation and release to parties [*Revised Manual for Prosecutors of the Department of Justice (DOJ)*] are also covered under this category of exceptions.

<sup>5</sup> *Almonte v. Vasquez*, G.R. No. 95367, 23 May 1995, 244 SCRA 286; *Chavez v. PCGG*, *supra*; *Legaspi v. Civil Service Commission*, L-72119, 29 May 1987, 150 SCRA 530; *Chavez v. NHA*, *supra*; *Neri v. Senate*, *supra*; *Chavez v. Public Estates Authority*, G.R. No. 133250, 9 July 2002, 384 SCRA 152; *Lagman v. Medialdea*, G.R. Nos. 231658, 231771, and 231774, 4 July 2017, 812 PHIL 179-853; and Section 3(a), Rule IV, Rules on CCESPOE. This exception generally includes matters classified under Memorandum Circular (MC) No. 78, as amended by MC No. 196 as "Top Secret," "Secret," "Confidential," and "Restricted." This exception also includes records, papers, and information related to matters provided under Sections 16, 18, and 45, *The Anti-Terrorism Act of 2020* [Republic Act (RA) No. 11479] and its Implementing Rules and Regulations (IRR), as may be invoked by the government agency involved.

- b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;<sup>6</sup> and
  - c. Patent applications, the publication of which would prejudice national security and interests;<sup>7</sup>
3. Information concerning law enforcement and protection of public and personal safety:
- a. Investigation records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would –
    - i. interfere with enforcement proceedings;
    - ii. deprive a person of a right to a fair trial or an impartial adjudication;
    - iii. disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or
    - iv. unjustifiably disclose investigative techniques and procedures;<sup>8</sup>
  - b. Informer's privilege or the privilege of the Government not to disclose the identity of a person or persons who furnish information of violations of law to officers charged with the enforcement of law;<sup>9</sup>
  - c. When disclosure of information would put the life and safety of an individual in imminent danger;<sup>10</sup>
  - d. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;<sup>11</sup> and
  - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;<sup>12</sup>

<sup>6</sup> *Akbayan v. Aquino, supra*; Section 3(a) Rule IV, Rules on CCESPOE. This privilege may be invoked by the Department of Foreign Affairs and other government bodies involved in diplomatic negotiations.

<sup>7</sup> The applicability of this exception is determined by the Director General of the Intellectual Property Office and subject to the approval of the Secretary of the Department of Trade and Industry. Section 44.3 of the *Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372).

<sup>8</sup> Section 3(f), Rule IV, Rules on CCESPOE; *Chavez v. PCGG, supra*. May be invoked by law enforcement agencies.

<sup>9</sup> *Akbayan v. Aquino, supra*; and Section 51, *Human Security Act of 2007* (RA No. 9372). May be invoked by law enforcement agencies.

<sup>10</sup> Section 3(b), Rule IV, Rules on CCESPOE.

<sup>11</sup> Section 19, *New Anti Carnapping Act of 2016* (RA No. 10883). May be invoked by law enforcement agencies.

<sup>12</sup> Section 7, *Witness Protection, Security and Benefit Act* (RA No. 6981).

4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:
  - a. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,<sup>13</sup> personal information or records,<sup>14</sup> including sensitive personal information, birth records,<sup>15</sup> school records,<sup>16</sup> or medical or health records;<sup>17</sup>

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information:<sup>18</sup>

- (1) about an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
- (2) about an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
- (3) issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
- (4) specifically established by an executive order or an act of Congress to be kept classified.

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the

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<sup>13</sup> Section 3(e), Rule IV, Rules on CCESPOE.

<sup>14</sup> Sections 8 and 15, *Data Privacy Act of 2012* (RA No. 10173); *Personal information* refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual [Section 3(g), *Data Privacy Act of 2012*]; Article 26, Civil Code. May be invoked by National Privacy Commission and government personal information controllers. This includes information collected pursuant to Section 18 of the *Department of Migrant Workers Act* (RA No. 11641).

<sup>15</sup> Article 7, *The Child and Youth Welfare Code* [Presidential Decree (PD) No. 603].

<sup>16</sup> Section 9(4), *Education Act of 1982* [Batas Pambansa (BP) Blg. 232].

<sup>17</sup> Medical and health records are considered as sensitive personal information pursuant to Section 3(l)(2), *Data Privacy Act of 2012*; See also Department of Health-Department of Science and Technology (DOST)-Philippine Health Insurance Corporation Joint Administrative Order No. 2016-0002 (Privacy Guidelines for the Implementation of the Philippine Health Information Exchange); Section 9, *Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act* (RA No. 11332); Section 36, *Universal Health Care Act* (RA No. 11223); Section 28, *National Integrated Cancer Control Act* (RA No. 11215); and Section 5(l), *Mental Health Act* (RA No. 11036). Mental health records under RA No. 11036 include information on any aspect of the mental health, treatment, or care of the service user.

<sup>18</sup> Section 3(l), *Data Privacy Act of 2012*. See also Section 9, *Free Internet Access in Public Places Act* (RA No. 10929); Section 26, *Safe Spaces Act* (RA No. 11313); and Section 21, *Tax Amnesty Act* (RA No. 11213).

individual<sup>19</sup> and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.<sup>20</sup>

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government;<sup>21</sup>

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;<sup>22</sup> and
- c. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:
  - (1) records of child and family cases;<sup>23</sup>
  - (2) children in conflict with the law from initial contact until final disposition of the case;<sup>24</sup>
  - (3) a child who is a victim of any offense under the *Anti-Child Pornography Act of 2009*, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity;<sup>25</sup>
  - (4) a child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name, address, telephone number, school, or other identifying information of a child or an immediate family of the child;<sup>26</sup>
  - (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address,

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<sup>19</sup> Article 26(2), *Civil Code*.

<sup>20</sup> Section 11, *Data Privacy Act of 2012*.

<sup>21</sup> Section 4, *Data Privacy Act of 2012*.

<sup>22</sup> *An Act Expanding the Coverage of Exemptions from Revealing the Source of Published News or Information Obtained in Confidence by Including Journalists from Broadcasts, and News Agencies, Amending for the Purpose Section 1 of RA No. 53, as Amended By RA No. 1477 (RA No. 11458)*. May be invoked by government newspapers.

<sup>23</sup> Section 12, *Family Courts Act of 1997* (RA Act No. 8369).

<sup>24</sup> Section 43, *Juvenile Justice and Welfare Act of 2006* (RA No. 9344).

<sup>25</sup> Section 13, *Anti-Child Pornography Act of 2009* (RA No. 9775).

<sup>26</sup> Section 31, A.M. No. 00-4-07-SC, *Re: Proposed Rule on Examination of a Child Witness*.

- employer, or other identifying information of a victim or an immediate family member;<sup>27</sup>
- (6) records of cases and documents involving actions for support including petitions for recognition and enforcement of foreign decisions or judgments on support;<sup>28</sup>
  - (7) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;<sup>29</sup>
  - (8) names of victims of child abuse, exploitation or discrimination;<sup>30</sup>
  - (9) cases of gender-based streets and public spaces sexual harassment, including information on the victim and the accused who is a minor;<sup>31</sup>
  - (10) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;<sup>32</sup>
  - (11) records, documents, and communications of proceedings involving domestic, inter-country, and administrative, adoptions, including the identity of the child, natural parents and adoptive parents;<sup>33</sup>
  - (12) names of students who committed acts of bullying or retaliation;<sup>34</sup>
  - (13) children in situations of armed conflict;<sup>35</sup>
  - (14) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended;<sup>36</sup> and

<sup>27</sup> Section 44, *Anti-Violence Against Women and their Children Act of 2004* (RA No. 9262); and *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006.

<sup>28</sup> Sections 29 and 30, A.M. No. 21-03-02-SC, *Re: Rules on Action for Support and Petition for Recognition and Enforcement of Foreign Decisions or Judgments on Support*.

<sup>29</sup> Section 7, *Anti-Trafficking in Persons Act of 2003* (RA No. 9208), as amended by RA No. 10364.

<sup>30</sup> Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act* (RA No. 7610).

<sup>31</sup> Section 26, *Safe Spaces Act* (RA No. 11313).

<sup>32</sup> Section 14, *Juvenile Justice and Welfare Act of 2006*; Section 7, *Anti-Trafficking in Persons Act of 2003*, as amended; and Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act*.

<sup>33</sup> Section 39, *Domestic Administrative Adoption and Alternative Child Care Act* (RA No. 11642); Sections 6 and 16(b), *Inter-Country Adoption Act of 1995* (RA No. 8043) and Sections 53, 54 and 55 of IRR of RA No. 8043; Section 14, *Simulated Birth Rectification Act* (RA No. 11222) and Section 28 of IRR of RA No. 11222.

<sup>34</sup> Section 3(h), *Anti-Bullying Act* (RA No. 10627).

<sup>35</sup> Section 19, *Special Protection of Children in Situations of Armed Conflict Act* (RA No. 11188).

<sup>36</sup> Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

(15) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing.<sup>37</sup>

5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:
- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;<sup>38</sup>
  - b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority;<sup>39</sup>
  - c. Records and reports submitted to the Social Security System by the employer or member;<sup>40</sup>
  - d. Information of registered persons with the Philippine Identification System;<sup>41</sup>
  - e. Information gathered for the HIV and AIDS monitoring and evaluation program under RA No. 11166 and all other related health intelligence activities;<sup>42</sup>

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<sup>37</sup> Section 44, *Philippine HIV and AIDS Policy Act* (RA No. 11166). Information covered by Section 44 may be disclosed with the written consent of the affected person or in accordance with Sections 45 and 46 of RA No. 11166.

<sup>38</sup> Sections 45, 106.1, and 150.2, *The Intellectual Property Code* (RA No. 8293, as amended by RA No. TU372); Section 66.2, *Securities Regulation Code* (RA No. 8799); DOST Administrative Order No. 004-16; Section 142, *The Corporation Code* (BP Blg. 68); Section 34, *Philippine Competition Act* (RA No. 10667); Sections 23 and 27 (c), *The New Central Bank Act* (RA No. 7653); *Anti-Money Laundering Act* (RA No. 9160); Section 18, *Strategic Trade Management Act* (RA No. 10697); Sections 10 and 14, *Safeguard Measures Act* (RA No. 8800); Section 12, *Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990* (RA No. 6969); Article 290, *Revised Penal Code*; Section 10.10, Rule 10, 2012 Revised IRR of *Build-Operate-Transfer Law* (RA No. 6957); *Revised Philippine Ports Authority Manual of Corporate Governance*; Section 18, *Energy Virtual One-Stop Shop Act* (RA No. 11234); Section 14, *Philippine Energy Research and Policy Institute Act* (RA No. 11572); Section 270, *National Internal Revenue Code* (RA No. 8424, as amended by RA No. 10963); and Section 33, *LPG Industry Regulation Act* (RA No. 11592).

<sup>39</sup> Section 26, *Philippine Statistical Act of 2013* (RA No. 10625) and Section 4, *Commonwealth Act No. 591*. See also Section 10, *Community-Based Monitoring System Act* (RA No. 11315).

<sup>40</sup> Section 24(c), *Social Security Act of 1997* (RA No. 1161), as amended by RA No. 8282).

<sup>41</sup> Section 17, *Philippine Identification System Act* (RA No. 11055).

<sup>42</sup> Section 43, *Philippine HIV and AIDS Policy Act* (RA No. 11166).



- f. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;<sup>43</sup>
- g. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;<sup>44</sup>
- h. Documents submitted through the Government Electronic Procurement System;<sup>45</sup>
- i. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the *Electronic Commerce Act of 2000*;<sup>46</sup>
- j. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the *Philippine Mining Act of 1995* and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;<sup>47</sup>
- k. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;<sup>48</sup>
- l. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;<sup>49</sup>
- m. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;<sup>50</sup>
- n. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;<sup>51</sup>

<sup>43</sup> Section 34, *Philippine Competition Act* (PCA), RA No. 10667 and Section 13, Rule 4 of the IRR of PCA. This exception can be invoked by the Philippine Competition Commission subject to well-defined limitations under the PCA.

<sup>44</sup> Section 81, EO No. 226 (s. 1987), as amended.

<sup>45</sup> Section 9, *Government Procurement Reform Act* (RA No. 9184).

<sup>46</sup> Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

<sup>47</sup> Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

<sup>48</sup> Section 1, Rule IX, DOT MC No. 2010-02 (Rules and Regulations to Govern, the Accreditation of Accommodation Establishments – Hotels, Resorts and Apartment Hotels); and Section 23, DOT MC No. 2015-06 (Revised Rules and Regulations to Govern the Accreditation of Travel and Tour Agencies).

<sup>49</sup> Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

<sup>50</sup> Section 10, *Safeguard Measures Act*.

<sup>51</sup> Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

- o. Information on registered cultural properties owned by private individuals;<sup>52</sup>
  - p. Data submitted by a higher education institution to the Commission on Higher Education (CHED);<sup>53</sup>
  - q. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;<sup>54</sup>
  - r. Records or information in connection with any investigation conducted by the Presidential Anti-Corruption Commission (PACC) when such disclosure will deprive the respondent of the right to a fair and impartial investigation;<sup>55</sup> and
  - s. Records of surveillance of suspects and interception and recording of communications acquired by a law enforcement agent or military personnel pursuant to the *Anti-Terrorism Act of 2020*.<sup>56</sup>
6. Information of which a premature disclosure would:
- a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or
  - b. be likely or significantly frustrate implementation of a proposed official action, except where such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.<sup>57</sup>
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:

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<sup>52</sup> Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

<sup>53</sup> CHED Memorandum Order No. 015-13, 28 May 2013.

<sup>54</sup> Articles 229 and 230, *Revised Penal Code*; Section 3(k), *Anti-Graft and Corrupt Practices Act* (RA No. 3019); Section 7(c), *Code of Conduct and Ethical Standards for Public Officials and Employees* (RA No. 6713); Section 7, *Exchange of Information on Tax Matters Act of 2009* (RA No. 10021); and Section 6.2, *Securities Regulation Code* (RA No. 8799).

<sup>55</sup> Section 3, Rule IV, PACC Resolution No. 001, s. 2018 (IRR of the PACC).

<sup>56</sup> Section 16, *The Anti-Terrorism Act of 2020* (RA No. 11479).

<sup>57</sup> Section 3(g), Rule IV, Rules on CCESPOE.

- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*;<sup>58</sup>
- b. Matters involved in an Investor-State mediation;<sup>59</sup>
- c. Information and statements made at conciliation proceedings under the *Labor Code*;<sup>60</sup>
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);<sup>61</sup>
- e. Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto;<sup>62</sup>
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;<sup>63</sup>
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;<sup>64</sup>
- h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the *Comprehensive Dangerous Drugs Act of 2002*;<sup>65</sup>
- i. Investigation report and the supervision history of a probationer;<sup>66</sup>
- j. Those matters classified as confidential under the *Anti-Terrorism Act of 2020* and its IRR;<sup>67</sup>

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<sup>58</sup> Sections 9, 23 and 33, *Alternative Dispute Resolution (ADR) Act of 2004* (RA No. 9285); and DOJ Circular No. 98 (s. 2009) or the IRR of the ADR Act.

<sup>59</sup> Article 10, International Bar Association Rules for Investor-State Mediation.

<sup>60</sup> Article 237, *Labor Code*.

<sup>61</sup> Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

<sup>62</sup> Section 178, *Revised Corporation Code of the Philippines*. May be invoked by the SEC and any other official authorized by law to make such examination.

<sup>63</sup> Sections 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

<sup>64</sup> Section 53(b)(1) of the *Pre-Need Code of the Philippines*. The confidentiality of the proceedings is lifted after the issuance of the cease and desist order.

<sup>65</sup> DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

<sup>66</sup> Section 17, *Probation Law of 1976* [PD No. 968 (s.1976)].

<sup>67</sup> Sections 18 and 45, *The Anti-Terrorism Act of 2020* (RA No. 11479) and Rules 5.8 and 5.19 of the IRR of RA No. 11479.

- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;<sup>68</sup>
  - l. Investigation proceedings and records during the preliminary investigation in administrative cases in the civil service;<sup>69</sup>
  - m. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;<sup>70</sup> and
  - n. Information on a bank inquiry orders issued by the Court of Appeals, including its contents and its receipt.<sup>71</sup>
8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
- a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);
  - b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;
  - c. RA No. 8791 (*The General Banking Law of 2000*);
  - d. RA No. 9160 (*Anti-Money Laundering Act of 2001*), as amended by RA No. 11521;
  - e. RA No. 9510 (*Credit Information System Act*); and
  - f. RA No. 245, as amended by Presidential Decree No. 1878;
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
- a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:

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<sup>68</sup> Section 14, Civil Service Commission (CSC) Resolution No. 01-0940.

<sup>69</sup> Section 21, 2017 Rules on Administrative Cases in the Civil Service, CSC Resolution No. 1701077.

<sup>70</sup> Section 18, Rule 139-B and Section 24, Rule 130 of the Rules of Court; Section 11 of the Rule on DNA Evidence, A.M. No. 06-11-5-SC; and Section 26 of the Rule on Facilitated Naturalization of Refugees and Stateless Persons, A.M. No. 21-07-22-SC.

<sup>71</sup> Section 16, A.M. No. 21-03-5-CA, *Re: Rule of Procedure in Cases of Bank Inquiry into or Examination of Deposit and Investment Accounts Relating to an Unlawful Activity or a Money Laundering Offense under Republic Act No. 9160, as Amended*.

- (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;<sup>72</sup>
  - (2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);<sup>73</sup> and
  - (3) Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012);
- b. Testimony from a government official, unless pursuant to a court or legal order;<sup>74</sup>
  - c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
    - (1) any purpose contrary to morals or public policy; or
    - (2) any commercial purpose other than by news and communications media for dissemination to the general public;<sup>75</sup>
  - d. Failure to comply with regulations on access of records imposed by the records custodian;<sup>76</sup>
  - e. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;<sup>77</sup>
  - f. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;<sup>78</sup>

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<sup>72</sup> Examples: Article 20 (2), ASEAN Comprehensive Investment Agreement; Article 15 (2) Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation between the ASEAN and the Republic of India; and Article 15 (2) of the Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation among the Government of the Member Countries of the ASEAN and the Republic of Korea.

<sup>73</sup> Article 7, UNCITRAL Transparency Rules.

<sup>74</sup> *Senate v. Neri, supra; Senate v. Ermita, supra.*

<sup>75</sup> Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees.*

<sup>76</sup> *Biraogo v. Ombudsman Martires*, G.R. No. 254516, 02 February 2021.

<sup>77</sup> *Belgica v. Ochoa*, G.R. No. 208566, 19 November 2013; and *Valmonte v. Belmonte Jr.*, G.R. No. 74930, 13 February 1989, 252 Phil. 264.

<sup>78</sup> Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending Certain Provisions of the New Rules of Procedure of the National Labor Relations Commission, 08 March 2002; Department of Agrarian Reform MC No. 07-11, 19 July 2011; Department of Social Welfare and Development MC No. 021-12, 16 October 2012; Section X808 of Bangko Sentral ng Pilipinas Circular No. 706, s. 2011; Section 42, *Investment Company Act* (RA No. 2629); When the information requested is not a matter of public concern or interest as decided in *Hilado v. Judge Amor*

- g. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;<sup>79</sup> and
- h. Attorney-client privilege existing between government lawyers and their client.<sup>80</sup>

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A. Reyes, G.R. No. 163155, 21 July 2006; and Questionnaires in the Professional Regulation Commission test banks, pursuant to *Antolin-Rosero v. Professional Regulation Commission*, G.R. No. 220378, 30 June 2021.

<sup>79</sup> *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

<sup>80</sup> Canon 21 of the *Code of Professional Responsibility*.