

# Gujarat RERA Bank Account Directions, 2018

**Gujarat Real Estate Regulatory Authority (RERA)  
Chief town Planner and Valuation Office, Sector 10-A  
Gandhinagar**

**Direction: 2018/1**

**Date: 19th Feb 2018**

In exercise of the powers conferred by Section 37 of the Real Estate (Regulation and Development) Act, 2016 the Gujarat Real Estate Regulatory Authority having considered it necessary in the interest of on-time delivery of any plot, apartment or building and for the purpose of ensuring the non-diversion of project funds has decided to issue the directions herein under specified.

## **The Gujarat RERA Bank Account Directions, 2018**

### **1 Short Title**

These Directions shall be called the Gujarat RERA Bank Account Directions, 2018.

### **2 Definitions**

- (i) "Act" means the Real Estate (Regulation and Development) Act, 2016
- (ii) "Authority" means Gujarat Real Estate Regulatory Authority established under sub-section (1) of section 20 of the Act
- (iii) No Lien Account means Account without any third party rights or security interests
- (iv) No Lien Fixed Deposit means Fixed Deposit without any third party rights or security interests
- (v) "RERA Account" means the separate account to be maintained by the promoter in a scheduled bank as per section 4(2)(1)(D) of the Act to cover the cost of construction and the land cost of the project.

### **3 General Guidelines**

- (i) The RERA Account opened in accordance with the provisions of section 4(2)(1)(D) of the Act, shall be a 'No Lien Account' and withdrawal from such separate account shall be in accordance with the provisions of the Act, Rules, Regulations and Directions issued by the Authority from time to time.
- (ii) The Authority recommends that the amount withdrawn from the RERA Account shall be utilized for the purpose of completion of the same Real Estate Project. However, there is no end use restriction on the amount which is withdrawn from the RERA Account, in accordance with the provisions of the Act, Rules, Regulations and Directions.

#### **4 Account Opening**

- (i) A RERA Account is to be maintained for each of the registered projects of the Promoter. Details of this project specific account are to be submitted with the project registration application. As such the promoters shall have the RERA Account opened before application
- (ii) It shall be required to suffix the term “RERA Account for < name of the project > Real Estate Project” with the name of the RERA Account holder
- (iii) Every project shall have only one RERA Account. In the case of multiple promoters, necessary contractual or legal arrangements should be made by the principal promoter, who is registering the project, to ensure proper operations of RERA Account.

#### **5 Deposits in Account**

- (i) The Promoter shall deposit seventy percent of the amount collected from Allottees (other than Passthrough charges and Indirect Taxes) in the RERA Account. In the case of a project where the estimated cost to complete the project is higher than estimated value of sales revenue, hundred percent of the amount collected from the Allottees (other than Pass through Charges and Indirect Taxes) shall be deposited in the RERA Account.
- (ii) The money lying in the RERA Account can be put in fixed deposits with the bank operating the RERA Account provided it is a ‘No Lien Fixed Deposit’ and no loan can be obtained against or on such Fixed Deposit nor any charge can be created on such Fixed Deposit.

#### **6 Withdrawals from Account**

The Promoter shall be required to follow the following procedure for every withdrawal from RERA Account till the project is completed:

- (i) As per the second proviso to section 4(2)(l)(D) of the Act which provides that the amounts from the RERA Account shall be withdrawn by the promoter after it is certified by an architect, an engineer and a chartered accountant in practice, that the withdrawal is in proportion to the percentage of completion of the project.
- (ii) As per Rule 5 of the Gujarat Real Estate (Regulation and Development (General) Rules, 2017 which prescribes the withdrawal aspects of the amounts deposited in a RERA Account under Section 4(2)(l)(D) of the Act and the said Rule requires that for the purpose of withdrawal of amounts deposited in the RERA Account in respect of Registered Project, the promoter shall have the following three certificates:
  - a) Certificate from the project Architect in Form 1 certifying the percentage of completion of construction work of each of the tasks/activity of the building wing of the project;
  - b) Certificate from the Engineer in Form 2 for the actual cost incurred on the construction work of each of the building/wing of the project; and
  - c) Certificate from a practicing Chartered Accountant in practice other than the

statutory auditor of the Promoter in Form 3, for the cost incurred and paid on construction cost and the land cost. The Chartered Accountant in practice is also required to certify the proportion of the cost incurred and paid on construction and land cost to the total estimated cost of the project. The total estimated cost of the project multiplied by such proportion shall determine the maximum amount which can be withdrawn by the Promoter from the RERA Account.

(iii) On completion of the project, the entire balance amount lying in the RERA Account can be withdrawn by the Promoter on the basis of submission of necessary certificates and due project completion compliances including submission of end quarter data.

## 7 Reporting to Authority

(i) Promoter shall submit Forms 1, 2 and 3 to Authority for withdrawal of funds and for quarterly return filing compliance.

(ii) As per the third proviso of Section 4(2)(l)(D) of the Act the Promoter is required to get his accounts audited within six months after the end of every financial year by the statutory auditor of the Promoter's enterprise and produce report on statement of accounts on project fund utilization and withdrawal by Promoter in Form-5 in accordance with Regulation 4 of Gujarat Real Estate Regulatory Authority (General) Regulations, 2017. Such report as per Form -5 shall be submitted for each of the Projects registered by the Promoter.

(iii) In case of a fixed deposit being made from the money lying in the RERA Account, the chartered accountant shall verify that there is no lien or charge on such fixed deposit. The promoter and/or chartered accountant shall obtain the No lien/ charge Certificate in respect to such fixed deposit, from the bank once every three months and submit the same as part of quarterly compliance return.

(iv) The promoter shall append RERA Account passbook copy certified by CA to form 3 upload as part of his quarterly return submission.

Note 1: The chartered accountant certifying Form 3 should be a "different entity" than the chartered accountant certifying Form 5.

Note 2: If the Form 5 issued by the statutory auditor reveals that any certificate issued by the project architect, engineer or the chartered accountant has false or incorrect information and the amounts collected for a particular project have not been utilized for the project and the withdrawal has not been in compliance with the proportion to the percentage of completion of the project, the Authority, in addition to taking penal actions as contemplated in the Act and the Rules, may also take up the matter with the concerned regulatory body of the said professionals of the architect, engineer or chartered accountant, for necessary penal action against them, including cancellation / suspension of registration of membership for practice as such.

## 8 Changing RERA Account

(i) The Promoter may change the RERA Account from one Bank to another Bank only with prior written permission of the Authority.

(ii) For RERA Account change request, Promoter has to make written application along with necessary documents in the following forms:

- a. Application for change in RERA Account as per form RA1
- b. Certificate of account balance from Bank with existing RERA Account as per form RA2
- c. Account Statement / Copy of Passbook of account proposed as new RERA Account

(iii) Promoter is also required to submit fund transfer compliance letter as per Form RA3 (Confirmation letter for change in RERA Account) along with Form RA4 (Certificate of fund transfer from Bank with new RERA Account) and Proof of previous RERA Account closure.

## **9 Powers of the Authority on RERA Account**

(i) Upon revocation of the registration, the Authority may direct the bank holding the RERA Account to freeze or de-freeze the said account, to facilitate the remaining development works in accordance with the provisions of sections 7(4)(c) and 8 of the Act.

(ii) The Authority may in the interest of the allottees, enquire into the payment of amounts out of RERA Account as per the provisions contained in sub rule 3 (a) of Rule 8 of the Gujarat Real Estate (Regulation and Development) (Matters Relating to the Real Estate Regulatory Authority) Rules, 2016.

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