

# RERA Bank Account Guidance – 5 Guidance to Bankers for Operation & Maintenance of RERA Bank Account Date: 21<sup>th</sup> October, 2022

Under RERA Act, 2016 Government of Gujarat established Gujarat Real Estate Regulatory Authority (GUJREERA), for regulation and promotion of real estate sector in the State of Gujarat.

The Real Estate Act is intended to achieve the objectives like;

- a) infuse transparency, ensure fair-play and reduce frauds & delays, to curb diversion of funds
- b) promote good governance in the sector which in turn would create investor confidence

Section 4(2)(l)(D) of RERA Act, 2016 contemplates

*“that seventy per cent. of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:*

***Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:***

***Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project:***

*Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.*

*Explanation.— For the purpose of this clause, the term "schedule bank" means a bank included in the Second Scheduled to the Reserve Bank of India Act, 1934;”*

The Authority has issued "Gujarat RERA Bank Account Directions, 2018". The directions lay down procedure for Separate Account opening, Deposits in account, withdrawal of funds from account, reporting to the Authority in prescribed Forms and procedure for changing RERA Bank Account, under section 37 of the Real Estate Regulation Act.

Further, Gujarat RERA has established systems whereby promoters are required to submit Quarterly Progress Report on Gujarat RERA portal for all registered projects. Promoters are required to upload progressive photographs to show the physical progress of the project at every submission.

To ensure transparency and to minimize the probability of diversion of funds, RERA Bank Account play a vital role. Bankers are required to play a pivotal role of ensuring that the withdrawals are made after due procedure stated in the Act. Banker can use the information available on the website of Gujarat RERA for particular project to achieve financial discipline.

Bankers have to ask the promoters to provide the Certificate as per the Act for withdrawals from the RERA bank account. The Banks have to ensure that the withdrawal is within the limit of the project progress/financial progress certified by the CA in form – 3.

Here, limit means the maximum eligible amount of withdrawal up to which promoter can withdraw the funds from the RERA Bank Account. However, if promoter has balance limit for withdrawal as per previous certificate then fresh certificates for subsequent withdrawal are not required to be provided. It means every withdrawal does not require fresh issuance of certificate, as long as, earlier certificate provided by promoter serves the purpose of withdrawal.

Bankers should use their discretion to ensure proper operation of dedicated RERA Bank Account for the project to safeguard financial discipline amongst the developers while ensuring withdrawals from the RERA Bank Account are proper. Bankers are required to invariably obtain CA certificate from the professionals as prescribed in the Act.

However, the promoter submits Quarterly Progress Report to the Authority in form of Form-1,2 and 3 which is dully certified by the Architect, Engineer and CA respectively on the GujRERA Portal, a copy of the same may also be obtained by the bankers from the promoter.