



# Chhattisgarh Real Estate Regulatory Authority (RERA)

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Circular No. 06/RERA/2018/158

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## Circular

Subject: **Instructions for Real Estate Projects regarding withdrawal of funds from RERA Designated accounts.**

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It is necessary that possession to the allottee of any Real Estate project plots/apartments/building etc should be within a stipulated time, hence it is necessary that in a real estate project, the amount received from allottees is not misused and is used exclusively for the same project. Therefore under the powers provided in Section 37 of the Chhattisgarh Real Estate (Regulation and Development) Act, 2016, Chhattisgarh Real Estate Regulatory Authority issues the following instructions for “RERA Designated Accounts” :-

### **01. Short title, extent and opening—**

- (1) These instructions will be called “Chhattisgarh RERA Bank Account instructions, 2018”.
- (2) These instructions shall extend to whole of the state of Chhattisgarh.
- (3) These instructions will come into force from the date of their issuance.

### **02. Definitions— (1) In these directions:-**

- (a) “Act” means the Real Estate (Regulation and Development) Act, 2016.
- (b) “Authority” means the “Chhattisgarh Real Estate Regulatory Authority” established under section 20(1) of the Act.
- (c) “No-lien account” means an account devoid of rights or security interests of any third party.
- (d) “No-lien fixed deposit” means a fixed deposit devoid of rights or security interests of any third party.
- (e) “RERA Designated account” means the account as provided under section 4(2) (1) (D) of the Act, separate account maintained by promoter in schedule bank for a project.

### **03. General Direction :-**

- (1) Under section 4 (2)(1)(D) of the Act, account opened by the promoter for an ongoing project in a specified Account would be a No-Lien account. Withdrawal of amount from this RERA Designated account shall be done in accordance with the Act and rules or regulations made there under and by the Authority from time to time, as per the instructions issued.
- (2) Only the actual amount spent in the project from the RERA Designated account can be withdrawn through the prescribed procedure; according to the guidelines, act, rules and regulations made by authority. Advance withdrawal shall not be permitted from these designated accounts.

### **04. Opening of account and its operation:-**

- (1) For every Real Estate Project, the promoter shall open two accounts in a schedule bank.

#### **(a) RERA Designated Account:-**

- (i) To open a RERA Designated account it is mandatory to mention 'RERA Designated account' with the name of the project. Example:- "RERA Designated account <Name of project>."

If the bank faces some technical difficulty in adding Name of the project, then the project can add the name of the promoter with project's name, but it is essential to mention the name of the project in the account. If a project is being developed in phases then numbering of phases should necessarily be mentioned with the name of project.

- (ii) No cheque book shall be issued by the bank to the promoter for this account; Nor shall the promoter ask for a cheque book from the bank.
- (iii) It will be the responsibility of the promoter to deposit 70% amount received from allottees/bank etc to this account immediately.
- (iv) If the amount to be received in future from the allottees in a project is less than the total estimated cost, to complete the project, then 100% of the amount so received shall be deposited in RERA designated account.
- (v) To transfer fund from RERA designated account the promoter shall require certificates from three professionals namely the, Architect, Engineer and Chartered Accountant and shall be presented to bank in a prescribed format.
- (vi) After production of the above three certificates the bank shall proportionately transfer the amount from the RERA designated account to the RERA regular account.

(vii) There shall be only one RERA Designated account for each real estate project. If there are more than one promoter in a project, then any one of them will be authorized for the operation of the designated account. Promoters shall enter into a contract or statutory arrangements for this purpose.

**(b) Regular Account—**

- (i) To open a RERA Regular account it is mandatory to enclose 'RERA Regular account' with the name of the project. Example:- "RERA Regular account <Name of project>."
- (ii) Cheque book may be issued by the bank for the operation of this account.
- (iii) After the promoter credits 70% of the incoming amount to the RERA Designated account, balance 30% amount (net balance after deductions, if any) will be deposited in the RERA Regular Account.
- (iv) After the certificates of the three professionals according to the provision have been presented by the promoter, the proportionate amount to be released from the RERA designated account shall be transferred to RERA Regular Account, and from this regular account the promoter can withdraw or use funds for completing the specified project.
- (v) If a project loan has been taken by the promoter, then related financial institution may control this RERA Regular account as an "Escrow Account".

Promoter has to open separate account of each Real estate project, and its account number, name of the bank etc. has to be presented at the time of project registration. Hence, this account is mandatory to be opened before project registration.

If under the provisions of the Income-tax Act, 1961 or under provisions of any other Act, any tax has to be deducted at source (TDS) by the Bank or Allottee; such deduction shall be done from the remaining 30% of the amount. 70% of the amount has to be necessarily transferred in full to the RERA Designated account. It should also be noted that the amount of income tax being paid by the promoter shall not be included in the cost of the project.

If according to the contract with the allottees, the promoter collects amounts in addition to the cost of plot, building, apartment, like maintenance charges, electricity charges, club charges etc. then all such collected amounts shall be deposited in a separate account, and will be the

responsibility of the promoter to maintain the accounts, so that later it can be transferred to the Association of Allottees.

All three original certificates of the professionals (is Architect, site Engineer and Chartered Accountant) will be kept safely by the promoter for withdrawal of amount from RERA designated account and will be presented to the auditor during the audit.

**05. Deposit in Account—**

- (1) Of the amounts received by promoter through bank/allottees etc. under the project, 70% of the amount will be deposited immediately in the RERA Designated account.
- (2) If the amount to be received in future from the allottees in a project is less than the total estimated cost of the balance works complete 100% of the amount shall be deposited in RERA Designated Account immediately.
- (3) Deposits kept in RERA Designated Account may be kept as a “Fixed Deposit”. But it shall be a No-Lien fixed-deposit. i.e. against this fixed deposit, no loans can be raised.

**06. Withdrawals from Account—**

- (1) As per the provision of Section 4(2)(1)(D) of the Act, - Promoter can withdraw the amount from the RERA Designated account, proportional to the completion of the project. It has to be certified by the Engineer, Architect and Chartered Accountant that the amount is being withdrawn in proportion to the completion of the project.
- (2) To ensure that the withdrawal from the RERA designated account is proportional to the completion of the project, the promoter has to present following three certificates of professionals to the bank.
  - (i) Annexure-17, Architect’s Certificate regarding the progress /completion of the project.
  - (ii) Annexure-18, Engineer Certificate regarding actual expenditure incurred on construction cost in the project.
  - (iii) Annexure-19, Chartered Accountant Certificate regarding the estimated cost of land and construction in the project, vis-a-vis the actual cost and other expenditures as per Books of Accounts.

It has also to be clearly verified in the above certificate by the Chartered Accountant, that of the total estimated cost of project, what is the actual expenditure on land and cost of construction so far.

It should clearly bring out the completion percentage of the work as compared to the total estimated cost of the project. The amount allowed to be drawn from the RERA designated account should not exceed this percentage.

For example— If the total estimated cost of a project is 300 crore (land cost Rs. 100 Crore and construction cost Rs. 200 crore), and till now the expenditure made is Rs. 100 crore on land and Rs. 20 crore on construction. Then the total of Rs 120 crores expenditure has been made. So the proportion of project completed is  $120 \times 100 / 300 = 40\%$ . In such case only 40% of the total amount is RERA Designated amount subject to maximum of Rs. 120 crore can be drawn from the RERA designated account.

- (3) The bank shall every time, get the certificates of the above three professionals and only after that any amount can be transferred from “RERA Designated Account” to RERA Regular Account”.As long as the project does not get completed and the promoter does not receive completion certificate, until then the promoter has to follow the above procedure to withdraw any amount from RERA Designated Account.
- (4) After completion of the project, and obtaining the completion certificate, the promoter shall submit the certificates in the bank, only after that the balance deposit in the account could completely be transferred to the regular account.

After obtaining the completion certificate from the competent authority the promoter shall obtain in Annexure -20 certificate from the architect and upload it in the Authority’s web-portal.

#### **07. Reporting to the Authority—**

- (1) The promoter shall, in each quarterly updation have to upload each withdrawal from RERA designated account in a pre-determined format, on Authority’s web-portal. Also after completion of the project, completion certificate provided by the competent authority and completion certificate (Annexure-20) given by project Architect, shall be uploaded in the web-portal of the authority.
- (2) As per the provisions of clause 4(2)(1)(D) of the Act, within six months of the commencement of the financial year the promoter should get an audit done by a Chartered Accountant duly signed and certified by him. All details should be uploaded in the authority’s Web portal. It shall also be verified and certified by the chartered accountant that the amount collected

for a particular project has been used for the project only and withdrawal from RERA designated account and the amounts received have been as per the percentage of completion of the project.

The Chartered Accountant auditing the accounts of the Promoter for issuance of certificate for withdrawal of funds from designated bank account and the Chartered Accountant doing the yearly audit have to be different.

- (3) If the amount in the RERA designated account is kept by the promoter as a fixed deposit then the Chartered Accountant must verify the same and should certify that the said fixed deposit is No-lien. The promoter has to obtain this certificate every quarter and upload it in Authority's web-portal.
- (4) Every quarter, certificate prepared by the Chartered Accountant in Annexure-19 and pass-book of RERA designated account or photocopy of the statement's attested by the C.A. shall be mandatorily uploaded in the web portal of the authority.
- (5) In case of any discrepancies, irregularities or exception entries in the RERA designated account, the CA should send it through e-mail or his letter head the authority at [registrar.rera.cg@gov.in](mailto:registrar.rera.cg@gov.in).

Statutory obligations under this act in form of rules, regulations, instructions or circulars if violated by the promoter; then it is obligatory on the auditing CA to immediately inform the authority on his letter head at [registrar.rera.cg@gov.in](mailto:registrar.rera.cg@gov.in).

#### **08. Change of RERA designated account:-**

- (1) Promoter, without any prior written permission of the authority cannot close a designated account in a bank or open same account with other bank.
- (2) Prescribed form in RDA-1 needs to be filled by the promoter and should be e-mailed to the authority at [registrar.rera.cg@gov.in](mailto:registrar.rera.cg@gov.in).
- (3) Only in the exceptional circumstances or on the basis of adequate reasons such a change will be considered by the Authority.
- (4) If the Authority permits change of RERA Designated Account, the promoter's account balance in the prior bank should be transferred to the new designated account, an e-mail should be made to the authority along with a certificate of the new bank in form RDA-2.
- (5) Authority will have the final decision to accept or disallow the said application of the promoter.

**09. Power of the Authority regarding RERA Designated account:-**

- (1) Authority may revoke registration under section 7(4)(C), and freeze designated bank account maintained by the bank according to the provisions mentioned in section 8 of the Act, banks should be bound to maintain this account in the manner so ordered by the authority to facilitate development and completion of the project.
- (2) Under rule 24(1) and 24(2) of the Chhattisgarh Real Estate (Regulation and Development) Rules, 2017 in the interest of the allottees, the authority may direct concerned banks to inspect complete transactions / payments / withdrawals in all bank accounts of the project the bank will be bound to carry out such inspection, within prescribed time period and submit such details/information/checking report to the Authority.
- (3) For the purpose of withdrawal of amount the three professionals i.e. project Architect, Engineer and Chartered Accountant shall be fully responsible to ensure that the drawings are in proportion with the progress in the project. If the certificate is found untrue or contains fraudulent fact or defective/unformed on the basis of which the amount has been withdrawn from RERA Designated account. The authority may issue instructions for cancellation of registration of these three professionals to their concerned institution. Authority shall also have the right to initiate legal /criminal proceedings against the said professionals.
- (4) If any problem arises after giving effect to these instructions, the Authority may issue such directions as may be necessary to remove the difficulties'

**10. Closing of RERA Designated Account—**

- (1) Completion certificate issued by the competent authority after the completion of the project, and completion certificate issued by Project Architect in Annexure-20 along with the three professionals' certificates shall be deposited by the promoter in the bank. After this the bank will transfer the entire amount of deposit in the RERA designated account to the regular account, and the RERA designated account may be closed. This designated account number shall not be made available to use again to any other entity.

**11. Other necessary instructions for bankers—**

- (1) Banks will sanction loans to promoters only for such projects which are registered under RERA.

- (2) In such case where projects have already got their loans approved by banks, the bank are instructed to ask the promoter to submit its RERA registration number within a month.
- (3) Even in case of individual home loan, only the properties of such projects which are registered under RERA should be sanctioned the loan amount.
- (4) There is a clear provision under Section-13 of the Act that the promoter, shall not accept amount exceeding ten percent advance from the allottee without entering into a registered agreement. Therefore, in individual home loan cases in projects registered under RERA; banks need to ensure that the contract submitted is duly registered. In case of non-registration, home loans should not be sanctioned.

Another situation in the case may be that certain promoters may state that their projects do not require RERA registration. Therefore, it is clarified that as per section 3(2) of the Act, only the following projects are not required to register under RERA :-

- (1) When the proposed area of land of the projects is less than 500 sqm or the total number of units is less than 8.
- (2) Where the promoter received completion certificate of the project from the competent authority before first of May, 2017.
- (3) Where the object of the project is to repair or re-develop or renovate existing units, which doesn't involve advertisement, sale or new allotment.

Therefore, in the event of such a situation decision should be taken by the bank only on production of certificate issued by the competent authority.

(Approved by Hon'ble Chairman)

**Sd/-**  
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