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Jayesh Chauhan
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Sahil Parikh
Aditya Mirchandani
Rushi Ajmera

YOUTHWING CONVENOR
Naman Shah

PROCUREMENT CONVENOR
Nimish Ajmera

WOMEN'S WING CHAIRPERSON
Sejal Goradia

To,

Shri Ajoy Mehta (I.A.S. Retd.)

Chairman,

Maharashtra Real Estate Regulatory Authority (MahaRERA),
Mumbai

Re: Suggestion/Views on the Discussion Paper dated 15-03-2024 on operation of Bank Accounts by Promoter

Respected Sir,

At the Outset, we appreciate MahaRERA efforts in protecting the interest of home buyers through transparent mechanism of guidelines on operation of Bank Account. We are submitting herewith our views/suggestions to the discussion paper and request your good selves to provide us opportunity of personal hearing in physical mode to better understand the various difficulties which our members of realty sector may envisage.

We submit that the RERA regulation has been effectively working since 2017. It was conceived as a balanced regulation between ensuring that consumers' money is safeguarded and the ease of doing business for developers is enhanced. Hence, the idea of 70% of project collections being earmarked specifically for project cost till Occupation Certificate (OC) and balance 30% being allowed to be used as per the discretion of the developer. We believe that some of the changes proposed in the subject circular may disturb the balance of the regulation and we request you to consider our suggestions below to ensure that the spirit of RERA is maintained.

We firmly believe that financial monitoring and discipline constitute the backbone of any real estate project. Therefore, ensuring transparency, accountability, and uniformity in the operation and maintenance of real estate project bank accounts is imperative. MahaRERA has been on the forefront ensuring highest level of governance in the real estate project enhancing confidence and building trust for all stakeholders including customers, banks, shareholder etc. Some of our suggestions (Coy Attached) are keeping in mind practical day-to-day operations of projects and would give a good insight for deliberation around proposed thoughts.

Yours sincerely,

For **CREDAI-MCHI**

Domnic Romell
President

Dhaval Ajmera
Hon. Secretary

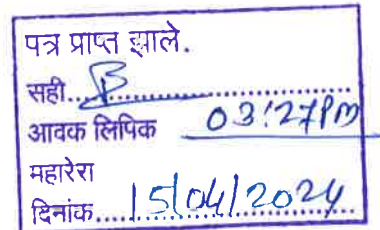
CC :

Shri Vasant Prabhu

Secretary,

Maharashtra Real Estate Regulatory Authority (MahaRERA),
Mumbai

PS: Contact Person: Mr. Harish Gupta (AGM) +91 98923 59635



Maharashtra Chamber of Housing Industry

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VASAI VIRAR | ALIBAG | KARJAT-KHALAPUR-KHOPOLI | YOUTH NMR



MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

महाराष्ट्र स्थावर संपदा नियामक प्राधिकरण

No. MahaRERA/Secy/129/2024

Date- 15/03/2024

Sub: Discussion Paper in the matter of maintenance and operation of Bank Accounts of registered real estate projects.

Financial monitoring and discipline are core to any real estate project Section 4 (2) (1) (D) of the Real Estate (Regulation and Development) Act, 2016 therefore, mandates that seventy percent of the amount realized 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 safeguard homebuyers interest, ensure compliance, promote efficiency and transparency, accountability, and financial discipline as well as to have uniformity in the operation and maintenance of the bank account of real estate projects and to ensure proper and lawful utilization of the funds deposited in the designated bank account, MahaRERA has prepared a discussion paper on maintenance and operation of Bank Accounts of registered real estate projects.

Considering that the above aspect may touch / impact and encompass, number of entities connected with real estate industry as well as homebuyers at large, MahaRERA invites suggestions / views / objections from all stakeholders to the proposal mentioned and elaborated in the discussion paper by 15th April 2024, at the specifically designated email id: finance.suggestions2024@gmail.com

(As approved by Authority)

(Dr. Vasant Prabhu)
Secretary / MahaRERA

MAHARERA HEADQUARTERS

Housefin Bhavan, Plot No.C-21, E-Block, Bandra-Kurla-Complex, Bandra (E), Mumbai 400051

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महारेरा मुख्यालय

हाउसफिन भवन, प्लॉट नं. सी-21, ई ब्लॉक, वांद्रे-कुर्ला-कॉम्प्लेक्स, वांद्रे (पूर्व), मुंबई - ४०००५१.

दूरध्वनी. क्रमांक. ०२२-६८१११६०० ई-मेल : helpdesk@maharera.mahaonline.gov.in

**Discussion Paper on the matter of Maintenance and Operation of Bank Accounts of
Registered Projects in MahaRERA.**

Date- / /2024

Subject- Maintenance and Operation of Bank Accounts of Registered Projects.

Reference-

- 1) Section 4(2)(D) of The Real Estate (Regulation and Development) Act, 2016.**
- 2) Maharashtra Real Estate (Regulation and Development) (Registration of real estate projects, Registration of real estate agents, rates of interest and disclosures on website) Rules, 2017. (Rule 5, model agreement for sale)**
- 3) Maharashtra Real Estate Regulatory Authority (General) Regulations 2017. (As amended up to date)**
- 4) MahaRERA Circular bearing No. 07/2017 issued on 4 Jul 2017. (Clarification on CA Certificates)**
- 5) MahaRERA Circular bearing No. 5/2017 issued on 28 Jun 2017. (Clarification on Operating Designated Bank Account)**
- 6) MahaRERA order no. 26/2021 issued on 29 Oct 2021. (Report From CERSAI)**
- 7) MahaRERA Circular bearing No. 39/2021 issued on 28 Dec 2021. (Submission of certificates to the schedule bank operating the separate account and copies thereof to MahaRERA Authority)**
- 8) MahaRERA Circular bearing No. 39A/2021 issued on 28 Dec 2021. (Submission of certificates to the schedule bank operating the separate account and copies thereof to MahaRERA Authority)**
- 9) MahaRERA order no. 34/2022 issued on 27 Jul 2022. (Declaration about separate Bank account for real estate projects)**
- 10) MahaRERA Circular bearing No. 43/2023 issued on 20 Feb 2023. (For change/ transfer of the separate designated bank account from one schedule bank / branch to another)**

1. Short Title and Commencement:

- a) This order may be called the '**MahaRERA directions for Maintenance and Operation of separate bank account for MahaRERA registered projects,2024**' and shall come into effect from Date-[To be announced Soon].
- b) These directions shall be in continuation with previous Circulars and Orders in relation to the maintenance and operations of **separate bank account for MahaRERA registered project**.
- c) The object of these direction is to establish mechanism for operation and maintenance of separate bank account for MahaRERA registered project and to safeguard consumer interests, ensure compliance, promote transparency, accountability, and financial discipline, as well as to have uniformity in the operation and maintenance of bank accounts of the project and standardize legitimate utilization of funds deposited in the separate bank account.

2. Definitions-

- i. "**Land**" "project land" means any parcel or parcels of land on which the project is developed, constructed and completed by a promoter;
- ii. "**No Lien Account**" means bank account without any third-party rights or security interests;
- iii. "**Collection Account**" means an account to be maintained by the promoter for receiving all the collections from the allottees from time to time including parking, amenity and any other charges excluding all other taxes and statutory duties;
- iv. "**Separate Bank Account**" means the separate bank account wherein seventy percent of the amounts realised for the project from the allottees received in "Collection Account", shall be deposited in a separate account to be maintained in a scheduled bank. Deposited amount in this account shall solely be utilised to cover the cost of construction and the land Cost as prescribed in the Rule 5 of the Rules;
- v. "**Transaction Account**" Means an account of the project to be maintained by the promoter for transferring up to 30% of the total collections received in the collection account of the project.
- vi. Words or expressions used in this order and not defined herein but defined in the Act or Rules or Regulations shall bear the same meanings respectively assigned to them in the Act , Rules and Regulations;

3. Opening of RERA Project Bank Accounts

The promoter shall open following three bank accounts in a single scheduled bank before applying for the project-

- A. Collection Account of the Project
- B. Separate Account of the Project
- C. Transaction Account of the Project

This direction shall be applicable on projects registered after Date- [To be announced soon]. The promoter is obligated to furnish the details of project bank accounts at the time of registration.

These accounts will be opened solely/jointly as mentioned in the registration form. In case of multiple promoters, each of the promoter shall open the aforementioned accounts in respect of the receipts arising from the project for its benefits necessary contractual or legal arrangements should be made by the principal promoter, who is registering the project, to ensure proper operations of RERA project accounts.

A) Collection Account of the Project

~~Each of t~~The promoter shall open and maintain the "Collection account of the Project" in a scheduled bank for each registered project separately.

Nomenclature- Name of the collection account shall contain name of the promoter and name of the project formatted in the following manner: (May not be possible for the Bank due to restriction on maximum length of the Title of the each account. To be review with banks before conclusion / stipulation by the authority as it may not be possible in Banking system big size title of the accounts.)

"Name of Promoter" + ~~Collection Account for~~ + "Project Name"

Example-

Name of Promoter – "ABC Ltd.", ~~Name of Project~~ project - "XYZ"

Account name- "ABC Ltd. ~~Collection Account for~~ project XYZ"

The entire amount excluding indirect taxes (GST, taxes, vat stamp duty registration charges etc) and Pass-Through Charges (if any) accepted from the allottees should be deposited in this account. The promoter shall submit declaration in the **Format -A** incorporating irrevocable standing advice given to the bank for auto-sweep transfer facility of not less than seventy (70%) percent of the amount collected from allottees in this account to the 'Separate Bank Account of the Project' and not more than thirty (30%) percent of the collected amount to the 'Transaction account of the project'. Till the date of obtaining Occupation Certificate in respect of the said project. From and on the date of obtaining Occupation Certificate in respect of the said project, the promoter shall be entitled to operate the collection account as per his requirement and the standing advice to the bank for transferring the 70% and 30% of the collection to i) Separate Account of the Project and ii) Transaction Account of the Project shall come to an end.

Note-New Format- A will be attached with subsequent order.

The bank where the 'Collection Account of the Project' is opened shall ensure that no debits or withdrawals are permitted by means of cheque, debit card, credit card, internet banking facility, or any other payment methods (e.g., Demand Draft (DD), bank guarantees, etc.) or any means of instruments, except through an auto sweep facility transferring a minimum of seventy (70%) percent of the amount collected from allottees to the 'Separate Bank Account of the Project' and a maximum of thirty (30%) percent of the collected amount to the 'Transaction account of the project'.

The promoter shall furnish/publish particulars of the 'Collection account of the project' in the Allotment letter and agreement for sale and any other document for communication with the existing/ prospective homebuyers for the purpose of receiving payments towards their unit in the registered project.

B) Separate Account of the project-

The promoter shall open and maintain 'Separate bank account of the project' in a scheduled bank for each registered project separately wherein seventy percent of the amount received in 'collection account of the project' from the allottees shall be transferred through auto sweep facility.

Nomenclature- Name of the Separate account shall contain name of the promoter and name of the project formatted in the following manner:

"Name of Promoter (Account holder)" + Separate Account for [HG1] + "Project Name"

Example- Name of Promoter – "ABC Ltd.", Name of Project- "XYZ"

Account name- "ABC Ltd. Separate Account for XZY"

Deposits/Withdrawals-

The amounts realised for the real estate project by the allottees, from time to time received in 'Collection account of the project' shall be deposited through auto-sweep transfer facility in a 'Separate account of the project' to **(all the expenses permitted as per Rera rules)** cover the cost of construction and the land cost [HG2] and shall be used only for that purpose only.

Seventy percent (70%) of All the secured and unsecured loan amount obtained post registration of the project, to finance the project may be deposited in 'Separate account of the project'.

This account shall be free from all encumbrances and should not be escrow account and free from LIEN, loans, and third-party control i.e lender/ bank/ financial institution and cannot be attached by any other government authority/body unless any direction from the authority is issued.

The amounts from the separate account shall be withdrawn by the promoter only after submission of Form 1 (Architect Certificate), Form 2 (Engineer Certificate) and Form 3 (CA Certificate) as prescribed in the Regulations for getting release of money from the separate account to the Bank and on MahaRERA web portal.

In case of fixed deposit being made from the amount of lying in the separate bank account of the project without any LEIN or encumbrance, the promoter is obligated to the provisions prescribed in MahaRERA Circular bearing No. 07/2017 issued on 4 Jul 2017.

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.

The money deposited in this account can be utilized only for meeting following expenditures incurred on the project;

- i. **Land Cost-** As laid down in Rule 5 of the Rules and in clause 1 of Form 3 prescribed under the Regulations as well as the explanation/clarification points elaborated under MahaRERA Circular bearing No. 07/2017 issued on 4 Jul 2017 regarding the subject "Clarification on CA Certificates"
- ii. **Development Cost/ Cost of Construction-** As laid down in Rule 5 of the Rules and in clause 1 (ii) of Form-3 prescribed under the Regulations as well as the explanation/clarification points elaborated under MahaRERA Circular bearing No. 07/2017 issued on 4 Jul 2017 regarding the subject "Clarification on CA Certificates".
- iii. **Interest for loan-** interest payable to financial institutions, scheduled banks, non-banking financial institution (NBFC) or money lenders on construction funding or

money borrowed for construction. As prescribed in clause 1(ii) (e) of the Form-3 prescribed under the Regulations.

- iv. **Interest/compensation to the allottee-** The interest/compensation to be paid by the Promoter to the Allottees should not be treated as cost incurred for the project and hence in the entire sum required to be paid as interest/ compensation to the Allottee can not be withdrawn from the Separate Bank Account as prescribed in in MahaRERA Circular bearing No. 07/2017 issued on 4 Jul 2017.
- v. **Refunds to the allottees-** The promoter can withdraw from the 'Separate bank account of the project' up to 70% of the amount paid by the allottees excluding the taxes and duties in the event of cancelation of booking/allotment of the apartment/unit as prescribed in MahaRERA Circular bearing No. 07/2017 issued on 4 Jul 2017. Provided the apartment /unit allotment /booking of which was canceled is resold and the separate bank account has received the amount from such resale.

C) **Transaction Account of the project-**

The promoter shall open and maintain the "Transaction account of the Project" in a scheduled bank for each registered project separately.

Nomenclature- Name of the Transaction account shall contain name of the promoter and name of the project formatted in the following manner:

"Name of Promoter (Account holder)" + Transaction Account for + "Project Name"

Example-

Name of Promoter – "ABC Ltd.", Name of Project- "XYZ"

Collection Account name- "ABC Ltd. Transaction Account for XZY"

Deposits/Withdrawals-

Only upto thirty Percent (30%) of the amounts realised for the real estate project from the allottees, from time to time received in 'Collection account of the project' shall be deposited in 'Transaction Account of the project'.

This account shall be operated by the promoter solely as per his own discretion. ~~can be utilized for meeting expenses other than those directly related to the land cost and construction/development cost of the project, in accordance with the provisions laid out in the Act, the Rules, and the Regulations.~~

~~In the event of cancellation of booking/allotment of the apartment/unit, the promoter can withdraw minimum 30% of amount required to be paid to the allottees from the 'Transaction account of the project'.~~

~~The penalty to be paid by the promoter may be withdrawn from the 'Transaction account of the project'.~~

6.4. Reporting to Authority-

All certificates issued by CA shall contain UDIN issued separately for each certificate.

The promoter shall submit following disclosure for existing/proposed Secured finance availed for the project by mortgaging land or Building/flat or both.

1. Name of the Lender
2. Address of the lender branch
3. Date of borrowing/ Disbursement
4. Sanctioned Amount
5. Disbursed Amount
6. Outstanding Amount
7. Details of Mortgage (If any)
8. CERSAI Report for secured loans (if any) as prescribed in the MahaRERA order no. 26/2021 issued on 29 Oct 2021.

5. Changing the bank accounts of the project-

The transfer/change of project Accounts from scheduled Bank/branch to another shall be permitted only with prior written approval of the authority, which permission shall be deemed to be given if not rejected approved or rejected (with reason recorded in writing) within a period of 15 days.

Promoter shall submit documents as prescribed in the MahaRERA Circular bearing No. 43/2023 issued on 20 Feb 2023 in the correction application module on their respective login, at the time of proposed change/ transfer of the bank accounts from one schedule bank/ branch to another.

Declaration-cum Undertaking prescribed in 'Annexure-A' under MahaRERA Circular bearing No. 43/2023 issued on 20 Feb 2023 shall be in new format & will be published along with the subsequent order.

Declaration about RERA project bank accounts prescribed in 'Format-A' under the MahaRERA Order No. 34/2022 issued on 27 Jul 2022 shall be substituted in in new format & will be published along with the subsequent order.

Note-new format of 'Format-A' and 'Annexure-A' in new format & will be attached along with the subsequent order.

6. Closure of separate bank accounts of the project

On completion of project and grant of occupancy certificate, the promoter shall upload apply online on MahaRERA web-portal declaration-cum affidavit for closure of Separate Bank Account of the project along with the documents as given bellow;

- i. Form-4, Architect Certificate of completion as prescribed under the Regulations.
- ii. Occupancy Certificate/Completion Certificate obtained from competent authority.
- iii. **Affidavit-cum declaration/undertaking** and confirming that all the liabilities determined arising out of any order of MahaRERA pertaining to refund order and penalties, Amount of recovery warrant or late fee etc. issued if any, imposed by MahaRERA as per provisions of the Act, the Rules and the Regulations have been discharged by the promoter and further that in case any future liability that may be incurred by the promoter shall solely be borne and part by the promoter.

The Promoter after uploading the aforesaid information, shall be entitled to transfer the balance standing in the separate account to any other account as the promoter may deem fit and the separate account in respect of the said project shall be closed.

On completion of project and grant of occupancy certificate, including submission of compliance of section 11(4)(g) and (h) of the Act regarding;

- i. Payment of all outgoings, payment of all statutory dues, clearing of all encumbrances
- ii. Penalties levied by Authority,
- iii. refunds/compensation, recovery amount of warrant (if any)
- iv. Any other pending compliances

The entire balance amount lying in the 'Separate Account of the project' can be withdrawn by the promoter with the prior written approval of the Authority.

7. Obligations of the Banks-

~~Banks shall take into consideration be obliged to follow the aforesaid provisions of this circular and apply them , subject to applicable guidelines of the Reserve Bank of India and other applicable regulations. opening, operating, and closing of KERA Project Accounts as per MahaRERA directions for Maintenance and Operation of separate bank account for MahaRERA registered project, 2024 issued hereunder. As per the direction for any project all three account shall be opened in same bank.~~

~~Banks shall notify Promoters to open / maintain three bank accounts namely 'Collection Account of Project', 'Separate Account of Project' and 'Transaction Account of Project' for all projects registered on or after Date [to be announced soon].~~

~~Banks shall follow strictly the nomenclature prescribed in these directions for the bank accounts.~~

~~Banks shall be obliged to take a written standing advice from Promoters at the time of opening of the three accounts for auto-transfer of funds deposited in the 'Collection Account of the Project' in a proportion of seventy (70) percent to 'Separate Account of the Project' and thirty (30) percent to 'Transaction Account of Project'.~~

~~Banks shall ensure that the collection account and separate bank account of the project shall be free from all encumbrances and should not be escrow account and free from lien, loans, and third-party control i.e lender/ bank/ financial institution and cannot be attached by any other government authority/body.~~

~~In case of any doubtful/suspicious transactions on the quantum of withdrawal made admissible from the Separate Account, the concerned bank must bring the issue to the knowledge of the Authority before allowing the withdrawal.~~

~~Banks shall ensure that cheque book, debit card and/ or net banking facility and any means of instrument for withdrawal of funds from 'Collection Account of the Project' which are prohibited under the provisions of these directions, is not provided by the banks where these accounts are opened.~~

Banks shall issue two copies of the letter in the format provided in 'Format-B' upon opening of the accounts. One copy of the letter to be given to the Promoter and another copy of the letter to be sent directly to the MahaRERA at the following address by post and by e-mail.

Postal Address Maharashtra Real Estate Regulatory Authority, 3rd to 9th floor, Housefin Bhavan, Plot No. C - 21, E - Block, Bandra Kurla Complex, Bandra (E), Mumbai 400051.

Email ID secy@maharera.mahaonline.gov.in

Notes: 'Format-B' will be attached along with subsequent Order.

Banks while doing due diligence for opening and operating a project account or financing a real estate project must verify every parameter available on the MahaRERA Website.

Banks shall stop withdrawals/transfers from the 'Separate Account of the Project' upon lapse of registration of the project i.e. on the date of completion of the project unless certificate of extended date produced by the promoter.

Upon completion of the project and intimation by the promoter that it has uploaded the requirement as mentioned in clause 6 of this circular herein above on the Web portal of MahaRERA ~~obtaining written approval from the Authority by the promoter~~, the bank shall permit withdrawal of funds from the separate bank account.

In the eventuality of any orders of the Authority for freezing/ de-freezing of any of the project accounts, the banks shall immediately comply with such orders and shall accordingly freeze/ de-freeze the concerned account(s).

Non-compliance of these directions by the Promoter in any manner will be punishable under section 60 and 63 of the RERA Act with a penalty which may be up to five percent of the cost of the project.
