



# RERA

## Understanding of Form 5 – GUJ RERA

CA Niraj Shah

# REQUIREMENT OF FORM-5 UNDER RERA

## Act

- (3<sup>rd</sup> Proviso to Section 4(2)(I)(D) of RERA Act, 2016): Promoter to get his accounts audited within 6 Months after end of every F.Y. by CA in practice and shall produce a statement of accounts duly certified and signed by such CA and it shall be verified that the amount collected for a particular project have been utilised in the project and withdrawal has been in proportion to the % completion of the project

## Regulations

- Regulation 4 of Gujarat Real Estate Regulatory Authority (General Regulations), 2017

## Circular

- Circular 1- Notification for Forms 1,2,3,4,5
- Form 5 was amended vide the Gujarat Real Estate Regulatory Authority (2<sup>nd</sup> General)(Amendment) Regulation'2018 dated 09/07/2018

# FORM 5- ANNUAL REPORT ON STATEMENT OF ACCOUNTS

[Regulation 4 read with 3<sup>rd</sup> Proviso to section 4(2)(I)(D)]



The provisions of the RERA Act requires “the promoter shall get his accounts audited within six months after the end of every year by chartered accountant in practice, and shall produce a form duly certified and signed by such chartered accountant and it verify during the audit:-

- ✓ That the amounts collected for a particular project have been utilized for the project
- ✓ The withdrawal has been in compliance with the proportion to the percentage completion of the project.

# REGULATION 4 OF GUJARAT REAL ESTATE REGULATORY AUTHORITY (GENERAL REGULATIONS), 2017

**Regulation 4:** In addition to Section 11 (1) of the RERA Act and Rule 3 and 4 of the RERA Rules, 2017, *“the promoter shall upload the annual report on statement of accounts, in Form 5 (issued in accordance with the third proviso to section 4(2) of the Act) duly certified and signed by the chartered accountant in practice who is the statutory auditor of the promoter’s enterprise”*

**Explanation 1:** The chartered accountant certifying the progress of the registered real estate project for the purpose of withdrawal of amounts from the separate account should be a “different entity” than the chartered accountant who is the statutory auditor of the promoter’s enterprise. (CA Issuing Form 3 and Form 5 should be different)

**Explanation 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, shall 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 of registration of membership for practice as such. (In addition to Penal Actions under the Act, the matter can be take up to Concerned Regulatory Authority)

# FORM 5- FORM 5 ANNUAL REPORT ON STATEMENT OF ACCOUNTS

Form-5

The format of Form is given in the Gujarat RERA Regulation, 2017, has been amended as on 09/07/2018

- ✓ The new format prescribed by the authority seems to widen the scope of Audit, by not only auditing Form-3 but also commenting and reviewing various matters pertaining to RERA Bank Account, financial borrowings and certification of other forms (namely Form 1 & 2)



# PROJECTS LIABLE FOR SUBMITTING FORM 5:

## As provided by Guidance Note 3 for Form 5:

1. (a) A project having **registration granted on or before the said FY** (i.e. 31st of March of the said FY) and having **project end date greater than the 30th September** (6 months) of the immediate succeeding FY.

(b) A project which has **not submitted online end quarter compliance** (who were bound to file **Q-E compliance before 30th September** of the immediate succeeding FY) or having **extension application applied / granted** for period beyond 30th September of the immediate succeeding FY.

2. The project promoter has to get the audit executed for every FY and get Form 5 submitted to GujRERA Authority for each FY till the time projects ends.

# CHECKLIST FOR FORM - 5

1. Copy of application form and Documents submitted at the time of application for registration of Real Estate Project.
2. RERA Registration certificate issued the Authority.
3. All Signed Form 1, Form 2 and Form 3 uploaded / issued during the Financial Year
4. Bank Account Statement of separate bank account (RERA account) for the relevant financial year
5. Details of Fixed Deposit and status if its Lien Marked
6. Copy of all Agreements to Sale Registered
7. Details of Books of Accounts of the project such as member booking ledger and any other accounting details as required.
8. Project Loan documents (i.e. Sanction Letter, Mortgage Deed, Outstanding Certificate from Lender as on 31<sup>st</sup> March and Loan Account Statement) OR Confirmation from Promoter of No Loans.
9. Audited Financial Statements



# RERA AUDIT — HOW TO BEGIN ?

- 1. Verification of Banking under RERA as per RERA Bank Account Directions' 2018.*
- 2. Verification of Deposit of money collected from Allotees.*
- 3. Verification of Money collected prior to registration.*
- 4. Verification of Withdrawal of Funds in Line with Form – 3.*
- 5. Verification of Receipt of Money from Allotees in excess of 10 % of the Unit without entering into registered agreement to sale.*
- 6. Provide details of Project Loans / borrowing and details of Encumbrances.*
- 7. Comments of Discrepancies notice in Form 1, 2 and 3 issued during the F.Y.*



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(On the Letter head of Chartered Accountant)

**Form 5**

[Regulation 4 read with section 4 (2)(1)(D)]

**ANNUAL REPORT ON STATEMENT OF ACCOUNTS**

To,

<Name & Address of the Promoter>

\_\_\_\_\_

I/We, \_\_\_\_\_, the auditor, have examined books of accounts and all the relevant records of \_\_\_\_\_ (Promoter's Name) having PAN no. \_\_\_\_\_ related to \_\_\_\_\_ (project name) project ( RERA registration no. \_\_\_\_\_ ) having site address as \_\_\_\_\_ for year ending on 31st March \_\_\_\_\_.

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We have conducted our engagement and examination in accordance with the Standards on Auditing, Guidance Note on Reports or Certificates for Special Purposes and other applicable authoritative pronouncements issued by the Institute of Chartered Accountants of India. We confirm our compliance to all such applicable pronouncements and with the ethical requirements of the Code of Ethics issued by the Institute of Chartered Accountants of India.

It is the primary responsibility of the Management of .....[Name of the entity/company] to prepare, produce and maintain all accounting and other relevant supporting records and documents required for the purpose of this certificate. This responsibility includes the design, implementation and maintenance of necessary and appropriate internal control commensurate with the nature and size of entity.

Period under Certificate: from \_\_\_\_\_ to 31st March \_\_\_\_\_

1. Whether separate RERA Bank Account has been opened as envisaged in Gujarat RERA Bank Account Direction, 2018?

Yes    No

From : Bank Details collected

- 1.1. Whether the existing operational bank account was made known at the time of application for registration as RERA Bank Account?

Yes    No

From : Project Application/ Last audit report/ any alteration from Bank application

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2. Details of RERA Bank Account as registered with Gujarat RERA (mention all the bank accounts if there has been a change in Bank Account registered with RERA)

Bank Name	
Branch Name	
Account Name	
Account No.	
Type of Account	
IFSC Code	
Date of Account Opening	
Opening Balance (as on _____ )	
Deposit during the period	
Withdrawals during the period	
Closing Balance (as on 31st March _____ )	

From : Bank Details collected

Note: Additional Account information may be added

3. In case of change in RERA Bank Account as indicated above, whether due approval following prescribed documentation was taken from Gujarat RERA under the Gujarat RERA Bank Account Directions, 2018?

Yes    No

Verified from : Bank account alteration form

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4. Whether any of the Form 3 issued during the certificate period mandated deposit of 100% of the money collected from the booking of the project units (refer point 5 of Additional Information for Ongoing Projects of Form 3)?

Yes      No

From : Form 3 - CA Certificates

4.1.If Yes, please mention the certificate date and name of certifying Chartered Accountant

Sr. No	Certifying Professional	Date of Certificate
1		
2		

5. Whether the required proportion of money collected from the allottees of the project units (as indicated in Form 3) deposited in the RERA Bank Account?

Yes      No

Verified from : Bank details working



5.1. If no, please mention the amount not deposited under the above non - compliance

Sr. No	Period ( from ____ to ____ )	Amount not deposited
1		
2		

6. Whether the project registration is as New or Ongoing project?

New    Ongoing

From : Project Application

6.1. In case of new project registration, whether there was any booking taken prior to project registration?

Yes No

From : Allotees Ledger's and Form 3  
Annexure

6.2. If yes, please provide details as below:

6.2.1. Number of such units booked: \_\_\_\_\_

6.2.2. Amount collected from such bookings: \_\_\_\_\_

6.2.3. Total consideration of such bookings: \_\_\_\_\_

7. Whether all amounts withdrawn from RERA Bank Account were within the withdrawal limit as certified under the relevant form 3 issued during the reporting period?

Yes No

As per Form 3

7.1. If no, please provide the below details:

Sr. No	Period ( from ____ to ____ )	Amount of Excess Withdrawals
1		

7. Whether all amounts withdrawn from RERA Bank Account were within the withdrawal limit as certified under the relevant form 3 issued during the reporting period?

Cumulative withdrawal limit on 31st March as at Sr. No. 6 of Form-3 (Rs.)

Cumulative withdrawal from separate A/C till 31st March (Rs.)

Yes  No

8. Whether any fixed deposit was created out of funds deposited in RERA Bank Account?

Yes No

From Bank A/c & FD A/c

8.1. If yes, whether the fixed deposit is created with the same RERA account bank branch in compliance with para 5(ii) of Gujarat RERA Bank Account Directions, 2018

Yes No

No Lien A/c

8.2. If yes to 8 above, whether any lien is created on such fixed Deposit in violation of para 5(ii) of Gujarat RERA Bank Account Directions, 2018?

Yes No

9. Whether there has been any instance of receipt of consideration in excess of 10% of apartment value without entering into a registered Agreement for Sale?

Yes No

Check all agreements: Sale Deed and Banakhat

9.1. If yes, please provide the information as below

Sr. No	Unit Number	Total Consideration	Amount received in excess of 10% till registered ATS executed
1			
2			



10. Whether the project is executed by availing any loans / borrowings?

Yes No

From Form 3, Sanction Letter & Mortgage Deed

10.1. If yes, please provide detail as below

Sr. No.	Name & type of Lender	Amount of Loan Sanction(Rs.)	Sanction Date	Loan outstanding as on 31st March ____ (Rs.)	Collateral/ Mortgage details

10.2. Whether the financial encumbrance is reported to Gujarat RERA?

Yes No

10.3. If yes to 11 above, whether promoter has mortgaged or created a charge on any booked unit?

Yes No

10. Whether the project is executed by availing any loans / borrowings?

Estimated cost of Project (Rs.)

554473842

Yes

No

Total loan as % of Estimated cost of Project mentioned above

0

%

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11. Whether any discrepancy noticed in forms 1, 2 and 3 with reference to their issuance in accordance with the RERA Act, rules and regulations?

Yes      No

From all Forms and Working (can be found from last quarter certificate if Q.E. is 31/03/19)

11.1. If yes, please provide the details as below

Sr No	Form 1/2/3	Tick as applicable	Certifying Professional	Date of Issuance	Details of discrepancy
1	Form 1				
2	Form 2				
3	Form 3				

12. Please specify any other things which are not covered above. (Maximum 200 words)

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I/We have obtained all necessary information and explanation from the Promoter, during the course of our audit, which in my/our opinion are necessary for the purpose of this certificate. Also I/we have attached herewith the copies of Financial Statements\* and Audit Report of the \_\_\_\_\_ (Promoter name) for the financial year ending on 31st March \_\_\_\_\_.

I/We hereby confirm that I/We have examined the prescribed registers, books and documents and the relevant records of \_\_\_\_\_ (Project) for the period ended and this certificate is being issued based on the records and documents produced before me and explanations provided to me by the management of the Promoter based on the verification of books of accounts till (date) 31st March \_\_\_\_\_.

(Signature and Stamps/Seal of the Signatory CA)

Partner / Proprietor

Name of the Signatory:

Membership No.:

Full Address:

Place:

Date:

Attachments:

**\*For this purpose Financial Statements shall include which shall also be attached:**

1. Balance Sheet
2. Profit & Loss account
3. Cash Flows Statement (if applicable)

QUESTIONS...???

**RERA**



THANK YOU

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