

**AUDIT BY CHARTERED ACCOUNTANT UNDER MAHARERA
(FORM NO. 5)**

RERA ensures strict financial discipline on the utilization of amount realized from the allottees as under:

- (i) that 70% of the amount realized from the allottees are deposited by the promoter in the RERA designated bank account.
- (ii) 30% of the amount realized from the allottees may be deposited in another bank account of the promoter and the same can be used without any restrictions.
- (iii) Amount from separate RERA designated bank account can be withdrawn in proportion to the completion of the project.
- (iv) The withdrawal amount should cover towards the land and construction cost
- (v) Before withdrawal certificate from project architect (in form 1), project engineer (in form 2) and the Chartered Accountant (in form 3) has to be obtained certifying the percentage of project completed and the amount that can be withdrawn from the RERA designated Account.
- (vi) To have proper check and balance, the promoter is required to get his RERA designated Bank Account audited by another independent practicing-chartered Accountant obtain an annual audit certificate (in form 5) confirming that:
 - (a) the amount collected for a particular real estate project has been utilized for that project.
 - (b) the withdrawal of funds from the real estate project has been in compliance with the proportion to the percentage of completion of the project.

From the above legal provision made under section 4(2)(1)(D) of RERA, the scope of Annual audit of statement of Accounts as per third proviso to the said section can be discussed are as under:

- (i) **Audit of separate RERA Designated Bank Account:** The promoter has to provide the details of :
 - (a) Project Registration details and documents.
 - (b) 70% of the amount realized and deposited in a separate RERA Designated Account or
 - (c) Deposited in any other Bank account in violation of the provisions
 - (d) Deposit of pass-through charges & any other amount in a separate RERA Designated Bank Account in violation of the provisions
 - (e) The details of withdrawal done from those Bank accounts
 - (f) Supporting for utilization of the withdrawal is to cover land and construction cost of the registered project
 - (g) Respective certificates obtained for the purpose of withdrawal from the professionals i.e., Architect, Engineer and Chartered Accountants that the withdrawal is in proportion to the completion of the project.
 - (h) 30% of the amount realized from the allottees which are deposited in any other Bank account of the promoter the utilization of which need not be verified and certified by the auditor.

- (ii) **Project wise Audit report:** The promoter has to get his accounts audited for each registered project separately, even if, those projects are registered on phase wise manner.

- (iii) **Promoter to get his accounts audited:** The promoter has to appoint an auditor which is practicing chartered accountant to carry out the audit. The responsibility to get the audit done is cast on the promoter.

- (iv) **Period to complete the audit:** The promoter has to obtain the annual audit report within six months after the end of every financial year.

- (v) **The qualification of the auditor:** The auditor shall be a chartered accountant in practice and through circular No.2, MahaRera has recognized the heads of the finance department i.e., Finance Controller, Chief Account Officer etc., of government controlled development authorities, autonomous bodies as deemed to be chartered accountant for issuing Form – 5.
- (vi) **Statement of account to be duly certified and signed by CA:** It is the responsibility of the promoter to produce a statement of accounts duly certified and signed by such chartered accountant. In other words, the promoter has to obtain the duly certified annual statement of account and upload on the website of the Authority within 6 months of close of the financial year.
- (vii) **Verification of records:** The auditor has to carry out the audit of books of accounts and records of the registered project in order to issue the certificate of audit and the promoter is liable to produce all the records as may be demanded by the auditor and provide necessary explanations to the queries raised by the auditor.
- (viii) **Audit Certificate:** The auditor after completing the verification and audit shall certify that
 - (a) the amounts collected for a particular project have been utilized for the project and
 - (b) the withdrawal has been in compliance with the proportion to the percentage of completion of the project.
- (ix) **Documents to be verified includes:** Certificates issued by Project Architect, Project Engineer and the Chartered Accountant who has issued the certificate for withdrawal of the amount from the separate RERA Designated Account.

Two different entities to certify form 3 and form 5:

The Chartered Accountant issuing form 5 should be a different entity that the CA who has issued certificate in form 3 for the purpose of withdrawal of amounts from the separate RERA Designated Account.

Check List

Sr.	Particulars / Compliance Required	Section /Rules	Auditors Remark/ Explanation
1	Whether any Advertisement/ Sale/ Booking done of Apartment, Building or plot by the promoter after the commencement of the Act without prior registration of the project	Section 3	Yes/ No. If yes. Period during which such activities were carried out. From ____ to _____
2	Whether Ongoing project and for which completion certificate is not received which required to be registered with RERA has not been registered.	Proviso Section 3	Yes / NO.
3	Whether all the details as required under section 4 and Rules 3 have been uploaded on the website	Section 4, Rules 3 and Section 11(1)	
4	Quarterly Updating of the Website with the details and the date of uploading the information. Delay in uploading the information and The information which are so far not uploaded as required to be done	Section 11(1)	
4	Whether separate account for the following have been opened by the promoter and report for any violation: (1) RERA Collection Account(100%) (2) RERA Designated Account(70%) (3) Operation Account(30%)	U/s 4(2)(1)(D)	
5	Whether all the advertisement material and Boucher contains the RERA Registration Number and also RERA website address	Section 11(2)	
6	Whether the Promoter has made available the documents to the allottees at the time of booking and issue of allotment letter and whether such compliance has been recorded by the promoter.	sec.11(3)	

7	Whether the promoter has obtained the completion certificate or the occupancy certificate, or both, as applicable, from the authority concerned as per applicable law and furnish the same to the allottees or to the association of allottees, as the case may be	U/s 11 (4) (b)	
8	If the real estate project is developed on a leasehold land, whether the promoter has obtained the lease certificate and provided such lease certificate to the allottees individually or to association of the allottees, as the case may be.	U/s 11(4)(c)	
9	Whether the Promoter has made provision for maintenance of the essential services, on reasonable charges, till the time the maintenance of the project is taken over by the association of the allottees.	U/s 11(4)(d)	
10	Whether the promoter has enabled the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the association of allottees in accordance with the applicable laws on sale of more than majority of the apartment, plot or the building as the case may be.	U/s 11(4)(e)	
11	Whether the promoter has executed a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under Section 17 of RERA	U/s 11(4)(f) and U/s 17	
12	Whether the Promoter has paid all outgoing (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges) until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, out of the amount which he has collected from the allottees, for the payment of outgoing. Whether the promoter has repaid the mortgage loan and interest thereon or other encumbrances in respect of the project.	U/s 11(4)(g)	

13	Whether the promoter after he executes an agreement for sale for any apartment, plot or building, as the case may be, has mortgaged or created a charge on such apartment, plot or building, and if any such mortgage or charge is made or created the whether the promoter has cleared the same before conveying the same.	U/s 11(4)(h)	
14	Whether, the promoter has cancelled the allotment of apartment or building or plot, as the case may be, only in terms of the agreement for sale executed by and between the promoter and the allottee	U/s 11(5)	
15	Whether the promoter has prepared and maintained all such other details as may be specified, from time to time, by regulations made by the Authority.	U/s 11(6)	
16	Whether, the promoter has made any advertisement, prospectus or any other advertisement inviting the public to purchase any apartment or plot containing any incorrect, false or misleading information.	U/s 12	
17	Whether the promoter has accepted a sum exceeding ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or deposit or an application fee, from a person without first entering into a written agreement for sale with such person and register such agreement for sale in accordance with the applicable law	U/s 13(1)	
18	Whether the agreement for sale executed and uploaded on the website are same or is there any difference.	U/s 13(2)	
19	Whether the agreement for sale executed with the allottees are as per the prescribed format	U/s 13(2)	
20	Whether the promoter has developed and completed the proposed project in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities and which are disclosed to the allottees. Please obtain necessary certificate to this effect from the project Architect and the project engineer.	U/s 14(1)	

21	Whether the promoter has made any alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at least two-thirds of the allottees, other than the promoter, who have agreed to take apartments in such building.	U/s 14(2)	
22	Whether the promoter has attended to any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to the project within 30 days of its bringing to the notice of the promoter.	U/s 14(3)	
23	Whether the promoter has after registration of the project and having commenced sale/booking of apartment or plot, transferred or assigned his majority rights and liabilities in respect of areal estate project to a third party without obtaining prior written consent from two-third allottees, except the promoter, and without the prior written approval of the Authority.	U/s 15	
24	<ul style="list-style-type: none"> • Whether the promoter has got the real estate project insured, including to obtain insurance in respect of (i) title of the land and building and (ii) construction of the real estate project. • Whether the promoter has paid all the premium and charges in respect of all such insurances and he shall pay the same till the project with the insurance is transferred by him to the association of the allottees. • Whether the insurance as specified hereinabove has been transferred to the benefit of the allottee or the association of allottees, as the case may be, at the time of promoter entering into an agreement for sale with the allottee. • Whether all the documents relating to the insurance have been handed over by the promoter to the association of the allottees upon formation of the association of the allottees. 	U/s 16	

25	Whether the project has been completed and handed over the physical possession along with Occupation certificate or the completion certificate to the allottee as per the agreement for sale? If No, whether the interest at the prescribed rate has been paid monthly to all the allottees for the delayed possession.	U/s 18(1)	
26	Whether any orders have been passed by the Authority or the appellate Tribunal or the High Court, Civil court, consumer court? Whether compliance of such orders have been done.		
27	Whether any penalty has been levied for any contravention and whether such penalty has been paid.		
28	Any other contravention of the Act, rules, Regulations, etc.		

Working papers/ Guidance or Authors note regarding the Form No. 5 to be issued by a Practicing Chartered Accountant:

- (1) The standard operating procedure or the system followed by the promoter for receipt of the money from the customer and the system followed for the purpose of withdrawal from the designated account to be verified.
- (2) The list of customers with their date of booking the flats and amount received from them and deposited in the account to be verified.
- (3) If possible, confirmation from the customer also should be obtained.
- (4) The list of customers should be verified from the list of Apartments booked and uploaded on the website to be verified.
- (5) The quarterly updating and the information submitted on quarterly basis to be obtained.

- (6) The amount spend towards land cost should be separately obtained and should be verified whether any items which are not provided in the Rules and the explanation have been included or whether it has been inflated need to be verified.
- (7) The cost incurred toward the construction to be verified with the certificates issued by the Architect, Engineer and the Chartered Accountant
- (8) A consolidated statement of account for 100% of the amount received from the customer and the amount spent towards the project need to be prepared and need to be verified, if all the cost applicable to the project has been debited to the account.
- (9) In case the promoter has many projects, the expenses should be properly apportioned to the respective projects on certain parameters. We have to obtain the basis for apportion to different projects and then need to be verified whether the same is appropriate and whether it has been done in the books of account.
- (10) Books of account, vouchers and scrutiny of the accounts should be properly done as the same will be uploaded on the website.
- (11) Proper working papers, management representation on the various expenses incurred and the system followed should be obtained and need to be maintained till the project is completed and Occupation certificate is obtained. The auditors will be exposed and may be required to appear before the authority for any clarification. Therefore, keeping the working papers and records is most important.