



September 11, 2018

MCA NOTIFIES TO ISSUE & TRANSFER ALL SHARES IN DEMATERIALIZED FORM ONLY BY ALL UNLISTED PUBLIC COMPANIES¹

The Ministry of Corporate Affairs (MCA) has notified that with effect from 2nd October, 2018, issue of further shares and transfer of all shares by unlisted public companies shall be in dematerialised form only. The MCA has taken this step as a measure for further enhancing transparency, investor protection and governance in the corporate sector. The rules in this regard have been amended accordingly.

According to the MCA, the major benefits of dematerialisation of securities which will now be available to unlisted Public companies include:-

- i. Elimination of risks associated with physical certificates such as loss, theft, mutilation, fraud etc.
- ii. Improving the corporate governance system by increasing transparency and preventing mal-practices such as Benami shareholding, back dated issuance of shares, etc.
- iii. Exemption from payment of stamp duty on transfer.
- iv. Ease in transfer, pledge etc. of securities.

Unlisted Public Companies are expected to facilitate the dematerialisation of their securities in coordination with Depositories and Share Transfer Agents. Any grievances arising out of such Dematerialization of securities will be handled by the IEPF Authority. The measure is expected to significantly enhance the Corporate Governance standards in the country.

“A NEW ERA OF TRANSPARENCY & ACCOUNTABILITY IN REAL ESTATE – TWO YEARS OF IMPLEMENTATION” – MINISTER OF HOUSING AND URBAN AFFAIRS SHRI HARDEEP PURI INAUGURATES FIRST REGIONAL WORKSHOP ON RERA²

Real Estate (Regulation and Development) Act 2016 (RERA) has Changed Real Estate Sector for ever:

The Union Minister of State (I/C) for Housing and Urban Affairs

*Bringing discipline in the Real Estate Sector was one of the core objectives of this landmark
legislation: The Union Minister of State (I/C) for Housing and Urban Affairs*

The Union Minister of State (I/C) for Housing and Urban Affairs, Shri Hardeep Singh Puri has said that the Union government is **committed to provide positive solution to the problems of home buyers**, so that they get their home as soon as possible. He was delivering the inaugural address at the **“First Regional Workshop on RERA – a New Era of Transparency and Accountability in Real Estate – Two years of implementation and way forward (Western Region)”** in **Pune**. During his address, the Minister pointed out that the country had no regulator for the real estate sector for nearly 70 years after it gained independence, and said that the year 2016 will reveal that year to be a seminal one as that was the year when the Real Estate (Regulation and Development) Act, 2016 was enacted by the government under the leadership of Hon’ble Prime Minister Shri Narendra Modi. Various stakeholders associated with the Real Estate Sector i.e. Developers, Home Buyers, Financial Institutions along with the Chairpersons and senior officers of Authorities, Tribunals and State Government officials from the western part of India attended the workshop.

Addressing the participants, the minister stated that the year 2016 changed the real estate sector forever and defined the dawn of the post RERA era. RERA is characterized by trust, rules, regulations and regulatory

¹ Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1545603>

² Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1545495>

oversight as opposed to the pre-2016 period which essentially was one of mistrust, fraud, cheating and broken promises, he said and asserted that **“the plight of the homebuyers who were at the mercy of the developers and bringing discipline in the Real Estate Sector was one of the core objectives of this landmark legislation”**. “Had RERA been in place, say, 20 or even 10 years ago, consumers would not have had to knock on the doors of the judiciary, as the stringent provisions of RERA would have ensured an eco-system that would have prevented the entry of ‘fly by night’ operators, he further said and added that, “we now have a Government that believes in bold and radical reforms”. Which is determined to bring about a change in the lives of the honest tax payer. “We will and are urging, encouraging and persuading the States to set up the regulatory apparatus envisioned under RERA, speedily”, he further said.

Shri Puri said, the Real Estate Act fills the existing gap between the Development/Municipal laws and the Apartment Ownership Act, and is intended to regulate transactions (buying and selling) and enforcement of contracts and added that the Act upholds the spirit of federalism by allowing the States to set up the Regulatory Authority and the Appellate Tribunal and the role of the Central Government is limited to Union Territories without legislature. He emphasised that the Act attempts to balance the interests of the consumers and the developers by imposing clear responsibilities on both, seeks to establish symmetry of information between the promoter and the purchaser; transparency of contractual conditions; set minimum standards of accountability; and a fast-track dispute resolution mechanism. He pointed out that the Act is aimed at consumer protection, by creating an online system for information sharing so that there is mutual trust between the developer and the buyers, and projects are implemented in time. He also outlined various benefits and advantages that RERA has brought about in its wake.

Stating that the Indian real estate sector has witnessed transformative reforms in the last few years, Shri Puri said, **“According to CREDAI-JLL report, the contribution of housing sector to the Indian GDP is expected to be 11 percent by 2020, up from current 5 to 6%” the Indian real estate market is expected to touch USD 180 billion by 2020 and USD 350 billion by 2027** – where the products will be more structured and pre-planned”.

Outlining the progress since the enactment of the RERA, Shri Puri said, “28 States / UTs have notified the rules under RERA, except Jammu & Kashmir; 6 North Eastern States (because of land issues) and West Bengal. All these States have also set up Authorities (Regular – 12, Interim – 16); 20 States / UTs have set up the Real Estate Appellate Tribunals so far; total 21 States/ UTs have set up web-portal by giving facility of online registration; and so far 31,475 Real Estate Projects and 24,000 Real Estate Agents have been registered under RERA across the country”.

Speaking about Western region, the Minister pointed out that **“Maharashtra is one of the first states to implement the provision of RERA and establish the Real Estate Regulatory Authority of Maharashtra, which is popularly known as MahaRERA**. MahaRERA is taking big (Maha) initiatives such as 1st state in India to initiate the conciliation mechanism, by way of Alternative Dispute Resolution (ADR) to redress the issue of aggrieved home buyers and look forward to an early and amicable resolution of their disputes with their developers in Maharashtra. **Maharashtra has the highest number of Projects (17,567) and Real Estate Agents (16,045) registered with Authority** – higher than any other authority”.

He said, “Madhya Pradesh is fully RERA compliant state, which has established Regular Authority, Tribunal and have fully functional web-portal to enable the registration of project and Agents”, and added that “recently, Gujrat has also established its regular Authority and others (Rajasthan and Goa) are on their way to implement RERA in their states.

The Minister informed that after taking charge of the ministry in September 2017, one of the first steps taken was to write to the Corporate Affairs Ministry to confer the status of ‘financial creditors’ on home buyers. “The dialogue with that Ministry has finally resulted in another path breaking amendment to the Insolvency and Bankruptcy Code (IBC)”, he added. Shri Puri explained that the amendment provides the homebuyer the status of a ‘financial creditor’, a move that will allow him to initiate Insolvency proceedings on par with that of the financial institutions. He said, by empowering the homebuyer through a legislative mechanism, this Government has once again demonstrated through action that it has the best interests of the consumer and places it on the highest pedestal.

Shri Puri also spoke about several other initiatives by the Housing and Urban Development Ministry, that includes:

- **Fiscal measures** (lower GST rates for affordable housing),
- **Tax concessions**(relief under Section 80 IBA),
- **Programmatic interventions** (PMAY; higher carpet area for leveraging CLSS for the MIG),
- **Policy interventions**(‘Infrastructure’ status for Affordable housing), and
- **Higher Budgetary allocations** like: -
 - i. Setting up of a dedicated Affordable Housing Fund in National Housing Bank (NHB) to facilitate refinance for Private Lending Institutions; and
 - ii. National Urban Housing Fund (NUHF) for Rs 60,000 Crore through Extra Budgetary Resources.

Each of these above measures will contribute to the growth of the real estate sector, he said.

“Additionally, the government has introduced several landmark policy initiatives to energise and give boost to the sector such as (RERA), **Benami Transactions Act, Real Estate Investment Trust (REITs), Infrastructure status for affordable housing, easing of FDI norms, setting up of a National Urban Housing Fund etc. - all of which will have positive impact in the long-run**”, the Minister elaborated.

Team ICSI

Disclaimer : The information in the Info Capsules is developed according to the information available in public domain and for academic purposes only. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.