

# REAL ESTATE SECTOR



**THE INSTITUTE OF  
Company Secretaries of India**

**भारतीय कम्पनी सचिव संस्थान**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

Statutory body under an Act of Parliament



August 2018

© THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

*Disclaimer*

Due care has been taken to avoid errors or omissions in this publication. In spite of this, errors may still persist. Any mistake, error or discrepancy if noted, may be brought to the notice of the Institute, which shall be taken care of in next edition.

The Institute shall not be responsible for any loss or damage resulting from any action taken on the basis of the contents of this publication. To avoid any doubt, it is suggested that the reader should cross-check the contents of this publication with original Government notifications.

This industry specific research report is for wide circulation among experts to receive valuable suggestions and necessary supports for further improving the manuscript. Experts are encouraged to email their suggestions and contribute any material which they think could value add the manuscript to [research@icsi.edu](mailto:research@icsi.edu).

The Section 3, "Legal Framework" is indicative only.

**Published by :**

**THE INSTITUTE OF COMPANY SECRETARIES OF INDIA**

ICSI House, 22, Institutional Area, Lodi Road, New Delhi - 110 003

**Phones** : 41504444, 45341000, **Fax** : 24626727

**Website** : [www.icsi.edu](http://www.icsi.edu), **E-mail** : [info@icsi.edu](mailto:info@icsi.edu)

Laser typesetting at: AArushi Graphics

Printed at: Indian Offset Press/August 2018

## PREFACE

In the liberalized economic policy regime, the corporate sector has been assigned a major role as the driver of growth and development of the Indian economy. This has resulted in a number of changes, especially in the regulatory framework applicable to specific industry sectors. As an economy is consist of different industries like agriculture, service, engineering, manufacturing etc., it provides impetus to the economy i.e. employment generation, production of goods and services, income distribution in the whole economy.

With the intent to further enhance the competitiveness of India's services sector and to boost productivity with the creation of new employment opportunities, the Central Government has focused attention on 12 sectors in the economy as 'Champion Sectors' i.e., IT & ITeS, Tourism and Hospitality, Financial, Accounting and Finance, Transport and Logistics, Construction and Related Engineering, Communication, Education, Medical Value Travel, Audio Visual, Legal and Environmental.

As part of its support to government's policy initiatives, the Institute has started an initiative by projecting Company Secretary as 'Corporate Saviour' - a person who can be relied upon by stakeholders i.e., Corporates, Promoters, Shareholders, Government and Regulators.

With this basic objective, the institute has initiated the process of developing industry specific knowledge through research, creating awareness among the members about the contribution the Company Secretary can make in specific industry, capacity building of members in the specific industry, securing recognitions for members in specific industry sector, and sensitisation of regulatory authorities about the contribution the Company Secretaries can make in specific industry.

For conducting the detailed analysis in a structured manner, a format is designed with four sections, Section-I covering the industry profile, Section-II Business Scenario, Section-III legal framework and Section-IV Contribution of Company Secretary in employment and in practice. The research publications in all the industry sector are based on exploratory research.

I wish to express my sincere thanks and gratitude to CS Ahalada Rao V, Vice-President, the ICSI for his efforts in guiding and finalizing industry specific publications.

I also appreciate Dr. Prasant Sarangi, Director (Research), the ICSI-Research Cell for doing in-depth study of Real Estate Sector and bringing out this research publication, under the guidance of CS Sonia Baijal, Director, Professional Development, Prospective Planning and Studies and Dr. S.K. Dixit, Mentor, Research Cell.

I am sure this research publication will prove to be of immense value to professionals, corporates and researchers. The research is an ongoing process, and I welcome the readers to give suggestions to make this research publication more comprehensive.

I wish all the readers a happy reading

New Delhi

Date: August 23, 2018

**CS Makarand Lele**

*President*

The Institute of Company Secretaries of India

## TABLE OF CONTENTS

Section No.	Title of the Section / Sub Topics	Page Number
<b>1</b>	Introduction	<b>1</b>
	1.1 Introduction	<b>1</b>
	1.2 SWOT Analysis	<b>2</b>
	1.3 Types of Real Estate Investments	<b>3</b>
	1.4 Real Estate Investment Trusts (REITs)	<b>5</b>
<b>2</b>	Business Scenario	<b>7</b>
	2.1 Introduction	<b>7</b>
	2.2 The Demographic Trends	<b>7</b>
	2.3 The Economic Scenario	<b>11</b>
<b>3</b>	Legal Framework	<b>20</b>
	3.1 Sector Type	<b>20</b>
	3.2 Applicable Laws	<b>20</b>
	3.3 Related Ministries	<b>20</b>
	3.4 RERA: An Analysis	<b>21</b>
<b>4</b>	Contribution of Company Secretary	<b>40</b>
	4.1 Introduction	<b>40</b>
	4.2 Role of CS in Practice	<b>42</b>
	4.3 Role CS in Employment	<b>42</b>
	4.4 Conclusion	<b>43</b>
	Bibliography	<b>44</b>



## SECTION 1

# INTRODUCTION

### 1.1 INTRODUCTION

Real estate sector has been making rapid strides in recent times and has emerged as one of the most important contributors to Indian economy. The sector besides witnessing a slowdown trend, continues its metamorphosis from being largely fragmented and unorganized to become as structured and organized as its peers in developed economies across the globe.

Real estate is one of the oldest and most preferred asset of by all classes as. It refers to land as well as any physical property or improvements affixed to the land, including houses, building, landscaping, fencing, wells, etc. For example, vacant land and residential lots, plus the houses, outbuildings, decks, trees, sewers and fixtures within the boundaries of they property are treated as real estate. It is, thus, a property which includes land, buildings, air rights, above the land and underground rights, below the land.

Adam Smith wrote in 'The Wealth of Nations' over 200 years ago that «a dwelling-house, as such, contributes nothing to the revenue of its inhabitants». The Economist has reported that most Americans were treating their homes as an investment till 2008. The traditional belief that home ownership is a necessary milestone to acquiring wealth still holds good. By owning a home to live in, the owner not only saves on rent but also benefits from any long-term price appreciation. And investors, those buys a home to rent out, are in it primarily for financial gains, be it monthly cash flow income, long-term gain, or a combination of both. But, investors and live-in home owners alike should care for the net returns a home can yield; since it is, for the most, the single largest investment they will ever make.

With the real estate sector after getting a push from the Union Budget 2017-18, the implementation of a single regulator RERA, the announcement of 'infrastructure status' to the affordable housing sector, can serve as a significant step in achieving the government's 'Housing for All by 2022' mission. These could be game changing steps for developers who already have a good presence in the market. Further, the Central Government has identified 305 cities and towns under the housing for all by 2022 mission (Pradhan Mantri Awas Yojana), to build 2 crore homes for urban poor by the year 2022. This mission is expected to need 38 million workforce by 2030 from 29 million at present, predicted to be the key job creator.

Amandeo (2017) defines real estate as real, or physical, property. A few groups of experts opined that the word 'Real' comes from the Latin root res, or things. To some others, the word 'real' is derived from the Latin word rex, meaning 'royal'. They argued that since all the kings used to own all land in their kingdoms.

Being one of the most unorganized sectors in Indian economy, it is the second largest employer after agriculture. India's rank in the Global House Price Index has jumped 13 spots to reach the ninth position among 55 international markets, on the back of increasing prices in mainstream residential sector.

### 1.2 SWOT ANALYSIS:

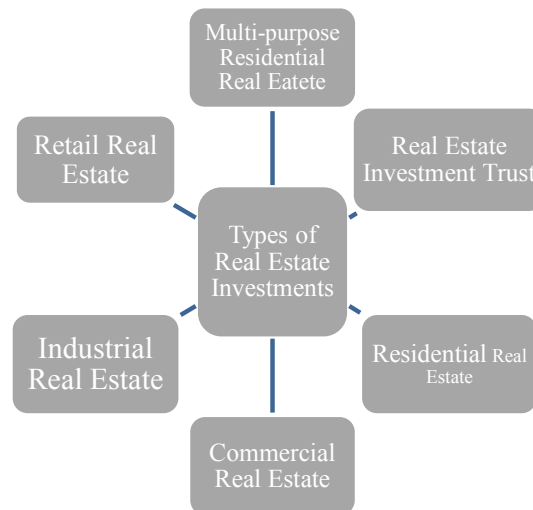
STRENGTHS	WEAKNESS
<ul style="list-style-type: none"> <li>• Announcement of Infrastructure status to affordable housing</li> <li>• Positive attitude of the union government</li> <li>• Implementation of RERA as a single regulator</li> <li>• Huge demographic advantages</li> <li>• Increase in investors' confidence</li> <li>• National Housing bank to refinance Rs. 20,000 crore of loan</li> <li>• Pradhan Mantri Awas Yojana to get around 23 crore of government allocation</li> <li>• No cash transaction above Rs. 3 lacks will be allowed</li> <li>• Inflation control</li> <li>• Prudent fiscal management</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of industry status to the real estate sector</li> <li>• Since the sector is not in industry category, promoters, investors etc., are often compelled to avail loans at higher rate of interests</li> <li>• The sector involves several cash transactions but after demonetisation the cautious investors are preferring for cheque transactions. There seems to have a short term effect.</li> <li>• Lack of public awareness about government reforms and initiatives</li> </ul>



OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> <li>• Increase in per capita income of Indians</li> <li>• Constant growth of GDP</li> <li>• Housing for all by 2022 mission of central government</li> <li>• Involvement of private players in the sector</li> <li>• Requirement of 38 million of workforce by the year 2030</li> <li>• One crore rural houses to be built by the year 2019</li> <li>• Real estate developers to get tax relief on unsold stock as liability to pay capital gains will arise only in the year a project is completed</li> <li>• Holding period for capital gains tax for immovable property reduced from 3 years to 2 years</li> <li>• Tax break of 1 year post receipt of the completion certificate, for the unsold stock</li> <li>• Indira Awaas Yojana will be extended to 600 districts</li> <li>• Indexation of capital gains shifted from 01-04-1981 to 01-04-2001.</li> </ul>	<ul style="list-style-type: none"> <li>• Delay in construction due to shortage of fund</li> <li>• Supply is more than demand for the projects</li> <li>• Less FDI in the sector</li> <li>• Lack of investors' confidence in the sector due to delay in construction for the last few years</li> <li>• Slow job creation in the economy as the sector is dependent on labour-intensive activities</li> </ul>

### 1.3 TYPES OF REAL ESTATE INVESTMENTS

Real estate as it is known is one of the oldest and most popular asset classes. Any person before investing on real estate sector, need to understand various types of real estate investments options available. It is however, the fact that each type of real estate derived below has their own merits, applicability and demerits. The decision normally depends on the buyer's interest based on his purpose and available purchasing power.



*(a) Residential Real Estate Investment:*

Projects like houses, apartment in buildings, townships and houses constructed on land which are used for residential or living purposes are of this category. Any purchase by any person are termed as residential real estate investment.

*(b) Commercial Real Estate Investment:*

The investment on office buildings and skyscrapers etc., are such type of investment.

*(c) Industrial Real Estate Investment:*

Any investment from industrial warehouses leased to firms as distribution centres for a long-term objectives to avail facilities like storage of raw materials and finished products, using show rooms and service centres, etc.

*(d) Retail Real Estate Investment:*

These consists of shopping malls, strip malls and other retail storefronts.

*(e) Multi-purpose Real Estate Investment:*

Any real estate project with a combination of more than one type of above real estates are called as multi-purpose real estate investment. These types of real estate are now-a-days getting famous in India.

*(f) Real Estate Investment Trusts(REIT):*

These types of investments are not on physical assets rather are on virtual assets. Basically these are the purchases of shares of a corporation that owns real estate properties and

distributes practically all of its income as dividends. Here option of choosing an appropriate industry is openly available to the investors. This type of real estate investment is getting wider momentum among investors in the globe.

#### 1.4 REAL ESTATE INVESTMENT TRUSTS (REITs):

The REIT is the indirect investment. This mechanism offers an opportunity to participate directly in the ownership or financing in the real estate projects. These are tradable interest like share of stock related to real-estate related assets. REITs are traded in income producing real estate such as office buildings, apartments, shopping centres, warehouses and hotels etc.

Globally, REITs are gradually demonstrating the ability to attract and effectively manage investments in the real estate sector. The history of creation of this trust goes back to the year 1960 when the president of United States signed a law called as Cigar Excise Tax Extension. This law allowed all investors to invest in large scale diversified portfolios of income producing real estate. Based on the law, the first trust 'American Realty Trust' was created in the year 1961. Gradually the concept became worldwide famous and now a days more and more countries are interested to join in the pool. A brief description on country wise REITs are derived below.

**Table-1: Country Wise Description of REITs**

Country	REITs
India	The government of India and SEBI has approved REITs in the year 2014.
the United States	Founder of REITs.
the United Kingdom	The Finance Act 2006 (Corporation Tax Act 2010) ensured the operations of REITs from 2007.
Australia	There are more than 70 trusts existing in Australia by today. General Property Trust was the first trust launched in Australia in 1971.
Canada	Canadian REITs were established in the year 1993 followed by few amendments in the year 2010 and 2011.
Mexico	The Mexican Stock Exchange allowed trading of REITs in the year 2011.
Germany	The law in German REIT was introduced in the year 2007.
Malaysia	There are 16 REITs existing in Malaysia.
Kenya	Kenya attached into the trust in the year 2015 with the approval of its Capital Markets Authority. The REIT is issued by Stanib Kenya with the name of Fahari I-Reit Scheme.

Hong Kong	REITs are started trading in this country since 2005 and by July 2012, there were nine REITs functioning.
Japan	REITs are trading in Tokyo Stock Exchange since 1990.
Singapore	There are 31 REITs are listed in Singapore Exchange. The first REIT was registered in the year 2002.
Belgium	REITs are introduced in Belgium since 1995.
Finland	REITs in this country was introduced in the year 2010 with too many qualifications.
France	There are two REITs namely SIIC and Gecina.
Ghana	REITs are existing in Ghana since 1994. The first trust was introduced in August 1994 by the then Home Finance Company which is presently known as HFC bank.
Thailand	The Securities and Exchange Commission opened the listing of REITs since 2013.
United Arab Emirates	The Dubai International Financial Centre passed the regulation for listing of REITs in the year 2006.
Nigeria	The first trust called as the N50 billion Union Homes Hybrid Real Estate Investment Trust was launched in September 2008.
Philippines	Philippines has notified for the existence of REITs in May 2010 but unfortunately not a single REIT is registered yet.
South Africa	The Johannesburg Stock Exchange has registered 33 REITs by October 2015.
Pakistan	Under consideration to launch REITs in the country.
Saudi Arabia	The Saudi Capital Market Authority had approved listing of REITs in July 2006 with certain restrictions.
Bulgaria	The country introduced the REIT in the year 2004.
Ireland	The Ireland REIT was passed in the year 2013 under the 2013 Finance Act.
Brazil	REITs were introduced in Brazil in the year 1993.

**Source: Compiled Information from Each Country's Real Estate Acts**

## SECTION 2

### BUSINESS SCENARIO

#### 2.1 INTRODUCTION

India today has a huge demographic and economic advantage in terms of the young population and steady increase in per capita income of Indians. Real estate is a labour-intensive sector, with a long backward linkages tail, generating a large multiplier of economic activity in sectors while significantly aiding in job creation. This also plays very favourably with aspirations of India's youth, and will help in the realization of the demographic dividend of this segment. Various Indian economic parameters related to the sector are analysed below.

#### 2.2 THE DEMOGRAPHIC TRENDS:

There is much talk about India's demographic dividend with debates raising from how India's growing young population will make India a world economic leader. To make India a world economic leader, the contribution of real estate sector could not be ignored. The impact of demographic dividends on real estate sector are analyses below:

*(a) Distribution of Population by Age:*

The greatest advantage to the real estate sector is the presence of large proportion of young generation who are between 15 years of age to 59 years of age. This is the age group who have high perception towards purchase of houses and real estate investment. Following table analyses state wise figure of population under different age groups as per 2011 census.

**Table-2: Population under Different Age Groups as per 2011 Census**

States /UT's	Age Group 2011			
	0-14	15-34	35-59	60 and above
Andhra Pradesh	21790792	30609248	23131065	8278241
Arunachal Pradesh	493361	512549	312669	63639
Assam	10248899	11123193	7736116	2078544

Bihar	41721188	32264872	22002745	7707145
Chhattisgarh	8183836	88616997	6472641	2003909
Gujarat	17445613	21695832	16272844	4786559
Haryana	7529954	9370426	6225793	2193755
Himachal Pradesh	1775385	2419844	1956201	703009
Jammu and Kashmir	4240710	4411400	2951417	922656
Jharkhand	11891118	10992825	7630779	2356678
Karnataka	16024874	22349821	16883719	5791032
Kerala	7830974	10335954	11011254	4193393
Madhya Pradesh	24302242	25176834	17351555	5713316
Maharashtra	29917215	40661653	30280834	11106935
Manipur	861688	1060221	726088	200020
Meghalaya	1177942	1052138	592123	138902
Mizoram	356002	412771	259172	68628
Nagaland	679032	760810	434463	102726
Odisha	12076422	14385953	11408224	3984448
Punjab	7084950	10174719	7576330	2865817
Rajasthan	23725426	23811691	15629580	5112138
Sikkim	165937	251098	151614	40752
Tamil Nadu	17007503	25144641	22418323	7509758
Tripura	1017991	1362144	1002622	289544
Uttar Pradesh	71308266	68153539	43288570	15439904
Uttarakhand	3129008	3602662	2437205	900809
West Bengal	24737475	32655852	26027955	7742382
A & N Islands	92675	147586	114528	25424
Chandigarh	266512	426702	294812	67078
D & N Haveli	107813	147931	73721	13892
Daman & Diu	54985	122110	54435	11361
Delhi	4565319	6534460	4524015	1147445
Goa	318160	503105	471691	163495
Lakshadweep	16457	22857	19774	5270
Puducherry	298392	440449	387575	120436
<b>All India</b>	<b>372444116</b>	<b>421959587</b>	<b>308112432</b>	<b>103849040</b>

Source- Economic Census, Gol.

*(b) Usage Pattern of Houses:*

When the word real estate demand or investment comes, a question arises demand for which type of property, i.e., whether residential or commercial or offices? The obvious reason behind this doubt that each of the three types are of different uses. Following table makes a sketch by distributing census houses according to the uses.

**Table-3: Distribution of Census Houses According to the Uses to Which they Are Put**

Occupied Census Houses Used as:	2001			2011		
	Total	Rural	Urban	Total	Rural	Urban
Residence	72.0	72.7	70.2	77.1	77.2	76.9
Residence cum others	3.2	3.4	2.6	2.8	3.0	2.4
Shop, office	5.4	3.1	10.9	5.8	3.4	10.8
School, college	0.6	0.7	0.4	0.7	0.8	0.4
Hotel, Lodge, guest house	0.2	0.2	0.4	0.2	0.2	0.4
Hospital, dispensary	0.2	0.2	0.4	0.2	0.2	0.3
Factory , workshop	0.9	0.6	1.7	0.8	0.5	1.5
Place of worship	1.0	1.1	0.6	1.0	1.2	0.6
Other non- residential	10.2	12.8	3.9	11.0	13.3	6.0
Vacant census houses	6.4	5.3	9.0	0.4	0.3	0.7

**Source- Economic Census, Gol**

*(c) Distribution of Households by Type of Occupancy:*

It is important to search for an opportunity that which occupation types of houses, i.e., either owned or hired or others are normally used in our country. Following table examines the distribution of households by type of occupancy.

Table-4: Housing Percentage Distribution of Household by Type of Occupancy

State/Union Territory	NSS 62 <sup>nd</sup> round (July-2005-June 2006)						NSS 69 <sup>th</sup> (July-2012-Dec 2012)					
	RURAL			URBAN			RURAL			URBAN		
	Owned	Hired	Others	Owned	Hired	Others	Owned	Hired	Others	owned	Hired	Others
1	2	3	4	5	6	7	14	15	16	17	18	19
All India	93.4	3.8	2.7	60.0	34.9	5.1	93.3	5.1	1.6	61.1	35.4	3.4
STATES:												
Andhra Pradesh	86.6	8.6	5.5	46.7	49.5	3.8	82.9	12.9	4.2	42.5	51.7	5.8
Arunchal Pradesh	81.4	6.1	12.5	NR	NR	NR	88.9	8.7	2.5	25.3	68.5	6.2
Assam	91.0	1.8	7.1	41.1	50.8	8.1	92.5	5.0	2.4	58.8	32.8	8.5
Bihar	99.5	0.1	0.3	70.6	27.2	2.3	98.5	0.6	0.9	66.2	30.4	3.4
Chhattisgarh	96.5	2.0	1.4	63.3	23.7	13.0	93.7	2.2	4.1	1.4	24.5	4.1
Delhi	NR	NR	NR	NR	NR	NR	65.5	34.5	0.0	55.3	40.6	4.1
Goa	Nr	Nr	Nr	Nr	Nr	Nr	80.8	9.1	10.1	75.6	20.3	4.1
Gujarat	91.7	6.1	2.2	66.1	29.3	4.6	94.8	5.0	0.2	71.4	26.5	2.0
Haryana	96.9	2.1	1.0	72.2	25.5	2.3	94.0	5.6	0.3	72.1	26.2	1.6
Himachal Pradesh	94.0	5.3	0.7	41.9	47.6	10.5	93.1	6.3	0.6	31.6	64.7	3.7
Jammu and Kashmir	98.3	1.3	0.3	85.8	13.2	1.1	97.9	1.9	0.3	81.1	17.0	1.9
Jharkhand	98.8	1.0	0.2	45.8	39.9	14.3	98.2	1.5	0.4	52.8	42.4	4.8
Karnataka	94.8	4.8	0.5	40.5	55.5	4.0	90.4	8.0	1.6	41.1	54.5	4.3
Kerala	90.4	7.7	1.9	76.3	20.3	3.3	90.7	8.6	0.8	77.1	22.5	2.6
Madhya Pradesh	97.3	1.1	1.6	64.5	33.4	2.1	94.9	2.4	2.7	69.9	27.5	2.6
Maharashtra	87.1	7.1	5.8	64.1	30.3	5.6	91.1	7.5	1.3	65.9	31.1	3.0
Manipur	96.5	3.5	-	79.7	20.3	-	97.9	1.2	0.9	89.5	10.1	1.2
Meghalaya	Nr	Nr	Nr	Nr	Nr	Nr	97.0	2.6	0.4	65.0	33.9	0.2
Mizoram	93.8	4.5	1.7	68.4	29.5	2.1	94.5	5.3	0.2	69.0	30.8	1.8
Nagaland	Nr	Nr	Nr	Nr	Nr	Nr	98.0	1.7	0.2	56.0	42.2	3.9
Odisha	91.8	1.0	7.1	55.4	40.6	4.1	91.5	5.3	3.1	43.3	52.8	0.9
Punjab	94.6	3.4	2.0	69.7	29.0	1.3	95.0	4.3	0.7	66.4	32.7	4.5
Rajasthan	95.7	2.1	2.2	74.3	22.7	3.0	95.6	3.2	1.2	68.3	27.2	3.7



Sikkim	Nr	Nr	Nr	Nr	Nr	Nr	76.7	22.2	1.1	21.3	75.0	3.7
Tamil Nadu	86.8	10.9	2.2	42.5	50.9	6.5	86.4	12.1	1.4	50.2	47.6	2.2
Tripura	96.9	1.9	1.2	68.8	29.4	1.7	95.1	3.5	1.4	71.0	26.5	2.5
Uttar Pradesh	98.6	0.8	0.6	72.1	23.7	4.2	98.4	1.0	0.5	74.7	21.8	3.4
Uttarakhand	Nr	Nr	Nr	Nr	Nr	Nr	81.0	18.7	0.3	61.5	35.6	2.9
West Bengal	93.0	2.1	4.9	63.5	28.4	8.1	97.3	1.1	1.7	70.4	25.2	45.0
North-Eastern	93.7	4.4	2.0	56.9	37.0	6.2	-	-	-	-	-	-
Union Territors	58.9	29.01	2.1	47.3	40.4	12.3	51.6	29.4	19.0	37.7	61.9	5.0
A & N islands												
Chandigarh	-	-	-	-	-	-	27.4	72.6	0.0	34.2	52.4	13.2
D & N Haveli	-	-	-	-	-	-	57.8	42.2	0.0	48.7	89.5	0.0
Daman & Diu	-	-	-	-	-	-	64.4	35.6	0.0	10.5	51.3	0.0
Lakshadweep	-	-	-	-	-	-	78.7	21.3	0.0	54.6	28.7	21.4
Puducherry	-	-	-	-	-	-	78.7	21.3	0.0	54.6	42.6	29.0

**Source-62nd and 69th NSSO Reports, Ministry of Statistics and Programme Implementation, Gol.**

### 2.3 THE ECONOMIC SCENARIO:

There is ample scope from the real estate sector from the economic point of view. Few opportunities are discussed below:

#### **(a) Gross Domestic Product:**

Real GDP or Gross Domestic Product (GDP) at constant (2011-12) prices in the year 2017-18 is likely to attain a level of Rs.129.85 lakh crore, as against the Provisional Estimate of GDP for the year 2016-17 of Rs. 121.90 lakh crore, released on 31st May 2017. The growth in GDP during 2017-18 is estimated at 6.5 per cent. With GDP at current prices in the year 2017-18 is likely to attain a level of Rs. 166.28 lakh crore, as against Rs. 151.84 lakh crore in 2016-17 showing a growth rate of 9.5 per cent.

The table derived below shows some important countries gross domestic product calculated at purchasing power parity per capita calculated by the International Monetary Fund and the World Bank. The purchasing power parity value of all final goods and services produced within a country in a given year is calculated by dividing the average (or mid-year population). It can be seen from the figures that, even though India ranks at a higher side in the world but still its ranking is improving contentiously. This could be considered as a positive sign due to backward linkages for the real estate industry.

**Table-5: List of Countries by GDP (PPP) Per Capita**

Country	International Monetary fund	World Bank
Australia	48,899	46,790
Canada	46,437	44,025
France	42,314	41,466
Germany	48,111	48,730
<b>India</b>	<b>6,616</b>	<b>6,572</b>
Italy	38,161	36,833
Japan	41,275	41,470
New Zealand	37,294	39,059
Singapore	87,855	87,856
South Korea	37,740	35,751
Switzerland	59,561	62,882
United Kingdom	42,481	42,609
United Kingdom	42,609	
United states	57,436	57,467

**Source- Compiled from IMF and World Bank Data, 2017-18**

**(b) GDP Nominal:**

The nominal GDP are calculated at market or government exchange rates. The ranks of some of the major countries of the world calculated by the International Monetary Fund and the World Bank are figured in table derived below. From the table, it can be seen that as per both the organizations ranking, India is amongst the top 10 countries in the world.

**Table-6: List of Countries by GDP (Nominal)**

Country	International Monetary fund	World Bank
Australia	1,390,150	1,204,616
Canada	1,640,385	1,529,760
France	2,574,807	2,465,454
Germany	3,651,871	3,466,757
<b>India</b>	<b>2,439,008</b>	<b>2,263,522</b>
Italy	1,921,139	1,849,970
Japan	4,884,489	4,939,384
New Zealand	200,837	185,017
Singapore	305,757	296,966
South Korea	1,529,743	1,411,246
Switzerland	680,645	659,827

United Kingdom	2,565,051	2,618,886
United Kingdom	2,565,051	2,618,886
United states	19,362,129	18,569,100

**Source- Compiled from IMF and World Bank Data, 2017-18**

**(c) GDP Growth rate:**

Some important countries are listed in the following table ranked by their real gross domestic product growth rate. The real growth rate is calculated by considering the values of all final goods and services produced within a country in a given year. From the ranks of International Monetary Fund, it can be seen that India's position is between top five countries of the world.

**Table-7: List of Countries by GDP Growth Rate (Nominal)**

Country	International Monetary fund
Australia	2.50
Canada	1.40
France	1.20
Germany	2.05
India	8.50
Italy	0.90
Japan	6.83
New Zealand	4.00
Singapore	2.00
South Korea	2.80
Switzerland	1.30
United Kingdom	1.80
United Kingdom	1.65
United states	1.60

**Source- Compiled from IMF and World Bank Data, 2017-18**

**(d) Per Capita Income:**

The per capita net national income during 2017-18 is estimated to be Rs 111,782 showing a rise of 8.3 per cent as compared to Rs. 103,219 during 2016-17 with the growth rate of 9.7 percent.

The per capita income in real terms (at 2011-12 prices) during 2017-18 is likely to attain a

level of Rs. 86660/- as compared to Rs. 82269/- for the year 2016-17. The growth rate in per capita income is estimated at 5.3 per cent during 2017-18, as against 5.7 per cent in the previous year.

**(e) Gross Value Added (GVA) at Basic Prices**

The estimated growth in GVA for this sector during 2017-18 is placed at 7.3 percent as compared to growth of 5.7 percent in 2016-17. The key indicators of this sector are the growth of corporate sector for real estate and computer related activities which are estimated using latest available information on listed companies for the first half of financial year 2017-18. The combined growth in aggregate bank deposits and credits as on 10 November 2017 was 8.4 per cent. The table -8 and 9 derived below shows the contribution of financial, real estate and professional services estimated by first advance estimates of Gross value added by economic activities at basic price at 2011-12 and current price respectively.

**Table-8: First Advance Estimates of GVA at Basic Price by Economic Activity**

**(At 2011-12 prices) (Rs. crore)**

Industry	2015-16	2016-17 (PE)	2017-18 (1st AE)	Percentage change over previous year 2016-17 2017-18	
1. Agriculture, forestry & fishing	1,617,208	1,696,175	1,732,371	4.9	2.1
2. Mining & quarrying	324,740	330,485	339,972	1.8	2.9
3. Manufacturing	1,872,115	2,019,227	2,112,345	7.9	4.6
4. Electricity, gas, water supply & other utility services	224,447	240,590	258,672	7.2	7.5
5. Construction	879,782	894,668	927,085	1.7	3.6
6. Trade, hotels, transport, communication and services related to broadcasting	1,989,161	2,143,956	2,329,801	7.8	8.7
7. Financial, real estate & professional services	2,298,798	2,429,638	2,606,602	5.7	7.3
8. Public administration, defence and Other Services	1,284,263	1,430,002	1,564,473	11.3	9.4
<b>GVA at Basic Price</b>	<b>10,490,514</b>	<b>11,185,440</b>	<b>11,871,320</b>	<b>6.6</b>	<b>6.1</b>

**Source- Draft Estimate of National Income, 2017-18, Gol.**

All these demographic and economic indicators and more are enough to convince that the real estate sector is having an ample scope for growth in the coming years.

**Table-9: First Advance Estimates of GVA at Basic Price by Economic Activity  
(At current prices)**

Industry	2015-16	2016-17	2017-18	Percentage change over previous year	
				2016-17	2017-18
1. Agriculture, forestry & fishing	2,175,547	2,372,085	2,438,546	9.0	2.8
2. Mining & quarrying	296,253	301,921	341,843	1.9	13.2
3. Manufacturing	2,064,820	2,257,413	2,422,101	9.3	7.3
4. Electricity, gas, water supply & other utility services	321,651	342,422	368,269	6.5	7.5
<b>5. Construction</b>	<b>1,006,403</b>	<b>1,041,343</b>	<b>1,109,608</b>	<b>3.5</b>	<b>6.6</b>
6. Trade, hotels, transport, communication and services related to broadcasting	2,294,364	2,519,999	2,825,708	9.8	12.1
7. Financial, real estate & professional services	2,631,120	2,889,048	3,186,115	9.8	10.3
8. Public administration, defence and Other Services	1,668,486	1,945,683	2,205,463	16.6	13.4
<b>GVA at Basic Price</b>	<b>12,458,642</b>	<b>13,669,914</b>	<b>14,897,653</b>	<b>9.7</b>	<b>9.0</b>

Source- Draft Estimate of National Income, 2017-18, Gol.

**(f) FDI Inflow:**

In Construction Sector FDI is permitted upto 100 per cent under automatic route for development of Townships, Infrastructure & Construction Development project like Housing, Commercial Premises,

Hotels, Hospitals, Educational Institutions, and Recreational facilities. FDI is prohibited in Real Estate Business, Construction of Farm Houses, Trading in Transferable Development Rights (TDRs). However, the prohibition is not applicable to the construction of a Farm House by an NRI for his personal use or for purchase of TDR to be used in construction for personal use.

In the post-liberalization era, India attracts a quantum amount of FDI, especially after the liberalization of the construction sector. FDI inflows to construction activities have led to a phenomenal growth in the economic life of the country. India has become one of the most prime destinations in terms of construction activities. The following Table-10 presents the yearly FDI inflows in Construction sector of the period of study.

Construction sector is the third largest sector in attracting FDI inflow in India during the period of study from 2000-01 to 2012-17. Construction sector has attracted US \$7508 million FDI inflow and accounted to 20.0 per cent of total FDI inflow in India during 2013-14. In the year 2006-07 the FDI inflows to the construction sector of US \$3,985 million is the highest FDI inflow to the construction sector. In the year 2000-01 construction sector received US \$260 million and in the year 2016-17 it received US \$ 659 million. The standard deviation is calculated at 1983.25 US\$ million for the sector and total FDI inflow it is US\$ 18251 million.

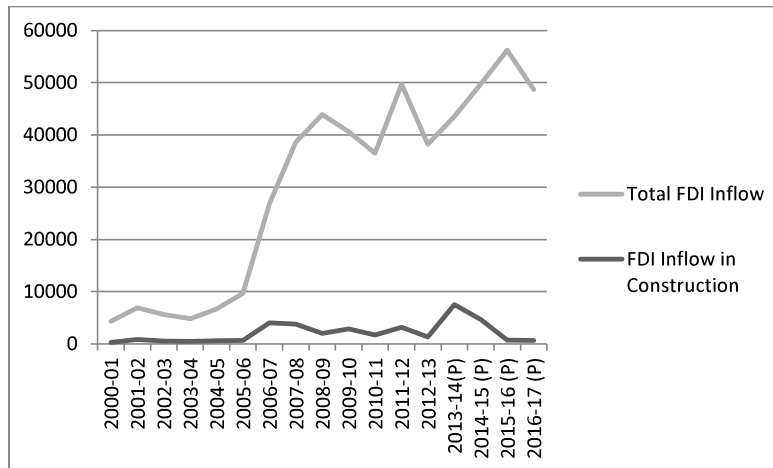
**Table-10: FDI Inflow after Construction Sector Reforms**

(amount in US\$ million)

Year	FDI Inflow	Share to total FDI	Total FDI Inflow
2000-01	260	6.45	4029
2001-02	804	13.12	6130
2002-03	537	10.66	5035
2003-04	472	10.92	4322
2004-05	562	9.29	6051
2005-06	691	7.71	8961
2006-07	3985	17.46	22826
2007-08	3743	10.74	34843
2008-09	2028	4.84	41873
2009-10	2862	7.58	37745
2010-11	1663	4.76	34847
2011-12	3141	6.75	46556
2012-13	1332	3.61	36860
2013-14(P)	7508	20.00	36046
2014-15 (P)	4652	10.00	45148
2015-16 (P)	727	1.31	55457
2016-17 (P)	659	1.37	48032
Standard Deviation	1983.25		18251
Mean	2095.647		27927

Source: Dept. of Industrial Policy and Promotion, MCI

Figure-1: FDI inflow into Construction Sector



Source: Dept. of Industrial Policy and Promotion, MCI

Mauritius has invested the highest FDI inflows in construction sector in India. Top five sectors collectively have accounted to 81 per cent of total FDI inflows in construction sector. Other sectors have attracted only US \$4195 million (19 per cent) during 2012-13. The New Delhi region has attracted the highest FDI inflows through construction sector. Top five countries collectively have accounted to 86 per cent of Construction sector FDI inflow. Indian Construction company W.S. Electric Ltd has received the highest FDI inflow of US \$397.05 million from the Bermuda Company Schroder Credit Renaissance Fund Ltd, DLF Assets Ltd has received US \$387.37 million from the Singapore company DAL Singapore Investments PTE Ltd, DLF Assets Ltd has received US \$384.84 million from the Mauritius company DE Shaw Composite Investment, Larsen & Toubro Ltd has received US \$380.51 million from the Mauritius's various investors, and DLF Assets P. Ltd received US \$196.65 million from the Mauritius company New Opportunities I Ltd. PLC.

#### **(g) Housing Shortage:**

Table-11 depicts various interesting facts on the housing condition in India. The comparative figure has been done based on the estimations of two government departments like census of India and National sample survey Office. Ten decile groups are identified based on the nature of their economic status. The table details about urban households in our country as per census and NSS studies, per centage share of total households to total households in urban area, average monthly per capita income, average household size of Indian families on basis of decile categories, average household income based on

TG-12 method, households facing housing shortage, census and NSS estimate of housing shortage and etc.

**Table-11: Housing Shortage among Various Income Groups in Urban India**

Decile Income Groups From Bottom to top	Urban Households in India as per census ( in lakhs)	Urban househ old in India as per NSS (in lakhs)	Share in total urban households %	Average MPCE	Average household size	Average household income based on TG-12 Method	Households facing housing shortage (in lakhs)	Households facing housing shortage in decile using NSS households (%)	Shortage using census decile households (%)	From NSS data: households & population facing shortage among EWS, LIG & other income groups (%)	From census data: households & population facing shortage among EWS, LIG & Other income Groups (%)
1	82.5	67.4	10.1	521	5.9	3050	37.7	55.9	45.7	42.5 (43.2*)	36.3 (36.9*)
2	84.6	69.1	10.4	722	5.3	3821	32.5	47.1	38.4		
3	74.1	60.5	9.1	870	5.1	4392	22.3	36.9	30.1		
4	132.6	108.3	16.3	1028	4.7	<b>4872</b>	37.2	34.4	28.1		
5	33.9	27.7	4.2	1420	4.6	6904	8.6	31.1	25.4	20.8 (21.8*)	13.8 (14.2*)
6	76.0	62.1	9.3	1688	4.2	7354	16.8	27.0	22.1		
7	86.9	71.0	10.7	2051	4.0	8551	13.5	19.0	15.5		
8	89.8	73.4	11.0	2681	3.6	<b>10245</b>	9.9	13.6	11.0		
9	86.5	70.7	10.6	5673	3.3		6.5	9.2	7.5	8.2 (8.5*)	7.0 (7.2*)
10	66.5	54.3	8.2	1786	2.7		1.7	3.1	2.6		
Total	813.5	664.5	100.0	1856	4.4		186.7	28.1	23.0	28.1 (31.3*)	23.0 (25.6*)

**Note:-**

1. Positive figures mean shortage, while negative means surplus.
2. \*Figures in parentheses in these last two columns represent shortage of houses as % for population; while figures without parentheses represents shortage as % of households.
3. MPCE: Monthly Per Capita Consumption Expenditure.
4. Housing shortage is faced by 28.1 per cent of urban households, which constitutes 31.3 per cent of the Indian urban population.



5. 42.5 per cent of households and 43.2 per cent of the population among EWS face housing shortage in urban India.
6. 20.8 per cent of household and 43.2 per cent of the population among LIG face housing shortage in urban India.
7. Only 8.2 per cent of households and 8.5 per cent of the population among income group higher than LIG face housing shortage in urban India.
8. In the lowest decile household income group, 55.9 per cent of households face housing shortage, while the top income decile household group faces only 3.1 per cent shortage in housing.

**Source: TG 12, NSS and Census data.**

## SECTION 3

# LEGAL FRAMEWORK

### 3.1 SECTOR TYPE

Real Estate is having similarity with construction sector with different scope, as the Real Estate Investment is under Financial Sector.

### 3.2 APPLICABLE LAWS

#### *Specific Laws*

- Real Estate (Regulation and Development) Act, 2016 (RERA)
- Transfer of Property Act, 1882
- Registration Act, 1980
- Indian Stamp Act, 1899
- Indian Contract Act, 1872
- Foreign Exchange Management Act (FEMA)

#### *State Law*

- Each state is empowered to enact its own laws. Even RERA specifies for the state specific RERA.

### 3.3 RELATED MINISTRIES

- The administration of the RERA is under the Housing and Urban Affairs Ministry, Government of India.
- The development, operation and maintenance of the National Public Procurement Portal Government e-Marketplace have been brought under the Government of India, Ministry of Commerce.

### **3.4 RERA: AN ANALYSIS**

#### **3.4.1 What is RERA, 2016?**

The Real Estate Regulation and Development Act (RERA) gives the real estate sector its first regulator. RERA was implemented from 1st May, 2017, and subsequently the Goods and Services Tax (GST) become applicable from 1st July, 2017 on it. The Act was introduced with the intent of bringing in more transparency in the existing real estate sector in the country with rebalancing the lopsided buyer-builder relationship.

#### **3.4.2 Objectives of RERA:**

The objectives of the Act are:

- To provide to the nation a unified legal regime in the real estate sector
- To standardise the practice related to purchase and sale of real estate in the country
- To establish a proper regulator for the real estate sector
- To reduce fake sale due to compulsory registration of the projects
- To reduce delay in possession by creating reserve account under the Act
- To monitor the progress of the project due to continual disclosure by promoters
- To standardise sales agreement
- To make clarity in various terminology used in the real estate sector
- To make real estate purchase simpler
- To bring better accountability and transparency
- To guide state/UTs and monitor their activities based on a central regulation

#### **3.4.3 Scope of RERA:**

The scope of RERA includes:

- To adopt better corporate governance and disclosure practices in the sector
- To increase financial transparency in the sector
- To attract investments in the sector
- To manage effectively the investments in the sector
- To increase in quality in the sector
- To increase demand of real estate projects than its supply
- To attract more and more middle class families into the sector

**3.4.4 Real Estate Acts in Selected Countries:**

<b>Country</b>	<b>Single Regulator</b>	<b>The Regulators</b>
<b>The United States of America</b>	No	<ul style="list-style-type: none"> <li>• The Department of Housing &amp; Urban Development (HUD) protects the interest of residential property consumers under the Real Estate Settlement Procedure Act</li> <li>• There are licensing laws at the states level</li> </ul>
<b>Germany</b>	No	<ul style="list-style-type: none"> <li>• The real estate settlements are done according to German Civil Code</li> <li>• The Hereditary Building Rights Act</li> <li>• The Condominium Act</li> <li>• The formal part is, inter alia, ruled by the Notarisation Act and the Land of Registration Act</li> </ul>
<b>China</b>	Yes	<ul style="list-style-type: none"> <li>• Regulated through State Department of Real Estate known as "New State 10"</li> <li>• It is the accountability of the local governments to control and stabilize real estate prices</li> <li>• Each locality has their specific rules</li> <li>• The sales agreement specifies the area of the property, terms and conditions of sale, legal rights of buyers and sellers etc.</li> </ul>
<b>Singapore</b>	No	<ul style="list-style-type: none"> <li>• Controlled by Housing Development Board (HDB) for residential property</li> <li>• For industrial spaces controlled by Jurong Town Corporation (JTC)</li> <li>• Most of the activities related to real estate are under the control of public sector, hence, there is clarity in documents.</li> </ul>
<b>South Africa</b>	Yes	<ul style="list-style-type: none"> <li>• The registration of rights in land and other immovable property is registered by the Deeds Registration Act, 1937</li> <li>• All regions' and cities' planning registration which is called as provincial ordinances/law and bylaws are under Special Planning land Use management Act, 2013 (SPLUMA)</li> </ul>
<b>Ajman</b>	Yes	<ul style="list-style-type: none"> <li>• Regulated by Ajman real estate regulatory Authority (ARRA)</li> </ul>

<b>The United Arab Emirates</b>	No	<ul style="list-style-type: none"> <li>• In the process of establishment of a single act</li> <li>• There does not exist any specific law at federal level</li> </ul>
<b>Canada</b>	No	<ul style="list-style-type: none"> <li>• Each provinces are having their own law</li> <li>• Each law save for Quebec where property law is governed by Civil Code of Quebec (CCQ)</li> <li>• The CCQ is based on civil law which is derived from the Napoleonic Code</li> </ul>
<b>Scotland and Netherlands</b>	No	<ul style="list-style-type: none"> <li>• Her Majesty's Land Registry system like London</li> </ul>
<b>Israeli</b>	No	<ul style="list-style-type: none"> <li>• Two basic law like Human Dignity and Liberty and Israel Lands regulates the real estate sector</li> <li>• For real estate transactions and rights in real estate property, Land Law is in force</li> <li>• Real Estate Taxation Law regulates property tax issues</li> <li>• The Rental and Borrowing Act regulates the rental aspects of real estate</li> <li>• For newly apartment there is Sales Act (Apartment)</li> </ul>
<b>Austria</b>	No	<ul style="list-style-type: none"> <li>• The regulations that regulates real estate includes the Austrian Civil Code, The land Registry Act, the condominium Ownership Act and the Real Estate Developer Act</li> </ul>
<b>Brazil</b>	No	<ul style="list-style-type: none"> <li>• The primary law is Brazilian Civil Code (law No. 10406/2002) deals with ownership</li> <li>• Some other Federal laws are also applicable like the Real Estate development Law, the Land Statute, the City Statute, the Parceling of Real Estate Property Law and Public Registry Law</li> </ul>
<b>Finland</b>	No	<ul style="list-style-type: none"> <li>• The acquisition and registration of real estate is regulated by the Code of Real Estate</li> <li>• The Real Estate Formation Act governs on the formation of real estate units</li> <li>• The Housing Companies Act regulated more on residential housing activities along with other provisions also</li> </ul>

<b>France</b>	No	<ul style="list-style-type: none"> <li>• The Planning Code for using the French territory</li> <li>• The Construction and Housing Code regulates construction, development and social housing rules.</li> <li>• The Civil Code governs rules related to ownership, transfer of ownership, etc.</li> <li>• The Trade Code applicable for commercial or agricultural real estate uses</li> </ul>
<b>Hong Kong</b>	No	<ul style="list-style-type: none"> <li>• The Conveyancing and Property Ordinance (CPO), Chapter-219, governs on maximum issues related to real estate sector like ownership of, and rights in , property including land and building, etc.</li> <li>• For administration and regulation of new territories, New Territories Ordinance (Chapter-97) is applicable</li> <li>• The registration of land has been done as per the Land Registration Ordinance (Chapter-128).</li> </ul>
<b>Ireland</b>	No	<ul style="list-style-type: none"> <li>• Irish real estate law is governed by Conveyancing Acts, 1881-1911 and subsequently the Land and Conveyancing Law Reform Act, 2009</li> <li>• The Settled Land Acts, 1882-1890</li> <li>• For registration the new act is the Registration of Deeds and Title Act, 2006</li> </ul>
<b>Japan</b>	No	<ul style="list-style-type: none"> <li>• The Japanese Civil Code (Book-2 regulates on property rights like ownership, joint ownership etc. &amp; Book-3 deals with law of contracts like transfer of contracts, the rights and duties of the parties etc.)</li> <li>• Some other laws like the Commercial Law (for real estate transaction between companies), the Land Lease and Housing Lease Law (explains the relationship between land lord and tenants), the Law of Real Estate Registration (Registration Purpose), the law of Condominiums, the Real Estate Transactions Business Law, The Building Standard Law, the City Planning Law and the Financial Instruments and Exchange Law etc., are to regulate some specific issues related to the real estate sector.</li> </ul>

<b>Slovakia</b>	No	<ul style="list-style-type: none"> <li>• The Act No. 40/1964 of the Civil code, Act No. 513/1991 of the Commercial Code, Act No. 50/1976 are the main acts that regulates the real estate issues in the republic</li> <li>• Other acts like the Building Act, 1995, the cadastral Act, 1993, the Foreign Exchange Act, 1995, the Acquisition of Ownership of agricultural Land Act 2014 etc., are also regulates the real estate sector</li> </ul>
<b>Slovenia</b>	No	<ul style="list-style-type: none"> <li>• The sector is governed by the Law of Property Code, the Land Register Act, the Real Estate Recording Act, the Agricultural Land Act, the Housing Act, and the Protection of Buyers of Apartments and single Occupancy Building Law, etc., in the country</li> </ul>
<b>Spain</b>	No	<ul style="list-style-type: none"> <li>• The rights of the property is governed by the Constitution 1978</li> <li>• The general real estate issues like contracts, lease etc., are regulated by the Civil Code 1889</li> <li>• The Mortgages Act 1946 governs on land registration</li> <li>• The Cadastral Act 1/2004 governs registration with Cadastre</li> <li>• The Condominium Act 1960 deals with independent and separate use of property</li> <li>• The Consolidation Text of the land Act 8/2007 &amp; 8/2013 etc., deals with issues related to economic and environmental principles</li> </ul>
<b>Switzerland</b>	No	<ul style="list-style-type: none"> <li>• Real estate is mainly ruled by federal level such as the Swiss Civil Code, the Swiss Code of Obligation, the Act on the Acquisition of Real Estate by Persons Abroad, etc.</li> </ul>
<b>Turkey</b>	No	<ul style="list-style-type: none"> <li>• The Turkish Civil Code and the Turkish Code of Obligation are the main laws regulate the sector</li> </ul>

#### **3.4.5 The Act: A Brief Outline**

The RERA is an Act passed by the Indian Parliament. The Rajya Sabha passed the RERA bill on March 10, 2016 followed by the Lok Sabha on March 15, 2016 and it came into force from 1st May, 2017. Under the Act, the Central and State Governments are required to notify their own rules within the six months of the implementation of the Act as per the model rules framed under different sections of the central RERA Act. Brief outlines of the sections are compiled below.

Table-12: A Brief Outline of RERA

Section No.	Summary of the Section
<b>Chapter-II: Registration of Real Estate Project and Registration of Real Estate Agents</b>	
<b>Section-3</b>	<p><b>Prior Registration of Real estate projects with RERA</b></p> <p>Before registering the real estate project with Real Estate Regulatory Authority (RERA), any promoters are not allowed to advertise, market, book, sell or offer for sale any plot/apartment/building of the introduced projects. In case the project is already introduced before the commencement of the ACT, promoters are required to register the project within 3 months.</p> <p>Registration of the projects either introduced newly or existing are not required where the size of the land is within 500 sq. meters, or when number of apartments in total does not exceed 8, or where completion certificate has already been received for any project.</p>
<b>Section-4</b>	<p><b>Application for Registration</b></p> <p>While applying for registration, the documents like details of the promoter, details of the projects launched in the preceding five years, authenticated copy of the approvals and commencement certificate, details of the project, ownership documents, details of the real estate agents, details of the persons involved in development and declaration by the promoter.</p> <p>RERA shall have an operational online system for submitting application for registration, within a period of one year from the date of its establishment.</p>
<b>Section-5</b>	<p><b>Grant of Registration</b></p> <p>The authority has to grant or reject the registration within the 30 days from receipt of the application from the promoter. When registration is granted, then RERA provides a registration number, including a login Id and password to the applicant for accessing the website of the authority. With this, the promoter could open his web page and insert all the required details of the proposed project.</p>
	<p>Further, no application could be rejected unless the applicant has been provided with an opportunity to be heard.</p> <p>Further, if there was a delay by a period of 30 days while granting the registration, then the said application of the promoter shall be deemed to be granted registration.</p>



<b>Section-6</b>	<p><b>Extension of Registration</b></p> <p>The validity of the registration is the duration of time as mentioned by the promoter in the application, the time in which the project is to be completed. However, upon the request of the promoter, the validity of the application may be extended by mentioning proper reasons of force majeure (a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project).</p>
<b>Section-7</b>	<p><b>Revocation of Registration</b></p> <p>The Regulatory authority may, suo motu or on receipt of a complaint or on the recommendation of the competent authority, revoke the registration granted under section 5, on the following grounds as:</p> <ul style="list-style-type: none"> <li>(a) the promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder, or</li> <li>(b) the promoter violates any of the terms or conditions of the approval given by the competent authority;</li> <li>(c) the promoter is involved in any kind of unfair practice or irregularities (false representation of approval or affiliation of the project that does not exist in reality or regarding the services, practices or standard of services etc.)</li> </ul> <p>For revocation, a 30 days' notice period would be issued by RERA to the promoter by clearly mentioning the causes of proposed revocation and consideration of any cause shown by the promoter within the notice period.</p>
<b>Section-9</b>	<p><b>Registration of Real Estate Agent</b></p> <p>An agent must apply to RERA by submitting specified fee and relevant documents as desired. Registration is valid for the respective state/UTs and would remain valid for the specified period. Renewal of the registration could be done by producing applicable fee and required documents.</p> <p>Registration could be revocable or suspendable on various grounds as specified by the act. However, the agent would be given appropriate opportunity to put its case before the action taken.</p>

<b>Section-10</b>	<p>Functions of Real Estate Agent</p> <p>The agent along with the other functions prescribed in the act maintains proper books of accounts and records, restricts the sale or purchase of any unregistered planning area, avoids unfair trade practices and provides all documents/information to the allottee required at the time of booking.</p>
<b>Chapter-III: Functions and Duties of Promoter</b>	
<b>Section-11</b>	<p><b>Functions and Duties of Promoter</b></p> <ul style="list-style-type: none"> <li>a. Has to provide all the details of the project in the web site provided by RERA along with details of advertisement/prospectus issues etc.</li> <li>b. Has to provide sanctioned plans, layout plans with specifications of approval of the competent authority, stage wise schedule of completion of the project etc. at the time of booking and issuing of allotment letter.</li> <li>c. Responsible for all obligations until the conveyance of the apartment/plot has been made available to the allottee</li> <li>d. Has to obtain completion certificate or occupancy certificate, complete lease certificate and make it available to the allottee</li> </ul>
	<ul style="list-style-type: none"> <li>e. Has to execute a registered conveyance deed of the apartment, plot or building in favour of the allottee along with undivided proportionate title in the common areas to the association of allottees or competent authority as the case may be</li> <li>f. Has to pay all outgoing until it transfers the physical possession of the project to the allottee.</li> <li>g. Has the right to cancel allotment, but on the terms of agreement of sale, however, allottee could approach the authority on cancellation</li> </ul>
<b>Section-12</b>	<p><b>Incorrect or False Information in Promotions</b></p> <p>Appropriate compensation would be paid by the promoters to the person who makes a payment on the basis of false or incorrect information in the notice advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be done by the promoters. Upon the prove of false/incorrect information, if, the person who invested any amount cancels his/her booking, then the promoter has to return all his investment amount along with interest and compensation.</p>

<b>Section-13</b>	<p><b>Upto 10% Deposit or Advance without Agreement for Sale</b></p> <p>Promoters could demand upto 10% of the cost of the apartment as advance payment/application fee without entering into a registered agreement for sale. The agreement of sale clearly mentions details of the projects, payment plan, possession date and interest to be paid by either party in case of default.</p>
<b>Section-14</b>	<p><b>Adherence to Sanctioned Plans and Liability to Rectify the Defects</b></p> <p>The promoter has to complete the project work as per the sanctions of the competent authority. Further, in case of any urge either to change or alter any item from the sanctioned plans, promoter has to take the prior consent of the person taking one or more apartments/plots.</p>
	<p>Furthermore, in case of urge of rectification/repair of defects which are brought into its notice within 5 years, within a period of 30 days from notice. If the promoter fails to carry out its defect liability, promoter has to pay compensation to the allottee.</p>
<b>Section-15</b>	<p><b>Transfer of Rights and Liabilities in Project to Third-Party</b></p> <p>Promoter before transferring or assigning his major rights and liabilities of the project to third-party, should take consent from two-third allottees and written approval of the competent authority.</p>
<b>Section-16</b>	<p><b>Insurance of Real Estate</b></p> <p>Along with the insurances notified by the appropriate governments, promoters should also insure (a) title of the land and building as a part and (b) construction of the real estate project. Further, upon formation of the association of the allottees, all documents relating to the insurance specified should be handed over to association of the allottees.</p>
<b>Section-17</b>	<p><b>Transfer of Title of the apartment/Plot</b></p> <p>The promoter has to execute a registered conveyance deed with the allottee and hand over the physical possession of the plot/apartment to the allottees in the project. In case where there is absence of any law on the physical possession, the promoter has to hand over the physical possession to the allottees within three months from the date of receiving occupation certificate.</p>

<b>Section-18</b>	<p><b>Compensation Policy in case of Failure to Complete the Project</b></p> <p>The act strictly underlines compensation policy to the promoter who fails to complete or give possession on time as stipulated in the agreement for sale. The causes of delay may be due to discontinuance of business as a developer on account of suspension or revocation of the registration under this Act or for any other reason. In such cases, if the allottee wishes to withdraw his application from the project, promoter has to return the investment amount with applicable rate of interest along with compensation.</p>
	<p>However, in case the allottee does not wish to withdraw the booking, then the responsibility of the promoter is to pay interest for every month of delay till possession.</p> <p>Further, any loss causes to the promoter due to defective title of land or failure to discharge any other obligations as per the Act, promoter has to pay compensation to the allottee as specified by the Act.</p>
<b>CHAPTER-IV: RIGHTS AND DUTIES OF ALLOTTEES</b>	
<b>Section-19</b>	<p><b>Rights and Duties of Allottees</b></p> <p>As per the Act, allottee shall be entitled</p> <ul style="list-style-type: none"> <li>• To obtain information regarding sanctioned plans, layout plans with specifications as approved by the competent authority</li> <li>• To obtain stage wise schedule of completion of project</li> <li>• To claim possession of the apartment on due date</li> <li>• To claim compensation under section 18</li> <li>• To make payment to promoter as per the agreement</li> <li>• To participate in forming the association of allottees</li> <li>• To take physical possession of the apartment within 2 months of insurance of the occupancy certificate</li> <li>• To participate towards registration of the conveyance deed of the apartment</li> </ul>

<b>CHAPTER-V: THE REAL ESTATE REGULATORY AUTHORITY</b>	
<b>Section-20</b>	<p><b>Formation of RERA</b></p> <p>The Regulatory authority will come into force by the appropriate government within one year of the commencement of the Act. The government (s) have the discretion of establishing one regulator for one or more states or even can establish more than one regulator in one state.</p> <p>In case of non-appointment of fixed regulator, government can appoint any authority as regulator. However, after formulation of Regulator, all the cases required to be transferred to the newly appointed regulator.</p>
<b>Section-21</b>	<p><b>Composition of RERA</b></p> <p>The regulator should consist of one Chairperson and minimum two whole time Members.</p>
<b>Section-29</b>	<p><b>Meetings of Authority</b></p> <ol style="list-style-type: none"> <li>1. The authority shall meet at a place as specified by the regulations made by the authority.</li> <li>2. In the absence of the chairperson, a person selected by the members is to preside over the meeting.</li> <li>3. Over any issue, the majority concern would be considered. In case of tie, the chairman or person who is presiding has the right to cast second vote.</li> <li>4. The questions raised is to be answered within 60 days else proper reason for the delay is required to be noted down.</li> </ol>
<b>Section-32</b>	<p><b>Functions of Authority for Promotion of Real Estate Sector</b></p> <p>The authority in order to facilitate the growth and promotion of a healthy, transparent, efficient and competitive real estate sector could recommend creation of a single window system, creation of a transparent and robust grievance redresses mechanism, measures to encourage investment in the real estate sector, measures to encourage construction of environmentally sustainable and affordable housing, measures to facilitate digitization of land records and system, any other issue that the Authority may think necessary, etc., with appropriate government.</p>

<b>Section-33</b>	<p><b>Advocacy and Awareness Measures</b></p> <p>Upon the requirement of any suggestions while formulating real estate policies, laws etc., by the appropriate government, the Authority has to respond within 60 days and should act for the promotion of advocacy, creating awareness and imparting training about laws relating to real estate sector and policies.</p>
<b>Section-35</b>	<p><b>Powers of Authority to call for Information, Conduct Investigations</b></p> <p>Authority may have the following powers, same as a civil court, namely:</p>
	<p>(a) Direct the discovery and production of books of accounts and other documents</p> <p>(b) Summon and enforce the attendance of persons and examine them on oath</p> <p>(c) Issue commission for the examination of witnesses or documents.</p>
<b>Section-36</b>	<p><b>Power to issue interim orders</b></p> <p>The Authority may, by order, restrain any promoter, allottee or real estate agent from carrying on such act until the conclusion of such inquiry of until further orders, without giving notice to such party, where the Authority deems it necessary.</p>
<b>Section-37</b>	<p><b>Power to Issue Directions</b></p> <p>The Authority has the power to issue directions from time to time, to the promoters or allottees or real estate agents, as the case may be.</p>
<b>Section-38</b>	<p><b>Powers of Authority</b></p> <p>The powers include (a) impose penalty or interest on promoter/allottee/agents, (b) regulate its own procedure, (c ) to, suo motu make reference to Competition Commission of India of any matter that has effect of market power of monopoly situation, etc.</p>
<b>Section-40</b>	<p><b>Recovery of interest or penalty or compensation and enforcement of order, etc.,</b></p> <p>In case of failure, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue.</p> <p>When the competent authority issued any order or directs to any person to do any act, and in case of failure by any person to comply with such order or direction, the same shall be enforced, in such manner as may be prescribed.</p>

<b>CHAPTER-V: CENTRAL ADVISORY COUNCIL</b>	
<b>Section-41</b>	<p><b>Establishment of Central Advisory Council (CAC)</b></p> <p>This council consists of: the Central Minister of Housing as ex officio Chairman along with representatives of the Ministry of Finance, Industry and Commerce, Urban Development, Consumer Affairs, Corporate Affairs, Law and Justice, representative from Niti Aayog, National Housing Bank, Housing and Urban Development Corporation, five representatives of State Governments to be selected by rotation, five representatives of the Real Estate Regulatory Authorities to be selected by rotation, and any other Central Government department as notified.</p> <p>It shall also consist of not more than ten members to represent the interests of real estate industry, consumers, real estate agents, construction labourers, non-governmental organisations and academic and research bodies in the real estate sector.</p>
<b>Section-42</b>	<p><b>Functions of the CAC</b></p> <p>To advise and recommend the Central Government (a) on all matters concerning the implementation of this Act; (b) on major questions of policy; (c) towards protection of consumer interest; (d) to foster the growth and development of the real estate sector; (e) on any other matter as may be assigned to it by the Central Government.</p>
<b>CHAPTER VII : THE REAL ESTATE APPELLATE TRIBUNAL</b>	
<b>Section-43</b>	<p><b>Establishment of the Real Estate Appellate Tribunal</b></p> <p>States to establish Tribunal within one year of implementation of the Act to be known as (name of the state/Uts) Real Estate Appellate Tribunal</p> <p>Usually one state can establish one REAT. One may have more than one tribunal and more than one state may have one sole Tribunal.</p>
<b>Section-44</b>	<p><b>Settlement of Disputes and Appeals</b></p> <p>Appeals may be filed by appropriate government or the competent authority or any person aggrieved. Appeals need to be filed within 60 days from the date of order of authority and in case of a delay, proper cause may be mentioned.</p> <p>Based on the priority, the tribunal may heard, pass such orders, including interim orders, as it thinks fit.</p>
<b>Section-45</b>	<p><b>Composition of Appellate Tribunal</b></p> <p>It consist of a Chairperson and not less than two whole time Members of which one shall be a Judicial member and other shall be a Technical or Administrative Member, to be appointed by the appropriate Government.</p>

<b>Section-53</b>	<p><b>Power of the Tribunal</b></p> <p>(a) To regulate its own procedure</p> <p>(b) Powers are same as of the civil court</p> <p>However, there is no compulsion to the tribunal to follow the procedures of the Code of Civil procedure, 1908 or by the rules of evidence mentioned by the Indian Evidence Act, 1872 but shall be guided by the principles of natural justice.</p>
<b>Section-54</b>	<p><b>Administrative Power of the Chairperson</b></p> <p>The Chairperson shall have powers of general superintendence and direction in the conduct of the affairs of Appellate Tribunal and he shall, in addition to presiding over the meetings of the Appellate Tribunal exercise and discharge such administrative powers and functions of the Appellate Tribunal as may be prescribed.</p>
<b>Section-56</b>	<p><b>Right to Legal Representation</b></p> <p>Applicant or appellant may either appear before the tribunal in person or authorise one or more of a professional like- (1) Chartered Accountant, (2) Company Secretaries, (3) Cost Accountants and (4) Legal Practitioner, or any of its officers.</p>
<b>Section-57</b>	<p><b>Orders Passed by Tribunal to be Executed as Decree</b></p> <p>The tribunal has to execute its own orders by itself or via civil court having local jurisdiction, as if it is a decree made by the court.</p>
<b>Section-58</b>	<p><b>Appeal to High Court</b></p> <p>Any person could file an appeal to High Court within a period of sixty days on one or more grounds as specified in section 100 of the Code of Civil Procedure, 1908 from the date of communication of the decision or order by the Appellate Tribunal.</p> <p>No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.</p>
<b>CHAPTER VIII: OFFENCES, PENALTIES AND ADJUDICATION</b>	
<b>Section-59</b>	<p><b>Punishment of Non-registration Under section-3</b></p> <p>(1) A promoter found guilty under section-3 (Registration) will have to bear monetary penalty up to the extent of 10% of the estimated cost of the project.</p> <p>(2) In case of found guilty for repeated violation or non-compliance of the above will be punishable with an imprisonment of up to 3 years or with a monetary fine of upto 10% of the project cost or both.</p>



<b>Section-60</b>	<b>Penalty for Contravention of Section-4 (Application of Registration)</b> A promoter found guilty by furnishing false information or contravention of section-4, will be liable to a monetary penalty of up to 5% of the estimated project cost.
<b>Section-61</b>	<b>Penalty for Contravention of Other Provisions</b> A promoter found in contravention of provisions other than section-3 & 4, will be liable to pay a monetary penalty of 5% of the estimated project cost.
<b>Section-62</b>	<b>Penalty for Agents Under Section- 9 &amp; 10</b> Any agent found guilty under section-9 (Registration) or Section-10 (Functions), will be liable to pay monetary penalty of RS. 10,000/- for every day during which default continues, which may cumulatively extend up to 5% of the cost of the plot/building/apartment.
<b>Section-63</b>	<b>Penalty for Failure to Comply with Orders of Authority</b> Promoter will be liable to a penalty for every day during which such default continues which may cumulatively extend up to 5% of the estimated cost of apartment/plot/building
<b>Section-64</b>	<b>Penalty for Failure to Comply with Orders of Tribunal</b> Promoter will be punishable with imprisonment for a term which may extend upto 1 year or with a monetary penalty of on every day basis during which such default continues, which may cumulatively extend up to 10% of the estimated cost of the plot/apartment/building.
<b>Section-65</b>	<b>Penalty to Agents for Failure to Comply with Orders of Authority</b> For failure of orders or directions of the authority, the agent is liable to a monetary penalty for every day for the period which could extend cumulatively upto 5% of the cost of the plot/apartment/building as determined by the authority.
<b>Section-66</b>	<b>Penalty to Agent for Failure to Comply with Orders of Tribunal</b> For failure of orders or directions of the Appellate Tribunal, the agent is punishable with imprisonment for a term which could extend up to 1 year or with fine for every day during which such default continues. This fine could cumulatively extend up to 10% of the plot/apartment/building.

<b>Section-67</b>	<p><b>Penalty to Allottee for Failure to Comply with Orders of Authority</b></p> <p>Allottee will be liable to a monetary penalty for the period during which such default continues which could cumulatively extend up to 5% of the plot/apartment/building.</p>
<b>Section-68</b>	<p><b>Penalty to Allottees for Failure to Comply with Orders of Tribunal</b></p> <p>Allottee will be punishable with imprisonment for a term which may extend up to 1 year or with a monetary fine for every day basis during which such default continues. Such monetary fine could extend up to 10% of the cost of the plot/apartment/building.</p>
<b>Section-69</b>	<p><b>Offences by Companies</b></p> <p>In case any offence is committed either by a company or all persons in charge during that time in the company will be proceeded against and punished accordingly.</p> <p>If consent or connivance or any neglect will be noticed by any Director, manager, secretary or other officer of the company, such officer of the company could be treated as guilty.</p> <p>However, the section allow defence which will lie in the establishing the fact that the offence was committed without one's knowledge and that due diligence was exercised to prevent commission of such offence.</p>
<b>Section-70</b>	<p><b>Compounding of Offences</b></p> <p>Notwithstanding anything contained in the Code of Criminal Procedure, 1973, if any person is punished with imprisonment under this Act, the punishment may, either before or after the institution of the prosecution, be compounded by the court on such terms and conditions and on payment of such sums as may be prescribed with certain conditions.</p>
<b>CHAPTER IX: FINANCE, ACCOUNTS, AUDITS AND REPORTS</b>	
<b>Section-73</b>	<p><b>Grants and Loan by Central Government</b></p> <p>After due appropriation made by Parliament the central government could make to the authority grants and loans of such sums of money as that Government may consider necessary.</p>
<b>Section-74</b>	<p><b>Grants and Loan by State Government</b></p> <p>The State Government may, after due appropriation made by State Legislature by law in this behalf, make to the Authority, grants and loans of such sums of money as the Government may think fit for being utilised for the purposes of this Act.</p>

<b>Section-75</b>	<p><b>Constitution of Fund</b></p> <p>(1) The Real Estate Regulatory Fund to be constituted by appropriate government and amount to be credited from three sources as specified</p> <p>(2) Specifies on use of fund</p> <p>(3) Fund should be administered by a committee of members</p> <p>(4) Fund to be utilised by the fund committee for the specified purpose</p>
<b>Section-76</b>	<p><b>Consolidated Fund of India to be Created</b></p> <p>(1) All sums realised, by way of penalties, imposed by the Appellate Tribunal or the Authority, in the Union territories, shall be credited to the Consolidated Fund of India.</p> <p>(2) In case state, such amounts are to be credited as specified by state government</p>
<b>Section-78</b>	<p><b>Annual Report</b></p> <p>(1) The authority has to prepare an annual report consisting details of all the activities of the authority for the previous year, the annual accounts and the programmes of work for the coming year.</p> <p>(2) A copy of the annual report is to be presented in both the houses of the parliament or respective state and union territory legislators</p>
<b>CHAPTER X: MISCELLANEOUS</b>	
<b>Section-79</b>	<p><b>Bar of Jurisdiction</b></p> <p>No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the adjudicating officer or the Appellate Tribunal empowered by or under this act</p>
<b>Section-80</b>	<p><b>Cognizance of Offences</b></p> <p>(1) No court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder save on a complaint in writing made by the Authority or by any officer of the Authority duly authorised by it for this purpose.</p> <p>(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.</p>

<b>Section-81</b>	<b>Delegation</b>  The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to make regulations under section 85, as it may deem necessary.
<b>Section-82</b>	<b>Power of Appropriate Government to Supersede Authority</b>  Any appropriate government, could supersede the authority not exceeding six months, by appointing a person or persons as the President or the Governor, on account of circumstances, public interest etc.
	The government has to reconstitute the authority with fresh appointment of the chairperson or other members before expire of the date notified by it.  The government has to produce a copy of the notification, ATR and the circumstances that forced to do so before both the houses of the parliament or state/UT legislatures
<b>Section-84</b>	<b>Power of Appropriate Government to make Rules</b>  The respective state government has to make rules for carrying out the provisions of the Act within six months of enactment of the act as specified on numbers of grounds
<b>Section-85</b>	<b>Powers to Make Regulations</b>  The Authority (RERA) has to carry out all provisions of the Act as specified on various matters within three months of its establishment.
<b>Section-87</b>	<b>Members etc., to be Public Servant</b>  The Chairperson, Members and other officers and employees of the Authority, and the Appellate Tribunal and the adjudicating officer shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.
<b>Section-88</b>	<b>Application of other Laws not Barred</b>  The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force
<b>Section-89</b>	<b>Act to Have Overriding Effect</b>  The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

---

<b>Section-90</b>	<b>Protection of Action Taken in Good faith</b>  No suit, prosecution or other legal proceedings shall lie against the appropriate Government or the Authority or any officer of the appropriate Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder
-------------------	---

**Source: Compiled from the Gazette of India, No-17, Ministry of Law and Justice**

## SECTION 4

# CONTRIBUTION OF COMPANY SECRETARY

### 4.1 INTRODUCTION

India is witnessing a phenomenal growth and expansion in the corporate sector. The growing demand for specialists in almost every sphere of the corporate functions has led to the emergence of professionals who can perform specialized functions with near perfection in their respective fields. A Company Secretary is one such professional who is responsible for efficient management of the corporate sector. He ensures compliance of various company legislations and advises directors on statutory requirements of the company. Apart from carrying out these functions, he also looks after finance, accounts, legal, secretarial, personnel and administrative functions in private as well as public sectors.

Besides embarking upon traditional areas of practice, Company Secretaries in Practice are increasingly required to advise and guide on legal aspects of real estate business such as registration under RERA, production, drafting of various documents, sales, marketing and administration for identifying expansion opportunities, issuing due diligence or comfort certificate, arranging foreign collaborations, amalgamations, mergers, acquisition, takeovers, setting up of subsidiaries and joint ventures within and outside India etc.

Section-56 of the RERA permits Company Secretaries to act legal representative on matters related to real estate sector. Thus the professionals are having wider scope in most of all the states of India to expand their profile of services.

### 4.2 ROLE OF CS IN PRACTICE

#### ***Representation***

Represent a person (promoter) before any Real Estate Regulatory Authority for registration of real estate project,

- Represent a person before real estate appellate tribunal.

- Represent a person before any other competent authority for any other purpose under Real Estate (Regulation and Development) Act, 2016.

***Advisory Services***

- Conduct Board Meetings and Internal and statutory committee meetings as per Company requirements
- To explain variously applicable provision under real estate project.

***Compliance Services***

Registration and extension procedure of real estate project with competent authority

- An Applicant has to file an application for registration with RERA in the prescribed form with fees.
- Application for registration either approved or rejected by the authority within 30 days from the receipt of the application.
- On successful registration, the promoter of the project will be provided registration No, login id and password.
- Compliance of all applicable laws to real estate business.

***Details Required for application***

- A brief Details of enterprise name, registered address, types of the enterprise, name and photograph of the promoter.
- Details of the project launched in last 5 years including current project, in case any of the pending project, type of land and payment pending.
- Certified true copy of the commencement certificate from appropriate authority.
- Layout plan- whole project and each sanctioned phase by the appropriate authority.
- Development work plan and proposed facility.
- Location of the detailed project.
- Allotment letter, an agreement for sale, conveyance deed proposed to be signed with allottees.
- Number and the carpet area of apartments in the project.
- Name and address of the real estate agent if any of the proposed project.

- Name and address of the contractor, architecture, structural engineer or any other person for the concerned of this project.
- A declaration supported by an affidavit, and signed by the promoter or any other person authorized by the promoter.
- Legal & Regulatory Compliance
- Drafting various documents, relating to projects

**Audit**

- To interact with Statutory and Internal auditors for secretarial and legal function.
- Taxation aspect of real estate of project

In a recent IBC ordinance, home buyer can now file suit against an errant builder to NCLT. This has opened broader scope for the insolvency professionals. The summary is :

**Advisor to New Projects**

Company Secretaries could act as an advisory to the real estate companies while starting new real estate projects.

The ordinance to amend the insolvency and bankruptcy code (IBC), promulgated by the hon ble' president of India, put home buyers on a par with financial creditors. Homebuyers now a part of the committee of creditors (CoC) in the bankruptcy proceedings.

Now even one home buyer can drag an errant builder to the National Company Law Tribunal (NCLT).

*Business Standard, 7<sup>th</sup> June, 2018*

**4.3 ROLE CS IN EMPLOYMENT****Advisory Service**

Performs independent reviews across various verticals of compliance viz. statutory, regulatory, product, legal, HR, Administration, etc., and submits a quarterly/periodic report to management for review.

**Compliance**

Develop, maintain and refresh the company's compliance program/ framework to ensure all key risks are objectively assessed & dealt with.



***Procedural***

Identify risks for the Company and preparation of mitigation plan for risks pertaining to non-compliance of Indian regulations, licensing requirements and Code of Ethics violations. Representation Take on legal department projects related to contracts, contract management & commercial transactions.

**4.4 CONCLUSION**

The Indian real estate sector is in the growth phase of a product life cycle. The Indian economy is constantly favouring this sector to boost further. This sector has got momentum soon after implementation of the RERA. On one hand, the economy is showing favourable indication to boost the sector and on the other hand, the regain of faith of the investors in this sector, seems to be double the power of growth.

It is however true that; the sector is full of complexities in its operations. Hence, there is no doubt that this sector is full of opportunities for the Company Secretaries profession.

**BIBLIOGRAPHY**

- FICCI, Survey Report on "IMPACT of FDI Reforms on Indian Real estate sector", 2015.
- Government of Andhra Pradesh, Municipal Administration and Urban Development (H) Department, Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017, No-115, 2015.
- Government of Bihar, Urban Development and Housing Department, Bihar Real Estate (Regulation and Development) Rules. 2017.
- Government of Haryana, Town and Country Planning Department, The Haryana Real Estate (Regulation and Development) Rules, 2017, No. MISC-107(A)/ED(R)/1/55/2016-1TCP, 2017.
- Government of India, The Gazette of India, Ministry of Law and Justice, The Real Estate (Regulation and Development) Act, 2016, No-16, 2016.
- Government of Karnataka, Housing Secretariat, The Karnataka Real Estate (Regulation and Development) Rules, 2016, No. 662, 2017.
- Government of Maharashtra, Housing Department, the 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, April, 2017.
- Government of Rajasthan, Urban Development Department, the Rajasthan Real Estate (Regulation and Development) Rules, 2017.
- IBEF study on Real Estate, 2017.
- IBEF Study, The Real Estate, November, 2016 and KPMG in India's Analysis, 2016-17.
- Jejaswi, Mini, (2017), "Real Estate Awaits Return of FDI Wave", mydigit'fc.com.
- Uttar Pradesh Shashan, The Uttar Pradesh Real Estate (Regulation and Development) Rules, 2016, No. 1138, 2016.