

Official Gazette

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*The English translations of the RERA legislation contained herein are currently in draft form and are provided for reference only.*

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Central Bank of Bahrain

## **Resolution No. (19) of 2018 Regarding the Regulation of the Activity of Off-Plan Sale Projects' Escrow Account Manager**

**Governor of the Central Bank of Bahrain**

Upon reviewing the Law of the Central Bank of Bahrain ("CBB") and the financial institutions issued by Law No. (64) of 2006 as amended, and upon reviewing Law No. (27) of 2017 regarding the Regulation of the Real Estate Sector, and Resolution No. (20) of 2016 regarding the Regulation of the Activity of Real Estate Development Projects' Account Manager, and Resolution No. (3) of 2018 regarding the Off-Plan Projects Escrow Account, and after the agreement with the Real Estate Regulatory Authority ("RERA"),

**Resolved as follows:**

### **Article (1)**

#### **Definitions**

In the application of the provisions of this Resolution, the words and expressions contained herein shall have the same meanings contained in Law No. (27) of 2017 the Real Estate Sector Regulatory Law issued by Law. The following words and expressions shall have the meanings ascribed thereto hereunder unless the context indicates otherwise:

In application of the provision of this Resolution, the terms and expressions contained herein shall have the same meanings ascribed thereto in the Law No. (27) of 2017 With Respect to Promulgating the Real Estate Sector Regulation Law and the following terms and expressions shall have the meanings assigned to each of them unless the context otherwise requires:

**Law:** Law No. (27) of 2017 With Respect to Promulgating the Real Estate Sector Regulation Law.

**CBB:** Central Bank of Bahrain

**Consultant Engineer:** A Consultant Engineer licensed by the Council for Regulating the Practice of Engineering Professions (CRPEP), who is appointed to supervise the off-plan sale project.

**Escrow Account Resolution:** it is the resolution issued by RERA regarding off-plan sale projects.

## **Article (2)**

The Escrow Account Manager shall undertake the management of the account in accordance with the controls contained in this resolution, the controls provided for in the Law and the Escrow Account Resolution. The CBB shall develop additional instructions in the guidance volume on the regulation of the financial services provided by the account manager of real estate development projects.

## **Article (3)**

### **Requirements of the Escrow Account Manager**

The following is required of the Escrow Account Manager:

- 1) The Escrow Account Manager must be one of the retail banks licensed by the CBB.
- 2) The management of the escrow account must be done by the banks' offices in the Kingdom.
- 3) The Escrow Account Manager must be registered in the Register of Escrow Account Managers at RERA.

## **Article (4)**

### **Method of Appointment**

The escrow account manager shall be appointed under a written agreement between him and the developer to establish an independent escrow account in the name of each off-plan sale project. The escrow account manager shall notify both of the CBB and RERA of this agreement.

The escrow account agreement may be applied to more than one real estate development project, provided that an independent escrow account shall be created in the name of each project.

The developer may change the escrow account manager to be the manager of another escrow account registered in the Register of Escrow Account Managers, provided that a prior approval from the RERA is obtained. The developer must notify the previous manager of the escrow accounts, the current escrow account manager and the CBB.

### **Article (5)**

#### **Obligations and Responsibilities**

The escrow account manager shall abide by the following:

- 1) Provide RERA with monthly detailed statements of the revenues and payments of the project's account, and any information or data RERA requests for the purpose of reviewing thereof.
- 2) Submit a statement of account to the developer in case the agreement is terminated or the account is closed for any reason whatsoever before the completion of the project.
- 3) Organizing the statements of account so that they demonstrate the number of the real estate unit, the name of the beneficiary from the real estate unit, the purchase price and all the amounts paid by each beneficiary.
- 4) The guidelines prepared by RERA for the management of the account.
- 5) The instructions issued by RERA to suspend the payment of any amounts from the account in case the developer violates the provisions of the law, this resolution or the instructions of RERA.

### **Article (6)**

The escrow account manager is prohibited from performing any of the following actions:

- 1) Make payment from the account except after the approval of the consultant engineer of the project.
- 2) Mortgage the account for any reason whatsoever.
- 3) Assigning or transferring the works of it as the account manager, which are contained in the agreement between him and the developer, to a third party for any reason whatsoever during the execution period of the project.
- 4) Allow access to data and information which are registered in its records or the records of the project management except for the depositors within the limits of data and information of each depositor only, the implementation of the judicial order or at the request of the Public Prosecutor.

- 5) Make clearing on the amount deposited in the account as it is a creditor of the developer.
- 6) Invest the money deposited in the account in any form, placing it as a bank deposit or doing what would encourage the developer to delay the execution of the project in order to obtain bank interest or higher profits.
- 7) Close the account before obtaining the approval of RERA.

#### **Article (7)**

The escrow account manager shall not be liable for the damage arising out of any action, act or omission by the Developer or Consultant Engineer, or for the damage arising out of the relationship between the Developer and any of the depositors.

#### **Article (8)**

The escrow account manager may provide financial services to the real estate development project, purchasers or those wishing to purchase a residential unit, provided that no restrictions shall be placed on the account in the event that there is a dispute with the developer and no clearing shall be made on the account against the developer's indebtedness, and this shall be referred to in the agreement of opening the account.

#### **Article (9)**

##### **Deposit and Payment**

The following shall be deposited in the escrow account:

- 1) Financial deposits determined by a resolution from the Board of Directors of RERA in a ratio of the estimated value of the project estimated by the Consultant Engineer, and this ratio shall be calculated according to each stage of the project execution stages as set out in the resolution of the escrow account.
- 2) The amount of any finance that the developer receives from banks, institutions or finance companies in case the developer has mortgaged the real estate development project.
- 3) All amounts provided by the developer and depositors.

#### **Article (10)**

The approved rules for deposit and payment contained in the account resolution shall be taken into consideration regarding the deposit and payment with the escrow account manager.

#### **Article (11)**

Continuing the management of the escrow account as per the agreement between the developer and the escrow account manager shall be taken into consideration regarding the existing projects

prior to the issuance of this resolution, and providing the developer with monthly data and statements on all matters relating to the escrow account.

#### **Article (12)**

Resolution No. (20) of 2016 regarding regulating the activity of the real estate development project account manager shall be canceled.

#### **Article (13)**

The concerned departments at the CBB, each in its own competency, shall execute the provisions of this Resolution, and it shall be applied from the day following the date of its publication in the Official Gazette.

**Governor of the Central Bank of Bahrain**

**Rashid Mohammed Al-Meraj**

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