



## INFORMATION BULLETIN

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### REAL ESTATE SECTOR: ITS GROWTH AND REGULATION

#### Growth of the Real Estate Sector

The real estate sector is one of the prominent and fast growing sectors of the Indian economy. It is the second largest employer after agriculture and is slated to grow at 30 per cent over the next decade. The growth of this sector is well-complemented by the growth of the corporate environment and the increasing demand for office space and urban and semi-urban accommodations.

In the federal structure of the Indian polity, constitutionally the matters pertaining to the housing and urban development have been assigned to the States. However, the Union Government has an important role to play in shaping the policies and programmes including those relating to housing and urban development in the country. All the national policy issues are decided by the Union Government and accordingly its various fiscal, economic and industrial decisions have also an important bearing on the pattern of urbanisation and real estate investment and development in the country. The Ministry of Housing and Urban Poverty Alleviation is the apex body at the national level to formulate policies, sponsor and support programmes, co-ordinate the activities of various Central Ministries, State Governments and other nodal authorities, and monitor the programmes concerning all the issues of urban development and housing in the country.

Notably, the real estate and housing construction had been largely the concern of state institutions till the 1980's with a very few private promoters and a nascent industry in the real estate sector. With the liberalization of the economy, conscious encouragement was given by the Government to the involvement of the private sector in the construction activities. With a great deal of success over the years, this sector today is estimated to contribute substantially to the country's GDP. According to the Economic Survey 2014-15, real estate and ownership of dwelling constituted 7.8 per cent of India's GDP in 2013-14. In an estimate provided by the ASSOCHAM, the size of the Indian real estate sector is suggested to be around US\$ 16 billion, growing at the rate of 30 per cent per annum. According to a recent estimate by UBS<sup>1</sup>, the total size of the Indian real estate market, in terms of total economic value of development activity, is US\$ 40-45 billion representing 5-6 per cent of the country's GDP.

There are several demand pull and supply push factors that are contributing to the growth of the real estate sector in the Indian economy (see Box-1).

<sup>1</sup>UBS is a global financial services company headquartered at Zurich, Switzerland. It provides investment banking, asset management and wealth management services in over fifty countries across the world.



## Box-1

### Growth Drivers for the Indian Real Estate Sector

#### Demand Pull Factors

- Robust and sustained macro-economic growth.
- Upsurge in industrial and business activities.
- Favourable demographic parameters.
- Significant rise in consumerism.
- Rapid urbanization.
- Availability of a range of financing options at affordable interest rates.

#### Supply Push Factors

- Policy and regulatory reforms (100 per cent FDI relaxation).
- Positive outlook of global investors.
- Fiscal incentives to developers.
- Simplification of urban development guidelines.
- Infrastructure support and development initiatives from the Government of India.

#### Impact of Demand Pull Factors

- Increasing occupier base.
- Significant rise in demand for office/ industrial space.
- Demand for new avenues for entertainment, leisure and shopping.
- Creation of demand for new housing.

#### Impact of Supply Push Factors

- Entry of several domestic and foreign players; increasing competition and consumer affordability.
- Easy access to project-financing options.
- Increased developers' risk appetite and large-scale development.
- Improved quality of real estate assets.
- Development of new urban areas and effective utilization of prime land parcels in large cities.

The Government's increased focus on attracting investments and changing market fundamentals indicating good long-term growth prospects has put the Indian real estate sector on the radar of many international real estate investors/developers. A number of global investors/developers are now keen on real estate investment opportunities in India. Consequently, the share of real estate in FDI has been rising. According to the FDI statistics released by the Department of Industrial Policy and Promotion (September 2010), FDI inflow to this sector from April 2000 to September 2010 had been US\$ 8.9 billion, of which US\$ 2.8 billion was invested in 2009-2010 alone. However, as pointed out in the Economic Survey 2014-15, both domestic and global slowdown affected this sector with growth decelerating from 7.6 per cent in 2012-13 to 6.0 per cent in 2013-14. House prices have increased over the years in many cities and towns as per the National Housing Bank's RESIDEX<sup>2</sup> index

<sup>2</sup>RESIDEX is the National Housing Price Index which tracks the housing prices in the select cities and takes into account the price trends for residential properties in different locations and zones in each city as per classification devised for the purpose.

of residential prices in India. In the overall picture, the encouraging aspect is that the institutional credit for housing investment is growing at a Compound Annual Growth Rate (CAGR) of about 19 per cent per annum. In addition to this, several policy initiatives taken by the Government, Securities and the Exchange Board of India and the RBI in 2013-14 have helped markedly to strengthen this sector.

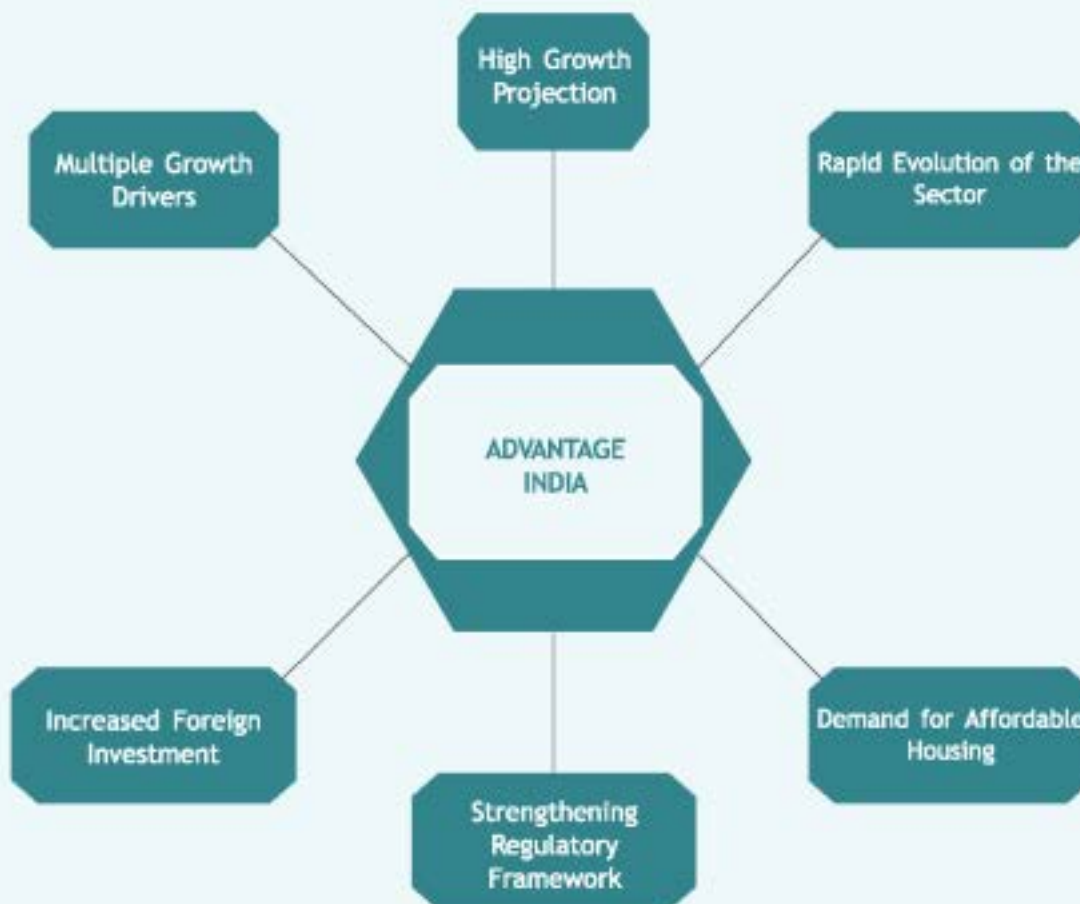
As per the Centre for Monitoring Indian Economy (CMIE's) economic outlook, the real estate and construction sectors are among the largest contributors to the exchequer. In the year 2011-12, the sector contributed Rs. 120 billion to the exchequer. The real estate sector of India is expected to post annual revenues of US\$ 180 billion by 2020 as compared to US\$ 66.8 billion in 2010-11, registering a CAGR of 11.6 per cent. Yet another significant aspect of the real estate sector is that construction forms a major part of addition to the fixed capital. The erection of



dwelling units adds to income and employment significantly during the period of construction and generates large forward and backward linkages through creation of demand in the input sectors and real estate services. As per the National Skill Development Council's Report titled 'Human Resources and Skill Requirements in the Building, Construction and Real Estate Services Sector (2022)', this sector currently employs 145 million people and would require additional 10.47 million people by 2022.

### Advantage Points of the Indian Real Estate Sector

The advantage points of the real estate sector in India are depicted in the following diagram and explained in the succeeding paragraphs.



- **Demand for Affordable Housing:** There is a significant shortage of low-cost and affordable housing in the country. The Government of India has announced low interest rates for home loans up to Rs. 20 lakh. Meanwhile, several developers, attracted by the opportunity in this segment, have launched affordable housing projects.
- **Strengthening Regulatory Framework:** The Government of India has well-drafted national and State level regulations for the real estate sector. Some old laws are either being amended or repealed to introduce reforms in the industry.
- **Increased Foreign Investment:** FDI of up to 100 per cent is now allowed under the automatic route in most asset classes.

- **High Growth Projection:** The Indian Real Estate Industry is expected to be valued at Rs. 8640 billion (US\$ 180 billion) by 2020.
- **Rapid Evolution of the Sector:** The Real Estate Sector in India is on a rapid growth trajectory. In a short span of time, the industry has evolved from a highly fragmented and unorganised market into a semi-organised market, with a large number of listed companies.
- **Multiple Growth Drivers:** India's young population, rising household income and its steadily increasing urbanisation are the crucial growth drivers to this sector. Besides the marked growth in the services sector like telecom, financial services, IT and ITeS (Information Technology Enabled Services) have given the additional boost to the growth of this sector in the country.



## Some Recent Initiatives

The Government of India has taken several initiatives to encourage the development of real estate sector. Some notable initiatives are as follows:

- The Securities and Exchange Board of India (SEBI) has notified final regulations that will govern Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs). This move will enable easier access to funds for cash-strapped developers and create new investment avenues for institutions and high net worth individuals, and eventually ordinary investors.
- Under the Housing for All, 30 million houses are scheduled to be built by 2022, mostly for the economically weaker sections and low-income groups, through public-private-partnership, interest subsidy and increased flow of resources to housing sector.
- The Government of India has relaxed the norms to allow Foreign Direct Investment (FDI) in the construction sector. This move is likely to boost affordable housing projects and smart cities across the country.

## Need for Regulation of Real Estate Sector

The real estate sector plays a catalytic role in fulfilling the needs and demands for housing and infrastructure in the country. While this sector has grown significantly in recent years, it has been largely unregulated with absence of professionalism and standardization, and lack of adequate consumer protection, which has constrained the healthy and orderly growth of the sector. In the absence of any regulation, the real estate and the housing sector has largely remained opaque, with consumers often unable to procure complete information, or enforce accountability against builders and developers. Consequently, this sector has grown as the breeding niche of corruption and the parking ground for black money in the country.

## Legislative Proposal: The Real Estate (Regulation and Development) Bill, 2013

With a view to protecting the interest of the consumers, promoting fair play in the real estate transactions, ensuring timely execution of the projects and introducing standardisation of business practices in the real estate sector, the Real Estate (Regulation and Development) Bill, 2013 was introduced in the Rajya Sabha on 14 August 2013. Soon after its introduction, the Bill was referred to the Parliamentary Standing Committee on Urban Development for review and making suggestions. The Committee submitted its report on 13 February 2014 with some recommendations. After considering the recommendations of the Committee and suggestions of various stakeholders like consumer organisations, industry associations, academia, sector experts, etc. obtained after extensive consultations, the Government proposed to amend the Bill before its reintroduction in the House.

Recently, the Union Cabinet has given its approval to the amendments to the Real Estate (Regulation and Development) Bill, 2013 (pending in the Rajya Sabha). Under the proposed amendments, the Bill now proposes to cover both residential and commercial real estate while bringing in its fold the ongoing projects that have not received completion certificates which would need to be registered with the Regulator within three months. In a major modification, the amended Bill does not allow promoters to change plans and structural designs without the consent of two-thirds of the consumers of a project. Besides, builders are mandated to compulsorily deposit 50 per cent or such lesser percent, as notified by the appropriate government, of the amounts realized for the real estate project from the allottees in a separate account in a scheduled bank within a period of 15 days to cover the cost of construction to be used for that purpose. Property brokers are to be made accountable as they have also been made punishable for non-compliance of the orders of Regulatory Authority and Appellate Tribunals to be set under the proposed law. In addition, the other new stipulations approved by the Cabinet, include States to make rules within a year; rank of adjudicating officer to be elevated to that of the District Judge; web-based online system for submitting applications for registration of projects to be introduced within one year of the establishment of Regulatory Authorities; and Regulator to decide cases within 60 days.



## Box-2

### Brief History of the Real Estate (Regulation and Development) Bill, 2013

- Introduced in the Rajya Sabha on 14 August 2013.
- Referred to the Parliamentary Standing Committee on Urban Development on 09 September 2013.
- The Parliamentary Standing Committee on Urban Development submitted its Report on 13 February 2014.
- The Government, formed after the constitution of the Sixteenth Lok Sabha, set to amend the Bill.
- The Union Cabinet gave its approval to the amendments to the Bill on 7 April 2015.

### Salient Features of the Bill

The Bill proposes to regulate transactions in the real estate sector and is in pursuance of the powers under Entries 6, 7 and 46 of the Concurrent List<sup>3</sup> of the Constitution, which deal with transfer of property, registration of deeds and documents, and contracts, etc. The salient features of the Bill are as under:

(i) **Applicability of the Bill:** The proposed initial Bill was applicable to residential real estate only. It is now proposed to cover both residential and commercial real estate;

(ii) **Establishment of Real Estate Regulatory Authority:** The Bill provides for establishment of one or more 'Real Estate Regulatory Authority' in each State/Union Territory (UT), or one Authority for two or more States/UT, by the Appropriate Government for oversight of real estate transactions. It also provides for appointment of one or more adjudicating officers to settle disputes and impose compensation and interest.

<sup>3</sup>Concurrent List: Entry 6 - Transfer of property other than agricultural land; registration of deeds and documents.

Entry 7 - Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.

Entry 46 - Jurisdiction and power of all courts, except the Supreme Court, with respect to any of the matters in the Concurrent List.

(iii) **Registration of Real Estate Projects and Real Estate Agents:** The Bill provides for mandatory registration of real estate projects and real estate agents who intend to sell any plot, apartment or building, with the Real Estate Regulatory Authority.

(iv) **Mandatory Public Disclosure of all Project Details:** The Bill provides for mandatory public disclosure norms for all registered projects such as details of promoters, project layout plan, plan of development works, land status, status of statutory approvals and disclosure of proforma agreements, names and addresses of real estate agents, contractors, architect, structural engineer, etc.

(v) **Functions and Duties of the Promoter:** As per the Bill, the following will be the functions/duties of the promoter:

- disclosure of all relevant information of the project;
- adherence to the approved plans and project specifications;
- obligations regarding veracity of the advertisement for sale or prospectus;
- rectification of the structural defects; and
- refunding of the money in cases of default.

(vi) **Compulsory Deposit of 50 Per cent:** The Bill provides for compulsory deposit of 50 per cent (or such lesser per cent as notified by the Appropriate Government)



of the amounts realized for the real estate project from the allottees in a separate account in a scheduled bank within a period of fifteen days to cover the cost of construction to be used for that purpose.

**(vii) Adherence to Declared Plans:** The Bill proposes to bar the promoter from altering plans, structural designs and specifications of the plot, apartment or building without the consent of two-thirds allottees after disclosure. However, minor additions or alterations will be permissible due to architectural and structural reasons.

**(viii) Functions of the Real Estate Agents:** The following will be the functions of the Real Estate Agents:

- to sell properties registered with the Authority;
- maintain books of accounts, records and documents; and
- not to involve in any unfair trade practices.

**(ix) Rights and Duties of the Allottees:** The following will be the rights and duties of the allottees:

- right to obtain stage-wise time schedule of the project;
- claim possession as per the promoter's declaration;
- taking refund with interest and compensation for default by the promoter; and
- allottees to make payments and fulfill responsibilities as per the agreement.

**(x) Functions of the Real Estate Regulatory Authority:** The Authority to act as the nodal agency to co-ordinate efforts regarding development of the real estate sector and render necessary advice to the appropriate Government to ensure the growth and promotion of a transparent, efficient and competitive real estate sector.

**(xi) Fast Track Dispute Settlement Mechanism:** The Bill provides for fast track dispute resolution through adjudicating officers (District Judge) with Appellate Tribunals to hear the appeals.

**(xii) Establishment of the Central Advisory Council:** The Bill provides for establishment of a Central Advisory Council to advise the Central Government on the implementation of the Act and to recommend policy to protect consumers' interest and to foster growth and development of the real estate sector.

**(xiii) Establishment of the Real Estate Appellate Tribunal:** The Bill provides for establishment of a Real Estate Appellate Tribunal and any person aggrieved by any direction or decision or order made by the Real Estate Regulatory Authority or by an adjudicating officer under this Act may prefer an appeal before the Appellate Tribunal which shall have jurisdiction over the matter. The Appellate Tribunal is to be headed by a sitting or retired Judge of the High Court, with one judicial and one administrative/technical member.

**(xiv) Punitive Provisions:** As per the Bill, the punitive provisions including de-registration of the project and penalties in cases of contravention of provisions of the Bill or the orders of the Authority or Tribunal;

**(xv) Bar of Jurisdiction Courts:** The Bill provides for barring jurisdiction of court and any authority from entertaining complaints in respect of matters covered under the Bill.

**(xvi) Powers to make Rules and Regulations:** The Bill provides for:

- Appropriate Government to have powers to make rules over subjects specified in the Bill; and
- Regulatory Authority to have powers to make regulations.

#### **Examination of the Bill by the Parliamentary Standing Committee on Urban Development**

As already mentioned, the Real Estate (Regulation and Development) Bill, 2013 was introduced in Rajya Sabha on 14 August 2013 and was referred to Standing Committee on Urban Development on 9 September 2013 for examination and Report thereon, by the Speaker, Lok Sabha. While considering the Bill, the Committee sought public opinion and analysed the memoranda/suggestions received from various



stakeholders/experts such as CII, FICCI and other Associations working in the field of real estate on various provisions of the Bill. It had also briefing of the representatives of the Ministry concerned on the Bill. Besides, the Committee heard the views of some of the NGOs working in the field of real estate. The Committee also took oral evidence of the representatives of the various Ministries and organizations, namely, the Ministry of Housing and Urban Poverty Alleviation, Ministry of Finance, Reserve Bank of India, State Bank of India, National Housing Bank, Ministry of Consumer Affairs, Ministry of Law and Justice, etc., and sought clarifications on various issues that were brought to their notice by various stakeholders during their sittings. Finally, the Committee considered and adopted the draft Report at their sitting held on 12 February 2014. Some of the observations/recommendations of the Committee are given in the Box-3.

- (i) The new law will bring about standardization in the real estate sector leading to its healthy and orderly growth through introduction of definitions such as 'apartment', 'common areas', 'carpet area', 'advertisement', 'real estate project', 'prospectus' etc. Introduction of the concept of using only 'carpet area' for sale which has till now been ambiguously sold as super area, super built up area, etc., will curb unfair trade practices.
- (ii) The new law like other sectors such as telecom, electricity, banking, securities, insurance, etc., will provide for specialized regulation and enforcement which includes both curative and preventive measures, with powers to enforce specific performance, not

### Box-3

#### Key Recommendations of the Parliamentary Standing Committee on Urban Development

- **Regulation of Commercial and Industrial Real Estate:** Besides, the residential real estate, commercial and industrial real estate should also be regulated.
- **Lowering the Limit of the Projects:** To avoid exclusion of a large number of small housing projects, the limit of projects, under the purview of the Real Estate Regulatory Authority should be lowered to 100 square meters and three apartments from 1,000 square meters and 12 apartments.
- **Mandatory Registration of all Real Estate Agents:** All real estate agents should be mandated to register with a Real Estate Regulatory Authority and not just those real estate agents facilitating the sale of a project covered by the Bill.
- **Single Window System:** Necessary provision should be inserted in the Bill to empower Real Estate Regulatory Authorities to give directions to state governments to establish a single window system for providing clearances for projects.
- **Time Limit for Completion Certificate:** A time limit should be specified for state and local authorities to issue completion certificates.
- **Precise Definition of Carpet Area:** Carpet area is defined in the Bill as 'net usable floor area' of an apartment, excluding the area covered by its walls. For more clarity, the term 'net usable floor area' should be defined in the Bill.
- **Rectification of Structural Defects:** The time limit from the date of allotment, within which an allottee may get any structural defects rectified by the promoter, should be increased from two to five years.

#### Likely Benefits of the Real Estate (Regulation and Development) Bill, 2013

The following are the likely benefits of the Bill once enacted:

available under the consumer laws. Under the law, the Real Estate Regulatory Authority will have powers to give directions for specific performance, powers to impose penalty for



non-registration of projects including imprisonment for continuous violation upto three years and to impose penalty in case of other contraventions.

- (iii) Under the new law, the real estate agents, which have hitherto been un-regulated, will be registered with clear responsibilities and functions, thereby leading to money trail and curbing money laundering.
- (iv) The law will ensure consumer protection, by making it mandatory for promoters to register all projects, prior to sale; and only after having received all approvals from development/municipal authorities, thereby protecting buyer investments.
- (v) The law will promote transparency and fair and ethical business practices relating to transactions, through disclosure of project details and contractual obligations *vis-à-vis* the project and the buyer thereby promoting informed choice for the buyers. This will substantially reduce the power asymmetry prevalent in real estate transactions.
- (vi) The law will facilitate establishment of a regulatory oversight mechanism, through Real Estate Authority and Appellate Tribunal in the States, to enforce accountability norms for the promoters, buyers and the real estate agents.
- (vii) The law will infuse professionalism and promote planned development of the real estate sector through the promotional role of the Regulatory Authority.
- (viii) The law will ensure timely completion of the projects, and prevent fund diversion.
- (ix) The law will facilitate a speedy and specialized adjudication mechanism to settle disputes between the promoters, buyers and real estate agents, thereby de-clogging the civil courts and consumer forums, from disputes in the real estate sector.
- (x) The law will catalyze domestic and foreign investment into the sector, thereby contributing to enhanced activity, and increase in GDP growth.

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