

Controls for Escrow Accounts of Collective Real Estate Investment Schemes

Rajab 1445H

Article 1

For the purpose of implementing these Controls, the following words and phrases, whenever mentioned in these Controls, shall have the meanings assigned thereto, unless the context requires otherwise:

REGA: Real Estate General Authority.

Collective Real Estate Investment Scheme: A real estate development project in which a group of persons invest to realize a benefit by owning a real estate and developing it into a residential, commercial, industrial, or agricultural property or any other type of property. Such developed real estate is then sold, and the scheme is terminated. This shall not include real estate investment funds.

Licensee: A person holding a license.

Escrow Account: The bank account of a collective real estate investment scheme.

Investors Register: A register in which the names of investors as well as their shares and any change to the ownership thereof are recorded.

License: A license issued by REGA for a collective real estate investment scheme.

Account Custodian: A banking institution licensed by the competent authority.

Chartered Accountant: A person licensed by the Saudi Organization for Chartered and Professional Accountants (“SOCPA”) to practice the accounting and auditing profession.

Engineering Consultant: An engineering supervision office licensed by the Saudi Council of Engineers (“SCE”) to provide engineering consultations.

Article 2

These Controls aim to regulate the escrow accounts of collective real estate investment schemes. These Controls apply to the escrow accounts, subject to the provisions of the Law of Collective Real Estate Investment Schemes and its Implementing Regulations, instructions of the Saudi Central Bank (SAMA), as well as relevant laws and instructions.

Article 3

1. The escrow account shall be opened in Saudi riyal in the name of the collective real estate investment scheme at the licensee’s request, after obtaining the license.
2. A single primary escrow account shall be opened in the name of the collective real estate investment scheme by virtue of a written agreement between the licensee and the account custodian to deposit and manage the collective real estate investment scheme funds.
3. Subaccounts linked to the primary escrow account of the collective real estate investment scheme shall be opened as follows:
 - a. A reserve account to cover any unanticipated expenditure related to the collective real estate investment scheme in accordance with the Law of Collective Real Estate Investment Scheme and its Implementing Regulations.
 - b. A revenue account for depositing proceeds generated from the sale or liquidation of the assets of the collective real estate investment scheme.

- c. Any other subaccounts for the purpose of the project, e.g. the financing account.
4. The escrow account agreement between the licensee and the account custodian shall ensure that the licensee does not withdraw funds from the account except for the specific purposes of the collective real estate investment scheme. The agreement shall also set forth the terms and procedures for withdrawals from the escrow account, provided that such terms and procedures are consistent with these Controls and with the agreements or contracts signed between the licensee, on one side, and the account custodian, engineering consultant, and chartered accountant, on the other side.
5. A written undertaking shall be provided by the licensee agreeing to the amendment of the agreement signed between the licensee and the account custodian in case of the issuance or the amendment of any relevant laws, regulations, or decisions.

Article 4

The primary escrow account and subaccounts shall be managed according to the following controls:

1. Withdrawals from the primary escrow account shall be made pursuant to a payment request submitted by the licensee to the account custodian, provided that such request is approved by the engineering consultant and the chartered accountant and specifies the withdrawal amounts and reasons. Secure electronic means of authorizing payment requests may be used.
2. Withdrawals from the reserve account shall be made pursuant to a payment request submitted by the licensee to the account custodian, provided that such request is approved by the engineering consultant and the chartered accountant, specifies the withdrawal amounts and reasons, and is accompanied by the approval of the assembly of investors.
3. Withdrawals from the revenue account shall be made pursuant to a payment request submitted by the licensee to the account custodian, provided that such request is based on the investors' register, approved by the engineering consultant and the chartered accountant, and specifies the requested amounts. The request shall also be accompanied by a certificate of completion issued by the engineering consultant or proof of liquidation of the collective real estate investment scheme.
4. Deposits into the primary escrow account and subaccounts from the relevant capital market institution appointed to offer the collective real estate investment scheme certificates, financiers, buyers, or the proceeds of liquidations of the collective real estate investment scheme, may be made by any payment method accepted by the account custodian, except for cash.
5. Withdrawals from the escrow account shall be limited to checks or transfers only.

Article 5

1. The account custodian may not seize the escrow account for his own benefit or the benefit of the creditors of the real estate developer, unless there is a court order against the collective real estate investment scheme.
2. No funds shall be transferred from the escrow account to any other accounts, except to linked subaccounts with a specified transfer purpose.
3. If the licensee obtains financing for the collective real estate investment scheme, the financing amount shall be deposited into the escrow account.
4. No ATM cards or credit cards may be issued against the escrow account.

5. Funds in the escrow account shall not be used in any investment or trading activities of any kind whatsoever.

Article 6

Subject to SAMA's instructions, the licensee may not close the escrow account after the termination of collective real estate investment scheme or after funds are returned to the rightful owners except after obtaining REGA's approval.

Article 7

These Controls shall be published in the Official Gazette, and shall enter into force from the date of their publication.

