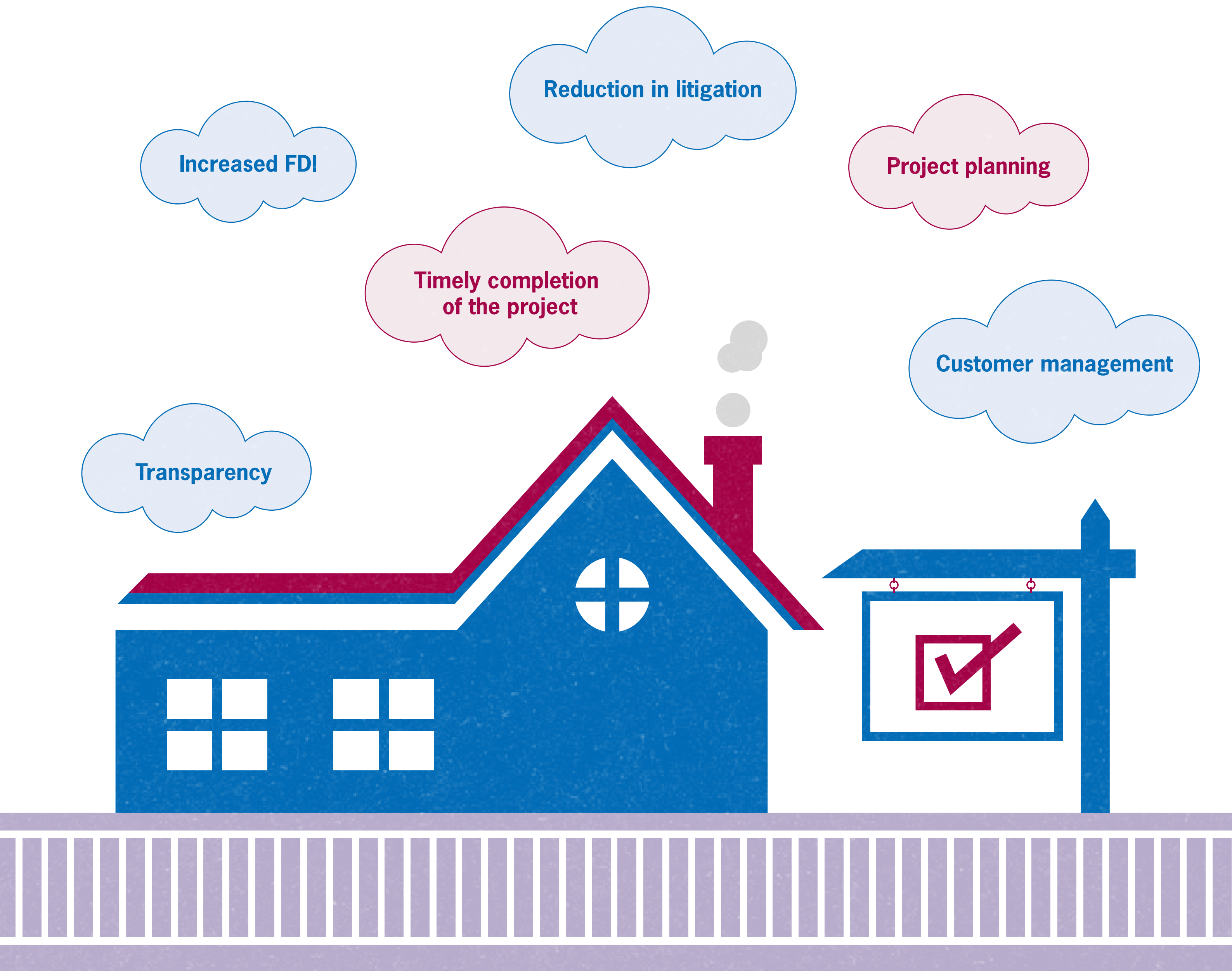
Real Estate Regulation Act, 2016 (RERA) - Are we ready?



Foreword

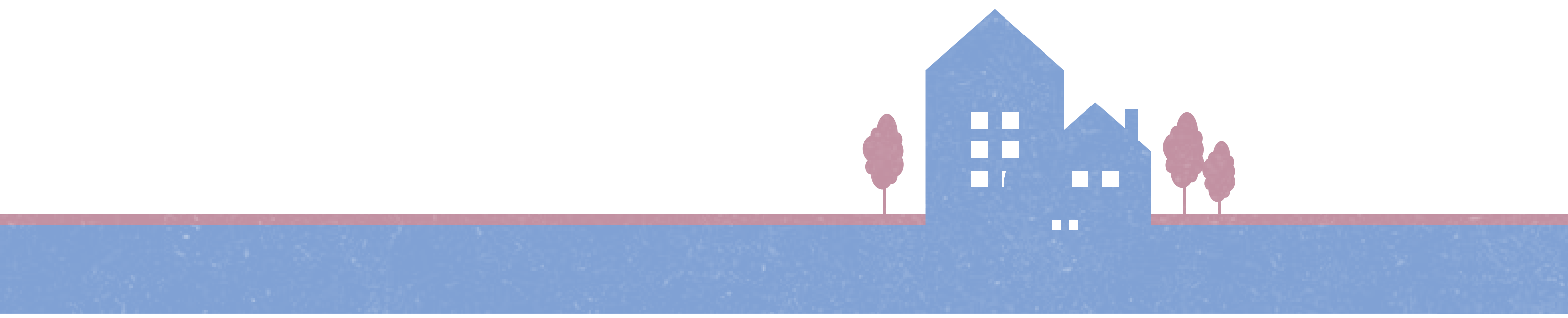
Navin Raheja
Chairman FICCI Real Estate Committee

I am happy to share with you the findings of the Grant Thornton-FICCI Report, Real Estate Regulation Act, 2016 (RERA) - Are we ready? The Report has brought to light some interesting facts about the future of Indian real estate sector. The survey-based report, a first of its kind, makes a holistic assessment of pan-India on various parameters. It identifies the direct impact on the stakeholders by the implementation of the regulator.

This year has proven to be an interesting time for the Indian real estate. The Real Estate (Regulation and Development) Act (RERA) came into force from 1 May 2016. The release of the report at the Grant Thornton-FICCI Conference on Real Estate Regulation Act, 2016 (RERA) - Are we ready? on 24 August, 2016 at Federation House, New Delhi would set the tone of deliberations on the outlook of Real Estate (Regulation and Development) Act, 2016 for the Indian real estate sector.

The survey reveals that a majority of the respondents are of the view that RERA will bring transparency and authority in doing real estate dealings and hence will reduce the litigations going forward. They also felt that RERA will boost the governance hold on the sector. This will eventually lead to increase in Foreign Domestic Investments (FDI) into the sector in near future. This will also improve the ease of availability of financing options in the market. A major outcome of the survey is that industry feels that the rule of depositing 70% of sales proceeds in a separate account will help in getting timely delivery of the project and eliminate fly-by-night operators in the real estate.

I am sure that the findings of the Grant Thornton-FICCI Report 2016 would be invaluable not only to realtors but also to the consumers, Government, research, academia and the industry. The deliberations, ideas and the conclusions that arise from this report would go a long way in addressing the regulatory challenges and show the path for taking the real estate sector to greater heights.



Neeraj Sharma
Director | Grant Thornton Advisory Private Limited

It gives me immense pleasure to present to you the Grant Thornton – FICCI Report, Real Estate (Regulation and Development) 2016 (RERA) – Are we ready yet?, which gives you an insight on the journey of the RERA and what the sector has to say about this latest regulation.

The RERA came in to force from 1 May 2016 with 69 of the 92 sections notified. The ball is now in the state government's court which has to notify the rules under the Act within a statutory period of six months.

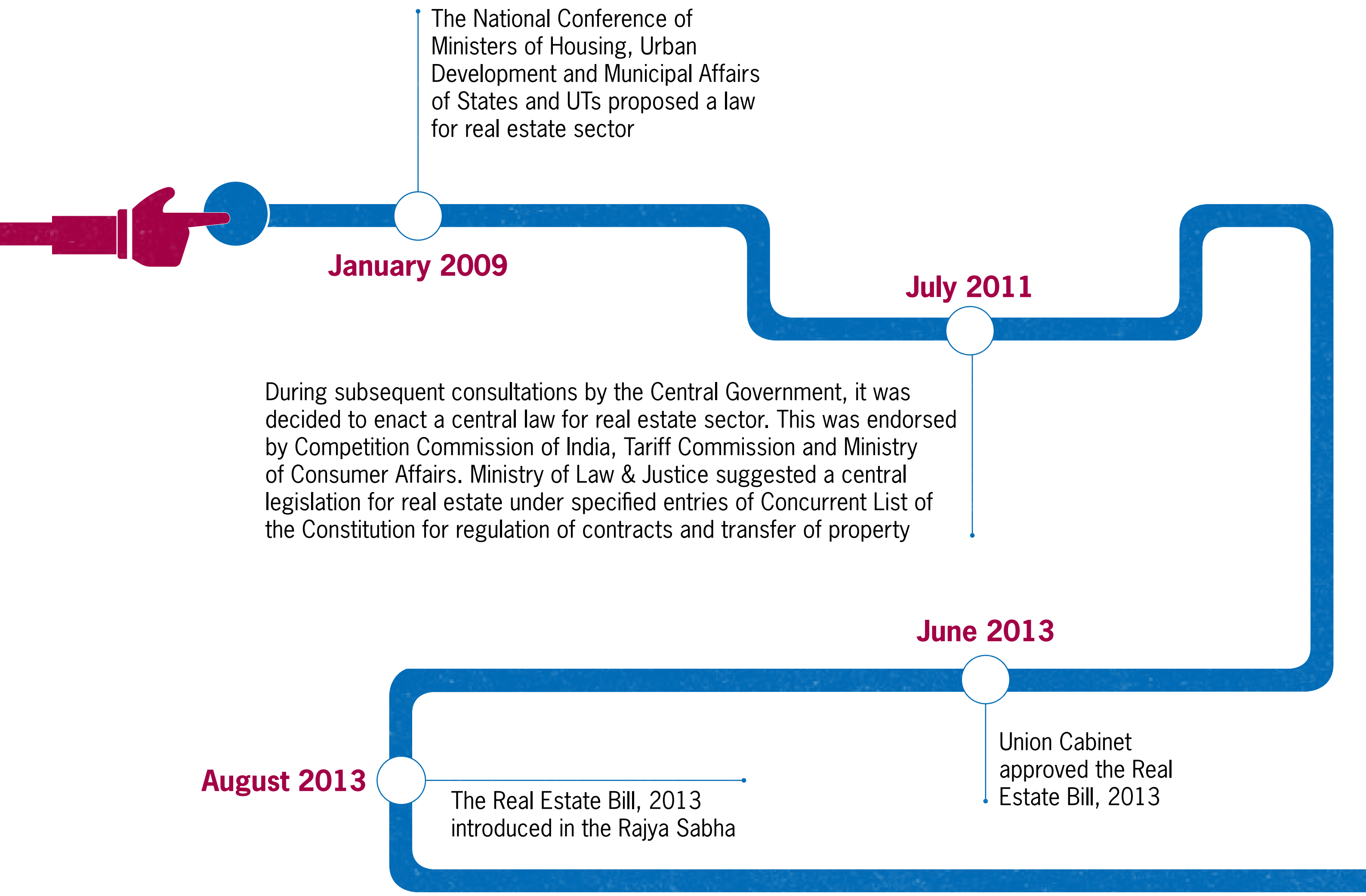
Under RERA, the developers might need some time to get used to its provisions and complexity of its rules. The move by the developers to comply by the provisions of RERA might push prices upwards in the short-term. But we can expect stabilisation due to the efficiencies brought in by the RERA. It will not only help in expediting the completion of the on-going projects but also immunise buyers from any fraudulent practices. The RBI has maintained status-quo on the interest rates allowing prospective homebuyers to avail cheaper home loans. Developers are now expecting more Foreign Direct Investment to flow in to the sector, thus creating more job opportunities and revitalising the growth of the sector.

In this survey based report, we set out to feel the pulse of the sector on what they feel on matters ranging from governance to cash flows and transparency to project planning. While various international markets have varying types of regulations, the sector is optimistic that the RERA is a perfect cut to solve the issues plaguing the Indian Real Estate Sector. Based on the responses and the interpretations drawn, one can conclude that the sector has given a thumbs up to RERA.

I hope that this report not only facilitates a healthy discussion amongst the panellists present here today but also helps the various stakeholders understand the mood of the sector.

Evolution of RERA

The real estate sector plays a catalytic role in fulfilling the need and demand for housing and infrastructure in the country. While this sector has grown significantly in recent years, it has been largely unregulated. There is, thus, absence of professionalism, standardisation and lack of adequate consumer protection. Though the Consumer Protection Act, 1986 is available as a forum to the buyers in the real estate market, the recourse is only curative and is inadequate to address all the concerns of buyers and promoters in that sector. The lack of standardisation has been a constraint to the healthy and orderly growth of the industry. Therefore, the need for regulating the sector has been emphasised on various forums.



September 2013
Bill was referred to the Department Related Standing Committee

February 2014
Report of the Standing Committee tabled in the Rajya Sabha and the Lok Sabha

February 2015
Attorney General upheld the validity of central legislation for Real Estate Sector and the competence of Parliament

April 2015
Union Cabinet approved Official Amendments based on Standing Committee Report

May 2015
Real Estate Bill, 2013 and Official Amendments referred to the Select Committee of the Rajya Sabha

July 2015
Select Committee of the Rajya Sabha tabled its report along with the Real Estate Bill, 2015

December 2015
Union Cabinet approved the Real Estate Bill, 2015 as reported by the Select Committee of the Rajya Sabha for further consideration of Parliament

December 2015
Bill listed in the Rajya Sabha for consideration but could not be taken up

March 2016
The Rajya Sabha passed the bill

March 2016
The Lok Sabha passed the Bill

March 2016
President of India accorded his assent to the Bill

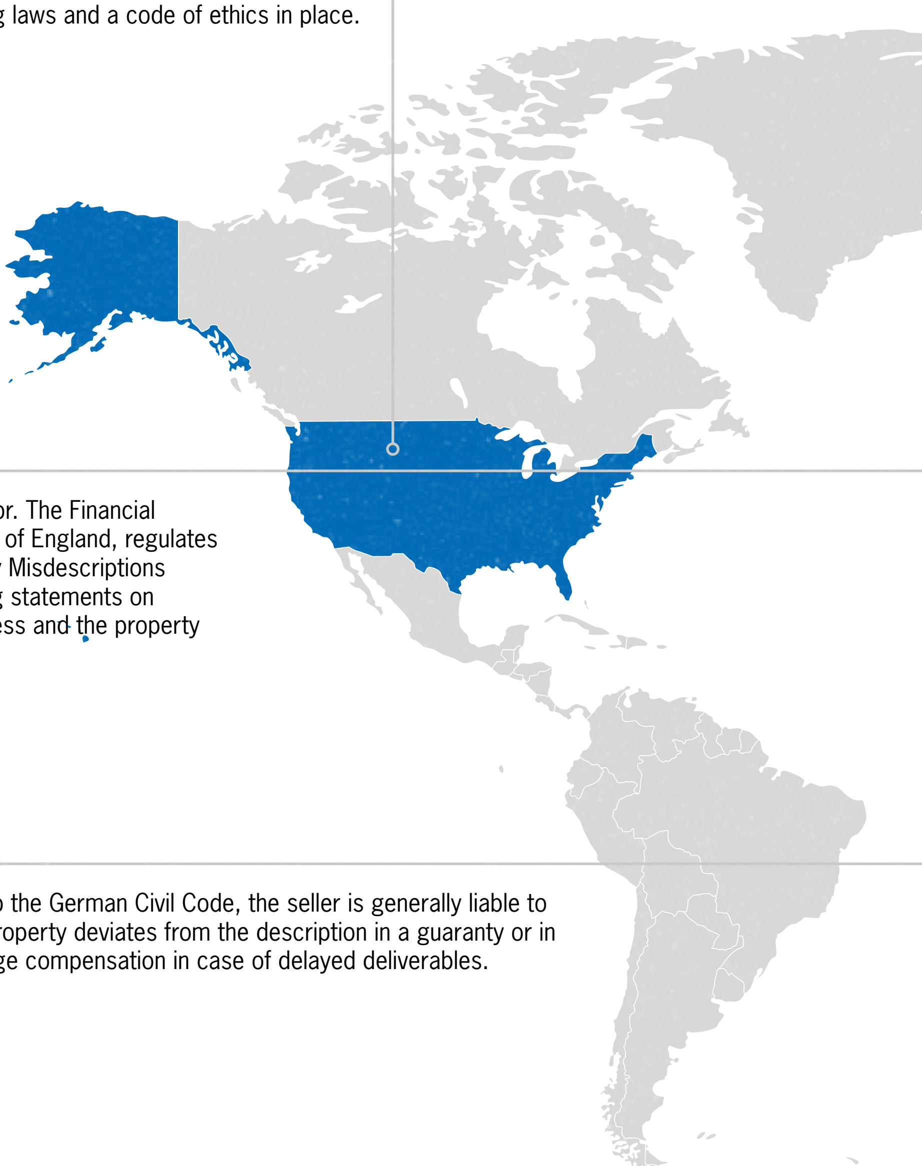
March 2016
The Real Estate (Regulation and Development) Act, 2016 was published in the Gazette for public information

April 2016
69 Sections of the Real Estate (Regulation and Development) Act, 2016 notified by the Ministry of Housing & Urban Poverty Alleviation on 27 April 2016 bringing the Act into force with effect from 1 May 2016.

Similar legislations in other countries

The United States of America

Real estate in the US is regulated at numerous levels. Therefore, there is no single regulatory body, but rather a series of bodies that regulate different ownership and usage aspects. To safeguard the interest of the end-users, the Department of Housing and Urban Development (HUD) has rules under the Real Estate Settlement Procedures Act to protect consumer interests pertaining to the residential properties. Issues related to the end users are not a matter of federal regulation. These are dealt with in a legal contract. If a purchaser enters a contract with the developer, and the developer does not deliver on the terms agreed upon in the contract, the developer can be taken to court for breach of contract. In the US, there are state real estate licensing laws and a code of ethics in place.



The United Kingdom

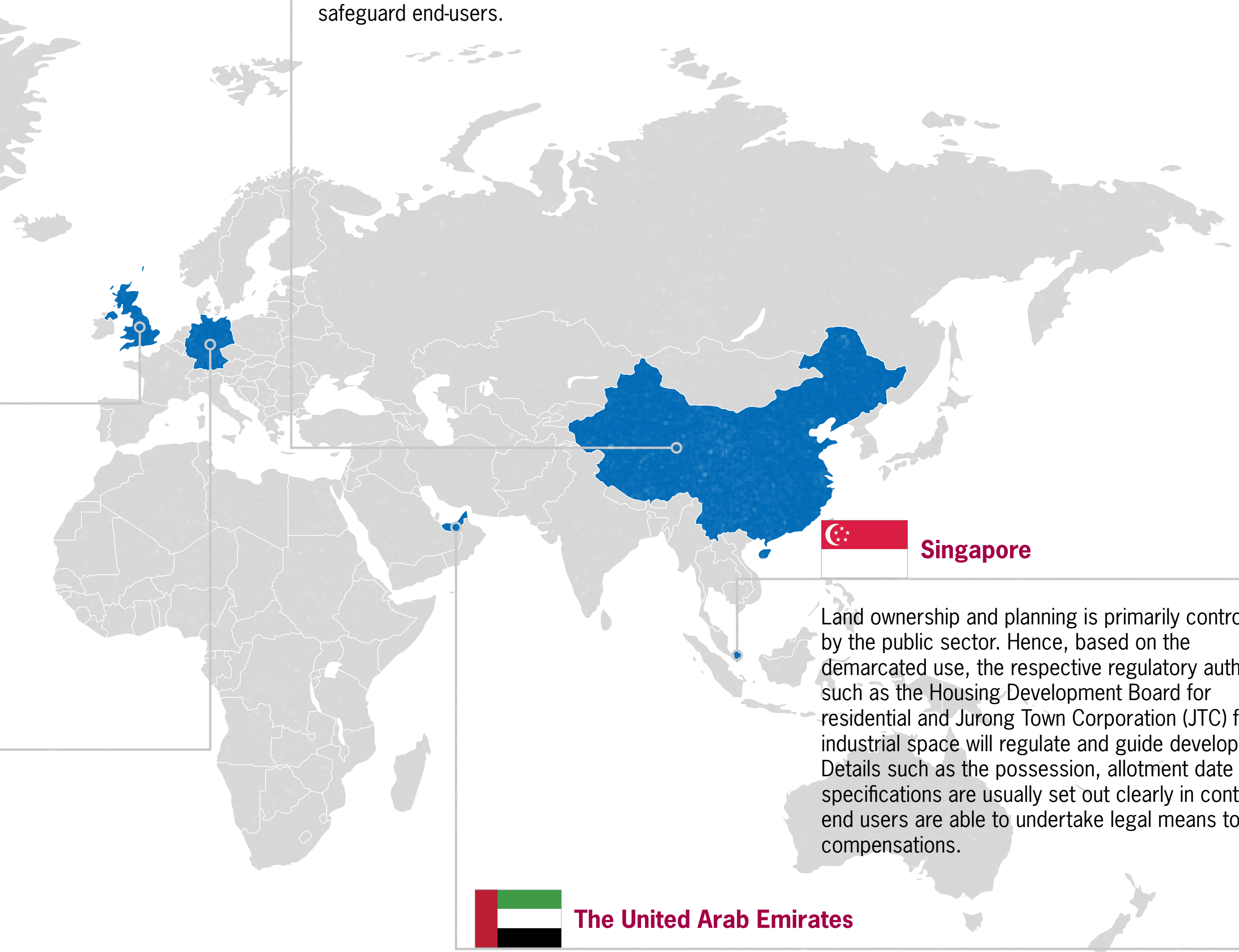
There is an absence of a regulator to monitor the sector. The Financial Services Authority (FSA), which is now part of the Bank of England, regulates almost all the investments in real estates. The Property Misdescriptions Act of 1991 prohibits the making of false or misleading statements on property matters in the course of estate agency business and the property development business.

Germany

In principle, no regulatory authority exists. According to the German Civil Code, the seller is generally liable to the buyer for damage compensation, if the delivered property deviates from the description in a guaranty or in a brochure. The seller is generally also liable for damage compensation in case of delayed deliverables.

China

The Central Government introduced a regulation for real estate in 2010, which is more stringent and specific than it has historically been to control the market. The State Department of Real Estate "New State 10", is a regulation which enforces an accountability system for the local government to stabilise local real estate prices. This is aimed at promoting the construction of affordable housing to promote social development and enforce stability and accountability. On this basis, local governments have introduced their own control rules in Beijing, Shanghai, Guangzhou and Shenzhen. The sales agreement contract specifies the area of the property being sold. In case of the sale of residential property, a minor differential (generally in the range of 2-3%) in the area is permissible. In case this is not followed, the buyer can legally get a refund from the developer. The mortgage contract is a legal document and provides legal protection to the bank (lender) and the buyer (borrower). The sales agreement specifies the terms and conditions for sale and determines the legal rights of both the buyer and the seller. Apart from conditions in the sales agreement, there are no other provisions to safeguard end-users.



Singapore

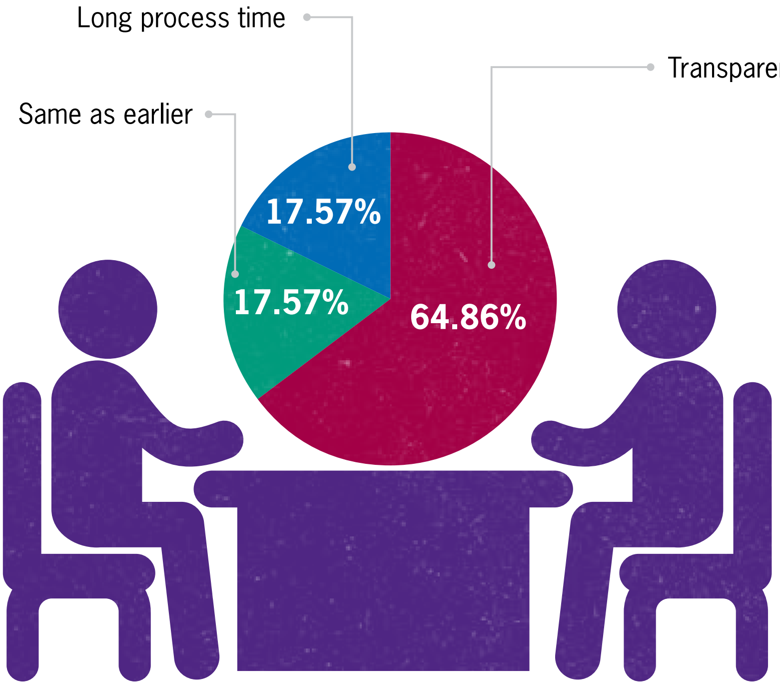
Land ownership and planning is primarily controlled by the public sector. Hence, based on the demarcated use, the respective regulatory authority such as the Housing Development Board for residential and Jurong Town Corporation (JTC) for industrial space will regulate and guide development. Details such as the possession, allotment date and specifications are usually set out clearly in contracts; end users are able to undertake legal means to claim compensations.

The United Arab Emirates

The UAE Government is considering the establishment of a federal real estate regulatory authority. Currently, the government does not have a body to supervise the sector, although emirates such as Dubai and Ajman have their own real estate regulatory authorities — Real Estate Regulatory Authority (RERA) in Dubai and Ajman Real Estate Regulatory Authority (ARRA) in Ajman. The Land Department of Dubai is proposing the Real Estate Investor Protection Law.

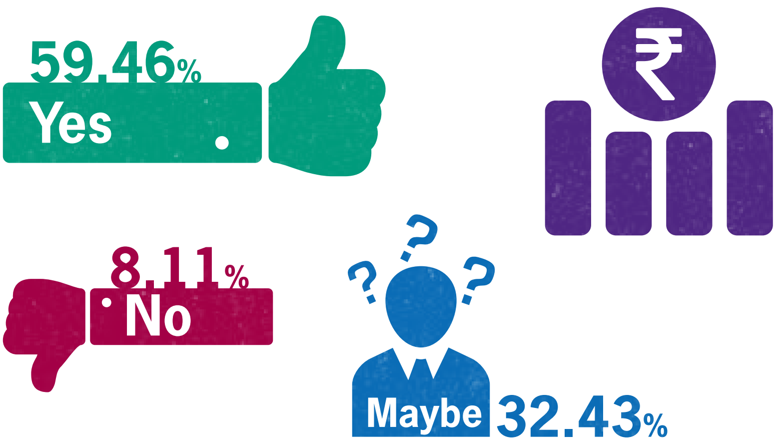
Survey results

1. Post implementation of RERA, what the are major changes that you expect to see while making real estate dealings?



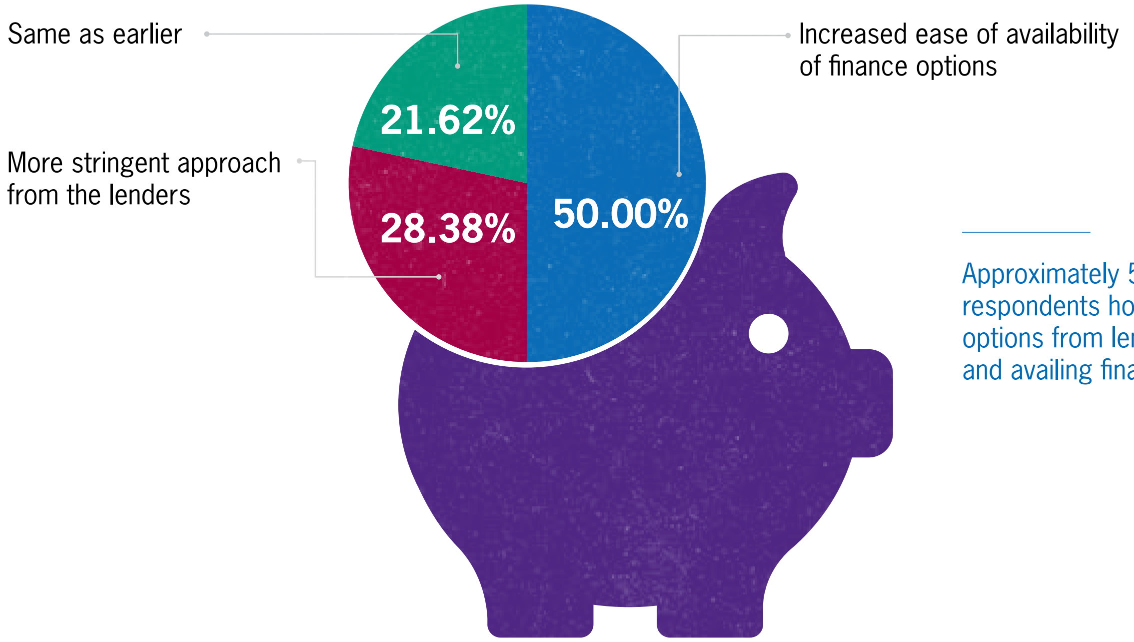
More than 60% of the respondents feel that, going forward, transparency will increase in real estate dealings.

2. As an investor in real estate, do you think RERA will boost the governance hold on the sector and eventually lead to increase in foreign (FDI) and domestic investments into the sector in near future?



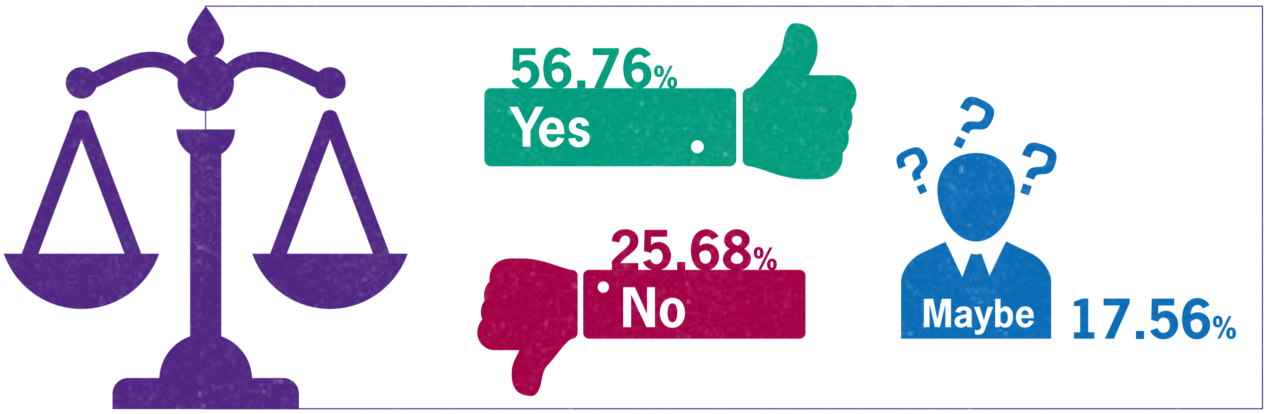
Close to 60% of the respondents feel that RERA will increase the governance hold in the sector and lead to increased investments.

3. Post RERA implementation, what changes do you expect in lending options from bankers/institutions?



Approximately 50% of the respondents hope that the lending options from lenders will improve and availing finance will be easier.

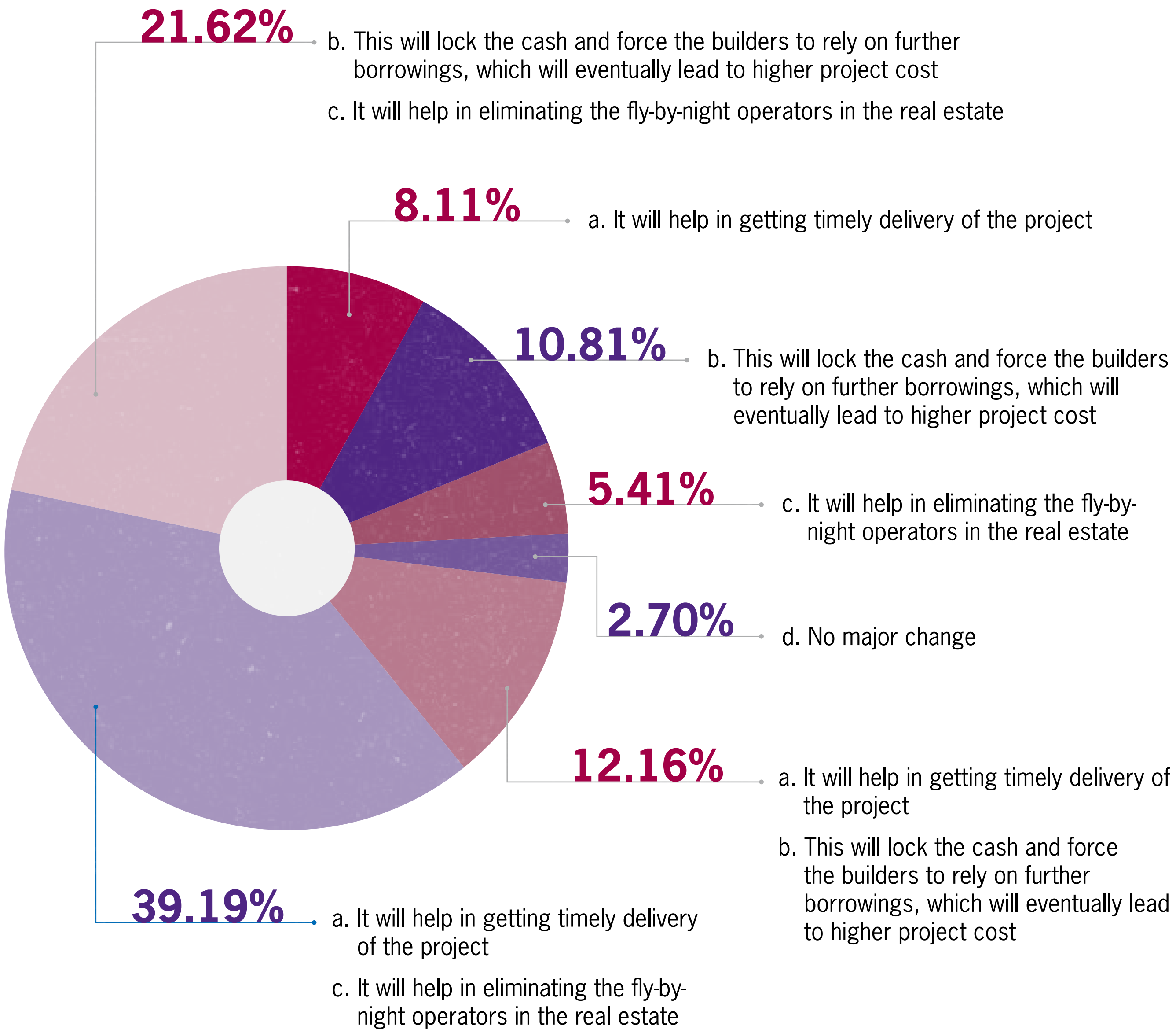
4. The Act provides for lot of transparency to be maintained by the developers. Do you think these practices will reduce litigation going forward?



More than 50% of the respondents believe that RERA will reduce litigations.

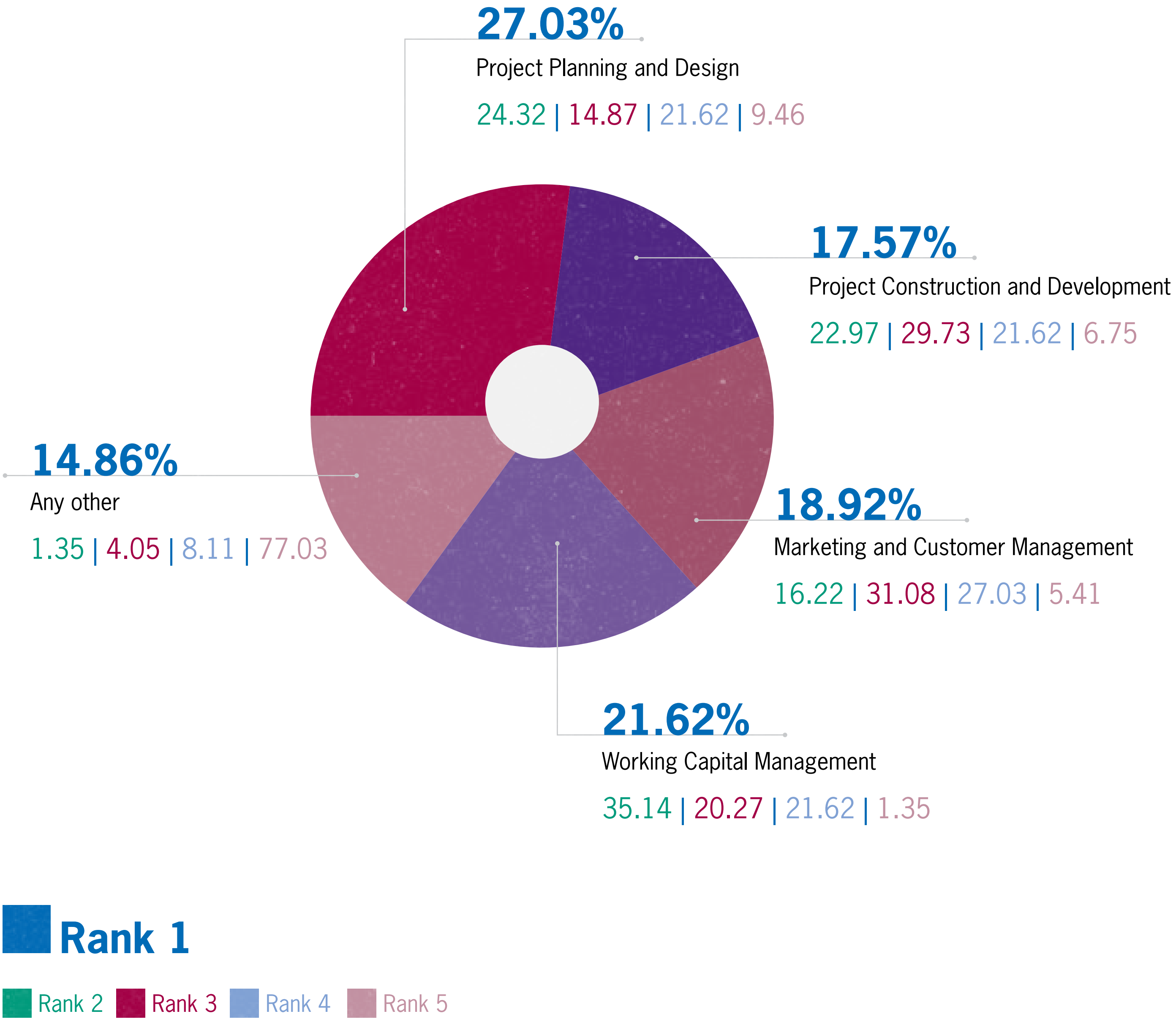
5. What is your opinion on the rule of depositing 70% of sales proceeds in a separate account? (can choose any two)

a. It will help in getting timely delivery of the project
b. This will lock the cash and force the builders to rely on further borrowings, which will eventually lead to higher project cost
c. It will help in eliminating the fly-by-night operators in the real estate
d. No major change



Close to 40% of the respondents feel that the implementation of RERA will help timely delivery of projects and also eliminate non- serious players from the sector.

6. Where do you see the maximum impact of RERA in the operations of your Company? (Rank 1 -5)



More than 40% of the respondents believe that maximum impact will be in the area of project planning and construction.

Way forward

This new legislation is definitely a step in the right direction and is expected to remove the chronic Issue of late delivery of projects, eliminating not so senior players from the business. This will also attract investments in the sector and restore the confidence of the buyers and others stakeholders in the sector.

However, one is yet to see the how the provision of the new act impact the developers and sector at large. it is important to understand that this should not become another tool for increasing redtapism in the process of obtaining approvals. one of the continue issue being faced by the developers is the number of approvals requires and the time taken to obtain these approvals.

The compliance of this act should not become one more layer of approvals to be obtained, but to ease out the entire approval process. the act should also consider the impact of transmission issues and make it more pragmatic for the developers to comply at the end given the importance and contribution of real estate once feel that the current way of reforms should continue.

About us

About Grant Thornton in India

Grant Thornton India LLP is the Indian member of Grant Thornton International, and with over 3,000 people in over 13 locations across the country, including over 600 people in each of Delhi, Mumbai and Bangalore, is one of India's 5 Big firms. Grant Thornton India aims to be the most promoted firm in providing robust compliance services to dynamic Indian global companies, and to help them navigate the challenges of growth as they globalize. Grant Thornton in India is at the forefront of helping reshape the values in our profession and in the process help shape a more vibrant Indian economy.

For more information or for any queries, write to us at REC@IN.GT.COM.

About FICCI

Established in 1927, FICCI is the largest and oldest apex business organisation in India. Its history is closely interwoven with India's struggle for independence, its industrialisation, and its emergence as one of the most rapidly growing global economies.

A not-for-profit organisation, FICCI is the voice of India's business and industry. From influencing policy to encouraging debate, engaging with policy makers and civil society, FICCI articulates the views and concerns of industry. It serves its members from the Indian private and public corporate sectors and multinational companies, drawing its strength from diverse regional chambers of commerce and industry across states, reaching out to over 250,000 companies.

FICCI provides a platform for networking and consensus building within and across sectors and is the first port of call for Indian industry, policy makers and the international business community.

For more about FICCI, please contact:

Mousumi Roy
Senior Director & Head
Real Estate, Urban Infrastructure & Smart Cities

Sachin Sharma
Sr. Asst. Director
Real Estate, Urban Infrastructure & Smart Cities
Sachin.sharma@ficci.com
+91 96431 58335

Shaily Agarwal
Asst. Director
Real Estate, Urban Infrastructure & Smart Cities
Shaily.agarwal@ficci.com
+91 11 2348 7577

Contact us

To know more, please visit **www.grantthornton.in** or contact any of our offices as mentioned below:

NEW DELHI
National Office
Outer Circle
L 41 Connaught Circus
New Delhi 110001
T +91 11 4278 7070

AHMEDABAD
BSQUARE Managed Offices
7th Floor, Shree Krishna Centre
Nr. Mithakali Six Roads
Navrangpura
Ahmedabad 380009
T +91 76000 01620

BENGALURU
5th Floor, 65/2, Block A,
Bagmane Tridib, Bagmane Tech Park,
C V Raman Nagar,
Bengaluru - 560093
T +91 80 4243 0700

CHANDIGARH
B-406A, 4th Floor
L&T Elante Office Building
Industrial Area Phase I
Chandigarh 160002
T +91 172 4338 000

CHENNAI
Arihant Nitco Park,
6th Floor, No. 90,
Dr. Radhakrishnan Salai
Mylapore
Chennai 600004
T +91 44 4294 0000

GURGAON
21st Floor, DLF Square
Jacaranda Marg
DLF Phase II
Gurgaon 122002
T +91 124 462 8000

HYDERABAD
7th Floor, Block III
White House
Kundan Bagh, Begumpet
Hyderabad 500016
T +91 40 6630 8200

KOCHI
7th Floor, Modayil Centre point
Warriam road junction
M. G. Road
Kochi 682016
T +91 484 406 4541

KOLKATA
10C Hungerford Street
5th Floor
Kolkata 700017
T +91 33 4050 8000

MUMBAI
16th Floor, Tower II
Indiabulls Finance Centre
SB Marg, Elphinstone (W)
Mumbai 400013
T +91 22 6626 2600

MUMBAI
9th Floor, Classic Pentagon
Nr Bisleri factory, Western Express Highway
Andheri (E)
Mumbai 400099
T +91 22 6176 7800

NOIDA
Plot No. 19A, 7th Floor
Sector – 16A
Noida 201301
T +91 120 7109 001

PUNE
401 Century Arcade
Narangi Baug Road
Off Boat Club Road
Pune 411001
T +91 20 4105 7000

For more information or for any queries, write to us at **contact@in.gt.com**

Follow us **@GrantThorntonIN**