

# NIDHI COMPANIES

## IMPORTANT ASPECTS

SATURDAY, 9<sup>TH</sup> MAY, 2019

# GOVERNING PROVISIONS

- Governing Provisions:

- Chapter XXVI
- Section 406 of Companies Act, 2013
- Nidhi Rules, 2014

# APPLICABILITY

- **Applicability:**

- Every Company which had been declared as a Nidhi or Mutual Benefits under Section 620A (1) of Companies Act, 1956;
- Every company functioning on the lines of a Nidhi company or Mutual benefit society but has either not applied for or has applied for and is awaiting notification to be a Nidhi or Mutual Benefit Society under Section 620A (1) of Companies Act, 1956;
- Every company incorporated as a Nidhi pursuant to the provisions of Section 406 of the Companies Act, 2013.

# CHARACTERISTICS

**They are mutual benefit societies, because their dealings are restricted only to the members; and membership is limited to individuals**

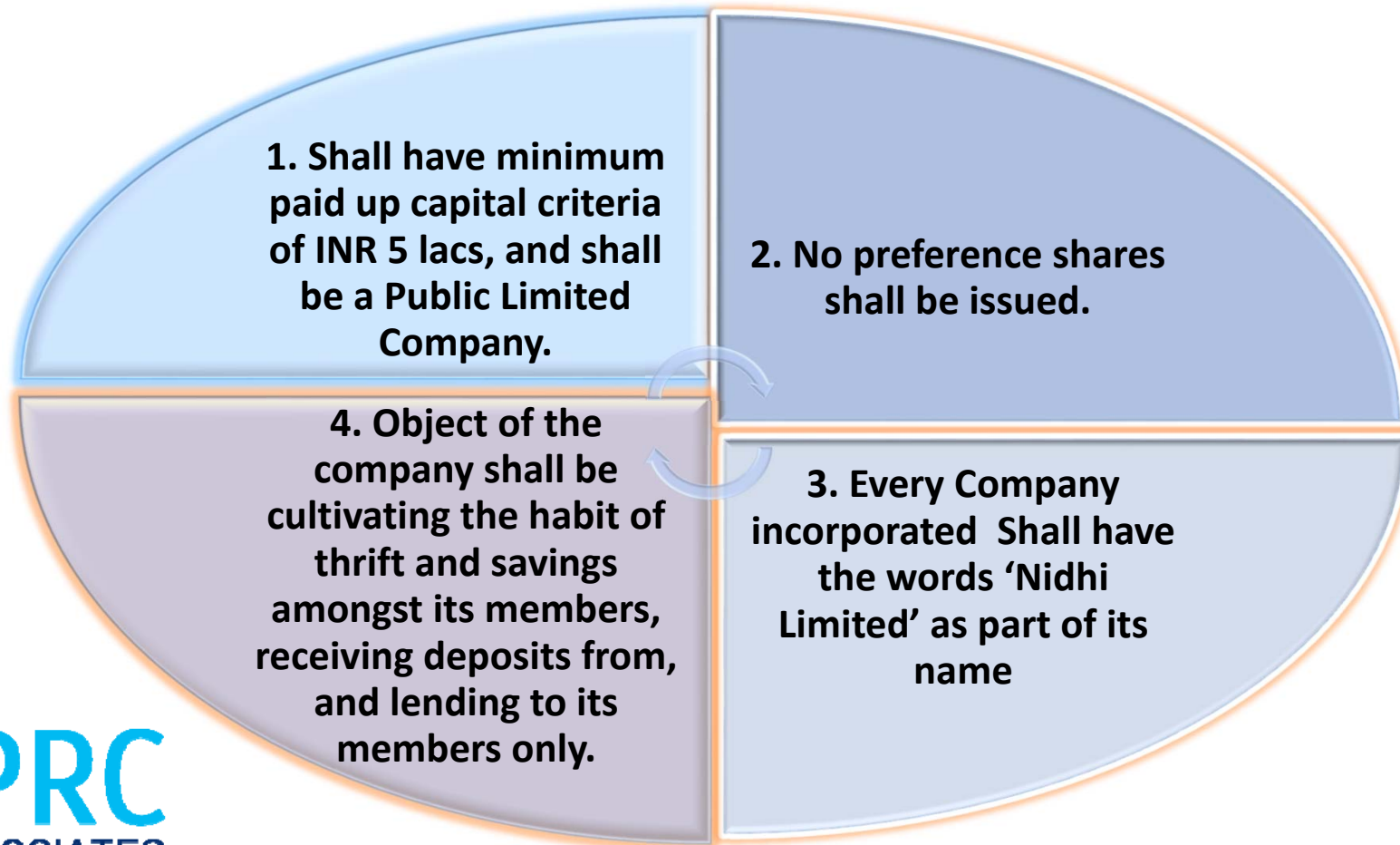
**The principal source of funds is the contribution from the members**

**The loans are given to the members at relatively reasonable rates**

**The deposits mobilized by Nidhi's are not much when compared to the organized banking sector.**

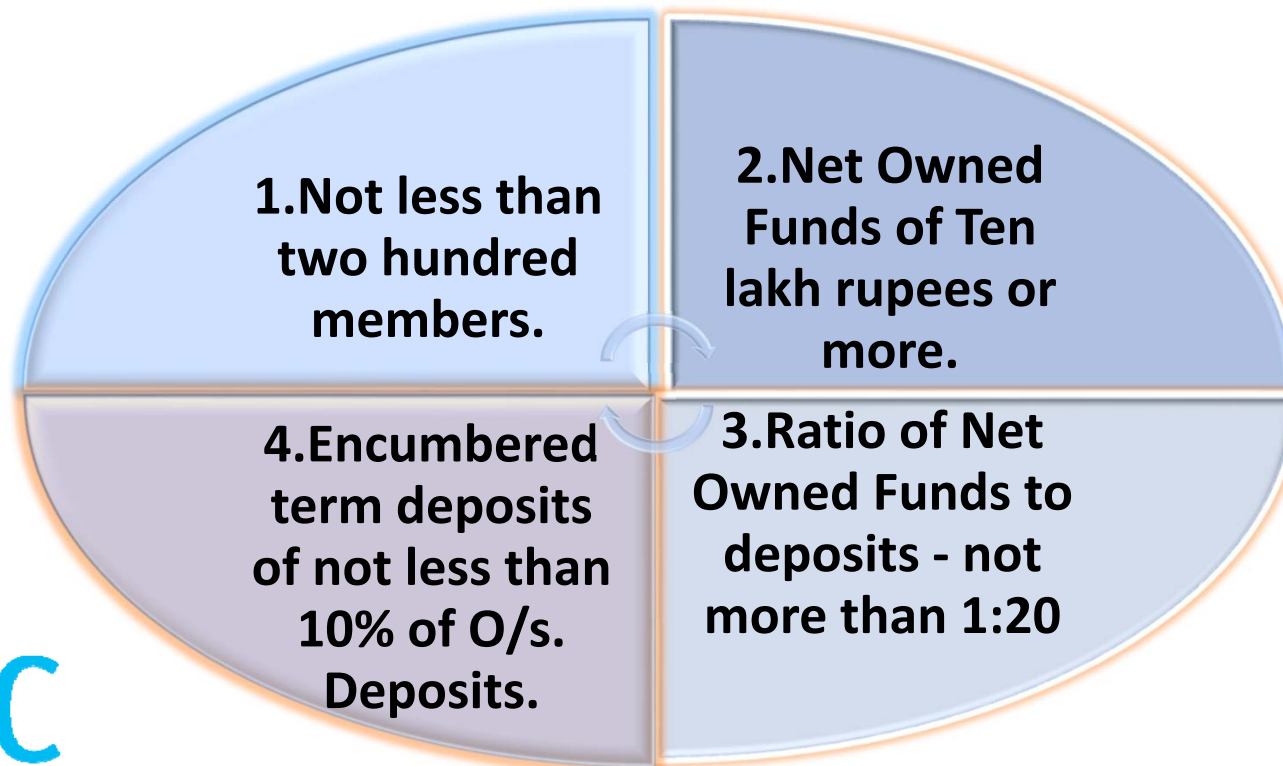
**RBI is empowered to issue directions to them in matters relating to their deposit acceptance activities. However, in recognition of the fact that these Nidhi's deal with their shareholder-members only, RBI has exempted the notified Nidhi's from the core provisions of the RBI Act**

# PRE - REQUISITES FOR INCORPORATION OF NIDHI COMPANY



# POST INCORPORATION COMPLIANCES:

Every Nidhi shall, within a period of one year shall ensure that it has:-



# RESTRICTIONS

- Business as chit fund, hire purchase finance, leasing finance, insurance or acquisition of securities issued by any body corporate
- Issue preference shares, debentures or any other debt instrument by any name or in any form whatsoever
- Open any current account with its members
- Acquire another company by purchase of securities or control the composition of the Board of Directors **UNLESS** Special resolution and Regional Director approval is obtained
- May provide locker facilities on rent to its members-rental income from such facilities not exceeding 20% of the gross income of the Nidhi at any point of time during a financial year
- Carry on any business other than the business of borrowing or lending in its own name

# Nidhi v/s Others

NIDHI COMPANY	CHIT FUND
<b>Nidhi Company is a non-financial banking company which can either lend or accept deposits</b>	Only accept fixed Instalments over a fixed period of time which is paid by its members. They Neither do lend nor accept the amount as a whole.
NIDHI COMPANY	NBFC
<b>They cannot carry the business related to chit fund, hire purchase finance, leasing finance, insurance or acquisition of securities issued by any body corporate.</b>	Engages in the business of loans/ advances, and acquisition of shares/stocks or other securities issued by Government or local authority, leasing, hire-purchase, insurance business, chit business, according to its category of NBFC license.



# Nidhi v/s Others

NIDHI COMPANY	CO-OPERATIVE BANKS
<p data-bbox="73 373 1055 469"><b>Nidhi company can accept deposits and give loan to its shareholders/members only.</b></p> <p data-bbox="73 517 1055 612"><b>Nidhi Company can not offer these facilities and current account to its members.</b></p>	<p data-bbox="1055 373 2042 469">Can accept deposit from non members also and can give loan to both members and non members.</p> <p data-bbox="1055 517 2042 644">can offer many services to its members like Cheque and the insurance cover from the Deposit Insurance and Credit Guarantee Corporation.</p> <p data-bbox="1055 692 2042 874">Minimum capital requirement for Cooperative Banks is ₹ 15 lakhs furthermore RBI is introducing revision in requirement which may rise upto ₹50 lakhs in rural areas and ₹4 crore in urban areas</p>
NIDHI COMPANY	CREDIT CO OPERATIVE SOCITIES
<p data-bbox="73 951 1055 1046"><b>Nidhi company can accept deposits and give loan to its shareholders/members only.</b></p>	<p data-bbox="1055 951 2042 1110">Formation of cooperatives mainly for suporting farmers by extendIng subsidised credits and protect them from exploitation of money lenders.</p>

## MEMBERSHIP RULES:

A Nidhi shall not admit a body corporate or trust as a member.

Every Nidhi shall ensure that its membership is not reduced to less than 200 members at any time.

A minor shall not be admitted as a member of Nidhi.

Deposits may be accepted in the name of a minor, if they are made by the natural or legal guardian who is a member of Nidhi.

# ACCEPTANCE OF DEPOSITS

- A Nidhi shall not accept deposits exceeding 20 times of its Net Owned Assets as per last audited financial statements
- Fixed deposits - minimum period of 6 months & maximum period of 60 months **AND** Recurring deposits – minimum period of 12 months & maximum period of 60 months.
- In case of unforeseen commitments, temporary withdrawal may be permitted with the prior approval of the Regional Director for the purpose of repayment to depositors, subject to such conditions and time limit which may be specified by the Regional Director to ensure restoration of the prescribed limit of 10%.

# ACCEPTANCE OF DEPOSITS

- Recurring deposits relating to mortgage loans - maximum period of recurring deposits shall correspond to the repayment period of such loans granted by Nidhi.
- Invest and maintain - unencumbered term deposits - scheduled commercial bank or post office deposits in its own name - not be less than 10% of the deposits outstanding at the close of the business on the last working day of the second preceding month.
- Maximum balance in savings deposit account - shall not exceed Rs.1,00,000/- and interest shall not exceed 2% above the rate of interest payable to savings bank account by nationalized banks.

# LOAN BY NIDHI COMPANY

The Nidhi can give loans only to its members. The loan to be given shall be subject to the following limits:

AMOUNT OF DEPOSIT TAKEN	LOAN AMOUNT (INR)
Total amount of deposits from members is less than Rs. 2 crores	2,00,000
Total amount of deposits from members is more than Rs. 2 crores but less than 20 crores	7,50,000
Total amount of deposits from members is more than Rs. 20 crores but less than 50 crores	12,00,000
Total amount of deposits from members is more than Rs. 50 crores	15,00,000

# LOAN BY NIDHI COMPANY

## 1. Gold, Silver and Jewellery

- Provided Repayment period of such loan shall not exceed one year

## 2. Immovable Property

- Provided the loan shall not exceed 50% of the value of the property offered as security and the period of repayment of such loan shall not exceed 7 years

## 3. Fixed Deposit Receipts, National Savings Certificates and other govt. Securities and Insurance Policies

- Provided that the maturity date of such security shall not fall beyond the loan period or one year, whichever is earlier.

# Interest rate on deposits:

- **Rate of interest** - The rate of interest to be charged on any loan given by a *Nidhi* shall not exceed **7.5% above** the highest rate of interest offered on **deposits** by *Nidhi*.
- *Nidhi* shall charge the same rate of interest on the borrowers in respect of the same class of loans.
- Rates of interest of all classes of loans shall be prominently displayed on the notice board at the registered office and each branch office of *Nidhi*.

# DIVIDEND

- A Nidhi shall not declare dividend exceeding 25% or such higher amount as may be specifically approved by the Regional Director for reasons to be recorded in writing and further subject to the following cumulative conditions-
  - An equal amount is transferred to General Reserve;
  - There has been no default in repayment of matured deposits and interest; and
  - It has complied with all the rules as applicable to Nidhi Company.



# DIRECTOR

- The Director shall be a **Member** of Nidhi.
- He shall hold office for a **term up to 10 consecutive years** on the Board.
- He shall be **eligible for re-appointment** only after the expiration of 2 years ceasing to be a director.
- Where the **tenure** of any director in any case had already been **extended** by the **Central Government** it shall terminate on expiry of such extended tenure.
- The person to be appointed as a Director shall have a **valid Director Identification Number (DIN)** and shall **not** have **been disqualified** as provided in Section **164** of the Companies Act, 2013.

# FORMS AND RETURNS TO BE FILED AS PER NIDHI RULES, 2014

- **FORM NDH 1:**

- Nidhi Company shall file a return of **statutory compliances [Pursuant to sub rule (2) of rule 5 of Nidhi Rules, 2014]**

**Within 90 days from the closure of the financial year in Form NDH-1.**

This form contains all the details regarding the members, loans, deposits, reserves etc for the full financial year which shall be duly certified by a practicing professional.

# FORMS AND RETURNS TO BE FILED AS PER NIDHI RULES, 2014

## • FORM NDH 2:

- Where the Nidhi company **does not comply with the below mentioned** requirement, it shall apply to **Regional Director for extension of time** within 30 days of the close of every Financial Year:
  - The Company has less than 200 members.
  - The Net Owned Funds of the Company is less than Rupees 10,00,000/-.
  - Unencumbered term Deposits are less than 10% of outstanding deposits.
  - Ratio of net owned funds to deposit of more than 1:20

## • FORM NDH 3:

- Every company shall **file half yearly return** with the registrar In Form **NDH-3, within thirty days from the conclusion of each half year** duly certified by a practicing professional.

# FORMS AND RETURNS TO BE FILED AS PER THE COMPANIES ACT, 2013

- **Form AOC-4-** Filing of financial statement ending as on 31<sup>st</sup> march every year, the said form has to be filed within 30 days from the date of Annual General Meeting.
- **Form MGT-7-**Filing of Annual return, the said form has to be filed within 60 days from the date of Annual General Meeting

# Branch office

- Earned net profits after tax continuously during the preceding three financial years.
- A *Nidhi* may open up to three branches within the district.
- If a *Nidhi* proposes to open more than three branches **within** the district or any branch **outside** the district, it shall obtain the prior permission of the Regional Director and an intimation is to be given to the Registrar about opening of every branch within thirty days of such opening.

# Branch office ... Continued ...

- No *Nidhi* shall open branches if it has not filed the financial statements.
- No *Nidhi* shall open branches or collection centers or offices or deposit centers, or by whatever name called outside the State where its registered office is situated.
- A *Nidhi* shall not close any branch unless it—
  - a) publishes an advertisement in a newspaper in vernacular language in the place where it carries on business at least thirty days prior to such closure, informing the public about such closure; fixes a copy of such advertisement or a notice informing such closure of the branch on the notice board of *Nidhi* for
  - b) a period of at least thirty days from the date on which advertisement was published under clause (a) ; and
  - c) gives an intimation to the Registrar within thirty days of such closure.

## PENALTY

If a company **contravenes** any of the provisions of the Nidhi rules the company and every officer of the company who is in default shall be **punishable**

1. **FINE which may extend to Rs. 5,000/-**
2. Where the contravention is a **continuing one**, with a **further fine which may extend to Rs.500/- for every day** after the first during which the contravention continues.

Thank You  
**CS Pawan G Chandak**



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