



CONCEPT, LEGALITY & CONCERNS

NIDHI COMPANIES



PRESENTED BY

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1. CONCEPT OF NIDHI AND NIDHI COMPANIES:-

- ❖ **General Concept of Nidhi-** The term “Nidhi” translates to “treasure” or “wealth”, and Nidhi Companies essentially accept deposits from the members i.e. “collection of wealth or treasure” in English and “निधि संग्रह” (Nidhi Sangraha) in Hindi.
- ❖ The concept of Nidhi Companies originates from the idea of pooling small savings from the members and utilizing the funds to provide loans and other services to the members.
- ❖ The Nidhi Companies are essentially mutual benefit entities incorporated for the purpose of cultivating the habit of thrift, savings, and mutual assistance among the members.

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- ❖ **Concept of mutual benefit-** The Nidhi Companies are member-oriented institutions where individuals with common financial goals come together and pool their resources for mutual benefit of members. The objective is to promote financial inclusion and thereby create support base especially among persons of lower strata having limited access or no access to formal banking system.
- ❖ **Concept of Members' Ownership-** The Nidhi Companies by concept and nature are typically owned and operated by the members. Every member holds a stake in the organization, which grants certain rights and privileges, such as the ability to vote in decision-making processes and share in the growth by way of dividends paid by the company.

- ❖ **Limited Activities-** The Nidhi Companies are permitted to carry out restricted and limited activities and primarily engaged in accepting deposits and providing loans to the members. Unlike the banks, Nidhi Companies are not allowed to engage in commercial banking activities or offer a wide range of financial products and services.
- ❖ **Regulatory Framework-** That despite Nidhi Companies engaged in financial activities with/among the members however Nidhi Companies are regulated by the Ministry of Corporate Affairs (MCA, GOI) in India. Whereas banks and financial institutions are regulated by the Reserve Bank of India.
- ❖ **Financial Inclusion-** Primary and important object of Nidhi Companies is to promote financial inclusion by providing access to affordable savings and credit facilities to their members from lower income groups who may face challenges in accessing formal banking services.

2. Legal framework for Nidhi Companies:-

(i) Primarily following provisions are applicable to Nidhi Companies:-

❖ **Section 406 of Companies Act, 2013 (“CA 2013/Act”);**

❖ **Nidhi Rules, 2014;**

(As amended vide Nidhi (Amendment) Rules, 2019 applicable w.e.f. 15.08.2019, Nidhi (Amendment) Rules, 2022 applicable w.e.f. 19.04.2022 & Nidhi (Amendment) Rules, 2024 applicable w.e.f. 16.07.2024)

❖ **Rule 12 of Companies (Incorporation) Rules, 2014; and**

❖ **Section 10A of CA 2013.**

Section 406 of CA 2013 provides macro powers to Central Government to declare an applicant public company as Nidhi Company, however detailed administrative, procedural and regulatory aspects are provided in Nidhi Rules, 2014, which primarily governs the Nidhi Companies.

(ii)Applicability of Nidhi Rules, 2014 to Nidhi Companies:- (Rule 2)

The Nidhi Rules, 2014 are applicable to :-

- ❖ A company which had been declared as a Nidhi or Mutual Benefit Society under sub-section (1) of Section 620A of the Companies Act, 1956;
- ❖ A 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 sub-Section (1) of Section 620A of the Companies Act, 1956;
- ❖ A company incorporated as a Nidhi pursuant to the provisions of Section 406 of CA 2013.
- ❖ A company declared as Nidhi or Mutual Benefit Society under sub-section (1) of section 406 of CA 2013.

These provisions are applicable to every Nidhi or Mutual benefit company whether registered under the Companies Act, 1956 or under the Companies Act, 2013.

(iii) Definition of Nidhi Company [Rule 3 (da)]

- ❖ There was no clear definition of Nidhi Company and thus it was causing ambiguity. Even though basic object and intent of Nidhi companies were concisely covered in the license conditions. Broadly nature, objects and activities were derived from the license and but still the statutory definition of Nidhi Company was not present. The Nidhi (Amendment) Rules, 2019 inserted definition of Nidhi Company as:

(da) “Nidhi” means a company which has been incorporated as a Nidhi with the object of cultivating the habit of thrift and savings amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit, and which complies with the rules made by the Central Government for regulation of such class of companies.

- ❖ **The structure of a Nidhi Company shall be of a Public Limited Company.**

(iv) Declaration as Nidhi Company & compliances:- (Rule 3A)

- ❖ That for a Nidhi Company, the most important element is to obtain license (i.e. declaration as Nidhi) from Central Government (i.e. Regional Director, MCA).
- ❖ The applicant Nidhi Company shall submit application (Form NDH-4) with Regional Director having jurisdiction for declaration it as Nidhi Company.
- ❖ The Regional Director, on being satisfied, shall issue license in favour of applicant i.e. declaring it as Nidhi Company u/s 406 (1) of CA, 2013 and publish notification to that effect in the official gazette.
- ❖ On and from the date of declaration, the applicant company shall commence and carry out its activities among its members for specified objects and for their benefits.

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Position of compliances ON OR AFTER Nidhi (Amendment) Rules, 2019:-

- ❖ A Nidhi Company incorporated on or after applicability of Nidhi (Amendment) Rules, 2019 (i.e. w.e.f 15.08.2019), shall file Form NDH-4 within 60 (sixty) days after expiry of 1 (one) year from the date of its incorporation (i.e. maximum within 14 months of incorporation) and within such period as extended by Regional Director, MCA.
- ❖ In case a company does not comply with the requirements of this rule, it shall not be allowed to file Form No. SH-7 (Notice to Registrar of any alteration of share capital) and Form PAS-3 (Return of Allotment).
- ❖ A Nidhi Company, **which has not complied with the requirements of this rule, or fails to comply with such requirement on or after the commencement of the Nidhi (Amendment) Rules, 2022, or in case the application submitted by the company in Form NDH-4 is or has been rejected** by Regional Director, MCA, then such Nidhi Company shall **NOT** raise any deposit from its members or provide any loan to its members from the date of such non-compliance, or from the date of the commencement of the Rules, 2022 (i.e. w.e.f. 19.04.2022), or the date of rejection of the application in Form NDH-4, whichever is later. *[Inserted vide*

- ❖ Further if any deposit raised by a company after the date of non compliance, or the date of commencement of the above Rules, 2022, or the date of rejection of the application in Form NDH-4, whichever is later , **then such Nidhi Company shall be deemed to have raised deposits in pursuance of Chapter V of the CA 2013 [i.e. Acceptance of deposits provisions of CA 2013 (S 73-76A) shall be applicable]**, and shall be subject to all the requirements under Acceptance of deposits provisions of CA 2013, or under any other provisions of the Act or the rules made thereunder, as the case may be.
- ❖ **Important-**Rule 3A shall NOT apply to the companies incorporated & declared as Nidhi **on or after** the commencement of the Rules, 2022. This lay down position that Rule 3A shall be applicable **ONLY** to the Nidhi companies incorporated up to 18.04.2022 (i.e. Rule 3A is not applicable to companies incorporated as Nidhi on or after 19.04.2022). *[Inserted vide Nidhi (Amendment) Rules, 2022 applicable w.e.f. 19.04.2022]*

(v) Applicable compliances on or after commencement of the Nidhi (Amendment) Rules, 2022 (i.e. w.e.f 19.04.2022):- (Rule 3B)

- ❖ That on or after applicability of Nidhi (Amendment) Rules, 2022 (i.e. w.e.f 19.04.2022), a public company shall file Form NDH-4 within a period 120 (one hundred twenty) days from the date of incorporation for declaration it as Nidhi Company subject to fulfilment of TWO conditions, that applicant company:-
 - (1) Has 200 or more members; and
 - (2) Has Net Owned Funds of Rs. 20 Lakh or more.
- ❖ The applicant company shall also attach, along with Form NDH-4, a declaration regarding fulfilment of “fit and proper person criteria” by all the promoters and directors of the company.

- ❖ That Regional Director shall examine the application along with declaration of fit and proper person and convey its decision within a period of 45 (forty five) days from the date of filing of Form NDH4. **However if decision of approval or rejection is NOT conveyed within a period of 45 (forty five) days from the date of filing, then application so filed shall be deemed to have been approved.**
- ❖ That Regional Director, on being satisfied, shall issue license in favour of applicant company i.e. declaring it as Nidhi Company u/s 406 (1) of CA, 2013 and publish notification in the official gazette. The decision of approval shall be filed with ROC and thereafter Nidhi Company shall commence and carry out its activities among its members for specified objects and in their benefits.
- ❖ **Important-** Rule 3B shall NOT apply to companies incorporated and declared as Nidhi **before** the commencement of the Nidhi (Amendment) Rules, 2022. This lay down position that Rule 3B shall be applicable **ONLY** to the companies incorporated as Nidhi **on or after** 19.04.2022 (i.e. Rule 3B is not applicable to companies incorporated as Nidhi before 19.04.2022).

(vi) Requirement of paid up share capital and restriction on preference share capital :- (Rule 4)

- ❖ A Nidhi company shall have a minimum paid up equity share capital of Rs. 10 Lakh (Rs. Ten Lakh). The Nidhi company, existing on the date of commencement of Rules, 2022, shall meet this requirement within a period of 18 (eighteen) months from the date of commencement of Rules, 2022 (i.e. maximum upto 18.10.2023)
- ❖ A Nidhi company shall NOT issue preference shares and if any, issued shall be redeemed in accordance with the terms of issue of such shares.
- ❖ The Memorandum of Association of a Nidhi company shall have only objects for cultivating the habit of thrift and savings amongst its members, receiving deposits, and lending to, its members only, for their mutual benefit.
- ❖ The name of a Nidhi company shall be suffixed with words 'Nidhi Limited', however same can be used only on declaration under section 406 (1) of the CA 2013. **This condition will alleviate the problems faced by promoters in obtaining the approval of name of the proposed Nidhi company, as ROCs are reluctant to approve name of a company suffixed with 'Nidhi Limited' before declartion.**

(vii) Compliance with respect to paid up share capital, net owned funds (NOF) and term deposits :- (Rule 5)

- ❖ This Rule is applicable to Nidhi Companies incorporated up to 18.4.2022;
- ❖ Every Nidhi company, within a period of 1 (one) year from the date of its incorporation, shall ensure that it has:-
 - (i) 200 hundred or more members;
 - (ii) NOF of Rs. 10 Lakh or more;
 - (iii) unencumbered term deposits of not less than 10% of the outstanding deposits as on last working day of second preceding month with a scheduled commercial bank; and
 - (iv) attained the ratio of Net Owned Funds to Deposits of not more than 1:20.

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- ❖ A Nidhi Company shall, within 90 days from the close of the first financial year after its incorporation and where ever applicable, the second financial year, file a return of statutory compliances in Form NDH-1 with ROC.
- ❖ That if a Nidhi Company is not in position to comply with requirements of prescribed number of membership and further is not in position to meet the NOF to deposit ratio requirements, then it shall file Form NDH-2 with the Regional Director for grant of extension. The Regional Director may extend the period upto one year from the date of receipt of application.
- ❖ If the failure to comply with conditions of sub-rule (1) and exceeds the second financial year, then such Nidhi Company shall not accept any further deposits from the commencement of the second financial year till it complies with the conditions and gets itself declared as Nidhi under sub section (1) of section 406 CA2013. Such Nidhi Company shall also be liable for penal consequences as provided in the Act.
- ❖ **Important-**This Rule shall NOT be applicable to the companies incorporated & declared as Nidhi **on or after** the commencement of the Rules, 2022 i.e . shall be applicable **ONLY** to the Nidhi companies incorporated up to 18.04.2022. [*Inserted vide Nidhi (Amendment) Rules, 2022 applicable w.e.f. 19.04.2022*]

(viii) Prohibitions and restrictions on Nidhi Companies:- (Rule 6)

❖ A Nidhi company shall not:-

- (i) carry on the business of chit fund, hire purchase finance, leasing finance, insurance or acquisition of securities issued by any body corporate;**
- (ii) issue preference shares, debentures or any other debt instrument by any name or in any form whatsoever;**
- (iii) open any current account with its members;**
- (iv) acquire or purchase securities of any other company or control the composition of the board of directors of any other company in any manner whatsoever or enter into any arrangement for the change of its management;**
- (v) carry on any business other than the business of borrowing or lending in its own name, however it may provide **locker facilities on rent** to its members subject to the rental income from such facilities does not exceed 20% of the gross income during a financial year.**

- (vi) accept deposits from or lend to any person, other than its members;**
- (vii) pledge any of the assets lodged by its members as security;**
- (viii) take deposits from or lend money to any body corporate;**
- (ix) enter into any partnership arrangement in its borrowing or lending activities;**
- (x) issue or cause to be issued any advertisement for soliciting deposit, however private circulation of the details of deposit schemes among the members is allowed;**
- (xi) pay any brokerage or incentive for mobilising deposits from members or for deployment of funds or for granting loans; and**
- (xii) raise loans from banks or financial institutions or any other source for the purpose of advancing loans to members of Nidhi.**

(ix) Share capital and allotment of shares :- (Rule 7):-

- ❖ A Nidhi Company shall, without any charge, issue fully paid up equity shares of Rs. 10/- (Rs. Ten) each, however this provision is not applicable to the Nidhi companies declared or functioning under S 620A of CA 1956.
- ❖ A Nidhi Company shall allot to each deposit holder at least a minimum of 10 (ten) equity shares of Rs. 10/- (Rs. Ten) each or shares equivalent to Rs. 100/- (Rs. One Hundred), however savings account and recurring deposit account holders shall be allotted minimum 1 (one) share of Rs. 10/- (Rs. Ten) each.

(x) Membership of Nidhi Companies :- (Rule 8):-

- ❖ A body corporate, trust or a minor shall **not** be admitted as a member, however deposits may be accepted in the name of a minor through natural or legal guardian, who is a member.
- ❖ Except as otherwise permitted under these rules, every Nidhi shall ensure that its membership is not reduced to less than 200 (two hundred) members at any time.

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- ❖ A member shall not transfer more than 50% of his shareholding during the subsistence of such loan or deposit, as the case may be subject to meeting the requirement criteria provided under Rule 7 (3) at all times.

(xi) Net Owned Fund Criteria:- (Rule 9):-

- ❖ A Nidhi company shall maintain Net Owned Funds (other than preference share capital) of not less than Rs. 20 Lakh (twenty lakh) or such higher amount as the Central Government may specify from time to time. However Nidhi Companies existing as on the date of commencement of the Nidhi (Amendment) Rules, 2022 i.e. Nidhi companies existing on 19.4.2022 shall meet NOF criteria within 18 (eighteen) months from the date of commencement of Rules, 2022.

(xii)Opening and closure of branches:- (Rule 10)

- ❖ A Nidhi company, which has earned net profits after tax continuously during the preceding 3 (three) financial years and regularly filed financial statements & annual returns, may open maximum 3 (three) branches within the district where its registered office is situated. That a Nidhi company is not allowed to open branches outside the State in which its registered office is situated.
- ❖ If a Nidhi company intends to open more than 3 (three) branches within the district or any branch outside the district, it shall obtain the prior permission of the Regional Director by filing Form NDH-2 and on grant of permission, it shall open the branch. The intimation for opening of every branch shall also be sent to ROC within 30 (thirty) days of such opening.
- ❖ A Nidhi **shall not close** any branch, unless:-
 - (i) the proposal to close the branch along with the plan for payment of existing deposits and how the existing loans shall be recovered is duly approved by the Board at its meeting; and
 - (ii) it has obtained the **prior approval** of the Regional Director by applying in Form NDH-2 at least 60 (sixty) days prior to such closure and Regional Director shall consider such application and pass orders within a period of 30 (thirty) days of receipt of such application.

- ❖ **After obtaining approval from the Regional Director, the Nidhi company shall:-**
 - (i) publish an advertisement, as per format of NDH-5, in a newspaper in vernacular language in the place where it carries on business at least 30 (thirty) days prior to such closure;**
 - (ii) affix a copy of such advertisement or a notice of such closure on the notice board of Nidhi as well as the relevant Branch for a minimum period of 30 (thirty) days from the date on which advertisement was published; and**
 - (iii) provide an intimation to the ROC within a period of 30 (thirty) days of such closure in Form NDH-2.**
- ❖ **Any place, not being a registered office or a branch, where a Nidhi company carries on its operation shall be closed within a period of 6 (six) months from the date of commencement of the Nidhi (Amendment) Rules, 2022 and intimation shall be sent to the Registrar in this regard in Form NDH-2.**

(xiii) Limits for Acceptance of Deposits by Nidhi Companies:- (Rule 11):-

- ❖ That a Nidhi company, shall **not** accept deposits exceeding 20 (twenty) times of its Net Owned Funds (NOF) as per its last audited financial statements. In present time and context, a Nidhi Company can accept deposits, as under:

If NOF (INR)	Limit of Deposits
20,00,000	4,00,00,000

- ❖ In the case of companies covered under S 620A of CA 1956 and existing on or before 26th July, 2001 and have accepted deposits in excess of the aforesaid limits, the same shall be restored to the prescribed limit by increasing the Net Owned Funds or alternatively by reducing the deposits within the prescribed time schedule. Further such companies shall not accept fresh deposits or renew existing deposits if such acceptance or renewal leads to violation of the prescribed ratio.

(xiv)Contents of Deposit Application:- (Rule 12):-

❖ The Deposits Application Form shall contain:-

- (i) The details about Nidhi and its management, net profits for the preceding 3 (three) financial years; dividend declared during the preceding 3 (three) financial years; mode of repayment of the deposit; maturity period of the deposit; rate of interest and interest payable on the deposit; terms and conditions subject to which the deposit may be accepted or renewed; brief summary of the financials of the company as per the latest 2 (two) audited financial statements and any other special features or terms and conditions subject to which the deposit is accepted or renewed;
- (ii) That in case of **non-payment of the deposit** as per the terms and conditions of such deposit, the depositor may approach the bench of the **National Company Law Tribunal** having jurisdiction or in case of any deficiency in servicing the depositors, the aggrieved depositor may approach the appropriate **Consumers Disputes Redressal Forums**, for redressal of grievances;

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- (iii) A declaration by the board of directors to the effect that the financial position of Nidhi company as disclosed and the representations made in the application form are true and correct and Nidhi company has complied with all the applicable rules;
 - (iv) A statement to the effect that the Central Government does not undertake any responsibility for the financial soundness of Nidhi company or for the correctness of any of the statement or the representations made or opinions expressed by Nidhi company;
 - (v) The deposits accepted by Nidhi company are not insured and the repayment of deposits is **not guaranteed by either the Central Government or the Reserve Bank of India**;
 - (vi) A verification clause by the depositor stating that he had read and understood the financial, particulars and representations and after careful consideration he is making the deposit with Nidhi at his own risk and volition.
- ❖ That a Nidhi Company shall obtain proper introduction of new depositors and shall obtain documentary evidences from the depositor in the form of proof of identity and address.

(xv) Kinds of deposits, interest rates and tenure:- (Rule 13):-

- ❖ A Nidhi Company shall accept **fixed deposits** for a minimum period of 6 (six) months and a maximum period of 60 (sixty) months.
- ❖ The **Recurring deposits** shall be accepted for a minimum period of 12 (twelve) months and a maximum period of 60 (sixty) months. The recurring deposits relating to mortgage loans, the period shall be corresponding to the repayment period of such loans.
- ❖ The maximum balance in a **savings deposit** account at any time qualifying for interest shall not exceed Rs. 1,00,000/- (one lakh) and the **rate of interest** shall not exceed 2% (two per cent) above the rate of interest payable on savings bank account by nationalized banks.
- ❖ A Nidhi company may offer interest on fixed and recurring deposits at a rate not exceeding the maximum rate of interest prescribed by the Reserve Bank of India which the Non-Banking Financial Companies can pay on their public deposits.

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- ❖ A fixed deposit account or a recurring deposit account shall be foreclosed by the depositor subject to the following conditions:-
 - (i) That a Nidhi **shall not repay** any deposit within a period of 3 (three) months from the date of its acceptance;
 - (ii) Where **at the request of the depositor**, a Nidhi repays any deposit after a period of 3 (three) months, the depositor shall not be entitled to any interest up to 6 (six) months from the date of deposit;
 - (iii) Where **at the request of the depositor**, a Nidhi makes repayment of a deposit before the expiry of specified period of deposit, the rate of interest on such deposit shall be **reduced by 2% (two per cent)** from the agreed rate of interest applicable for specified period. In the event of death of a depositor, the deposits may be repaid prematurely to the surviving depositor or depositors in the case of joint holding with survivor clause, or to the nominee or to legal heir with interest up to the date of repayment at the applicable rate prevalent at the time of opening of deposit for relevant period.

(xvi)Un-encumbered term deposits :- (Rule 14):-

That every Nidhi company shall invest in unencumbered term deposits with a scheduled commercial bank (other than a co-operative bank or a regional rural bank), or post office deposits in its own name an amount **which shall not be less than 10% (ten per cent) of the deposits outstanding at the close of business on the last working day of the second preceding month.** However in order to meet exigencies or unforeseen commitments, the Nidhi company may be permitted temporary withdrawal with the prior approval of the Regional Director by making application in FormNDH-2 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% (ten per cent).

(xvii)Loans:- (Rule 15):-

- ❖ That a Nidhi Company shall provide loans only to its members and loan extended to a member shall be subject to the following limits:—
 - (i) Rs. 2,00,000/- (Rs. two lakh), where the total deposit amount is less than Rs, 2,00,00,000/-(Rs. two crore);**
 - (ii) Rs. 7,50,000/- (Rs. seven lakh fifty thousand), where the total deposit amount is more than Rs. 2,00,00,000/- (Rs. two crore) but less than Rs. 20,00,00,000/-(Rs. twenty crore);**
 - (iii) Rs. 12,00,000/- (Rs. twelve lakh), where the total deposit amount is more than Rs. 20,00,00,000/-(Rs. twenty crore) but less than Rs. 50,00,00,000/-(Rs. fifty crore); and**
 - (iv) Rs. 15,00,000/- (Rs. fifteen lakh), where the total deposit amount is more than Rs. 50,00,00,000/-(Rs. fifty crore);**
- ❖ Notwithstanding above, a Nidhi company which has not generated profits continuously in last 3 (three) financial years, then it **shall not make any fresh loans exceeding 50% (fifty per cent) of the maximum amounts of loans specified** in Rule 15(2). Further defaulting borrower shall not be eligible for any further loan.

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- ❖ That for the purposes of sub-rule (2), the amount of deposits shall be calculated on the basis of the last audited annual financial statements.
- ❖ That a Nidhi Company **shall give loans to its members only** against the following securities, namely:—
 - (i) **gold, silver and jewellery**, however re-payment period of such loan shall not exceed 1 (one) year.
 - (ii) **immovable property**, however total loans against immovable property [excluding loans granted against registered mortgage), shall not exceed 50% (fifty per cent) of the total loan outstanding on the date of approval by the board. Further single loan shall not exceed 50% (fifty per cent) of the value of property subject to repayment period not exceeding 7 (seven) years.
 - (iii) **fixed deposit receipts, national savings certificates, other government securities and insurance policies**, provided that such securities duly assigned shall be pledged and the maturity date of such securities shall not exceed loan period or 1 (one) year whichever is earlier. In the matter of loan against fixed deposits, the period of loan shall not exceed the unexpired period of the fixed deposits.

(xviii)Rate of Interest on loans:- (Rule 16):-

- ❖ That a Nidhi Company shall charge interest on any loan not exceeding **7.5% p.a (seven and half per cent per annum)** above the highest rate of interest offered on deposits.
- ❖ Interest shall be calculated on reducing balance method.
- ❖ That Nidhi Company shall charge the same rate of interest from all borrowers in respect of the same class of loans.
- ❖ The 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 company.

(xix) Rules relating to directors of Nidhi Companies :- (Rule 17)

- (i) The Directors shall be members of the Nidhi Company.**
- (ii) A Director can be appointed for maximum period of 10 (ten) consecutive years, however he shall be eligible for re-appointment only after the expiration of 2 (two) years of ceasing to be a Director.**
- (iii) The proposed Director shall not suffer from any disqualifications for appointment as director as per CA 2013.**

(xx) Payment of dividends by Nidhi Companies :- (Rule 18):-

A Nidhi company shall not declare dividend exceeding 25% (twenty five per cent) in a financial year.

(xxi) Appointment of Auditors and tenure :- (Rule 19):-

- ❖ A Nidhi Company shall not appoint or re-appoint **an individual as auditor** for more than **one term of 5 (five) consecutive years**.
- ❖ A Nidhi Company shall not appoint or re-appoint **an audit firm as auditor** for more than **two terms of 5 (five) consecutive years, however** an auditor (whether an individual or an audit firm) shall be eligible for re- appointment after expiry of 2 (two) years from the **completion** of term.

(xxii) Auditor's compliance certificate:- (Rule 22):-

That every year, the Auditor of the company shall furnish a certificate to the effect that the company has complied with all the provisions contained in the Nidhi Rules 2014 and such certificate shall be annexed to the audit report and in case of non-compliances, he shall specifically state in the audit report about rules which have not been complied with.

(xxiii) Prudential norms :- (Rule 20):-

- ❖ That every Nidhi shall adhere to the prudential norms for revenue recognition and classification of assets in respect of mortgage loans or jewellery loans.
- ❖ That income including interest or any other charges on non-performing assets shall be recognized only on actual realization and any income, recognized before the asset became non-performing but remains unrealized in year of categorizing as non-performing, shall be reversed in the profit and loss account of the immediately succeeding year.
- ❖ In respect of mortgage loans, the classification of assets and the provisioning required shall be as under:

Nature of Assets	Requirement of Provisioning
Standard Asset	No provision
Sub-standard Asset	10% of the aggregate outstanding amount
Doubtful Asset	25% of the aggregate outstanding amount
Loss Asset	100% of the aggregate outstanding amount

However Nidhi Company may make additional provisions.

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- ❖ **The estimated realizable value of the collateral security may be reduced from the aggregate outstanding amount, if the proceedings for the sale of the mortgaged property have been initiated in a court of law within the previous two years of the interest, income or instalment remaining unrealized.**
- ❖ **In case of companies which were incorporated on or before 26-07-2001, such companies shall make provisions in respect of loans disbursed and outstanding as on 31-03-2002 for income reversal and non-performing assets as per table given below:**

For the year ended	Extent of provision
31-03-2015	Un-provided balance on equal basis over the three years as specified in the preceding column.
31-03-2016	
31-03-2017	

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- ❖ The notes on the financial statements of a year shall disclose the total amount of provisions, if any, to be made on account of income reversal and non-performing assets remaining unrealized and amount provided till the previous year & current year. Such disclosure shall continue to be made until the entire amount to be provided has been provided for.
- ❖ In respect of loans against gold or silver or jewellery, the loan to value (LTV) shall not 80% (eighty percent).
- ❖ The aggregate amount of loan outstanding against the security of gold or silver or jewellery shall either be recovered or renewed within 3 (three) months from the due date of repayment; and if the loan is not recovered or renewed and the security is not sold within 3 (three) months, the company shall make provision in the current year's financial statements to the extent of unrealized amount or the aggregate outstanding amount of loan including interest. That no income shall be recognized on such loans outstanding after the expiry of the 3 (three) months period specified or sale of gold or silver or jewellery, whichever is earlier.

(xxiv)Return applicable to Nidhi Companies under Nidhi Rules 2014:-

Sl No.	Details of Returns	Time Limit	Purpose of Return	Applicable Laws/Rules
1.	NDH – 1	Within 90 days from the closure of the first financial year and where applicable in the second financial year.	Return of Statutory Compliances	Rule 5
2.	NDH – 2	Within 30 days from the closure of the financial year	Application for Extension of time for submission of details of members and NOF	Rule 5
		Prior permission from Regional Director, MCA	Opening of more than 3 branches within the district or any branch outside the district	Rule 10
		60 days prior from Regional Director, MCA for closure of any branch & intimation to ROC within 30 days from closure of branch	Closure of branches	Rule 10
		Application seeking prior approval of the Regional Director	For temporary withdrawal of unencumbered term deposits for making payment to depositors	Rule 14
3.	NDH -3 Half Yearly return	Within 30 days from the conclusion of each half year	Details regarding members, loans, deposits, for the period.	Rule 21
4.	NDH -4	Application to Regional Director for declaration it as Nidhi Company and companies incorporated on & after 15.08.2019 shall file maximum within 60 days after expiry of 1 year from the date of incorporation.	Declaration of applicant as Nidhi company	Rule 3A
		companies incorporated on & after 19.04.2022 shall file within a period 120 days from the date of incorporation for declaration it as Nidhi Company		Rule 3B
5.	NDH-5	Publish advertisement, in a newspaper in vernacular language in the place where it carries on business at least 30 days prior to such closure of branch	Closure of branch	Rule 10

(xxv)Power to enforce compliance :- (Rule 23):-

- ❖ For the purposes of enforcing compliance with these rules, the Registrar of Companies may call for such information or returns from Nidhi as he deems necessary and may engage the services of chartered accountants, company secretaries in practice, cost accountants, or any firm thereof from time to time for assisting him in the discharge of his duties.
- ❖ In respect of any Nidhi which has violated these rules or has failed to function in terms of the Memorandum and Articles of Association, the Central Government may appoint a Special Officer to take over the management of Nidhi and such Special Officer shall function as per the guidelines given by Central Government, however an opportunity of hearing shall be accorded to the concerned Nidhi before appointing any Special Officer.

(xxvi) Compliance with rule 3A by certain Nidhis :- (Rule 23A)

- ❖ That **every company incorporated under CA 1956** and has/have not been declared as Nidhi Company and **every Nidhi incorporated before 15.08.2019** shall get itself declared as per rule 3A within a period of 1 (one) year from the date of its incorporation or within a period of 9 (nine) months from the date of commencement of Nidhi (Amendment) Rules, 2019 i.e **15.08.2019**, whichever is later:
- ❖ Applicable companies not complying with this rule shall not be allowed to file Form No. SH-7 (Notice to Registrar of any alteration of share capital) and Form PAS-3 (Return of Allotment).
- ❖ A company which has not complied with the requirements of this rule, or fails to comply with such requirement on or after the date of commencement of the Nidhi (Amendment) Rules, 2022, or in case the application submitted by the company in Form NDH-4 is or has been rejected by the Central Government, shall NOT raise any deposit from its members or provide any loan to its members under the provisions of these rules from the date of such non-compliance, or the date of commencement of the said rules, or the date of rejection of the application in Form NDH-4, whichever is later and any acceptance of deposits in contravention in shall be dealt **pursuant to Chapter V of the CA 2013 [i.e. Acceptance of deposits provisions of CA 2013 (S 73-76A)]**

(xxvii) Companies declared as Nidhis under previous company law to file Form NDH-4:- (Rule 23B)

- ❖ That every Nidhi company, which has been declared as Nidhi as per S 620A of CA 1956, shall file Form NDH-4 for updating its status of Nidhi within a period of 9 (nine) months of the commencement of Nidhi (Amendment) Rules, 2019 without any fee.
- ❖ Applicable companies not complying with this rule shall not be allowed to file Form No. SH-7 (Notice to Registrar of any alteration of share capital) and Form PAS-3 (Return of Allotment).

(xxviii) Penalty for non-compliances :-(Rule 24)

If a company falling under rule 2 contravenes any of the provisions of the rules prescribed herein, the company and every officer of the company who is in default shall be punishable with fine which may extend to Rs. 5000/- (Rs. five thousand), and where the contravention is a continuing one, with a further fine which may extend to Rs. 500/- (Rs. five hundred) for every day after the first during which the contravention continues.

3. Issues/challenges faced by Nidhi Companies:- :-

❖ A Nidhi company faces following major issues/challenges:-

- (i) Very stringent conditions for grant of License i.e. declaration;**
- (ii) NOF and deposit ratio is very low as promoters with Nidhi objectives find very difficult to raise capital and meet NOF criteria;**
- (iii) The maximum limit of 50% loan to the value of immovable property has disabling effect on Nidhi as it can not offer comparable loan conditions prevalent in the market segment;**
- (iv) Restriction on advertisement in any form causes disabling effect on its activities;**
- (v) Absolute restriction on solicitation of deposits or grant of loans limits the expansion of Nidhi;**
- (vi) Complete embargo on raising loans from any sources creates limitation and causes liquidity issue for a Nidhi at given time;**

- (vii) Burdensome process for opening of any branch outside the district where its registered office is situated;**
- (viii) Any non-compliances causes applicability of **Chapter V of the CA 2013 [i.e. Acceptance of deposits provisions of CA 2013 (S 73-76A)], which is** burdensome and catastrophic for a Nidhi Company;**
- (ix) Onerous conditions imposed on Auditors causes difficulties in finding suitable Auditors for Nidhi Companies and many existing auditors are reluctant to continue as auditors of the Nidhi Companies;**
- (x) Applicability of prudential norms on the lines of banks or NBFCs increases the cost of compliances and also causes difficulties for Nidhi Companies to ensure such compliances with limited resources & capabilities; and**
- (xi) That paralleling “Fit and Proper Person” criteria for directorships with banks and NBFCs limits its operational capacity due to lack of financial capability to remunerate eligible persons at par with banks and NBFCs.**

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