

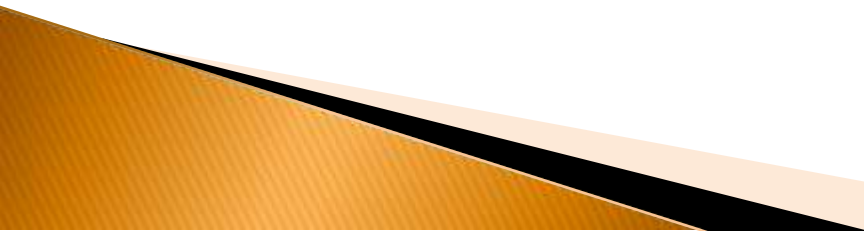
# LEX FAVIOS

## ADVOCATES & SOLICITORS

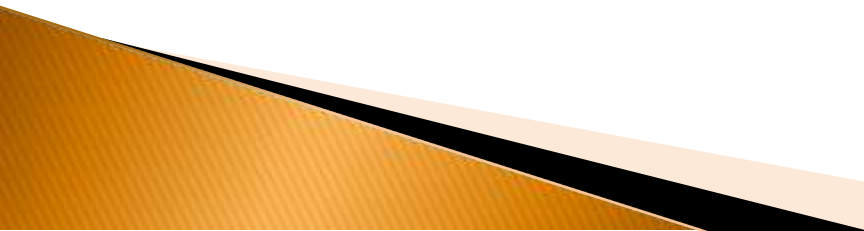
REGULATORY FRAMEWORK FOR NON-  
DEPOSIT TAKING HOUSING FINANCE  
COMPANIES




# KEY REGULATIONS

- ❑ Check out sections in MoA like association with partnership firms, branch office at abroad etc., which are required to be omitted. The letter forwarding CoR brings out certain conditions which need to be followed.
  - ❑ Check out for Master Circular or updated policy circulars /guidelines/notifications on NHB website
  - ❑ Check out for RBI Master Circular on NBFC (Deposit taking NBFCs, ND-SI, ND-NSI).
  - ❑ Check-out for borrowing powers (inclusive of deposits/public deposits) approved by AGM/Board which should be below the regulatory ceiling prescribed .
  - ❑ Directives from NHB and time lines on various submissions
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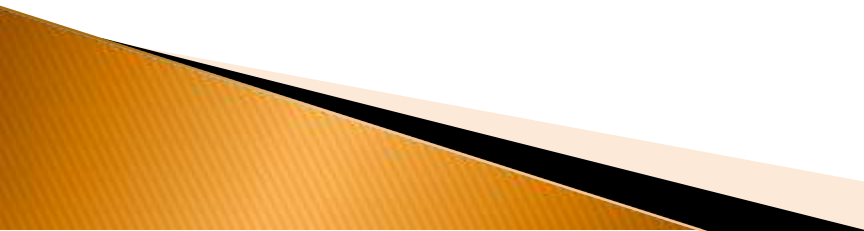
# What Constitutes Housing Loan

- ❑ Own/self construction /first purchase
  - ❑ Funding for 2nd unit considered as housing loan
  - ❑ Incremental housing (repairs/upgradation)
  - ❑ Housing boards/public/private developers for residential projects
  - ❑ Second sale
  - ❑ Plot loan with undertaking to complete construction within 3 yrs
  - ❑ Loan to corporate /govt (through loans for employee housing)
  - ❑ Refer illustrative list vide NHB Pol Cir 41 dated Sept 26, 2011
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# Funding Architecture for HFCs

- ❑ Owned Funds (equity and reserves)
  - ❑ Bank Borrowings
  - ❑ Non-convertible Bonds/Debentures (private placement)
  - ❑ NHB refinance (Affordable Housing Fund, Liquidity Infusion Facility)
  - ❑ Co-lending with Banks based on the premise of blending of lower cost of operations of HFC and low cost of funds of Bank, to finance PSL
  - ❑ Securitisation
  - ❑ Assignment (partial guarantee Scheme of GoI)
  - ❑ ECB or multilateral external borrowing (World Bank /IFC)
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# Transfer of Regulatory Powers to RBI

- ❑ Regulatory Powers under NHB Act transferred to RBI effective from 9.08.2019
  - ❑ That includes issuance of CoR, Prohibition and cancellation of CoR, Appeal
  - ❑ Directions/Notifications on deposit taking activities, prudential norms, maintenance of reserve fund , deployment of funds etc.
  - ❑ Auditors to furnish report on compliance to NHB and RBI both
  - ❑ Off-site and on-site supervisory powers to continue with NHB
  - ❑ Promotional and financial functions to stay with NHB
  - ❑ HFCs to comply with directions/guidelines/circulars issued by NHB or RBI
  - ❑ Present Regulations to hold till revised regulatory frame work is issued by RBI
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# Prudential Norms

- ▶ Income Recognition as per recognised accounting principles
- ▶ Accounting Standards as prescribed by ICAI
- ▶ Accounting for Investment as per Board approved Investment Policy
- ▶ Policy on Demand /Call loans
- ▶ Asset Classification and Provisioning
- ▶ Classification Provisioning
- ▶ Standard (Ind HL) 0.25%
- ▶ Standard (others) 0.4%
- ▶ Substandard up to 1 yr 15%

# Prudential Norms


- |  |                     |       |
|--|---------------------|-------|
| ▶ Doubtful (I)   | upto 1 yr           | 25%   |
| ▶ Doubtful (II)  | >1yr and upto 3 yrs | 40%   |
| ▶ Doubtful (III)   | >3 yrs              | 100%  |
| ▶ Loss assets  |                     | 100%  |
|  |                     |       |
| ▶ Standard at teaser rates   |                     | 2%    |
| ▶ Standard CRE(Res.)   |                     | 0.75% |
| ▶ Standard CRE(Non-Res)  |                     | 1%    |
|  |                     |       |
| ▶ No provision against loan guaranteed by Credit Risk Guarantee Fund Trust |                     |       |

# Loan to Value (LTV) Ratio


- ▶ No HFC shall grant housing loans to individuals:
  - a. upto Rs 30 lakh with LTV exceeding 90%
  - b. above 30 lakhs and upto 75 lakhs with LTV exceeding 80%
  - c. above 75 lakhs with LTV exceeding 75%
- ▶ CRE (RH) – integrated housing projects where commercial area/spaces does not exceed 10% of FAR/FSI of total project.



# Disclosures in balance sheet

- ▶ HFCs to make disclosure in balance sheet on category-wise asset classifications and provisioning separately for housing and non-housing portfolio
  - ▶ Depreciation in investment.
  - ▶ Disclosure on percentage of outstanding loans against collateral gold jewellery
  - ▶ Levy of penalty by NHB or any other Regulator
  - ▶ Adverse comments made in writing by NHB on regulatory compliance with a specific communication to disclose the same to the public.
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# Requirement as to Capital Adequacy

- ▶ To attain CRAR of (of tier I and II capital)
    - a. 13% by March 31, 2020
    - b. 14% by March 31, 2021
    - c. 15% by March 31, 2022 and thereafter
  - ▶ Maintain Tier I capital not less than 10%
  - ▶ Tier II capital not to exceed tier I capital at any point of time.
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# Concentration or credit/investment

No HFC shall

A. lend to

- i. any single borrower exceeding 15% of its NOF; and
- ii. Any single group of borrowers exceeding 25% of its NOF; and

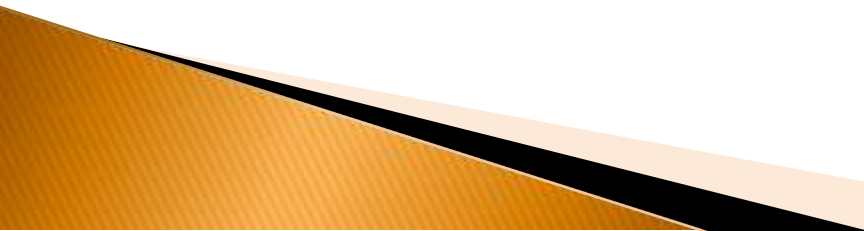
B. invest in

- i. the shares of another company exceeding 15% of its NOF; and
- ii. The shares of a single group of companies exceeding 25% of its NOF

C. lend and invest (together) exceeding

- i. 25% of its NOF to a single party; and
- ii. 40% of its NOF to a single group of parties

# Concentration or credit/investment

- ▶ Few exceptions
  - ▶ Given the overall ceilings, investment in shares of another company (other than subsidiary) shall not exceed 15% of equity capital of investee company
  - ▶ Investment in share of insurance company shall be guided by specific approval of NHB
  - ▶ Ceiling on investment shall not apply to investment in shares of subsidiaries, companies in the same group to the extent they have been reduced from the owned funds for calculation of NOF. Further,
  - ▶ Book value of debentures, bonds, outstanding loan and advances (including hire purchase and lease finance) made to and deposits with subsidiaries and companies in the same group to the extent they have been rounded off from owned funds in computation of NOF.
  - ▶ Off balance sheet exposure to be reckoned for concentration norms after applying the conversion factors.
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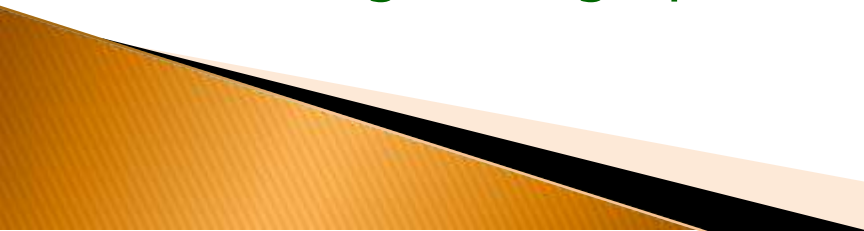
# Restructured/rescheduled loans

- ▶ Where terms of loan regarding interest and/or principal re-negotiated or rescheduled after release of any instalment of loan or ICDs which have been rolled over shall remain substandard until the expiry of 1 yr of satisfactory performance under re-negotiated or rescheduled terms.
- ▶ Where delay in completion of project is caused by external factors beyond the control of project implementation agency and such re-negotiation in terms of loan is granted once before the completion of the project after the approval of the Board . Such loans would be treated standard asset provided interest on such loan is paid regularly and there is no default.
- ▶ Provided where natural calamities impair the repayment capacities of borrower and such loans if reschedule in terms in interest and /or principal, shall not be treated sub-standard.

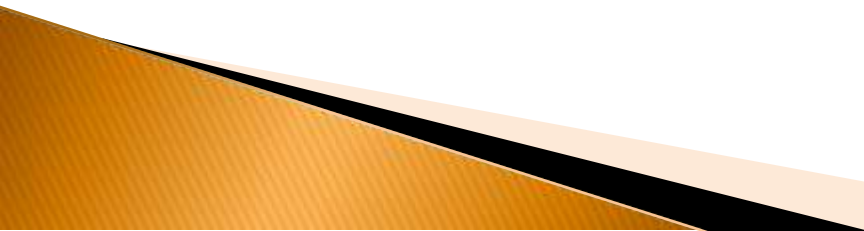
# Restrictions on Investment in real estate, exposure to capital market and engagement of brokers

- ▶ Investment in land and Building – Investment in land and building (only for its own use) not exceeding 20% of HFCs capital fund
- ▶ Of the above, 10% of own fund should be invested only in residential units
- ▶ Exposure to capital Market – Both fund and non-fund based exposure not to exceed 40% of Net worth as of 31<sup>st</sup> March of the previous year
- ▶ Of the above – direct investment in shares, convertible bonds/debentures/units of equity oriented MFs and AIFs should not exceed 20% of its networth.
- ▶ Components of capital markets include – direct investment in equity shares/convertible bonds/debentures/advances against shares /bonds taken as primary/collateral security, etc (for details refer para 31(2) of NHB Directions)

# Investment through brokers


- ▶ Transactions should not be put through brokers account
  - ▶ Role of brokers restricted to bringing the parties together
  - ▶ Settlement /negotiations /deal contract should be between parties
  - ▶ Deals through approved brokers
  - ▶ Total transaction value per broker should not exceed 5% of total transactions (both purchase and sale) in a year.
  - ▶ Above norms would not be applicable where total transactions in a year do not exceed Rs.20 cr or HFCs dealing through primary dealers.
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# Miscellaneous

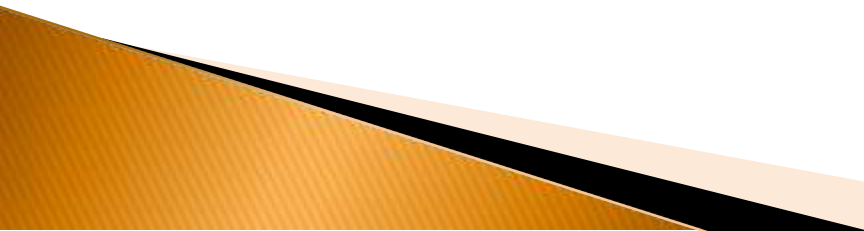
- ▶ Housing Finance Companies not to be partners in partnership firms , LLPs etc.
  - ▶ Opening of branches – prior intimation to NHB, no branch office outside India
  - ▶ Loans against HFC's own shares prohibited
  - ▶ Loans for purchase of gold etc., prohibited.
  - ▶ Copies of balance sheet and accounts together with Director's report to be furnished to NHB
  - ▶ Returns /statements to be furnished to NHB, as applicable.
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# Directions recently issued

- ▶ Issuance of Non-Convertible Debentures on Private Placement
  - ▶ Approval of Acquisition or Transfer of Control
  - ▶ Directions to Auditors
  - ▶ Corporate Governance
- 


# Issuance of NCDs on private placements

- ▶ Instrument should have minimum credit rating of moderate degree and safety regarding timely servicing of financial obligations.
  - ▶ Maturity of instrument not less than 12 months
  - ▶ Call/put option should not fall within one year
  - ▶ No roll over is permitted
  - ▶ Tenor of debt instrument should not exceed the validity period of rating
  - ▶ Max no of subscribers in a year not to exceed 200 with max subscription per subscriber less than 1 cr and shall be fully secured.
  - ▶ No limit on number of subscriber with min subscription of Rs.1 cr and above with the option to create security .
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# Acquisition or Transfer of Control

- ▶ Applicable to every registered HFC;
- ▶ Prior approval of NHB is required;
  - any takeover or acquisition of control of HFC , which may or may not result in change of management
- any change (including progressive) in shareholding resulting 26% or more
- any change in management which would result in change of more than 30% of the directors exc independent directors
- ▶ Requirement of 'Public Notice' of intention of HFC 30 days before such acquisition or transfer of control;
- ▶ NHB reserve the right to review the grant of permission to accept public deposits in cases of acquisition or transfer of control of HFCs holding CoR valid for accepting public deposits
- ▶ Information of proposed promoters/Directors/Shareholders and corporate promoters along with its application.

# Auditor's Report

- ▶ Applicable to every Auditor of a HFC;
  - ▶ Additional report in addition to section 143 of Companies Act, 2013;
  - ▶ It is an obligation of an Auditor to follow the instructions contained in the Directions and made unfavourable or qualified statements, if any.
  - ▶ The provisions of Chapter IV of the Housing Finance Companies (NHB) Directions, 2010 shall stand repealed by these Directions.
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# Corporate Governance

- ▶ Applicable to every non-public deposit accepting HFC with assets size of 50 crore and above, as per the last audited balance sheet, and all public deposit accepting / holding HFCs;
  - ▶ Fit & Proper Criteria for Directors to be followed (for existing as well as new);
  - ▶ Quarterly Statement on Change of Directors;
  - ▶ A certificate of MD of HFC that fit and proper criteria in selection of the directors has been followed;
  - ▶ Disclosures in Annual Report & maintain transparency.
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# Policy Circulars

SN	Circular Issued on	Circular No. & Date
1	Submission of Credit Information to Credit Information Companies	Policy Circular No.84 dated 06-12-2017
2	Aadhaar based e-KYC through OTP / Biometric Authentication	Policy Circular No.85 dated 08-12-2017
3	Valuation of Properties - Empanelment of Valuers	Policy Circular No.86 dated 29-12-2017
4	Submission of Financial Information to Information Utilities	Policy Circular No.87 dated 06-02-2018

# Submission of Credit Information to Credit Information Companies

- ▶ It has been brought to the notice of the National Housing Bank that several HFCs have not submitted credit information for the month of June 2017 (updated upto September, 2017) to the CICs.
  - ▶ HFCs are, hereby, once again advised to ensure submission of the requisite information to all CICs on a monthly or more frequent basis.
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# Valuation of Properties – Empanelment of Valuers


- ▶ Valuation of properties by the Internal Technical Valuers of HFCs is permissible subject to the internal technical valuer having qualifications similar to those prescribed under the Companies (Registered Valuers and Valuation) Rules, 2017.
- ▶ Two valuation reports, at least one of them being from an independent valuer, in case the loan amount is ₹50 lakh or above (or such any other lower value as may be decided by the Board of the Company) and below ₹75 lakh. The lower of the two valuations shall be considered by the HFC for deciding upon the loan amount.

Continued...






# Valuation of Properties – Empanelment of Valuers

- ▶ In case the loan amount is ₹75 lakh or above, HFCs shall necessarily obtain minimum two independent valuation reports and the lower of the two shall be considered by the HFC for deciding upon the loan amount.
  - ▶ The frequency of valuation in case of Non-Performing Asset (NPA) shall be annual in case of assets classified as sub-standard for more than six months or the classification of assets as doubtful assets.
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# Submission of Financial Information to Information Utilities

- ▶ According to Section 215 of Insolvency and Bankruptcy Code (IBC), 2016, a financial creditor shall submit financial information and information relating to assets in relation to which any security interest has been created, to an information utility (IU) in such form and manner as may be specified by regulations.
  - ▶ All HFCs registered with the National Housing Bank are advised to adhere to the relevant provisions of IBC, 2016 and IBBI (IUs) Regulations, 2017 and immediately put in place appropriate systems and procedures to ensure compliance to the provisions of the Code and Regulations.
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# Returns Submitted by HFCs

SN	Name of the Return	Periodicity	Reference Date	Reporting Time	Due on	Who are supposed to file the Return
1	Annual Return in Schedule-I	Annual	31 <sup>st</sup> March	3 Months	30 <sup>th</sup> June	All HFCs
2	Half yearly Return in Schedule -II	Half Yearly	31 <sup>st</sup> March/30 <sup>th</sup> Sept/	6 Weeks	12 <sup>th</sup> May/ 12 <sup>th</sup> Nov	All HFCs
3	Quarterly Return in Schedule III	Quarterly	31 <sup>st</sup> March/ 30 <sup>th</sup> June/ 30 <sup>th</sup> Sept/ 31 <sup>st</sup> Dec	15 days	15 <sup>th</sup> April/ 15 <sup>th</sup> July/ 15 <sup>th</sup> Oct/ 15 <sup>th</sup> Jan	Accepting/ holding public deposits or having asset size of more than ₹100 Crore (Covers 45 HFCs)
4	Statement of Short Term Dynamic Liquidity (ALM)	Quarterly	31 <sup>st</sup> March/ 30 <sup>th</sup> June/ 30 <sup>th</sup> Sept/ 31 <sup>st</sup> Dec	10 Days	10 <sup>th</sup> April/ 10 <sup>th</sup> July/ 10 <sup>th</sup> Oct/ 10 <sup>th</sup> Jan	Having Assets size of more than INR 1 Billion or holding Public Deposits of more than ₹20 Crore (Covers 43 HFCs)
5	Statement of Structural Liquidity and Statement of Interest Rate Sensitivity	Half Yearly	31 <sup>st</sup> March/ 30 <sup>th</sup> Sept	20 Days	20 <sup>th</sup> April/ 20 <sup>th</sup> Oct	Having Assets size of more than INR 1 Billion or holding Public Deposits of more than ₹20 Crore (Covers 43 HFCs)

## Coverage of Returns

SN	Return	Converge
8	HFC 10 Major Exposures To Corporates/Companies/Other Entities etc.	HFC's Top 10 Exposure to Non-Individuals such as loans to Builders, Corporates etc.
9	Loans under SARFAESI Act, 2002	No. of Notices Issued, Amount Involved, Amount Recovered and Cases where stay has been granted by DRT/DRAT
10	Details of Key Officials	Details of Key Officials, Details of statutory auditors, State wise no. of branches, Details of branches

## Returns Submitted by HFCs

SN	Name of the Return	Periodicity	Reference Date	Reporting Time	Due on	Who are supposed to file the Return
6	Return on Liabilities and Assets of Large HFCs	Quarterly	31 <sup>st</sup> March/ 30 <sup>th</sup> June/ 30 <sup>th</sup> Sept/ 31 <sup>st</sup> Dec	15 Days	10 <sup>th</sup> April/ 10 <sup>th</sup> July/ 10 <sup>th</sup> Oct/ 10 <sup>th</sup> Jan	Having outstanding Public Deposits of more than ₹20 Crore (Covers 11 HFCs)
7	Quarterly Return on 10 Major exposures to Corporates/ Companies/ Builders/ Other entities etc.	Quarterly	31 <sup>st</sup> March/ 30 <sup>th</sup> June/ 30 <sup>th</sup> Sept/ 31 <sup>st</sup> Dec	15 Days	10 <sup>th</sup> April/ 10 <sup>th</sup> July/ 10 <sup>th</sup> Oct/ 10 <sup>th</sup> Jan	All HFCs
8	Return on Loans under SARFAESI Act, 2002	Quarterly	31 <sup>st</sup> March/ 30 <sup>th</sup> June/ 30 <sup>th</sup> Sept/ 31 <sup>st</sup> Dec	5 Days	5 <sup>th</sup> April/ 5 <sup>th</sup> July/ 15 <sup>th</sup> Oct/ 5 <sup>th</sup> Jan	HFCs notified under SARFAESI Act, 2002 (covers 61 HFCs)
9	New Monthly Return	Monthly	End of every Month	15 Days	15 <sup>th</sup> of next Month	All HFCs
10	Details of key Officials	Yearly	31 <sup>st</sup> March	30 Days	30 <sup>th</sup> April	All HFCs

# Returns Submitted by HFCs

SN	Return	Converge
1	Schedule I (Annual Return)	Financial/Business Parameters like Company details, Net Owned Funds, Public Deposits, Borrowings, Slab/State wise Disbursements, Outstanding Housing Loans, Investment etc.
2	Schedule II (Half Yearly Return)	Prudential Norm Return– Net Owned Funds, CRAR, Risk Weighted Assets, Provisioning, Exposure etc.
3	Schedule III (Quarterly Return)	Statutory Liquid Assets Return– Public Deposits, SLR requirement and maintenance, rating, CAR, NOF etc.
4	ALM Returns (Short Dynamic Liquidity)	To assess ALM system of HFC
5	ALM Returns (Interest Rate and Structural Liquidity Sensitivity)	To assess ALM system of HFC
6	Monthly Return	HFCs Major Parameters such as' Loan Sanctions, Loan Disbursements, Loan Outstanding, Public Deposits, Borrowings, GNPA, NNPA and Interest Rate Structure
7	Assets and Liabilities of Large Housing Finance Companies Return	<p><u>Liabilities:</u> Paid up Capital, Free Reserve, Public Deposits, Borrowings and Other Liabilities in India and Outside India</p> <p><u>Assets:</u> Investments,. Loans and Advances and Other Assets in India and Outside India</p>

# OVERVIEW OF NON-CONVERTIBLE DEBENTURES (NCD)

- ❑ Non-convertible debentures fall under the debt category. They cannot be converted into either equity or stocks.
- ❑ They benefit investors with their supreme returns, liquidity, low risk and higher tax benefit when compared to that of convertible debentures.

# **CONTACT**

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