Public ltd companies to find it tougher to go private

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- **Corporate affairs ministry issued a notification amending the Companies (Incorporation) Amendment Rules of 2014, withdrawing a provision that provided for deemed approval if the authorized government official did not reject the application or seek re-submission within 30 days.**

Public limited companies will find it harder to convert into private limited firms in the days to come, with the government tightening rules that permit such a change.

The Union corporate affairs ministry on Monday issued a notification amending the Companies (Incorporation) Amendment Rules of 2014, withdrawing a provision that provided for deemed approval if the authorized government official did not reject the application or seek re-submission within 30 days.

Private limited companies face caps on the number of shareholders and cannot issue shares to the public, but enjoy fewer compliance and disclosure requirements. Withdrawal of the deemed approval process in spite of the government's emphasis on ease of doing business shows the intent to ensure that conversion into private limited companies does not become an automatic process given compliance and disclosure relief enjoyed by private limited companies.

The new rules also change the way applications are handled when any stakeholder makes an objection to such a conversion. Here, too, the provision for deemed approval after a month of hearing the dissenting parties has been withdrawn.

From now, in case of an objection from a stakeholder, the regional director attached to the ministry can approve the conversion provided the status change does not affect the interests of the company or is not meant to avoid complying with the provisions of company law.

Also, the effort is to ensure that only genuine cases get approval when there is no consensus among stakeholders for conversion into a private limited company. The ministry wants to be doubly sure about granting clearance as the decision currently rests with the executive after an earlier amendment shifted it from the National Company Law Tribunal.

The conversion of Tata Sons Ltd, the holding company of the Tata group, from a public to private limited company became controversial in 2017 after the Mistry family, which owns 18.4% in Tata Sons, opposed the decision as it would restrict the family from selling its stake to outsiders. The move also allowed Tata Sons to do away with the need to take shareholder consent for crucial decisions. An email seeking comments from Tata Sons on the merits of the notification and the company's change in status remained unanswered till press time.

Experts said the change will ensure better corporate governance. "Many public limited companies have got converted to private limited companies in the past. The government's intent is to make sure that the interests of all stakeholders are protected, and companies do not get away with side-stepping compliance requirements," said Amarjit Chopra, a former president of accounting rule maker the Institute of Chartered Accountants of India.

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Making Corporate India Comply

India has more than 1.3 million active companies, of which over 1.2 million are private limited entities and over 65,000 are public limited companies. Only around one-tenth of all public limited companies are listed. For a private limited or closely held entity to get listed, it has to first become a public limited one.