



Action Plan on 'Startup India'

Background

In order to build a strong ecosystem for nurturing innovation and start-ups in the country that can drive sustainable economic growth and generate large scale employment, the Prime Minister of India has recently launched the 'Startup India'¹ initiative. This initiative is part of the 19 points Action Plan through which the government aims to empower start-ups to grow through innovation and design.

This Action Plan shall accelerate the spreading of the start-up movement across:

- The digital/technology sector to a wide array of sectors including agriculture, manufacturing, social sector, healthcare, education, etc.; and
- Existing tier I to tier II and tier III cities including semi-urban and rural areas.

¹ Startup means an entity, incorporated or registered in India not prior to five years, with the annual turnover not exceeding INR25 crore in any preceding financial year, working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property. Provided that such entity is not formed by splitting up, or reconstruction, of a business already in existence.

The Action Plan (i.e. Proposed Schemes and Incentives) is divided across the following areas:

1. Simplification and Handholding
2. Funding Support and Incentives
3. Industry-Academia Partnership and Incubation

The Action Plan: Proposed Schemes and Incentives

1 Simplification and Handholding

1.1 Compliance Regime based on Self-Certification

In order to make compliance for start-ups friendly and flexible, simplifications are required in the regulatory regime.

Accordingly, start-ups shall be allowed to self-certify compliance (through the start-up mobile app) with nine labour and environment laws. In the case of the labour laws, no inspections will be conducted for three years. Startups may be inspected on receipt of the credible and verifiable complaint of a violation, filed in writing and approved by at least one level senior to the inspecting officer.

In the case of environment laws, start-ups which fall under the 'white category'², would be able to self-certify compliance, and only random checks would be carried out in such cases.

1.2 Start-up India Hub

The objective is to create a single point of contact for the entire start-up ecosystem and enable knowledge exchange and access to funding. The Government of India is expected to launch 'Startup India Hub' which is likely to be a key stakeholder in this vibrant ecosystem and may:

- Work in a 'hub and spoke' model and collaborate with central and state governments, Indian and foreign VCs, banks, legal partners, universities, R&D institutions, etc.
- Assist start-ups through their lifecycle with specific focus on obtaining financing, feasibility testing, business structuring advisory, etc.
- Organise mentorship programmes in collaboration with government organisations, educational institutions, etc. to foster innovation.

1.3 Rolling-out of the Mobile App and the Portal

The objective of rolling-out of the mobile app and the portal is to serve as a single platform for start-ups for interacting with the government and regulatory bodies.

Towards these efforts, the government shall introduce a mobile app to provide on-the-go accessibility, inter alia, for:

- Backend integration with the Ministry of Corporate Affairs and Registrar of Firms for smooth information exchange and processing of the registration application.
- Tracking the status of the registration application and anytime downloading of the registration certificate.

- Filing for compliances and obtaining information on various clearances, approvals, etc. required
- Collaborating with various start-up ecosystem partners.
- Applying for various schemes being undertaken under the Startup India Action Plan

The app shall be made available from 1 April 2016 on all leading mobile/smart devices' platforms.

1.4 Legal Support and Fast-tracking Patent Examination at Lower Costs

The objective is to promote adoption and commercialisation of Intellectual Property Rights (IPRs) by start-ups by providing access to high-quality intellectual property services and resources, including fast-track examination of patent applications and rebate in fees.

The scheme for Startup Intellectual Property Protection (SIPP) shall facilitate the filing of patents, trademarks and designs by innovative start-ups. Various measures, inter alia, being taken in this regard include:

- The patent application of start-ups shall be fast-tracked for examination and disposal.
- A panel of 'facilitators' shall be empanelled by the Controller General of Patents, Designs and Trademarks (CGPDTM), who shall also regulate their conduct and functions. Facilitators will be responsible for providing general advisory on different IPRs as also information on protecting and promoting IPRs in other countries.
- The Central Government shall bear the entire fees of the facilitators for any number of patents, trademarks or designs that a start-up may file, and they shall bear the cost of only the statutory fees payable.
- Startups shall be provided an 80 per cent rebate in the filing of patents vis-à-vis other companies.

The scheme is being launched initially on a pilot basis for one year; based on the experience gained, further steps shall be taken.

² As defined by the Central Pollution Control Board

1.5 Relaxed Norms of Public Procurement for Start-ups

The objective is to provide an equal platform to start-ups (in the manufacturing sector) vis-à-vis the experienced entrepreneurs/companies in public procurement

In order to promote start-ups, the government shall exempt start-ups (in the manufacturing sector) from the criteria of 'prior experience/turnover' without any relaxation in quality standards or technical parameters. The start-ups will also have to demonstrate the requisite capability to execute the project as per the requirements and should have their manufacturing facility in India.

1.6 Faster Exit for Startups

The objective is to make it easier for start-ups to wind up operations.

The Insolvency and Bankruptcy Bill 2015 ('IBB'), tabled in the Lok Sabha in December 2015 has provisions for fast track and / or voluntary closure of businesses. The IBB, inter alia, provides for the following:

- Start-ups meeting such criteria as may be specified may be wound up within a period of 90 days from making an application for winding up on a fast track basis.
- In such instances, an insolvency professional shall be appointed for the start-up, who shall be in charge of the company.
- On the appointment of the insolvency professional, the liquidator shall be responsible for the swift closure of the business, the sale of assets and repayment of creditors in accordance with the distribution waterfall set out in the IBB.

2 Funding Support and Incentives

2.1 Providing Financial Support through a Fund of Funds

The objective is to provide funding support for development and growth of innovation-driven enterprises.

In order to provide funding support to startups, the government is expected to set up a fund with an initial corpus of INR25 billion and a total corpus of INR100 billion over a period four years (i.e. INR25 billion per year). The fund will be in the nature of fund of funds, which means that it will not invest directly into start-ups, but shall participate in the capital of SEBI registered Venture Funds.

Key features of the fund of funds are highlighted below:

- The fund of funds shall be managed by a board with private professionals drawn from industry bodies, academia, and successful start-ups
- Life Insurance Corporation (LIC) shall be a co-investor in the fund of funds
- The fund of funds shall contribute to a maximum of 50 per cent of the stated daughter fund size. The fund of funds shall have representation on the governance structure/board of the venture fund based on the contribution made.
- The fund shall ensure support to a broad mix of sectors.

2.2 Credit Guarantee Fund for Start-ups

The objective is to catalyse entrepreneurship by providing credit to innovators across all sections of society.

Debt funding to start-ups is also perceived as a high-risk area and to encourage banks and other lenders to provide Venture Debts to start-ups, credit guarantee mechanism through National Credit Guarantee Trust Company (NCGTC)/ SIDBI is being envisaged with a budgetary Corpus of INR500 crore per year for the next four years.

2.3 Tax Exemption on Capital Gains

The objective is to promote investments into start-ups by mobilising the capital gains arising from the sale of capital assets.

With this objective, the exemption shall be given to persons who have capital gains during the year, if they have invested such capital gains in the fund of

funds recognised by the government. This initiative may augment the funds available to various VCs/AIFs for investment in start-ups.

In addition, existing capital gain tax exemption for investment in newly formed manufacturing Micro, Small and Medium Enterprises (MSMEs) by individuals shall be extended to all start-ups. Currently, such an entity needs to purchase 'new assets' with the capital gain received to avail such an exemption. Investment in 'computer or computer software' (as used in core business activity) shall also be considered as the purchase of 'new assets' to promote technology-driven start-ups.

2.4 Tax Exemption to Startups for three years

The objective is to promote the growth of start-ups and address working capital requirements.

With a view to stimulating the development of start-ups, its profits should be exempted from income tax for three years. This fiscal exemption shall facilitate the growth of business and meet the working capital requirements during the initial years of operations. The exemption shall be available subject to non-distribution of dividend by the start-up.

2.5 Tax Exemption on Investments above Fair Market Value

The objective is to encourage seed-capital investment in start-ups.

Under the Income Tax Act, 1961 (the Act), where a start-up (company) receives any consideration for issue of shares which exceeds the Fair Market Value (FMV) of such shares, such excess consideration is taxable in the hands of a recipient as 'Income from Other Sources'.

Where the idea is at a development stage, FMV may be significantly lower than the value at which the capital investment is made. This results in the tax being levied under Section 56(2)(viib) of the Act.

Currently, investment by venture capital funds in start-ups is exempted from operations of this provision. The same shall be extended to the investment made by incubators in the start-ups.

2.6 Other conditions

A start-up shall be eligible for tax benefits only after it has obtained certification from the Inter-Ministerial Board set-up for such purpose.

3 Industry-Academia Partnership and Incubation

3.1 Organising start-up Fests

The objective is to galvanise the start-up ecosystem and to provide it with national and international visibility.

To bolster the start-up ecosystem in India, the government is proposing to introduce start-up fests at national and international stages. The fests shall have activities such as sessions to connect with investors, mentors, incubators and start-ups, showcasing innovations, exhibitions and product launches, etc.

3.2 Launch of Atal Innovation Mission

The objective is to serve as a platform for promotion of leading innovation hubs and, start-up businesses and other self-employment activities, particularly in technology-driven areas

The Atal Innovation Mission (AIM) shall have two core functions:

- Entrepreneurship promotion through Self-Employment and Talent Utilisation (SETU), wherein the innovators would be supported to become successful entrepreneurs
- Innovation promotion: to provide a platform where innovative ideas are generated

3.3 Harnessing Private Sector Expertise for Incubator Setup

The government is expected to create a policy and framework for setting-up of incubators across the country in a public-private partnership.

Accordingly, the government shall encourage setting up of;

- For new incubators in existing institutions, funding support shall be provided by central government, state government and the private sector.

- For new private sector incubators, a grant shall be provided by the central government for incubators established in existing institutions.

In both these settings, the incubator shall be managed and operated by the private sector.

NITI Aayog shall provide the funding for setting up of the Incubators Ayog as part of Atal Innovation Mission.

3.4 Building Innovation Centres at National Institutes

The objective is to propel successful innovation through augmentation of incubation and R&D efforts.

In order to augment the incubation and R&D efforts in the country, the government will set up/scale up new centres of innovation and entrepreneurship at national institutes.

3.5 Setting up of New Research Parks

The objective is to propel successful innovation through incubation and joint R&D efforts between academia and industry. The government shall set up seven new research parks, based on the research park setup at IIT Madras, in certain institutes with an initial investment of INR100 crore each.

3.6 Promoting Startups in the Biotechnology Sector

The objective is to foster and facilitate bio-entrepreneurship.

In order to promote start-ups in the biotechnology sector, the Department of Biotechnology shall be implementing the following measures along with its Public Sector Undertaking Biotechnology Research Assistance Council (BIRAC):

- New Bio-clusters, Bio-Incubators, Technology Transfer Offices and Bio-Connect offices, will be set up in research institutes and universities across India

- Biotech Equity Fund in partnership with National and Global Equity Funds will provide financial assistance to young Biotech start-ups

- Encouraging and leveraging global partnerships

3.7 Launching of Innovation Focussed Programmes for Students

The objective is to foster a culture of innovation in the field of Science and Technology amongst students.

In order to promote research and innovation among young students, the government shall implement the following measures:

- Innovation core: This programme shall be initiated to target school kids.
- NIDHI: A grand challenge programme ('National Initiative for Developing and Harnessing Innovations') shall be instituted through Innovation and Entrepreneurship Development Centres (IEDCs) to support and award student innovations from IEDCs.
- Uchhattar Avishkar Yojana: A joint Ministry of Human Resources Development – Department of Science & Technology scheme shall be devised towards fostering 'very high quality' research amongst IIT students.

3.8 Annual Incubator Grand Challenge

The objective is to support the creation of effective, well-equipped incubators in India.

In order to build an effective start-up ecosystem, the government is proposing to make forward-looking investments towards building effective, well-equipped incubators. These incubators would be given INR100 million each as financial assistance which may be used for ramping up the quality of service offerings. An 'Incubator Grand Challenge' exercise shall be annually carried out for identification of these incubators.

Our comments

'Start-up India' is a welcome initiative which can act as an effective instrument for India's transformation through start-ups, technology and innovation. This transformation can encourage entrepreneurship among the youth of India and turn them from jobseekers to job-creators.

Amongst the many incentives bestowed through this initiative, key ones for start-ups include, exemption from paying income tax on their profit for the first three years, a simple exit policy, fast-tracking of the patent applications, 80 per cent exemption in patent fee, self-certification based compliance system, etc. Also, this plan is intended to put start-ups on a level playing field with the MSMEs, and a fund worth INR100 billion shall be created for the same.

A tax and regulatory friendly environment created through this initiative, may bring new investments in India, and accelerate its economic growth. It will be worthwhile to watch out for these incentives becoming a part of the Act, probably, in the coming budget.

The government's action plan has come at a time when the Indian economy is in need of fresh capital, better regulatory environment and co-operative attitude of the relevant departments, and therefore if implemented in true spirit, it can place India on a high growth trajectory.



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