Startup India – Action Plan

January 18, 2016

In brief
Prime Minister Shri Narendra Modi unveiled an Action Plan for Startups on 16 January, 2016 highlighting various initiatives and schemes being proposed by the Government of India to build a strong eco-system for nurturing innovation and empowering Startups in the country. The Action Plan proposes a 19-point action list which will enable setting up of incubation centres, easier patent filing, tax exemption on profits, setting up a Rs.10,000 crore corpus fund, ease of setting-up of business, a faster exit mechanism, among others.

In detail
The Department of Industrial Policy and Promotion (DIPP) conducted an event on 16 January, 2016 which aimed at celebrating the entrepreneurial spirit of India’s youth. The event was a day-long workshop attended by notable persons from the Startup community. The closing session was addressed by Shri Narendra Modi, Prime Minister of India, who unveiled the Startup India Action Plan.

Key Highlights
The Action Plan is an initiative of the Government of India to build a strong eco-system for nurturing innovation in order to accelerate economic growth and generate employment opportunities.

For this purpose, “Startup” has been defined to mean an entity incorporated or registered in India, with an annual turnover not exceeding Rs.25 crore in any preceding financial year, and working towards innovation, development of new products, or services driven by technology or intellectual property.

Additionally, it has been provided that the entity:
- should not be formed by splitting up, or reconstruction, of a business already in existence;
- shall cease to be a Startup if its turnover exceeds Rs.25 crore in any preceding financial year, or it has completed 5 years from the date of incorporation/ registration.
- will be eligible for tax benefits only after a certificate is obtained from the Inter-Ministerial Board set up by the DIPP for this purpose.

The key proposals of the Action Plan are:

General Initiatives
Compliances based on Self-Certification
- Compliance pertaining to 6 labour and 3 environmental laws will be allowed to be self-certified through the Startup mobile app.
- No inspections will be carried out under labour laws for a 3 year period.

- Startups classified as White Category as defined by the Central Pollution Control Board will be allowed self-certification under environmental laws, with only random checks proposed.

Startup India hub
- Government to set up a Startup India Hub which will be a single-point of contact for Startups.
- Such hub will enable knowledge exchange by collaborating with various stakeholders such as the Central and State Governments, legal partners, consultants, universities, R&D institutions and assist in the funding process.

Establishment of Fund of Funds with a corpus of Rs.10,000 crore
- Government to set up a Fund with an initial corpus of Rs.2,500 crore and a total corpus of Rs.10,000 crore over a period of 4 years.
- Such Fund will not invest into Startups directly, but shall participate in the
capital of SEBI registered Venture Funds.

- Such Fund will be managed by a Board with private professionals drawn from industry bodies, academia, and successful Startups.

- The Venture Fund may obtain up to a maximum of 50% of the fund size from the Fund of Funds, provided it has already raised the balance 50% of the stated fund size.

Credit Guarantee Fund for Startups

- Credit Guarantee Fund aims to catalyse entrepreneurship through credit to innovators across all sections of society.

- The Credit Guarantee mechanism shall be rolled out through the National Credit Guarantee Trust Company/ SIDBI with a budgetary corpus of Rs.500 crores per year for the next 4 years.

Startup fests

- Introduction of Startup fests to bolster the Startups ecosystem and provide a platform to showcase ideas and work with a larger audience.

- As a part of the “Make in India” initiative, the Government proposes to hold one fest at the national level and one fest at the international level in an international city on an annual basis.

- Such fests would help in showcasing innovation and provide a platform for collaboration thereby connecting with investors, mentors, incubators, exhibitions, product launches, etc.

Launch of Atal Innovation Mission (“AIM”)

AIM proposes to promote entrepreneurship through Self- Employment and Talent Utilization (“SETU”), wherein innovators would be supported and mentored to become successful entrepreneurs. This would be achieved through:

- Establishment of sector specific incubators;
- Establishment of 500 tinkering labs;
- Pre-incubation training
- Strengthening of existing incubation facilities;
- Seed funding to high growth startups.

AIM also proposes to promote innovation through:

- Institution of innovation awards (3 per State/UT and 3 at National level);
- Providing support to State Innovation Councils for awareness creation and organizing state level workshops/conferences;
- Launch of Grand Innovation Challenge Awards for finding low cost solution to India’s pressing problems.

Set up of Incubators

- To leverage private sector expertise in the set-up of incubators, it is proposed that 35 new incubators be set up in existing institutions.

- Funding support of 40% (subject to a maximum of Rs.10 crore) is proposed to be provided by the Central Government for establishment of new incubators in existing institutions; balance funding to be committed by the respective State Government and private sector.

- 35 new private sector incubators will also be set up with a grant of 50% (subject to a maximum of Rs.10 crore) provided by the Government.

Innovation centres

- In order to augment incubation and R&D efforts, 31 centres of Innovation and entrepreneurship will be set-up/ scaled up for providing facilities to over 1,200 Startups, at national institutes.

- These 31 centres will include 13 Startup centres and 18 technology business incubators to be set up/ scaled up at IIMs/ NITs/ IITs.

Research Parks

- 7 new research parks are proposed to be set up with an initial investment of Rs.100 crore each.

- These parks shall enable companies with a research focus to set up base and leverage the expertise of academic/ research institutions.

Promote entrepreneurship in biotechnology

- 5 new bio clusters, 50 new bio incubators, 150 technology transfer offices and 20 bio connect offices will be established though Biotechnology Research Assistance Council (BIRAC).

- Biotech Equity Fund – would be set up in partnership with National and Global Equity Funds to provide financial assistance to young Biotech Startups.

Innovation focused programs for students

- Innovation core program shall be initiated to target school kids with an outreach to 10 lakh innovations from 5 lakh schools. Further, 10,000 innovations will be provided prototyping support and the top 100 would be showcased at the Annual Festival of Innovations at the Rashtrapati Bhavan.
A Grand Challenge Program – NIDHI (National Initiative for Developing and Harnessing Innovations) to be initiated to support and award Rs.10 lakhs to 20 student innovations from Innovation and Entrepreneurship Development Centres.

Uchhattr Avishkar Yojana scheme will have an earmarked fund Rs.250 crore per annum towards fostering “very high quality” research amongst IIT students.

Annual Incubator Grand Challenge

In order to assist in building world class incubators, the Government proposes to initially identify and establish 10 incubators with financial assistance of Rs.10 crore each.

Further, an annual “Incubator Grand Challenge” will be held to identify incubators who can become world class.

Regulatory

Mobile App and Portal

A Mobile App and Portal would be launched by 1 April, 2016 to provide on-the-go accessibility for:

- Registration of Startups through a simple form and obtaining certificate.
- Filing of compliances and obtaining information on various clearances/approvals/registrations.
- Provision of a platform for collaborating with other stakeholders such as venture funds, incubators, academia, mentors etc.
- Applying for various schemes of the Government under the Startup India initiative.

Faster Exit for Startups

- The Insolvency and Bankruptcy Bill 2015 (“IBB”), will allow fast track and/or voluntary closure of businesses.
- Startups satisfying the specified conditions of the IBB will be allowed to be wound up in 90 days on a fast track basis.
- Such a wind up will be carried out by an Insolvency Professional who will be in charge of the company and oversee the liquidation process.

Legal support and fast-tracking patent application

Startup Intellectual Property Protection (SIPP) scheme will be introduced on a pilot basis for a one year period to facilitate filing of Patents, Trademarks and Designs. The scheme would include:

- Fast-tracking patent application.
- Setting up a panel of “Facilitators” who will advise on different Intellectual Property Rights (“IPR”) and also provide advice on promoting and protection of IPRs in overseas jurisdictions.
- Such Facilitators will also provide end-to-end advisory from making applications till the stage of final disposal of the IPR application.
- The Government will bear the cost of such Facilitators and the Startups shall bear only the cost of the applicable statutory fees.
- A rebate of 80% on patent filing fees vis-à-vis other companies is proposed.

Relaxed Norms of Public Procurement for Startups

- Startups (in the manufacturing sector) shall be exempted from the criteria of “prior experience/turnover” in tenders floated by any Government entity or PSU without any relaxation in quality standards or technical parameters.

- The Startups will have to demonstrate their capability to execute the project as per requirements and should have their own manufacturing facility in India.

Tax

Capital gains tax exemptions

- A capital gains exemption mechanism has been proposed for investors (class of investors to be specified) investing in the Startup ecosystem.
- Capital gains invested in “Fund of Funds” recognized by the Government shall be exempted.
- Further, existing capital gains exemption for investment in newly formed manufacturing Micro, Small and Medium Enterprises (MSMEs) by individuals shall be extended to all Startups.
- For Startups, investment in computer or computer software (used in core business activity) to qualify as purchase of “new assets”.

Income-tax exemption for 3 years

- Income-tax exemption proposed for Startups for a period of 3 years.
- Exemption subject to non-distribution of dividend by the Startup.

Tax exemption for investments made above Fair Market Value (FMV)

- Investments made by incubators in Startups proposed to be insulated from the rigors of Section 56(2)(viib) of the Income-tax Act, 1961. Any consideration received by Startups for issuance of shares over FMV to incubators, not to be taxed in the hands of the Startup.
- The term “incubator” is yet to be defined for the above purpose.
The takeaways

Startup India campaign is being lauded for attempting to bring Startups to the centre stage of India's growth story. The Action Plan has certainly addressed key concerns, like simplifying the process to obtain certain regulatory registrations and approvals by rolling out the proposed Mobile App and Portal, enabling faster exits from a regulatory perspective, providing funding support and credit guarantee for Startups, and permitting certain specified tax benefits. While the Action Plan is certainly a welcome and positive step towards the philosophy of promoting Startup innovation in the country, it will also be important to consider tax exemptions for angel investors, seed capital funds and stock options offered by Startups to employees. Additionally, the Government should consider providing indirect tax incentives for Startups. The details of the tax exemptions are likely to be announced in the upcoming Union Budget.

Let’s talk

For a deeper discussion of how this issue might affect your business, please contact:

Tax & Regulatory Services – Direct Tax

Gautam Mehra, Mumbai
+91-22 6689 1154
gautam.mehra@in.pwc.com

Rahul Garg, Gurgaon
+91-124 330 6515
rahul.garg@in.pwc.com

Abhishek Goenka, Bangalore
+91 80 4079 6279
abhishek.goenka@in.pwc.com

Sriram Ramaswamy, Bangalore
+91 80 4079 6004
sriram.ramaswamy@in.pwc.com