



Emerging landscape of startups in India

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Abstract

India has the 3rd largest startup ecosystem in the world; expected to witness YoY growth of a consistent annual growth of 12-15%. India's startup ecosystem has evolved rapidly over the last decade, and 2025 is expected to witness even more acceleration. One of the key factors contributing to this growth is the country's young, tech-savvy population. With over 1.4 billion people, a large portion of India's population is under 30, presenting a vibrant talent pool for new companies. Coupled with widespread internet penetration and increasing smartphone use, the potential for innovative solutions and digital services is at an all-time high. Moreover, the government has been proactive in supporting entrepreneurs. Schemes like "Startup India" and tax exemptions have helped create a more favourable environment for new ventures. In addition, various state and federal initiatives have made it easier for startups to flourish, from financial backing to regulatory support.

Another catalyst behind the growth of the Indian startup ecosystem is the influx of venture capital. In recent years, India has attracted substantial investment from global investors, with large-scale investments pouring into the country's technology, agritech, cleantech, fintech, edtech, and healthtech sectors. 2025 will likely see even more interest from domestic and international investors eager to tap into the country's fast-growing markets. Innovation is a major driver of startup growth in India. The country is home to some of the most forward-thinking entrepreneurs tackling challenges across various sectors. From AI and block chain to sustainable energy solutions and healthcare, Indian startups consistently push the envelope. Fintech, for example, is booming in India, with companies offering digital payment solutions, lending platforms, and investment tools that cater to millions of underserved people. Similarly, health tech startups are revolutionising healthcare access and quality, particularly in rural areas. The combination of technological advancements and growing demand for digital solutions is expected to fuel India's startup ecosystem in the years to come.

Keywords: Intellectual property protection, start-up, startup India, state startup ranking, sweat equity shares

Introduction

A startup company (startup or start-up) is an entrepreneurial venture which is typically an emerging, fast growing business that aims to solve an unmet need by developing a viable business model around an innovative product, service, process or a platform. A startup is usually a company designed to effectively develop and validate a scalable business model. Start-ups may have high rates of failure, but the minority of successes includes companies that have become large and influential.

Startup companies can come in all forms and sizes. Some of the critical tasks are to build a co-founding team to secure key or complementary skills, know-how, financial resources, and other elements to build the product for the target market.

Typically, a startup will begin by building a first minimum viable product (MVP), a prototype, to validate, assess and develop the new ideas or business concepts. In addition, startups founders do research to deepen their understanding of the ideas, technologies or business concepts and their commercial potential.

A Founders' agreement is often agreed early on to confirm the commitment, ownership and contributions of the founders and to deal with the intellectual properties and assets that may be generated by the startup. A Shareholders' Agreement (SHA) is entered into between the founders and investors to confirm investment terms, rights of investors, exit clauses and any other important agreement terms.

Business models for startups are generally found via a "bottom-up" or "top-down" approach. A company may

cease to be a startup as it passes various mile stones, such as becoming publicly traded on the stock market in an Initial Public Offering (IPO), or ceasing to exist as an independent entity via a merger or acquisition. Companies may also fail and cease to operate altogether, an outcome that is very likely for startups, given that they are developing disruptive innovations which may not function as expected and for which there may not be market demand, even when the product or service is finally developed. Given that startups operate in high-risk sectors, it can also be hard to attract investors to support the product/ service development or attract buyers.

A number of organizations and/or organized activities exist with Startup activities. To name a few, Universities, Advisory and mentoring organizations Startup incubators, Startup accelerators, Co working spaces, Service providers (Consulting, Accounting, Legal, etc.), Event organizers, Start-up competitions, Startup Business Model Evaluators, Business Angel Networks, Venture capital companies, Equity Crowd funding portals, corporates (telcos, banking, health, food, etc.), other funding providers (loans, grants etc.), Start-up blogs and social networks and other facilitators.

Investors from these roles are linked together through shared events, activities, locations and interactions. Startup ecosystems generally encompass the network of interactions among people, organizations, and their environment. Any particular start-up ecosystem is defined by its collection of specific cities or online communities.

In addition, resources like skills, time and money are also essential components of a start-up ecosystem. The resources that flow through ecosystems are obtained primarily from the meetings between people and organizations that are an active part of those startup ecosystems. These interactions help to create new potential startups and/or to strengthen the already existing ones.

Startup Landscape in India

“Start Up as defined vide Notification No. G.S.R. 127 (E), dated 19th February 2019 by DPIIT as:

An entity shall be considered as a Startup:

1. Upto a period of ten years from the date of incorporation/ registration, if it is incorporated as a private limited company (as defined in the Companies Act, 2013) ^[7] or registered as a partnership firm (registered under section 59 of the Partnership Act, 1932) ^[9] or a limited liability partnership (under the Limited Liability Partnership Act, 2008) ^[8] in India.
2. Turnover of the entity for any of the financial years since incorporation/ registration has not exceeded Rs 100 crore.
3. Entity is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.

Provided that an entity formed by splitting up or reconstruction of an existing business shall not be considered a ‘Startup’

The Startup India initiative was launched by the Government on 16th January 2016 to build a strong ecosystem for nurturing innovation, startups and encouraging investments in the startup ecosystem of the country. In order to meet these objectives, the Government unveiled an Action Plan for startups comprising of schemes and incentives envisaged to create a vibrant startup ecosystem in the country. The Action Plan comprises of 19 action items spanning across areas such as “Simplification and hand holding”, “Funding support and incentives” and “Industry-academia partnership and incubation”.

For attaining specific objectives, various programs are implemented by the Government under the Startup India initiative. As a result of sustained efforts, the Government has recognised 1,17,254 entities as startups as on 31st December 2023.

Realising the action items of the Startup India Action Plan, the Government is implementing flagship Schemes under Startup India initiative namely, Fund of Funds for Startups (FFS), Startup India Seed Fund Scheme (SISFS) and Credit Guarantee Scheme for Startups (CGSS) to support startups at various stages of their business cycle to enable startups to graduate to a level where they are able to raise investments or seek loans. The brief of each of the three flagship Schemes implemented under Startup India initiative are as under:

Startup India Seed Fund Scheme (SISFS): The Startup India Seed Fund Scheme has been approved for the period of 4 years starting from 2021-22 with a corpus of Rs. 945 crores. The Scheme aims to provide financial assistance to startups for proof of concept, prototype development, product trials, market entry and commercialization. The Scheme is implemented from 1st April 2021. The Experts

Advisory Committee (EAC), under SISFS, is responsible for the overall execution and monitoring of SISFS. The EAC evaluates and selects incubators for allocation of funds under the Scheme. As per provisions of the Scheme, the selected incubators shortlist startups based on parameters outlined in Scheme guidelines.

Fund of Funds for Startups (FFS) Scheme: The Fund of Funds for Startups Scheme was approved and established in June 2016 with a corpus of Rs 10,000 crore, with contribution spread over the 14th and 15th Finance Commission cycle based on progress of implementation, to provide much-needed boost to the Indian startup ecosystem and enable access to domestic capital. The Scheme is operationalized by Small Industries Development Bank of India (SIDBI). Under FFS, the Scheme does not directly invest in startups, instead provides capital to SEBI-registered Alternative Investment Funds (AIFs), known as daughter funds, who in turn invest money in growing Indian startups through equity and equity-linked instruments. SIDBI has been given the mandate of operating this Fund through selection of suitable daughter funds and overseeing the disbursement of committed capital. AIFs supported under FFS are required to invest at least 2 times of the amount committed under FFS in startups. Credit Guarantee Scheme for Startups (CGSS): The Government has established the Credit Guarantee Scheme for Startups for providing credit guarantees to loans extended to DPIIT recognized startups by Scheduled Commercial Banks, Non-Banking Financial Companies (NBFCs) and Venture Debt Funds (VDFs) under SEBI registered Alternative Investment Funds. CGSS is aimed at providing credit guarantee up to a specified limit against loans extended by Member Institutions (MIs) to finance eligible borrowers *viz.* DPIIT recognised startups. CGSS is operationalized by the National Credit Guarantee Trustee Company Limited (NCGTC).

The details of various programs undertaken by the Government to promote startups across the country are as under:

1. **Startup India Action Plan:** An Action Plan for Startup India was unveiled on 16th January 2016. The Action Plan comprises of 19 action items spanning across areas such as “Simplification and handholding”, “Funding support and incentives” and “Industry-academia partnership and incubation”. The Action Plan laid the foundation of Government support, schemes and incentives envisaged to create a vibrant startup ecosystem in the country.
2. **Regulatory Reforms:** Over 50 regulatory reforms have been undertaken by the Government since 2016 to enhance ease of doing business, ease of raising capital and reduce compliance burden for the startup ecosystem.
3. **Ease of Procurement:** To enable ease of procurement, Central Ministries/ Departments are directed to relax conditions of prior turnover and prior experience in public procurement for all DPIIT recognised startups subject to meeting quality and technical specifications. Further, Government e-Marketplace (GeM) Startup Runway has been developed which is a dedicated corner for startups to sell products and services directly to the Government.

4. Support for Intellectual Property

Protection: Startups are eligible for fast-tracked patent application examination and disposal. The Government launched Start-ups Intellectual Property Protection (SIPP) which facilitates the startups to file applications for patents, designs and trademarks through registered facilitators in appropriate IP offices by paying only the statutory fees. Facilitators under this Scheme are responsible for providing general advisory on different IPRs, and information on protecting and promoting IPRs in other countries. The Government bears the entire fees of the facilitators for any number of patents, trademark or designs, and startups only bear the cost of the statutory fees payable. Startups are provided with an 80% rebate in filing of patents and 50% rebate in filling of trademark visa-vis other companies.

5. Self-Certification under Labour and Environmental laws: Startups are allowed to self-certify their compliance under 9 Labour and 3 Environment laws for a period of 3 to 5 years from the date of incorporation.

6. Income Tax Exemption for 3 years: Startups incorporated on or after 1st April 2016 can apply for income tax exemption. The recognized startups that are granted an Inter-Ministerial Board Certificate are exempted from income-tax for a period of 3 consecutive years out of 10 years since incorporation.

7. International Market Access to Indian Startups: One of the key objectives under the Startup India initiative is to help connect Indian startup ecosystem to global startup ecosystems through various engagement models. This has been done through international Government to Government partnerships, participation in international forums and hosting of global events. Startup India has launched bridges with over 17 countries that provides a soft-landing platform for startups from the partner nations and aid in promoting cross collaboration.

8. Faster Exit for Startups: The Government has notified Startups as 'fast track firms' enabling them to wind up operations within 90 days vis-a-vis 180 days for other companies.

9. Startup India Hub: The Government launched a Startup India Online Hub on 19th June 2017 which is one of its kind online platform for all stakeholders of the entrepreneurial ecosystem in India to discover, connect and engage with each other. The Online Hub hosts Startups, Investors, Funds, Mentors, Academic Institutions, Incubators, Accelerators, Corporates, Government Bodies and more.

10. Exemption for the Purpose of Clause (VII)(b) of Sub-section (2) of Section 56 of the Act (2019): A DPIIT recognized startup is eligible for exemption from the provisions of section 56(2) (viib) of the Income Tax Act.

11. Startup India Showcase: Startup India Showcase is an online discovery platform for the most promising startups of the country chosen through various

programs for startups exhibited in a form of virtual profiles. The startups showcased on the platform have distinctly emerged as the best in their fields. These innovations span across various cutting-edge sectors such as Fintech, EnterpriseTech, Social Impact, HealthTech, EdTech, among others. These startups are solving critical problems and have shown exceptional innovation in their respective sectors. Ecosystem stakeholders have nurtured and supported these startups, thereby validating their presence on this platform.

12. National Startup Advisory Council: The Government in January 2020 notified constitution of the National Startup Advisory Council to advise the Government on measures needed to build a strong ecosystem for nurturing innovation and startups in the country to drive sustainable economic growth and generate large scale employment opportunities. Besides the ex-officio members, the council has a number of non-official members, representing various stakeholders from the startup ecosystem.

13. Startup India Seed Fund Scheme (SISFS): Easy availability of capital is essential for entrepreneurs at the early stages of growth of an enterprise. The capital required at this stage often presents a make-or-break situation for startups with good business ideas. The Scheme aims to provide financial assistance to startups for proof of concept, prototype development, product trials, market entry and commercialization.

14. National Startup Awards (NSA): National Startup Awards is an initiative to recognize and reward outstanding startups and ecosystem enablers that are building innovative products or solutions and scalable enterprises, with high potential of employment generation or wealth creation, demonstrating measurable social impact. Handholding support is provided to all the finalists across various tracks viz. Investor Connect, Mentorship, Corporate Connect, Government Connect, International Market Access, Regulatory Support, Startup Champions on Doordarshan and Startup India Showcase, etc.

15. States' Startup Ranking Framework (SRF): States' Startup Ranking Framework is a unique initiative to harness strength of competitive federalism and create a flourishing startup ecosystem in the country. The major objectives of the ranking exercise are facilitating states to identify, learn and replace good practices, highlighting the policy intervention by states for promoting startup ecosystem and fostering competitiveness among states.

16. Startup Champions on Doordarshan: Startup Champions program on Doordarshan is a one-hour weekly program covering stories of award winning/nationally recognised startups. It is telecasted in both Hindi and English across Doordarshan network channels.

17. Startup India Innovation Week: The Government organises Startup India Innovation week around the

National Startup Day i.e., 16th January, with the primary goal was to bring together the country's key startups, entrepreneurs, investors, incubators, funding entities, banks, policymakers, and other national/international stakeholders to celebrate entrepreneurship and promote innovation.

18. The Startup India Investor Connect Portal has been co-developed under the Startup India Initiative with SIDBI, serving as an intermediary platform that links startups and investors in order to help entrepreneurs from various industries, functions, stages, regions, and backgrounds in mobilizing capital. The portal has been built with the aim to enable in particular; early-stage startups located anywhere in the country to showcase themselves to leading investors/ venture capital funds.

19. National Mentorship Portal (MAARG): In order to facilitate accessibility to mentorship for startups in every part of the country, the Mentorship, Advisory, Assistance, Resilience, and Growth (MAARG) program has been developed and launched under the Startup India Initiative.

20. ASCEND: Under ASCEND (Accelerating Startup Caliber & Entrepreneurial Drive), sensitization workshops on startups and entrepreneurship were conducted for all eight North Eastern States with the objective to capacitate and augment knowledge on key aspects of entrepreneurship and continue efforts towards creating a robust startup ecosystem in these States.

21. Startup20 Engagement Group: As a result of India's belief in startup ecosystem, a Startup20 Engagement Group under India's G20 Presidency has been institutionalised which is working towards harmonisation and cross collaboration amongst the largest global economies. The engagement group acts as the voice of the global startup ecosystem bringing together varied stakeholders on a common platform. The group aims to support startups by enabling synergies between startups, corporates, investors, innovation agencies and other key ecosystem stakeholders internationally and to create global synergies.

Issue of Sweat Equity Shares by Startup Companies

With the Amendment, The Companies (Share Capital and Debentures) Amendment Rules, 2020, dated 5th June, 2020, a startup company as defined in notification number G.S.R. 127(E), dated the 19th February, 2019 issued by the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India, may issue sweat equity shares not exceeding 50% of its paid-up share capital upto 10 (ten) years from the date of its incorporation or registration. (Earlier the time period was upto 5 (five) years from the date of incorporation or registration).

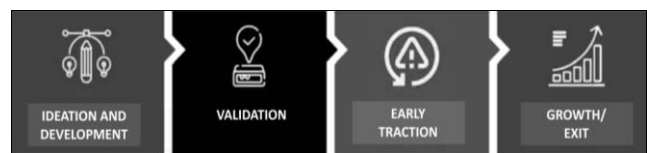
Recognition as Startups

The process of recognition of an eligible entity as startup shall be as under:

- A Startup shall make an online application over the mobile app or portal set up by the DPIIT.
- The application shall be accompanied by –
 - a. a copy of Certificate of Incorporation or Registration, as the case may be, and
 - b. a write-up about the nature of business highlighting how it is working towards innovation, development or improvement of products or processes or services, or its scalability in terms of employment generation or wealth creation.
- The DPIIT may, after calling for such documents or information and making such enquires, as it may deem fit, –
 - a. recognise the eligible entity as Startup; or
 - b. reject the application by providing reasons.

Life Cycle of Start-up

The stages of a startup lifecycle are clearly demarcated owing not only to the promulgation at clarity but also to the exponential growth rate of the startup ecosystem. Each stage presents a new set off challenges and hurdles for entrepreneurs, elucidating the imperativeness of its understanding. Largely, the startup lifecycle is segregated into 4 stages.



Stage 1: Ideation and Development

The first stage of the startup lifecycle is ideation. It is categorised by the importance of testing feasibility of the products/service offered. It is at this stage that garnering a variety of opinions to further assess a business model takes precedence. Testing the potential viability of an entrepreneurs' business can help answer larger questions about government aid, regulations and other aiding factors as the business inches to the next stage.

Stage 2: Validation

Once an entrepreneur has evaluated feasibility of the idea and has highlighted broad scale business strategies, it is important to validate the product or services offered. The process involves defining goals, developing a value proposition and validating the same through customer feedback. This stage of a startup exudes high relevance as it drives the understanding of potential outcomes. Moreover, it highlights the features as considered in the ideation stage by giving the entrepreneur viability proof through testing. Some overarching considerations of the validation stage are:

Stage 3: Early Traction

It is at the Early Traction stage that a set of target customers may test efficacy of the product/ service offered validation of a product can portray definitive results to the outside world, a stage that may present its own set of challenges and visibly express revenue and cash flow. It may be helpful to iterate that a market for this product is created and developed at this stage. The customer retention rate confirms the early traction of the company and its product. Startup acquires more customers by actively seeking funds

from crowd funding agencies, angel investors or networks, incubators and seed grants from Government.

Pivoting in startup usually occur when a company shifts its business strategy to accommodate changes in its industry, customer preferences, or any other factor that impacts its bottom line. It is essentially the process of a startup translating direct or indirect feedback into a change in its business model. Most successful companies go through several pivots to find product-market fit. What makes the experiment work is usually not one major pivot, but a series of experiments across customers, problem, product, and technology and growth channels.

Stage 4: Growth/Exit

In the fourth stage of the startup lifecycle, the company has attained true economic health, has sufficient size and product-market penetration to ensure economic success, and earns average or above-average profits. The company can stay at this stage indefinitely, provided environmental changes do not hinder its market niche or ineffective management reduce its competitive abilities. At this stage, the company may choose to scale up or expand its market through mergers and acquisitions or preparing for an Initial Public Offering (IPO). Depending upon the strategy followed, some of the companies are successfully able to sustain the growth stage, rapidly scaling up their business to achieve valuation of more than \$1 billion and become unicorns. These businesses offer ideal business for other startup across sectors and encourage them to scale up.

Indian States with Startup Policies

States have a vital role to play in promoting the Startup ecosystem. One of the core strengths of India lies in its diversity, leading to enormous opportunities for cross-learning from each other. Only four State Governments were actively supporting Startups before the launch of Startup India through a State Startup policy. The Startup movement across the country was fragmented and there was a need for consolidating standalone efforts. Emphasis was also required simultaneously to encourage more and more States to undertake new initiatives. The national priority initiative has led to a wide spread movement across the country and presently 31 States have their own Startup policies. Many other States and Union Territories (UTs) are in the process of drafting their policies and operating guidelines. The core functioning of an enabling ecosystem in a State is a function of the policy framework and effective implementation of the same. In the journey of developing a conducive Startup community, it is important that States and UTs exchange and adopt good practices undertaken by each other.

Another important role of State is to reduce the regulatory burden on budding Startup founders by simplifying labour, taxation, land, and other laws and regulations under the State purview. Many States are organizing hackathons, boot camps, pitching sessions to promote Startups. Several other States have already begun to actively setup world class incubators for Startups across various sectors. However, a significant effort is required to accelerate the pace of these initiatives to be at par with the pace of growth of Startups. Concerted initiatives by States will accelerate the growth of Startup ecosystems in their respective territories and transform the country into a flourishing Startup Nation.

State Startup Ranking

The States' Startup Ranking Framework was conceived by the Government of India in 2018. With its focus on India's vision of cooperative federalism, the initiative works towards strengthening the support of States and UTs to holistically build the Indian Startup Ecosystem. The third edition of the exercise was launched in 2020 and has now been completed with the active participation of 31 States and Union Territories. After the successful completion of a rigorous evaluation process, the Ministry of Commerce & Industry, Consumer Affairs, Food & Public Distribution and Textiles announced the results of 3rd edition of the States' Startup Ranking 2021 on 4th July 2022.

Evolution across the Years

The States' Startup Ranking Framework is an ever-evolving tool with collaboration at its core. With learnings from previous years and consultation with States and Union Territories, three new Reform Areas were introduced to the framework:

1. **Capacity Building of Enablers:** This Reform Area focuses on holistic development through sensitization programs and trainings conducted for key stakeholders of the State startup ecosystem.
2. **Mentorship Support:** This Reform Area focuses on creating a large and accessible mentorship network within the State and the guidance provided by the State-supported mentors to the startups.
3. **Fostering Innovation and Entrepreneurship:** This reform area captures grassroots innovation, disruptive policies for startups, and the entrepreneurial spirit of the students.

States' Startup Ranking 2021 Results

The results of the third exercise are a testament to the painstaking efforts taken by States to enable their startup ecosystems. Currently, most States and UTs have functioning State Startup portals with information available in local languages. Furthermore, several targeted policies and schemes have been introduced with a focus on disruptive technology, women entrepreneurs, and grassroots innovators to drive inclusive growth in the ecosystem. Additionally, State supported incubators, mentorship networks, and funding opportunities along have also expanded across the country.

Best Performing States: The top 3 best performing states are:

- Gujarat
- Karnataka
- Meghalaya

Compendium of Best Practices

Compendium of Best Practices outlines initiatives adopted by various States in the following 7 Reform Areas:

1. Institutional Support
2. Fostering Entrepreneurship and Innovation
3. Access to Market
4. Incubation Support
5. Funding Support
6. Mentorship Support
7. Capacity Development of Enablers

The compendium contains more than 30 best practices, which may be directly used by States to identify and implement newer initiatives.

Summing-up

A startup is a newly emerged business venture started by individual founders to meet a market gap. Startups mostly mean new businesses that are solving market's problems with unique ideas. A Startup may become successful by the undermentioned recommended measures:

▪ Choose the Right Legal Structure for Your Startup

Choosing an appropriate legal structure is one of the most crucial decisions for any startup. The decision should be taken based on individual circumstances and a host of factors such as nature/ sector of business operation, business trajectory, regulatory and tax considerations, costs of formation and ongoing administration, external capital requirement and type of funding sought, of legal liability protection required, number of stakeholders, balance required between ownership and management, proposed mechanism for profit sharing or distribution amongst stakeholders, *et al.* Preferred entity structures for startups in India are limited liability partnership and private limited company.

▪ Registrations and Business Licenses

Post incorporation of a business entity in India, some necessary registrations are required and mandated by law. Any user who intends to incorporate company through SPICe+ web form can now also apply for GSTIN / Establishment code as issued by EPFO / Employer Code as issued by ESIC through this web form (INC-35). User is required to file application (SPICe+) for incorporation of a company accompanying linked e-form AGILE PRO S - "Application for registration of Goods and Service Tax Identification Number (GSTIN), Employee State Insurance Corporation (ESIC) registration, Employees' Provident Fund organisation (EPFO) Registration and profession Tax Registration, Opening of Bank Account and Shops and Establishment Registration" along with E-MOA (INC-33) and E-AOA (INC-34) to obtain GSTIN / Establishment Code / Employer Code etc.

This process will be applicable only for Companies incorporated by MCA through SPICe+ application. Other categories of applicants (Tax Deductor, Tax Collector, Casual Taxable person, ISD, etc.) for GSTIN shall follow the existing process of registration through Common Portal for GST registration Similarly, other type of establishment such as Factory shall follow the existing process of registration through Common Portal for EPFO & ESIC registration).

Business licenses are permits issued by government authority that allow startups to start/continue to operate a particular business within its territorial jurisdiction lawfully. The nature of business activity determines most license requirements.

Other determining factors may include the number of employees, location of business and the form of business ownership. Some examples are Food safety license, Health/Trade license, Shops & Establishment License etc.

▪ Intellectual Property Protection

Intellectual Property Rights are a very important asset class for a startup. Developing and protecting intellectual

property with proper registration can help startups gain competitive advantage. It is essential to obtain trademark registration for the business name/trade name under the Trademarks Act. Registration of a company or business in India does not by itself give protection against others who might commence using identical or similar marks.

A trademark search should be conducted before deciding on these business name/ trade names to prevent any issues in future including potential infringement. All Intellectual Property (including trademark, copyright, design, trade secrets, inventions, patents, etc.) should be registered in the name of the entity and not in the name of the promoters/founders of the startup.

▪ Founder Equity – Split and Vesting

Founder equity should be split amongst founders based on the nature of role played by each founder along with their time, effort and capital contribution to the startup. Splitting founder equity equally by default without a thorough discussion on expectations and contribution generally leads to tension and unhappiness amongst founding teams as the startup matures.

Founder shares should be always subject to vesting schedule – typically over a period of three to four years. When vesting is imposed on a founder equity, the unvested shares held by the founder become subject to a contractual right to repurchase/transfer often at a nominal value, if one of the founders is terminated or voluntarily leaves the startup. This is very important to ensure future viability of the business.

▪ Founder Agreements

The founder's agreement is the most valuable tool to establish the relationship between the founders of a startup. The agreement should represent a clear understanding between the founders on all key issues related to the startup. Founder agreements should clearly mention the roles and responsibilities of the founders and have clauses detailing the decision making and operating structure of the startup, founder equity split with vesting (explained above), assignment of all intellectual property in favour of the startup, termination of a promoter and exit process etc.

▪ Employment Contracts

Startups must ensure to enter into clear employment contracts detailing terms and conditions of employment with their employees. While employment contracts are certainly valuable to the employees as it details terms regarding description of job profile, compensation and other associated benefits, a number of clauses may be inserted to safeguard and protect the interest of the startup – such as stopping employees from setting up competing entities (non- compete clause), poaching other employees/clients/customer (non-solicitation clause), preventing employees from claiming any intellectual property right on the work done/developed during the course of employment (assignment of intellectual property rights).

▪ Employee Stock Option Pool (ESOP)

ESOP's are incentives given to employees/directors of a company to attract talent and retain employees by rewarding them. ESOPs create a sense of ownership amongst employees. It is important to note that ESOPs are not shares. They are structured in a way that they are option to buy shares at a discounted price and can be exercised only after

a certain vesting period which is decided by the company granting the ESOPs.

▪ **Third Party Agreements**

Prior to entering into a third-party agreement and while negotiating the terms, it is advisable to execute a non-disclosure agreement. If creation/development of intellectual property is a component of such a third-party agreement, it must clearly state that all rights to the intellectual property rights shall vest and be owned by the startup and the third-party shall not stake any claim on the same and will do all acts to ensure the protection of the intellectual property. Clauses related to breach, termination and dispute resolution should be well negotiated and captured in all third-party agreements.

▪ **Investment Structuring**

One of the most challenging and time-consuming aspects of operating a startup is to raise capital for working capital requirement and growth. In India, Investors (HNIs/Angels/Funds) invest in early and growth stage companies in different structures and on varied terms. It is imperative for startups to seek proper legal advice while negotiating the deal terms for investment and the rights of the investors. Typically, as a process an intention document detailing the structure of the transaction called the term sheet is executed followed by due diligence of the startup and execution of investment related definitive agreements.

▪ **Compliance Management**

Compliance and its importance are often overlooked by many startups. There are multiple laws applicable to specific entity structures under which separate event based and annual compliance is mandated. It is extremely critical for the sustainable growth of any business that the startup is in compliance with legal, secretarial, accounting, taxation, employee related and other associated compliances. The consequences of non-compliance can be levy of punitive fines on the startup.

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