

**GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
LOK SABHA
UN-STARRED QUESTION NO. 1702
TO BE ANSWERED ON MONDAY, JULY 31, 2023/ SRAVANA 9, 1945 (SAKA)
NEW REGULATORY REGIME FOR START-UPS
QUESTION**

**1702. SHRI DAYANIDHI MARAN:
SHRI SUDHEER GUPTA:
SHRI DHAIRYASHEEL SAMBAJIRAO MANE:
SHRI GAUTAM GAMBHIR:
SHRI SANJAY SADASHIVRAO MANDLIK:
SHRI SHRIRANG APPA BARNE:
SHRI PRATAPRAO JADHAV:
SHRI BIDYUT BARAN MAHATO**

**Will the Minister of CORPORATE AFFAIRS
be pleased to state:**

(a) whether the Government is examining the need for a new regulatory regime for large start-ups that have grown beyond a certain size, if so, the details thereof and the reasons therefor;

(b) the details of factors that will be considered by the Government while determining the appropriate size at which start-ups should be subject to this regulatory regime;

(c) the manner in which the Government is planning to strike a balance between enhancing governance systems and maintaining ease of doing business for these start-ups;

(d) whether the Government proposes of any exemptions or incentives to these start-ups so that they demonstrate strong governance voluntarily, if so, the details thereof;

(e) the manner in which the Government will collaborate with stakeholders like industry experts and start-up associations to develop this regulatory regime and the potential impact thereof on the growth and competitiveness of start-ups in the country;

(f) whether the Government has appointed a panel of experts to advise in this regard, if so, the details and the composition thereof; and

(g) the time by which such panel is likely to submit its report and the way in which this will help in ease of doing the business through start-ups in the country?

ANSWER

Minister of State (Independent Charge) of the Ministry of Statistics and Programme Implementation; Minister of State (Independent Charge) of the Ministry of Planning and Minister of State in the Ministry of Corporate Affairs.

(Rao Inderjit Singh)

(a), (b) and (c) : Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry has informed that in order to build a strong ecosystem for nurturing innovation, startups and encouraging private investments in the startup ecosystem of the country, the Government launched the Startup India initiative on 16th January, 2016. 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 handholding”, “Funding support and incentives” and “Industry-academia partnership and incubation”.

For attaining specific targets, various programs are implemented by the Government under the Startup India initiative to recognize, develop, and empower startups so that they are able to raise private investments. Sustained Government efforts in this direction have resulted in 98,119 entities being recognised as startups as on 30th April, 2023.

The Government is also spearheading the initiatives under Ease of Doing Business and Reducing Compliance Burden which are aimed at creating a conducive business environment. These initiatives aim to extend benefit to all entities/sectors/industries of the economy, including startups.

The key focus areas of the initiatives are:

- i. Simplification of procedures related to applications, renewals, inspections, filing records, etc.,**
- ii. Rationalization by repealing, amending, or subsuming redundant laws,**
- iii. Digitization by creating online interfaces eliminating manual forms and records, and**
- iv. Decriminalization of minor technical or procedural defaults.**

Furthermore, the Government has unveiled the National Single Window System (NSWS) to provide a single platform to enable the identification and obtaining of approvals and clearances needed by investors, entrepreneurs, and businesses in India. NSWS is providing a single interface to apply for all Government to Business (G2B) clearances from various Ministries/Departments as well as eliminating duplication of work by auto-populating form fields across different approvals based on single investor profile. Specifically for startup ecosystem, the Government has taken various measures to enhance ease of doing business, raising capital and reducing compliance burden.

(d): A list of the 57 key regulatory reforms undertaken for startup ecosystem as on 30th April, 2023 can be found at the following link: (<https://www.mca.gov.in/content/mca/global/en/parliament-questions-assurances/parliament-questions/lok-sabha.html>)

(e) to (g): Nil.

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57 Key regulatory reforms undertaken for start-ups ecosystem are as under:

Reserve Bank of India

1. **Startup enterprises permitted to access loans under External Commercial Borrowing Framework up to USD 3 million. (Oct, 2016)**
2. **A Securities and Exchange Board of India (SEBI) registered Foreign Venture Capital Investor (FVCI) may contribute up to 100% of the capital of an Indian company engaged in any activity mentioned in Schedule 6 of Notification No. FEMA 20/2000, including startups irrespective of the sector in which it is engaged, under the automatic route. (Aug, 2017)**
3. **An Indian startup having an overseas subsidiary, may open a foreign currency account with a bank outside India for the purpose of crediting to it foreign exchange earnings out of exports/ sales made by the said entity and/ or the receivables, arising out of exports/ sales, of its overseas subsidiary. (June, 2016)**
4. **SOFTEX form filed by software exporters moved online. (Feb, 2019)**
5. **Under FDI Policy, tenure of Startup has been aligned with DPIIT Notification dated 19th February, 2019 for the purpose of definition of convertible notes. (March 2022)**
6. **RBI has rationalised the reporting process in Single Master Form (SMF) on FIRMS Portal for Foreign Investment in India. (January 2023)**

Securities and Exchange Board of India (SEBI)

7. **Lock in period for investments made by an Angel Fund reduced to 1 year from 3 years as amended by the SEBI (Alternative Investment Funds) (Amendment) Regulations, 2016, w.e.f. 04-01-2017.**
8. **Angel Funds are allowed to invest in overseas venture capital undertakings upto 25% of their investible corpus in line with other AIFs as provided by the SEBI (Alternative Investment Funds) (Amendment) Regulations, 2016, w.e.f. 04-01-2017.**
9. **The upper limit for number of angel investors in a scheme is increased from forty nine to two hundred as amended by SEBI (Alternative Investment Funds) (Amendment) Regulations, 2016, w.e.f. 04-01-2017**
10. **The requirements of minimum investment amount by an Angel Fund in any venture capital undertaking is reduced from fifty lakhs to twenty five lakhs as amended by SEBI (Alternative Investment Funds) (Amendment) Regulations, 2016, w.e.f. 04-01-2017**
11. **“Operating Guidelines for Alternative Investment Funds in International Financial Services Centres” issued by SEBI. (Nov, 2018)**
12. **Under AIF Regulations, definition of Startup has been aligned with DPIIT Notification dated 19th February, 2019 for the purpose of investment by Angel Funds in Startups (5th May, 2021)**

13. **The SEBI (Alternative Investment Fund) (Second Amendment) Regulations 2021 removes the list of restricted activities or sectors from the definition of Venture Capital Undertaking i.e. Category 1 AIFs can now invest in NBFCs. (5th May 2021)**

Ministry of Corporate Affairs

14. **The financial statement, with respect to private company (if such private company is a start-up) may not include the cash flow statement. (June, 2017)**
15. **A private company, which is considered as a start-up for a period of five years from the date of its incorporation, is also allowed to accept deposits from members without any restriction on the amount. (Sep, 2017)**
16. **Startup defined for the purpose of Companies Act, 2013: As per the definition, a start-up company means a private company incorporated under the Companies Act, 2013 and recognised as a “start-up” in accordance with the notification issued by the Department for Promotion of Industry and Internal Trade. (June, 2017)**
17. **Exemption from procedural compliance (e.g. such as issue of an offer circular or creation of a deposit repayment reserve) for raising deposits from shareholders. (June, 2017)**
18. **In relation to a private company (if such private company is a startup), the annual return shall be signed by the Company Secretary, or where there is no Company Secretary, by the Director of the company. (June, 2017)**
19. **A private company (if such private company is a startup) is required to conduct at least one meeting of the Board of Directors in each half of a calendar year and the gap between the two meetings is not less than ninety days. (June, 2017)**
20. **Name Reservation for Company incorporation: Rule 8, Companies (Incorporation) Rules, 2014 substituted with Companies (Incorporation) 5th Amendment Rules, 2019, which provides for new regulations on resemblance with an existing company name, new categories of undesirable names of a company and list of words which can be used only after obtaining approval. (May, 2019)**
21. **Amendment in Companies (Share Capital and Debentures) Rules, 2014: The Ministry of Corporate Affairs issued a notification on 16th August, 2019 increasing the period in which ESOPs could be granted to promoters and directors (holding more than 10% equity) of Startups, from 5 years to 10 years from the date of incorporation and thereby aligned the provisions of the Companies (Share Capital and Debentures) Rules with the provisions referred to in the DPIIT notification dated 19th Feb, 2019.**

The notification also enhanced the limit on shares with Differential Voting Rights in the Company from 26% of the total post-issue paid up equity capital of the Company to 74% of the total voting power. Further, the condition for the company to have consistent track record of distributable profits for the last three years for issue of DVR shares has been removed. (August 2019)

22. **Corporate Social Responsibility Funds: In reference to section 135 of the Companies Act 2013, Schedule VII has been amended to include Contribution to incubators funded by Central Government or State Government or any agency or Public Sector Undertaking of Central Government or State Government, and**

contributions to public funded Universities, Indian Institute of Technology (IITs), National Laboratories and Autonomous Bodies (established under the auspices of Indian Council of Agricultural Research (ICAR), Indian Council of Medical Research (ICMR), Council of Scientific and Industrial Research (CSIR), Department of Atomic Energy (DAE), Defence Research and Development Organisation (DRDO), Department of Science and Technology (DST), Ministry of Electronics and Information Technology) engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs). (October 2019).

- 23. As part of Government of India's Ease of Doing Business (EODB) initiatives, the Ministry of Corporate Affairs has launched a new integrated Web Form christened 'SPICe+' replacing the existing SPICe form. SPICe+ would offer 10 services by 3 Central Govt Ministries & Departments (Ministry of Corporate Affairs, Ministry of Labour & Department of Revenue in the Ministry of Finance) and One State Government(Maharashtra), thereby saving as many procedures, time and cost for Starting a Business in India and would be applicable for all new company incorporations w.e.f.23rd February 2020. SPICe+ has two parts: Part A-for Name reservation for new companies and Part B offering a bouquet of services viz. (i) Incorporation (ii) DIN allotment (iii) Mandatory issue of PAN (iv) Mandatory issue of TAN (v) Mandatory issue of EPFO registration (vi) Mandatory issue of ESIC registration (vii) Mandatory issue of Profession Tax registration(Maharashtra) (viii) Mandatory Opening of Bank Account for the Company and (ix) Allotment of GSTIN (if so applied for) (February 2020)**
- 24. Amendment in Companies (Share Capital and Debentures) Rules, 2014: The Ministry of Corporate Affairs issued a notification on 05th June, 2020 increasing the period in which Sweat Equity shares, from 5 years to 10 years from the date of incorporation and thereby aligned the provisions of the Companies (Share Capital and Debentures) Rules with the provisions referred to in the DPIIT notification dated 19th Feb, 2019. (June 2020)**
- 25. Amendment in Companies (Acceptance of Deposits) Rules, 2014: The Ministry of Corporate Affairs issued a notification on 07th September, 2020 increasing the period of issuance of convertible note, from 5 years to 10 years from the date of issue and thereby aligned the provisions of the Companies (Acceptance of Deposits) Rules, 2014 with the provisions referred to in the DPIIT notification dated 19th Feb, 2019. (September 2020)**
- 26. Amendment in Companies (Acceptance of Deposits) Rules, 2014: The Ministry of Corporate Affairs issued a notification on 07th September, 2020 whereby the maximum limit in respect of deposits to be accepted from members by a private company shall not apply to a start-up company for 10 years from the date of its incorporation, instead of 5 years. (September 2020)**
- 27. Incorporation of One Person Companies (OPCs) by allowing OPCs to grow without any restrictions on paid up capital and turnover, allowing their conversion into any other type of company at any time, reducing the residency limit for an Indian citizen to set up an OPC from 182 days to 120 days and also allow Non-Resident Indians (NRIs) to incorporate OPCs in India. (February 2021)**

28. Amendment in Insolvency and Bankruptcy Code, 2016: The Ministry of Corporate Affairs issued a notification on 30th August, 2022 harmonizing the definition of startup with the DPIIT notification dated 19th February 2019. (August 2022)

Ministry of Finance

Department of Revenue

29. In the case of a domestic company, where its total turnover or the gross receipt in the previous year does not exceed two hundred and fifty crore rupees, income tax shall be charged at the rate of 25 percent of the total income. (Feb, 2018)

30. Definition of eligible business as stated in Section 80-IAC aligned with Startups definition. (April, 2018)

31. Introduction of Section 54EE in the Income Tax Act, 1961: Exemption from tax on long-term capital gain if such long-term capital gain is invested in a fund notified by Central Government. The maximum amount that can be invested is Rs 50 lakh. (May, 2016)

32. Amendment in Section 54GB of Income Tax Act: Exemption from tax on capital gains arising out of sale of residential house or a residential plot of land if the amount of net consideration is invested in prescribed stake of equity shares of eligible Startup for utilizing the same for purchase of specified asset. (Feb, 2016)

33. Minimum Alternate Tax credit allowed to be carried forward up to fifteenth assessment years instead of ten assessment years. (2017)

34. Exemption under section 80-IAC of Income Tax Act: Exemption to eligible Startup for any 3 consecutive assessment years out of 7 years (earlier 5 years) beginning from the year in which such eligible Startup is incorporated. (April, 2018)

35. Exemption from tax under the provisions of section 56(2)(viib) to Startups for issue of shares above fair market value on the basis of a self-declaration to the Central Board of Direct Taxes. The aggregate amount of paid up share capital and share premium of the startup after issue or proposed issue should not exceed Rs. 25 Crore (Feb, 2019)

36. Taxation of convertible notes - Period for which a bond, debenture, debenture-stock or deposit certificate was held prior to conversion shall be considered for determining the period of holding of such shares or debentures acquired upon conversion. (March, 2016)

37. Amendment in Section 54GB of Income Tax Act w.e.f 1st April 2020: (August 2019)

- i. The condition of minimum holding of 50% of share capital or voting rights in the start-up relaxed to 25%**
- ii. Extension of period under which benefit under section 54GB from for sale of residential property can be availed up to 31st March, 2021**
- iii. Condition restricting transfer of new asset being computer or computer software is to relaxed from 5 years to 3 years w.e.f. 1-4-2020**

- 38. Amendment in Section 79 of Income Tax Act (August 2019): Eligible Startups to carry forward their losses on satisfaction of any one of the two conditions:**
- i. Continuity of 51% shareholding/voting power or**
 - ii. Continuity of 100% of original shareholders carrying voting power**
- 39. Pass through of losses allowed to Investment Funds i.e. Category I and II AIF similar to pass through of income. These amendments will take effect from the 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years (August 2019)**
- 40. The investment made by Venture Capital Fund of Category-I AIF in a startup was exempted from the applicability of the provisions of section 56(2)(viib) of the IT Act. This exemption has been extended to all sub-categories of Category-I AIF and Category-II AIF via introduction of “specified funds” in the said section (August 2019)**
- 41. The Finance Act 2020 provides for amendment in section 80-IAC of the Income-tax Act relating to special provision in respect of specified business. The provisions of section 80-IAC, inter alia, provide for a deduction of an amount equal to hundred per cent. of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years vis-à-vis the earlier norm of seven years at the option of the assessee and the total turnover of its business does not exceed hundred crore rupees in the previous year relevant to the assessment year for which deduction under this section is claimed. This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years. (Feb 2020).**
- 42. The Finance Act 2020 provides for amendment in section 80-IAC of the Income-tax Act relating to special provision in respect of specified business. The provisions of section 80-IAC, inter alia, provide for a deduction of an amount equal to hundred per cent. of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years at the option of the assessee and the total turnover of its business does not exceed hundred crore rupees vis-à-vis the earlier norm of twenty-five crore rupees in the previous year relevant to the assessment year for which deduction under this section is claimed. This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years. (Feb 2020)**
- 43. The Finance Act 2020 provides for amendment in sections 156, 191 and 192 of the Income Tax Act laying to enable employees receiving specified security or sweat equity share as perquisite under section 17(2)(vi) of an eligible startup referred to in section 80-IAC, to deduct or pay, as the case may be, tax on such income within fourteen days after the expiry of forty-eight months from the end of the relevant assessment year; or from the date of the sale of such specified security or sweat equity share by the assessee; or from the date of the assessee ceasing to be the employee of the person, whichever is earlier, on the basis of rates in force of the financial year in which the said specified security or sweat equity share is allotted or transferred. This amendment will take effect from 1st April, 2020. As per the**

earlier norms, the said perquisite including ESOPs were taxed in the hands of the employee at the time of exercise of the option. (Feb 2020)

- 44. The Finance Bill 2021 provides for extension of the eligibility period to claim tax holiday for the startups by one more year. (Feb 2021)**
- 45. The Finance Bill 2021 provides for extension of claiming Capital gains exemption for investment in startups by one year i.e. till 31 March, 2022. (Feb 2021)**
- 46. The Finance Bill 2022 provides for extension of the eligibility period to claim tax holiday for the startups by one more year. (Feb 2022)**
- 47. The Finance Bill 2022 capped the surcharge on the long term capital gain at 15% for unlisted companies from existing 37%. The effective rate of tax has been reduced from 28.5% to 23.9%. (Feb 2022)**
- 48. The Finance Bill 2023 provides for extension of the eligibility period to claim tax holiday for the startups by one more year. (Feb 2023)**
- 49. The Finance Bill 2023 enables startups to set off and carry forward losses for a period of 10 years vis-a-vis 7 years under section 79 of the Income Tax Act 1961. (Feb 2023)**
- 50. The Finance Bill 2023 capped the surcharge on the long term capital gain at 25% for unlisted companies from existing 37% under the new tax regime. The effective rate of tax has been reduced from 42.74% to 39.0%. (Feb 2023)**

Department of Economics Affairs

- 51. The Ministry of Finance now allows non-government provident funds, superannuation, and gratuity funds to invest up to 5 percent of their investible surplus in Category I and II Alternate Investment Funds (AIFs) registered with SEBI. (March 2021).**

Insurance Regulatory and Development Authority

- 52. The Insurance Regulatory and Development Authority of India (IRDAI) has allowed insurance companies to invest in Fund-of-Funds (FoF) that invest within the country subject to certain conditions. (April 2021).**

Department of Expenditure

- 53. Harmonization of Startup Definition under the Manual for Procurement of Consultancy and other Services with the DPIIT notification dated 19th February 2019.**

Ministry of Labour and Employment

- 54. The Ministry of Labour and Employment now allows EPFO to invest up to 5 percent of their investible surplus in Category I and II Alternate Investment Funds (AIFs) registered with SEBI. (April 2021)**

Ministry of Electronics and Information Technology

55. Removal of clause from Electronic Development Fund (EDF) operating guidelines stating that if a fund draws from Fund of Funds for Startups, then they cannot draw from EDF and vice versa. (Nov, 2018)

Ministry of Commerce and Industry, Department for Promotion of Industry and Internal Trade

56. Amendment in the definition of a Startup: An entity shall be considered as a Startup upto a period of ten years from the date of incorporation/ registration and turnover of the entity for any of the financial years since incorporation/ registration has not exceeded one hundred crore rupees. (Feb, 2019)

57. Ministry of Commerce and Industry, Department for Promotion of Industry and Internal Trade vide Gazette Notification No. G.S.R. 646(E). dated 21st September 2021 amended the Patent Rules. The Patent Rules have now extended the benefits related to 80% reduced fee for patent filing & prosecution to Educational institutions as well. (Sept 2021).