

The Italian legislation in support of innovative startups

Executive summary



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Italian Ministry of Economic Development
DG for Industrial Policy, Competitiveness and SMEs



Benefits

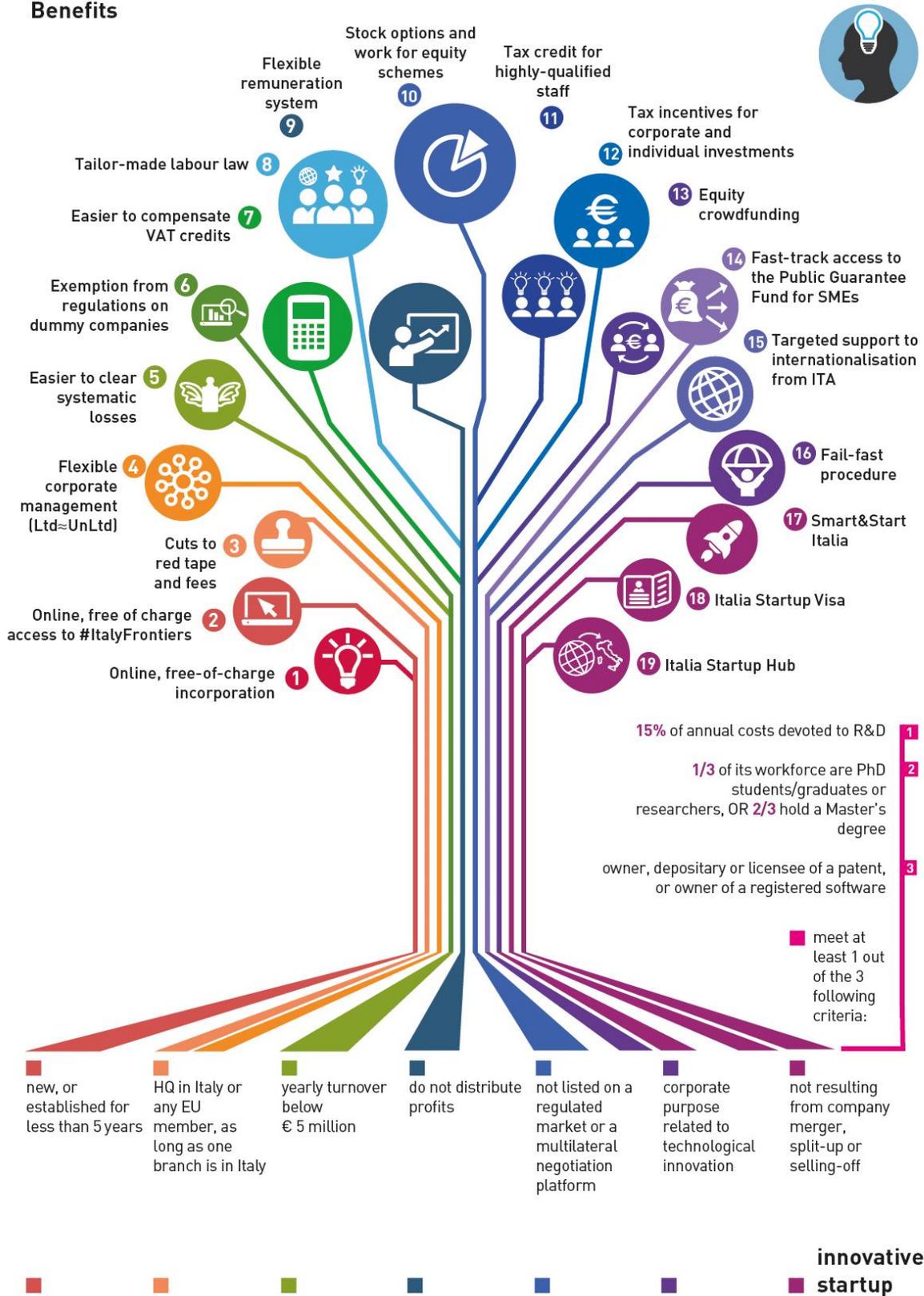


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A new industrial policy for economic development and competitiveness

Vision and legislative process

The general objective of the policy measures outlined in this document is to promote sustainable growth, technological advancement and, in particular, to create favourable conditions for the development of a new business culture inclined towards innovation. Other explicit goals of this policy are enhancing social mobility, generating new employment, especially for the youth, reinforcing the links between universities and businesses, and increasing the capacity of Italy to attract foreign capitals and talents.

To reach these goals, since 2012 the Italian Government has been engaged in the creation of a coherent, all-encompassing legislation intended to promote the establishment and the growth of new innovative enterprises with a high technological value. Such endeavour has culminated in the [Decree-Law 179/2012](#) on "*Further urgent measures for Italy's economic growth*", also known as "*Decreto Crescita 2.0*" ("Growth Decree 2.0"), converted into [Law 221/2012](#).

Decree-Law 179/2012 gathers many of the policy proposals proposed in "[Restart, Italia!](#)", – a report elaborated by a [task force](#) of 12 experts, set up in April 2012 by the Minister of Economic Development – as well as crowd-sourced policy suggestions, which arose during a vast consultation with the main players of the Italian innovation ecosystem. The Decree, which can appropriately be called "**Italy's Startup Act**", has introduced into the Italian legal system a definition of a new in-

novative enterprise of high technological value, the **“innovative startup”**. For the first time, an extensive regulatory framework (articles 25-32) has been arranged in favour of this type of company, without imposing any sectorial or age-related restriction, as it is commonplace in other national legislations. The new instruments and supporting measures cover the whole lifecycle of the innovative enterprise: from its incorporation to its growth, development and maturity stages.

By creating a regulatory framework congruent with the needs of all the players involved in the Italian innovation ecosystem, Decree-Law 179/2012 transcends a simple law-making exercise. In fact, it constitutes a comprehensive, coherent *policy*, which regards innovative entrepreneurship as a key path for industrial policy to follow.

Far from being static, the policy for innovative startups has been strengthened in the last years by several subsequent legislative interventions: provisions as the [Decree-Law 76/2013](#), known as “Decree on Labour”, [Decree-Law 3/2015](#), known as “Investment Compact”, and the [Budget Law for 2017](#) (Law 232/2016), have improved and broadened the range of benefits in favour of innovative startups provided in the original act. At the same time, additional recent normative provisions, although not part of the Italian Startup Act in a strict sense, have nevertheless vastly enriched the overall legislation in favour of innovative entrepreneurship: the most advanced result of this process is represented by the **National Plan “Industria 4.0”** (presentation in [English](#) and in [Italian](#)). Even though this report is primarily focused on measures specifically – and often exclusively – provided to

innovative startups, it also offers a brief overview on a wider range of government policies for innovation.

Definition, data exposure and public monitoring

The legislation in support of innovative startups does not apply to all newly-established enterprises, but only to those that present a clear character of technological innovation. Besides this distinction, no industry-specific restriction has been made: the legislation is potentially applicable to companies operating in any economic sector, from digital to manufacturing, from trade to agriculture.

Definition of innovative startup: any companies with shared capital (i.e. limited companies, "*società di capitali*"), including cooperatives, whose capital shares – or equivalent – are neither listed on a regulated market nor on a multilateral negotiation system. These enterprises must also comply with the following requirements:

- ✓ be **newly incorporated** or **have been operational for less than 5 years** (in any case, **not before 18 December 2012**);
- ✓ have their **headquarters in Italy** or in another EU country, but with at least a **production site branch in Italy**;
- ✓ have a **yearly turnover lower than €5 million**;
- ✓ **do not distribute profits**;
- ✓ have as exclusive or prevalent company object – as stated in the deeds of incorporation – the **production, development and commercialisation of innovative goods or services of high technological value**;

- ✓ are not the result of a **merger, split-up** or **selling-off** of a company or branch;
- ✓ the innovative character of the enterprises is identified by **at least one of the following criteria**:
 1. at least **15%** of the company's expenses can be attributed to **R&D activities**;
 2. at least **1/3** of the **total workforce** are **PhD students, the holders of a PhD or researchers**; or, alternatively, **2/3** of the total workforce must **hold a Master's degree**;
 3. the enterprise is the **holder, depositary or licensee of a registered patent** (industrial property), or the owner and author of a **registered software**.

Definition of “innovative startup with a social goal”: this typology of enterprise fulfils all the requirements that apply to ordinary startups and, in addition, operates in specific domains that, according to Italian legislation¹, are of a considerable social value. [Circular 3677/C](#), issued by the Ministry of Economic Development

¹Article 2, paragraph 1, of [Decree-Law 155/2006](#), regulating social enterprises, lists the following specific areas: social work, health care and social care, education and training, environmental protection, promotion of cultural heritage, social tourism, undergraduate and post-graduate education, cultural services, non-academic training, services for the social enterprises of entities of which 70 per cent is composed of social enterprises.

on 20 January 2015, introduced a new procedure for the recognition of innovative startups with a social goal, extremely agile, based on an assessment of the social impact generated. To help innovative entrepreneurs follow the procedure correctly, the Ministry has published a ["Guide to drafting the Social Impact Report"](#) (in Italian), redacted in cooperation with the Ministry for Education, University and Research (MIUR), as well as other players of the social entrepreneurship community.

Definition of a "certified incubator". Introduced in the Italian legal system by Decree-Law 179/2012, art. 25, par 5, a "*certified* startup incubator" is an entity that satisfies a number of specific quality requirements, defined by the [Ministerial Decree of 22 December 2016](#). The legal criteria concern the physical facilities of the company, its management, and its track record in the incubation and acceleration of new innovative companies, aiming to identify and enhance those national structures that are able to offer efficient incubation services for hi-tech innovative enterprises. Therefore, the certification can be intended as a mark of excellence: the certified incubator shall demonstrate to be endowed with a proven experience in supporting the launch and development of innovative enterprises through the provision of *physical* incubation services – as opposed to virtual incubation, which is not targeted by this policy. Certified incubators can benefit from some of the special measures granted to innovative startups, including: the incorporation through standard uniform model → see par. "*Benefits*", *point 1*; exemption from Business Register fees → see *point 2*; possibility to use stock options to remuner-

ate workers → *see point 9* ; simplified access to guarantees on bank loans → *see point 12*; and a special track to use the Italia Startup Visa programme, available to shareholders of incubated companies coming from non-EU countries → *see "Additional supporting measures", point 3*.

Registration and publicity Regime: the special section of the Business Register for innovative startups. Innovative startups and certified incubators must register themselves in the respective *special sections* of the Business Register ([startups](#); [incubators](#)), created and administrated by the Italian Chambers of Commerce system. The registration process, free-of-charge, takes place by transmitting to the local Chamber of Commerce an online declaration of self-certification (*autocertificazione*) of fulfilment of the legal requirements . Samples and a guide to self-certification are available on the website set up by the Italian Chambers of Commerce for innovative startups, http://startup.registroimprese.it/index_en.html.

This flexible entry process is balanced by two counterweights: on the one hand, an ex-post supervision by the Chambers of Commerce on the content of self-certifications. The principles under which this control is carried out are laid down in the [Circular N. 3696/C](#), issued on 14 February 2017. On the other hand, the duty to update twice a year (deadlines on 30 June and on 31 December) the data provided at the moment of registration in the special section, and to confirm once a year the fulfilment of all requirements, at the same time as one of the two semi-annual declarations otherwise forfeiting the special status and correlated benefits

(for in depth reading, please see the [Circular N. 3672/C](#) issued by the Ministry of Economic Development on 29 August 2014). Such data primarily concerns the type of activity undertaken by the company, with particular reference to its hi-tech character. The special register for innovative startup is available to the public in electronic format and updated weekly by the Chambers' system, in order to give publicity, foster widespread monitoring and spur a qualified and objective debate on the impact of the new legislation on economic growth, employment and innovation (see "[lists and statistics](#)")

#ItalyFrontiers (<http://startup.registroimprese.it/isin/home>): launched on 13 November 2015, #ItalyFrontiers is a new online platform aiming to enrich and expand the existing information assets available for Italian innovative enterprises. This platform provides for innovative startups and SMEs the opportunity to manage a public profile, totally customisable, both in Italian and in English. Each company can manage a detail sheet, which does not only include the institutional data already available, and updated weekly, on the special section of the Business Register (corporate purpose, location, main sectorial areas and operational activities, number of employees, capitalisation, value of production), but also contains a wide range of more in-depth information that can be optionally inserted by each company. This includes the stage of development of the business, the characteristics of its team members, the type of products or services offered, funding needs, capital raised and target markets. Once the legal representative of the firm has validated the details provided, through an entirely online procedure

([guidelines](#)), the information is accessible to everyone by visiting the public profile of the company. The aim is to build a digital showcase for innovative startups, which may be consulted by traditional firms interested in setting up partnerships and open innovation relations, and by national and international investors looking for new opportunities.

Monitoring and evaluation: since the policy is conceived to be “evidence-based”, the corpus of regulations on startups provides for a structured system of monitoring and evaluation of the economic impact of the measures, posing also the obligation, retained by the Minister of Economic Development, to report annually to the Italian Parliament. The Report collects also the results of the analysis carried out by the Monitoring and Evaluation Committee, set up by a [Ministerial Decree](#) approved on 31 January 2014. On 1 March 2014, the Minister of Economic Development discussed the first “*Annual Report to the Parliament on the Startup Law*”. The Annual Report of the Minister to the Parliament, also available in English, has now reached its third edition, which was published on 13 February 2017 ([text in English](#), [text in Italian](#)). The 2016 Annual Report presents the legislative developments occurred in the reference period, and displays the main empirical evidences produced by the measures composing the Italian Startup Act. On a [dedicated section](#) of the Ministry's website it is still possible to read the Reports for [2014](#) and [2015](#).

The commitment to share and to give public evidence to the outcomes of the measures constituting the Italian Startup Act is also clear in the predisposition of

a [structured reporting system](#), composed of **four quarterly reports**:

- Access to credit for innovative startups through by the [SMEs Guarantee Fund](#);
- The employ of the new online incorporation procedure for innovative startups in the s.r.l. legal form (the equivalent of an llc);
- Economic trends of the special section of the Business Register: overall employment dynamics, composition of shareholders, financial performance;
- Results of the Italia Startup Visa & Hub programmes (both in English and Italian versions)

Finally, the National Institute for Statistics (Istat) publishes, in a [page](#) on its website, statistics on the performance of innovative startups in terms of profitability, solidity and liquidity. This section also exhibits analyses on the outcomes of the supporting measures of the Italian Startup Act.

Benefits



The measures described below are available to innovative startups immediately after registration, for a maximum of 5 years since their date of incorporation.

- 1. Incorporation and following statutory modifications by means of a standard model with digital signature** (art. 4, paragraph 10 bis of the [Investment Compact](#)): according to the [Decree of the Ministry of Economic Development of 17 February 2016](#) innovative startups and certified incubators can choose to draw up the deed of incorporation by means of a typified standard model. The document can be signed by using a digital signature, analogously to what is already in place for network contracts: i.e., the whole procedure can take place online. The [Ministerial Decree of 28 October 2016](#) extends the applicability of the digital signature also to the successive modifications of the deed of incorporation. The new procedure of incorporation presents several advantages. First of all, its usage is *free-of-charge*: no specific costs related to the establishment of the new enterprise are envisaged, implying a huge savings for innovative entrepreneurs as opposed to the standard procedure by notarial deed. Second, the process is characterised by a marked *disintermediation*: the entire procedure is online, through a [dedicated platform \(guide\)](#), and the valida-

tion of the identity of the subscribers is guaranteed by the digital signature. Finally, the deed of incorporation is drawn up in a *uniform format* (XML) which allows rigorous checks without hindering customisation. Last but not the least, such procedure remains *voluntary*: it is still possible to establish an s.r.l. by notarial deed, registering it in the special section of the Register afterwards.

- 2. Cuts to red tape and fees:** unlike most companies, innovative startups and certified incubators are exempted from the payment of stamp duty and fees incurred due to the obligation of entering the Business Register, as well as from the payment of the annual fee usually owed to the Chambers of Commerce. In addition, as clarified in the [Circular 16/E](#) issued by the Italian Revenue Agency on 11 June 2014, the exemption from such fees could be interpreted as a general waiver, covering all the actions carried out by the innovative startups after the subscription to the company register, such as incentivised capital increases.
- 3. Flexible corporate management:** innovative startups incorporated in the s.r.l. form are allowed to: create categories of shares with specific rights (for example, categories of shares that do not attribute right to vote or that attribute such rights in non-proportional terms to the participation); carry out financial operations on their own shares; issue participative financial instruments; offer capital shares to the public. Many of these measures imply radical changes in the financial structure of the s.r.l, which is made closer to

that of an s.p.a. (the equivalent of a plc).

- 4. Extension of terms for covering losses:** during the initial years of activity, innovative, high-risk, companies may record losses. If the available capital is insufficient, such losses may have a direct impact on the company's share capital. Where losses result in the share capital being reduced by over 1/3, the shareholders' meeting must lower the capital proportionally to the losses recorded by the following financial year. A 12-month extension is applied to innovative startups, during this period the capital can be reduced proportionally to the losses. While ordinary companies must lower capital by the following financial year, startups can do this for up to two financial years after they have suffered losses.
- 5. Exemption from regulations on dummy companies:** innovative startups are not subjected to regulations concerning non-operational companies and companies registering systematic losses. Accordingly, in case they cannot get "appropriate" revenues, they are exempted from fiscal penalties applied to so-called "dummy companies", such as the computation of a minimum income and taxable base for corporate taxation purpose (IRAP).
- 6. Exemption from the duty to affix the compliance visa for compensation of VAT credit** (art. 4, paragraph 11-novies of the [Investment Compact](#)): the ordinary norm calling for the application of the compliance visa for compensation (by using the "F24" payment form) of VAT credits above €15,000,

may constitute a disincentive to use “horizontal” compensation, thus limiting the capability to offset other tributes. With the exemption up to €50,000, innovative startups may receive relevant benefits in terms of liquidity during the delicate phase of investment in innovation.

7. Tailor-made labour law: in general, innovative startups comply with the regulations on fixed-term contracts as defined in [Decree-Law 81/2015](#) (known as “Jobs Act”). Therefore, innovative startups can hire a staffer on a fixed-term contract for a maximum of 36 months. However, in derogation to Jobs Act’s provisions, innovative startups can hire personnel through fixed-term contracts of any duration, even very short, which can be renewed as many times as wished. After 36 months, the contract can be renewed only once, for 12 months maximum, leading to an overall employment duration of 48 months. By the end of this 4-year period, the fixed-term contract is automatically converted into an open-ended one. Moreover, in exception to general regulation, innovative startups with more than 5 employees are not required to maintain a statutory ratio between fixed-term and active open-ended contracts.

8. Flexible remuneration system: salaries due to workers employed in innovative startups can have a variable component linked to efficiency or profitability of the company, the productivity of the employee or the team of employees, or to other objectives and parameters for output and performance as agreed upon by the parties, including through stock options and

work-for-equity schemes (see below).

9. Remuneration through stock options and work for equity schemes

([Guide](#); [Model with comments](#)): startups and incubators may offer to their collaborators, employees, and even suppliers and consultants such as lawyers and accountants, capital shares by way of additional remuneration. The revenues resulting from these financial instruments are tax deductible for both fiscal and contributory purposes.

10. Tax incentives for corporate and private investments in startups,

both by individuals and by legal entities. This benefit, stabilised and significantly bolstered by the [2017 Budget Law](#) (art. 1, par. 66), envisages for **individuals** a **deduction on personal income tax** (IRPEF) amounting to **30%** of the amount invested, up to a maximum sum of € 1 million; for legal entities the benefit consists in a **fiscal deduction on the taxable income** for company tax purposes (IRAP) equal to **30%** of the amount invested, up to a maximum of € 1.8 million.

Until 2016, these incentives amounted to 19% for investments made by individuals and to 20% for investments made by legal entities, except the special rates, respectively amounting to 25% and 27%, reserved to investments in innovative startups with social goal or operating in the energy field: since 2017 the 30% flat rate applies to these special typologies as well (see [Implementing Decree for 2013-2015](#); [Implementing Decree for 2016](#)).

These subsidies apply both in case of direct investments in startups and in

case of indirect investments by means of other companies, such as CIUs, investing predominantly in startups and innovative SMEs. Starting from 2017, the incentives are conditioned to a holding period of the shareholding in the innovative startup for a minimum of 3 years (previously, 2 years).

- 11.** Possibility to collect capital through **equity crowdfunding authorised online portals**. In July 2013, Italy was the first country in the world to enact comprehensive regulation for this instrument. In early 2015, the already mentioned Decree-Law 3/2015 introduced three important amendments:
- innovative SMEs can now take advantage from the instrument;
 - CIUs and other corporations that invest predominantly in innovative startups and SMEs can resort to equity crowdfunding as well, an evolution that allows for the diversification of the portfolio and decreased risk towards retail investors;
 - once again waiving ordinary norms, the transfer of shares of innovative startups and SMEs is dematerialised, and as such related burdens are reduced, aiming for higher fluidisation of the secondary market.
- By a deliberation on 24 February 2016, CONSOB² has updated the **Regulation**, adding to the aforementioned measures new procedural simplifications. The verification of adequacy of the investment can now be carried

² Commissione nazionale per le società e la borsa (CONSOB) is the Italian Securities and Exchange Commission (SEC).

out by the administrators of the portals themselves, and not exclusively by banks as required before, bringing the entire procedure online. Moreover, two new categories of professional investors have been added: “professional investors on request”, identified according the EU directive “Markets in Financial Services” (Mifid), and “investors in support of innovation”, which includes business angels. Finally, the 2017 Budget Law has launched the process to extend the applicability of this instrument to all Italian SMEs.

- 12. Fast-track, simplified and free-of-charge access for innovative startups and certified incubators to the SME Guarantee Fund ([Fondo di Garanzia per le Piccole e Medie Imprese](#)),** a State Fund that supports access to credit through guarantees on bank loans ([Implementing Decree](#); [Guide](#)). The guarantee covers up to 80% of the bank loans granted to innovative startups and certified incubators, up to a maximum of €2.5 million per company, and it is provided through a simplified fast-track procedure.

- 13. Italian Trade Agency (“ICE”): *ad hoc* services to support innovative startups in international markets.** The Agency provides assistance in legal, corporate and fiscal activities, as well as real estate and credit matters. Innovative startups can benefit from a discount of 30% on standard costs, receivable by asking for a “[Startup service card](#)” simply e-mailing at urp@ice.it. In addition, ITA, in order to favour the matching with potential investors, accompanies – for free or on discounted fees – innovative startups to selected international events on innovation: the calendar of the

planned activities for 2017 is available on the website www.innovationitaly.it/en/.

- 14. "Fail fast" procedure:** the aim of this measure is to avoid that the innovative entrepreneur is "stuck" for ages in bankruptcy arrangements, allowing him or her to start a new business project as soon as possible, limiting financial and reputational costs. In detail, startups are exempted from the standard bankruptcy procedure, preliminary closure agreements and forced liquidation in the event of an over-indebtedness crisis. As a result, waiting times are cut, and the administrative and reputational burden sharply reduced.
- 15. Conversion to innovative SME:** successful innovative startups, now become "mature" companies with a sizeable experience and production value, and whose activities are still characterised by a significant component of technological innovation, can transition to **innovative SME** status. With the aim of fostering all those enterprises that are characterised by a marked inclination to innovate, [Decree-Law 3/2015](#) ("Investment Compact") has extended many of the facilitations conferred to innovative startups to a wider range of companies. An "innovative SME" may be any Small and Medium Enterprise operating in the field of technological innovation, irrespective of its date of incorporation, its company purpose – as stated in the articles of association – and its stage of maturity.

For further information:

- Legal interpretations of the norms are available [here](#).
- The entire legislation – primary and secondary norms on innovative startups, guides, informative documents and the reports on the impacts of the measures are available on the [dedicated sector](#) of the Ministry of Economic Development website.
- Mailbox: startup@mise.gov.it.

Additional measures to support the Italian innovation ecosystem

In addition to the instruments part of the original package of regulations (DL 179/2012), the Italian Ministry of Economic Development is engaged in the following measures in order to support the innovation ecosystem:

- 1. Smart&Start Italia** ([site](#); [summary](#)): The [Ministerial Decree](#) enacted on 24 September 2014 introduced a subsidised financing scheme for innovative startups based in Italy. The total endowment of the scheme amounts to €200 million, available until depletion of funds to innovative projects whose spending in investment goods and/or management costs are between € 100,000 and €1.5 million. The financing scheme will cover such spending programmes through zero-interest mortgages for 70% of their total amount; the coverage ratio rises to 80% when a majority of business associates and employees are women or under 35. Moreover, when the beneficiary is an innovative startup based in the South of Italy, 20% of the funding is converted into an outright grant. Access to the measure is also open to individuals who are committed to establish a new innovative enterprise in the following 60 days. Startups younger than 12 months can also benefit from services of tutoring on technical and management issues. In addition, a preferential track is provided to innovative companies which commit themselves to finance at least 30% of their investment plan with capital from institutional investors. The 2017 Budget Law has refinanced the scheme.

- 2. Transfer of startup fiscal losses to listed sponsor companies.** The Budget Law for 2017 (art. 1, par. 76-80) provides an incentive for companies to transfer, in return for a payment, the fiscal losses recorded in the first three years of activity (the “startup” phase) to companies holding at least 20% of their capital shares. In fact, if the sponsor company is listed in the stock market or in a multilateral negotiation platform (in Italy or in the EEA), it is now allowed to deduct from corporate tax the entire amount of the losses reported by the parent company.
- 3.** Launched on 24 June 2014 by the Italian Ministry of Economic Development, the **Italia Startup Visa** programme ([official website](#) and [guidelines](#)) has introduced a new fast-track procedure for the emission of self-employment visas for non-EU citizens intending to set up an innovative startup in Italy. The logic at the basis of this program consists in the beliefs that the meeting between different entrepreneurial cultures represents a fundamental component for the development of any innovation ecosystem. This new procedure, which counts on the collaboration of the Ministry of Foreign Affairs, the Ministry of Labour and Social Policies and the Ministry of Interior, is rapid (it ends in no more than 30 days), centralised (it is entirely managed by only one Administration) and digital (it takes place entirely online). Detailed information can be found on the [quarterly reports](#) dedicated to the programme, published both in English and in Italian on the website of the Ministry. Moreover, the mailbox [in-](#)

fo.italiastartupvisa@mise.gov.it is available for any clarification on the procedure.

4. Launched on **23 December 2014**, the Italia Startup Hub programme extended the applicability of the abovementioned fast-track procedures of Italia Startup Visa to non-EU citizens that are already in possession of a regular residency permit (obtained for example for study reasons), who intend to stay in Italy beyond its expiry date to launch an innovative startup. This programme allows the conversion of most types of residency permit into a “permit for self-employment in innovative startup” without leaving the Italian territory and benefitting from the same simplified measures provided for the startup visa. The official website of the programme, italiastartuphub.mise.gov.it, entirely redacted in English, has been launched on 22 April 2016 ([guidelines](#)). For more information, please contact the email address info.italiastartupvisa@mise.gov.it.
5. In collaboration with the Italian Ministry of Education, University and Research (MIUR), a pilot project for the creation of **Contamination Labs** in four universities in Southern Italy (Convergence Regions in EU Regional Policy) was launched in late 2013. Its aim is to offer to university students a stimulating environment in which develop innovation projects with a business dimension. Contamination Labs are spaces that encourage students from different academic backgrounds to interact, while promoting entrepreneurship, innovation, an interdisciplinary perspective and new models of

learning. A panel of experts set up by the two Ministries has [selected](#) the Mediterranean University of Reggio Calabria ([web site](#) of the Contamination Lab), the University of Calabria, Cosenza ([web site](#)), the University of Catania ([web site](#)), the University Federico II of Naples, Social Science Department ([web site](#)). In the following years, other 4 Italian universities set up new, self-financed Contamination Labs ([Cagliari](#), [Marche Polytechnic](#), [Milan Cattolica](#), and [Trento](#)). On 2 December 2016, ended the first four semesters envisaged, the Italian Ministry of Education, University and Research launched a new Call for Contamination Labs, allocating €5 million for the project ([call](#)).

6. Finally, two important measures applicable to all Italian enterprises are of particular interest for innovative startups:

a. R&D Tax Credit ([executive summary](#), in Italian): introduced by the [2015 Budget Law](#) and documented by the [decree](#) of the Ministry of Economic and Finance, in concert with the Ministry of Economic Development, of 27 May 2015, the [2017 Budget Law](#) (art. 1, par. 15 and 16) has significantly strengthened the discipline on tax credit for investments in research and development. In the new setup, valid from the fiscal year 2017 until 2020, the credit is equal to 50% of *incremental* annual costs (i.e. additional compared to a multi-annual average) for activities in R&D, both in-house (*intra muros*) and outsourced (*extra muros*). The tax credit is recognised up to an annual maximum of €20 million for each benefi-

ciary. The basis for the benefit is calculated with respect to the average of the costs incurred over the 3 fiscal periods previous to the one current on 31 December 2016, as long as in each of the fiscal periods costs for R&D have been equal to or above €30,000. Before 2017, the credit measured 50% only for outsourced R&D, whereas it amounted to 25% for in-house spending. Further explanations on the R&D Tax Credit are available on the [Circular 5/E](#) issued on 16 March 2016 by the Revenue Agency.

b. Patent Box: unprecedentedly, the [Budget Law for 2015](#) (art. 1, paragraphs 37-45) has introduced fiscal benefits on income deriving from the use of intellectual property. The so called "Patent Box", applicable as of 2015, grants to companies an option to exclude from taxation 50% of the income deriving from commercial use of intangible assets (copyrights, industrial patents, commercial brands). DL 3/2015 has enhanced the measure, fully including among the intangible activities subject to tax benefits trademarks and commercial brands. Therefore, the Italian Patent Box represents a powerful measure for the attraction and the retention of knowledge-based capital. Implementation dispositions have been defined by a subsequent [decree](#), enacted on 30 July 2015 by the Ministry of Economic Development, in accordance with the Ministry for Economy and Finance, further clarified by the Italian Revenue Agency through the [circular 11/E](#) (7 April 2016).