

VMC on Startup Taxation, Valuation and Fund Raising *by*



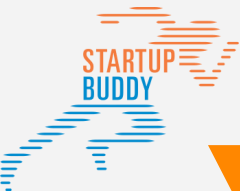
Compliance in relation to
Fund Raising



24th March, 2021

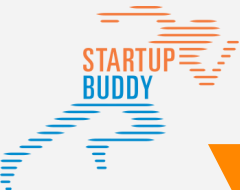
Important Points to Plan the Assignment

- ▶ Type of Securities
- ▶ Number of Resident/ Non Resident Investors
- ▶ Who will draft revised AoA?
- ▶ Who will interact with Investors?
- ▶ Is Secondary Sales involved along with Primary Investment?
- ▶ Is ESOP Pool Created?



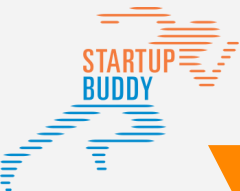
Type of Securities

- ▶ **Equity Shares**
 - ▶ Also known as Common Shares
- ▶ **Preference Shares**
 - ▶ Compulsorily Convertible
- ▶ **Debentures**
 - ▶ Option Convertible
 - ▶ Compulsorily Convertible
- ▶ **iSAFE**
 - ▶ Indian Simple Agreement for Future Equity
 - ▶ Known as Convertible in Foreign Countries



Legal Paperwork

1. Finalization of Capitalization Table
2. Term Sheet
3. Due Diligence
4. Investment Agreement



Capitalization Table

- ▶ Pre money and Post money Valuation
- ▶ Shareholding Structure (before and after funding)
- ▶ Provision for ESOP

Capitalization Table (Example 1)

Assumption: Mr. C (Investor) is investing INR 2 Crores for 20% Equity

Name of Shareholder	Current Shareholding		Fresh Issues	Revised Shareholding	
	No. of Shares	%		No. of Shares	%
Mr. A (Founder)	5,000	50.00%		5,000	40.00%
Mr. B (Founder)	5,000	50.00%		5,000	40.00%
Mr. C (Investor)			2,500	2,500	20.00%
Total	10,000	100.00%	2,500	12,500	100.00%

	Pre-Money Valuation	Investment Amount	Post Money Valuation
	8,00,00,000	2,00,00,000	10,00,00,000
Price Per Share	8,000	8,000	8,000



Capitalization Table (Example 2)

Assumption: Mr. C (Investor) is investing INR 2 Crores for 20% Equity with a condition to keep Provision of 2000 shares for Employees as ESOP

Name of Shareholder	Current Shareholding		Fresh Issues	Revised Shareholding	
	No. of Shares	%		No. of Shares	%
Mr. A (Founder)	5,000	41.67%		5,000	33.33%
Mr. B (Founder)	5,000	41.67%		5,000	33.33%
ESOP Pool	2,000	16.67%		2,000	13.33%
Mr. C (Investor)			3,000	3,000	20.00%
Total	12,000	100.00%	3,000	15,000	100.00%

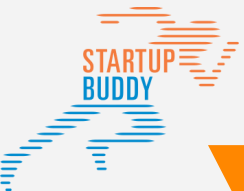


	Pre-Money Valuation	Investment Amount	Post Money Valuation
	8,00,00,000	2,00,00,000	10,00,00,000
Price Per Share	6,667	6,667	6,667



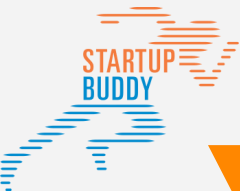
Term Sheet

- ▶ Contain important point of offer
- ▶ To Negotiate
- ▶ Non Binding
- ▶ Base for next documents
- ▶ Type of Securities – Equity, Preference, CCD, SAFE Note



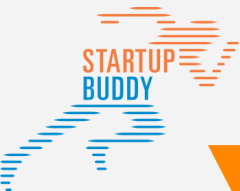
Clauses related to Entry

- ▶ Valuation
- ▶ Investment & Milestones
- ▶ Shareholding
- ▶ Types of Securities
- ▶ Use of Funds
- ▶ Conditions Precedent
- ▶ Conditions Subsequent



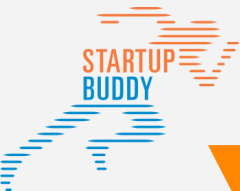
Clauses related to Management

- ▶ Founder Rights
- ▶ ESOP Management
- ▶ Board Composition
- ▶ Voting Rights
- ▶ Investor Rights
- ▶ Restricted Items



Clauses related to Exit

- ▶ Liquidation Preferences
- ▶ Transfer Rights
- ▶ Exit Strategy



Due Diligence

- ▶ Financial
- ▶ IP – Trademark/ Patent etc.
- ▶ Legal

Shareholders Agreement

- ▶ Conversion of Term Sheet in to Legal Document
- ▶ Signed by all the shareholders
- ▶ Binding Document on Stamp Paper

MCA Compliance – Important Steps

1. Offer Letter to Investors
2. Valuation Report
3. Money in Separate Bank Account
4. Allotment of Shares
5. Share/ Debenture Certificates to Investors
6. Filing of documents with RBI Under FEMA, if applicable

MCA Compliance – Private Placement

1. Board Meeting
 - To Call for Shareholders Meeting
 - Proposing the terms of Capital Issue
2. Shareholders Meeting
 - To Pass Special Resolution for Approving Private Placement
 - File MGT-14 for Special Resolution along with Investors details
 - File SH-7 for Increase in Authorised Capital, if applicable
3. Open Separate Bank Account to collect the funds
4. Send Offer Letter in the form of PAS-4 to Investors

MCA Compliance – Private Placement

5. Collect **signed** Offer Letter from Investors along with Payment Details
 - Funds should be received from the same investor
 - In case of Foreign Investor 6 Pointers KYC is important.
6. Allotment of Securities
 - File PAS-3
 - Multiple PAS-3 allowed (till 12 Months)
 - Attach Valuation Report
5. Printing of Share/ Debentures Certificates (or Issue in Demat Form)
6. Payment of Stamp Duty with District Court for Shares (Not applicable in Debentures)

KYC in case of Non Resident Investor

1. Name
2. Registration Number/ Passport Number
3. Permanent Address
4. Name of Remitter's Bank
5. Remitter's Bank Account Number
6. Period of Banking Relationship

RBI Filing for Non Resident Investors

1. Create Entity Master on RBI Website
2. File Single Master Form (SMF) to fill all the master details
3. Filing of FC-GPR
4. Allotment of Unique Identification Number (UIN) by RBI

THANKS!

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