



# EXECUTIVE SUMMARY OF THE NIGERIAN START-UP ACT, 2022

## Introduction

The Start-up Act (the “Act”) was signed into law by President Muhammadu Buhari on October 19, 2022. The Act provides a legal framework for the establishment, development and growth of start-ups, and technology-related talents, as well as incentives to support start-ups in Nigeria and position the Nigerian start-up ecosystem as the leading digital technology centre in Africa.

The Act specifically applies to the following entities;

Companies incorporated under the Companies and Allied Matters Act 2020, which have been granted start-up labels by the Secretariat of the National Council for Digital Innovation and Entrepreneurship; and

Organisations and establishments whose activities affect the operations of a labelled start-up in Nigeria such as Clusters, Hubs, etc.

Start-up labels are entity-specific and cannot apply by extension to such labelled start-up’s Parent or sister company.

## Highlights of the Act

### Labelled Start-ups

A start-up is defined under the Act as a company that has been in existence for not more than ten (10) years with its objectives being the creation, innovation, production, development or adoption of a unique digital technology innovative product, service or process. This implies that companies that have been in existence for more than ten (10) years do not qualify as Start-ups.



A start-up is eligible for labelling by virtue of section 13(2) of the Act under the following circumstances;

- a. The Start-up must be registered as a limited liability company under CAMA
- b. The Start-up must have been in existence for a period of not more than 10 years



- c. The objects of the Start-up must include innovation, development, production, improvement and commercialisation of a digital technology innovative product or process.
- d. The Start-up must be a holder or repository of a product or process of digital technology or the owner of registered software.
- e. The Start-up must have at least one-third of local shareholding held by one or more Nigerians as the founder or co-founder of the start-up.

A Sole proprietorship or partnership is also eligible to be labelled as a Start-up upon fulfilment of the above-stated conditions. The Sole proprietorship or Partnership shall be entitled to a six-month pre-label status period within which the sole proprietorship or partnership is required to upgrade its status to a limited liability company.

Upon the fulfilment of the labelling requirements, a certificate (as conclusive evidence that a start-up has been duly labelled) is issued by the Secretariat to the start-up.

### **Obligations of a labelled Start-up**

A labelled Start-up is obligated to:

- (a) comply with extant laws governing businesses in Nigeria and the conditions for the grant of the Start-up label;
- (b) disclose annually its total human resources assets and turnover;
- (c) maintain proper books of accounts in accordance with extant laws and regulations on reporting standards
- ;
- (d) provide an annual report on incentives received; and
- (e) notify the Coordinator of any change in the structure of the Start-up or the business objectives of the Start-up within one month of the change.

### **Accelerators and Incubators**

The Act empowers the Secretariat<sup>1</sup> to establish accelerator and incubator programmes for Start-ups and a framework for accelerators and incubators in Nigeria. (Section 38 of the Act).

Existing accelerators and innovators are required to be registered with the Secretariat. Registered accelerators and incubators shall be entitled to incentives as may be granted by the Federal Government in accordance with extant laws, provided the accelerators and incubators are actively involved in providing services, finance and support to the growth of Start-ups in Nigeria.

<sup>1</sup> The National Information Technology Development Agency serves as the Secretariat.



## **Clusters, Hubs, Innovation Parks and Technology**

The Act provides for the establishment of a framework for Start-up innovation clusters, hubs, physical and virtual innovation parks in each state of the Federation, to provide support to Start-up and provide assistance in the facilitation of the expansion of a Start-up into foreign markets, by virtue of section 40.

### **The Start-up Consultative Forum**

The Act empowers the Secretariat to set up a Consultative body known as the Start-up Consultative Forum (the “Forum”) to provide a platform for information sharing and collaboration in the Nigerian Start-up ecosystem, by virtue of section 12 of the Act. The Forum shall comprise start-ups, venture capitalists, angel investors, incubators, accelerators and innovation hubs and two civil society organisations involved in the advancement of technology and innovation.

The Forum shall be a platform for information sharing and collaboration in the Nigerian Start-up ecosystem with respect to Start-ups qualified to be labelled under the Act, relevant incentives that apply to start-ups, information available on local capabilities and policy proposals that may be relevant to the Nigerian Start-up ecosystem.

### **The Start-up Investment Seed Fund**

The Act establishes the Start-up Investment Seed Fund (the “Fund”) by virtue of section 19 of the Act, to be applied towards providing early-stage finance for labelled Start-ups, providing relief to technology laboratories, accelerators, incubators and hubs.

There shall be paid into the fund a sum of not less than Ten Billion Naira (NGN10,000,000,000) from sources approved by the Council, to be managed by the Nigerian Sovereign Investment Authority as the Fund Manager.

The Act provides access to other funding opportunities for labelled Start-ups such as the Credit Guarantee Schemes by virtue of section 28 of the Act, and grants and loan facilities administered by the Central Bank of Nigeria. Start-ups may also raise funds through crowd funding intermediaries and commodities investment platforms duly licensed by the Securities and Exchange Commission.

### **Technology Development Zone**

The Secretariat shall collaborate with the Nigerian Export Processing Zone Authority to establish a Technology Zone (the “Zone”) to spur the growth and development of start-ups, accelerators, and incubators. Start-ups, accelerators, or incubators situated in the Zone will be entitled to existing incentives provided under the Nigeria Export Processing Zones Act including tax exemptions, exemption from import duties, etc.



## Tax and Fiscal Incentives<sup>2</sup>

### *Pioneer Status Incentives*

Labelled Start-ups operating in industries covered by Pioneer Status Industries administered by the Nigerian Investment Promotion Commission are entitled to tax reliefs and incentives, upon application through the Secretariat.

### *Exemption from payment of Companies Income Tax*

A labelled Start-up may be exempted from the payment of income tax for the period of three years and an additional two years in accordance with the provisions of the Industrial Development (Income Tax Relief), provided the Start-up is still within its labelled period.

### *Research and Development Incentives*

Expenses incurred on research and development by labelled start-ups, accelerators and innovators shall be an allowable deductible in the computation of its income tax.

### *Exemptions under the Industrial Training Funds Act*

Labelled Start-ups shall be exempted from Industrial Training funds contributions where it provides in-house training for its employees for the period where it is designated as a labelled Start-up.

### *Tax Credit on Investments in Labelled Start-ups*

Under the Act, a national policy shall be developed and implemented by the Federal Ministry for Finance and other relevant MDAs to grant tax credits to individuals, angel investors, accelerators, venture capitalists, private equity funds, and incubators who invest in labelled Start-ups.

Gains accruing from assets disposed of by an organisation such as angel investors, venture capitalists, accelerators or incubators with respect to a labelled Start-up shall not be liable to capital gains tax, provided the assets have been held in Nigeria for a minimum of twenty-four (24) months.

### *Collaboration with Regulatory Bodies<sup>3</sup>*

The Act provides for collaboration between the Secretariat and MDAs such as the Corporate Affairs Commission to optimize the business registration process, the Nigerian Copyright Commission, Trademarks, Patent, and Design Registries to protect the copyrights of Labelled

<sup>2</sup> Sections 24 – 25

<sup>3</sup> Sections 30-37



Start-ups, and the National Office for Technology Acquisition and Promotion to ease technology transfer process.

The Act also provides for collaborations with the CBN and Securities and Exchange Commission to assist in easing the crowd funding process, facilitate licensing for Financial Technology Start-ups, and repatriation of capital and profits for Start-ups with foreign investment. The Council shall assist labelled Start-ups to be listed on the relevant board of the Nigerian Exchange Limited, or on similar stock and commodity exchanges operating in Nigeria.

The Collaboration between the MDAs aims at eliminating regulatory hurdles that may be encountered by Start-ups in registration, operations, and financing.

## Conclusion

The Act is a positive development for the Nigerian technology ecosystem. However, much will depend on the implementation by the various stakeholders for the success and achievement of the goals of the Act.

We are of the view that the Act will promote the development of technology and provide enormous support for Start-ups and encourage foreign investment in the Nigerian technology ecosystem.

