

# The Italian legislation in support of innovative SMEs

## Executive summary



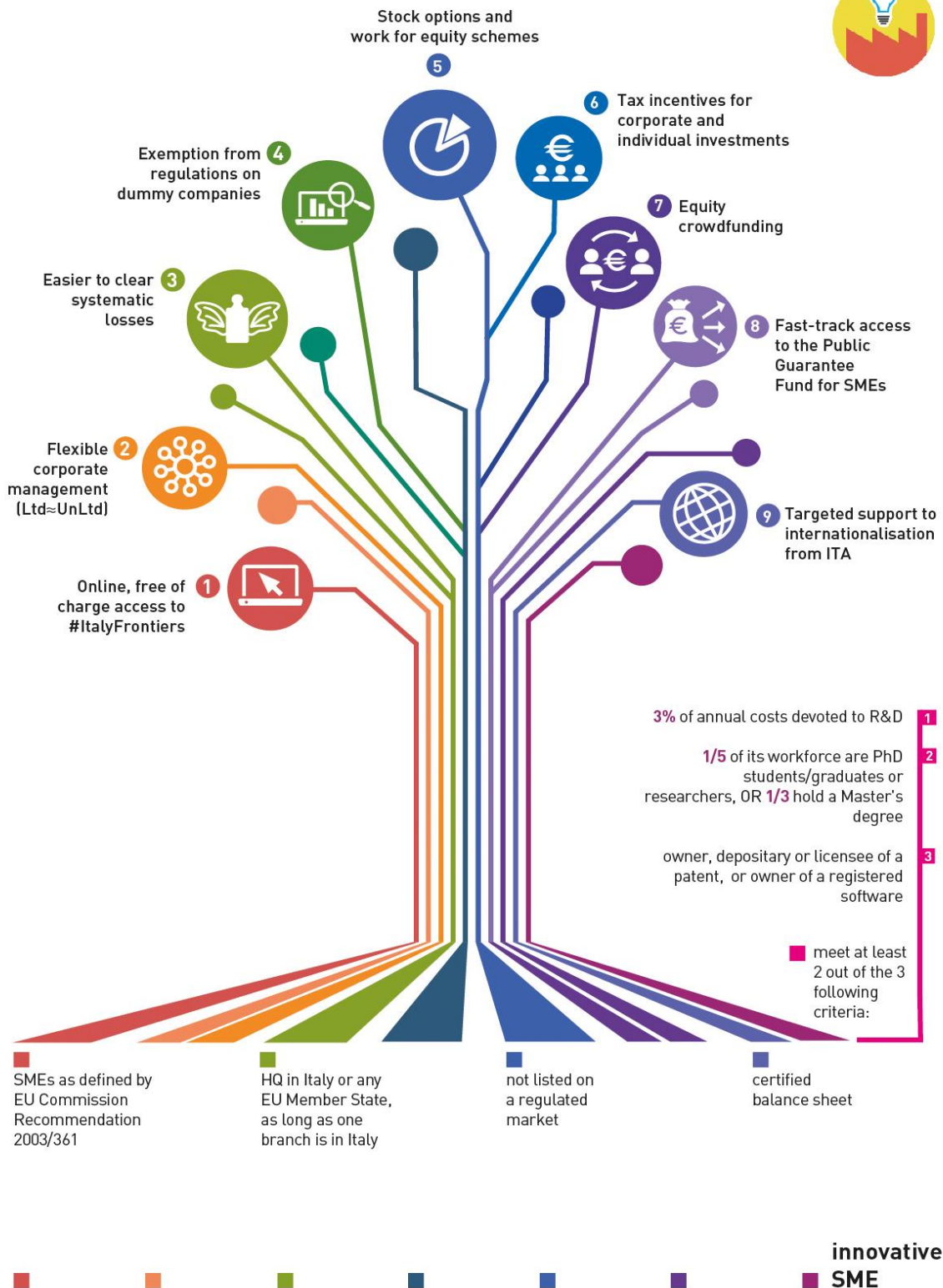
23 February 2017

**Italian Ministry of Economic Development**

DG for Industrial Policy, Competitiveness and SMEs



**Benefits**



# Table of contents

---

Vision and legislative process	- 4 -
Definition, data exposure and public monitoring	- 7 -
Benefits	- 12 -
Additional measures to support the Italian innovation ecosystem	- 17 -

## Boosting technological innovation within the domestic industrial fabric

### Vision and legislative process

The measures outlined below can be considered a “second stage” of the reform process launched at the end of 2012 with the [Decree Law 179/2012](#) (“Decree Growth 2.0”, Italy’s Startup Act), which introduced a vast legislative corpus in support of innovative enterprises with high technological content, *innovative startups* ([Executive Summary of the Italian Startup Act](#)).

The [Decree-Law 3/2015](#), (known as “Investment Compact”), converted into Law 33/2015, has extended most of the benefits envisaged for innovative startups to a broader range of companies: “**innovative SMEs**”. The defdi issmall and medium Enterprises operating in the field of technological innovation, regardless of their date of incorporation, the economic sector in which they operate or their stage of maturity. This regulatory intervention acknowledges established principles of the contemporary economic doctrine, which unanimously ascribes to technological innovation a decisive impact on the levels of competitiveness and growth and on the processes of job creation. The aim of the legislator was thus to foster with greater effort and reach the propagation of technological innovation within the domestic productive fabric.

In an economic environment, as it is the Italian one, dominated by small and medium enterprises, the “expansive breakthrough” impressed by the “Investment Compact” represents the logical and inescapable evolution of an industrial policy – as the one carried out by the Italian Ministry of Economic Development – that, through technological development, aims at promoting sustainable growth and the diffusion of an entrepreneurial culture committed to research and innovation

and open to the global flows of human and financial capital.

Innovative startups and innovative SMEs clearly represent **two sequential stages** of the same continuous and coherent growth process. Therefore, the Italian Government has intended to support not only the initial phase of the business but also, in view of the data collected on innovative startups during the four years of validity of the special regime (see the [dedicated online, weekly-updated directory of the Business Register](#)), to accelerate the dimensional growth and to support the consolidation of those companies characterised by high technological contents.

As described in the following paragraphs, the legislation designed in favour of innovative SMEs consists in a vast and diversified package of measures that touch every aspect of a company's lifecycle, including the introduction of more flexible corporate management tools, the liberalisation of remuneration schemes, the facilitation of the access to credit – for example by facilitating the investment in equity, and the support in the process of internationalisation of innovative enterprises.

The centrality in the national economic agenda acquired by innovation policies has become more and more marked in the last four years. The apex of this process is represented by the **National Plan "Industria 4.0"** (presentation in [English](#) and in [Italian](#)), which has introduced several measures aimed at supporting productive investments in research, development and innovation. Even if the special support measures that are part of Industria 4.0 are not exclusively addressed to innovative SMEs, they are of particular interest for this typology of enterprise: thus, they are briefly presented in the conclusive part of this executive summary.



## Definition, data exposure and public monitoring

The legislation in question does not apply to every small and medium size enterprises but just to those that are characterised by a clear innovation content, that are *innovative* SMEs. However, since the aim of the legislator is to promote technological innovation in all areas of production , included the most traditional ones, and to support innovative enterprises at any stage of development, neither sectorial nor registries limitations have been posed.

**Definition of innovative SME:** the measures in question apply only to those small and medium size enterprises as defined by the [European Commission Recommendation 361/2003](#) (that is, companies with less than 250 employees and with a total turnover that does not exceed €43 million), meeting the following requirements:

- ✓ be **incorporated as companies with shared capital** (i.e. limited companies), including cooperatives;
- ✓ have their **headquarter in Italy** or in another EU country, but with at least one **production site or branch in Italy**;
- ✓ have the **last balance sheet certified by an auditor** or by a company of auditors registered in the auditors' register;
- ✓ have the shares of the company **not listed in a regulated market**;
- ✓ be **not registered as innovative startup or certified incubator** in the special section of the Business Register;
- ✓ **do not distribute profits**;

- ✓ be of innovative character, as identified by **at least two of the following 3 criteria**:
1. at least **3%** of either the company's expenses or its turnover (the largest value is considered) can be attributed to **R&D activities**;
  2. at least **1/5** of the total workforce are **PhD students, PhD holders or researchers**; alternatively, **1/3** 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 of a program for original registered computers**.

**Registration and publicity regime: the special section of the Business Register.**

In order to benefit from the supporting measures, innovative SMEs must register in the "special section" of the Italian Business Register, created *ad hoc* by the Chambers of Commerce. The registration occurs by filling out a self-certification (*autocertificazione*), in which the innovative SME declares to fulfil all of the required qualifications indicated above ([self-certification](#); [guide](#)). The self-certification is then to be transmitted, through an online procedure, to the competent Chamber of Commerce responsible for the Province in which the company is based.

This flexibility "in-entry" is balanced by two counterweights. On one hand, an ex-post supervision is carried out by the Chamber of Commerce responsible for the area, focused on the effective compliance of the innovative SME with all the re-



quired qualifications. 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 company has the duty to update once a year (deadline on 30 June) the data provided at time of registration, in particular the information concerning the innovative content of the enterprise, shall be otherwise invalid the status of innovative SME.

As with the innovative startups, the innovative SMEs' special register is available in electronic format, and weekly updated by the Chambers' system, in order to give publicity, encourage widespread monitoring and spur a qualified and objective debate on the impact that the new legislation will have on economic growth, employment and innovation.

**#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 "biographical" 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, production worth), but also contains a wide range of more in-depth and personal information inserted by each enterprise. This data includes the stage of development of the business, the characteristics of team members, the type of products or services offered, funding needs, capital obtained and target markets. Once the legal representative of the firm has validated the details provided, through a fully online procedure

([guidelines](#)), the information shall be made available to everyone visiting the public profile of the enterprise. 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 and SMEs, 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 to support innovative startups and SMEs is conceived to be “evidence-based”, the corpus of regulations provides for a structured system of monitoring and evaluation of the economic impact of the measures, that pose also the obligation, retained by the Minister of Economic Development, to report annually to the Italian Parliament on the effect and implementation of the benefits. 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. 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. The previous two editions, available on the [dedicated section](#) of the website of the Ministry are dated [1° March 2014](#) and [16 December 2015](#).



## Benefits

Differently from innovative startups, the application of the supporting measures in favour of innovative SMEs is not subjected to any deadline: as long as the applicable legal requirements are met, innovative enterprises can benefit from the measures outlined below without time limits.

- 1. Exemption from stamp duty:** innovative SMEs are exonerated from the payment of the stamp duty due to the registration in the special section of the Business Register.
- 2. Flexible corporate management:** to innovative SMEs incorporated as s.r.l. (the equivalent of an llc), shall be allowed: to create categories of shares with specific rights (for example, categories of shares that do not attribute rights to vote or that attribute such rights in non-proportional terms to the participation); to carry out operations on one's shares; to issue participative financial instruments; to offer capital shares to the public. Many of these measures imply a radical change in the financial structure of the s.r.l, approaching that of an s.p.a. (the equivalent of a plc).
- 3. Extension of terms for covering losses:** in the case of reduction of the share capital of more than  $\frac{1}{3}$ , 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 SMEs, during which the capital can be reduced proportionally to the losses. While ordinary companies must lower capital by the following financial year, innovative SMEs can do this for up to two financial years after they suffered losses.

4. **Exemption from regulations on dummy companies:** innovative SMEs are not subjected to regulations concerning non-operational dummy companies which constantly make a loss. Accordingly, in case innovative SMEs 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).
5. **Remuneration through stock options and work for equity scheme** ([guide; model with comments](#)): innovative SMEs may remunerate their collaborators with shares in the company’s capital (**stock option**), and their suppliers through **work for equity** schemes. The revenues resulting from these financial instruments are tax deductible for both fiscal and contributory purposes and they are subjected only to taxation on capital gains..
6. **Tax incentives for investments in innovative SMEs<sup>1</sup>** made both by individuals and 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.

---

<sup>1</sup> This measure, not yet operational, will enter into force after the implementation of the dedicated inter-ministerial decree, in accordance with the EU regulations on state aid.

Until 2016, these incentives amounted to 19% for investments made by individuals and to 20% for investments made by legal entities. These subsidies apply both in case of direct investments in innovative SMEs and in case of indirect investments by means of other companies, such as CIUs, investing predominantly in startups and innovative SMEs.

7. Possibility to collect capital through **equity crowdfunding** campaigns on **authorised online portals** (listed here: [ordinary section](#), [special section](#)). In July 2013, Italy was the first country in the world to enact comprehensive dedicated regulation. In early 2015, the already mentioned Decree-Law “Investment Compact” has extended the possibility to use equity crowdfunding to innovative SMEs and has introduced other two important amendments: first, CIUs and other corporations that invest predominantly in startups and innovative SMEs can use equity crowdfunding as well, an evolution that allows for the diversification of the portfolio and decreased risk towards retail investors; second, the transfer of shares of startups and innovative SMEs is dematerialised, and as such related burdens are reduced, aiming for fluidification of the secondary market. By a deliberation on 24 February 2016, CONSOB<sup>2</sup> has updated the **Regulation**, adding to the aforementioned measures new procedural simplifications. The adequacy of the investment can now be verified directly online by the administrators of the portals, and not exclusively by banks as required before. Moreover, two new categories of professional

---

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

investors have been added: “professional investors on request”, identified according to the EU directive “Markets in Financial Services” (Mifid), and “investors in support of innovation”, which includes actors such as business angels. Finally, with the 2017 Budget Law the process of extension of the usage of equity crowdfunding by any Italian SME has been started.

8. **Fast-track, simplified and free-of-charge access to the **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 ([website](#), [guidelines](#)). The guarantees cover up to 80% of the loan, with a maximum of € 2.5 million for a single SME, and it can be granted through a simplified procedure.**

Such a procedure – direct, since the evaluation of creditworthiness is not carried out by the Fund itself, but by the credit institutions (e.g. banks) – is usually reserved for SMEs awarded with the highest credit scoring (fascia 1), (evaluation criteria available in Italian [here](#), in part VI): however, just for innovative SMEs, **the simplified procedure is also allowed for enterprises in the second scoring band** (“fascia 2”), provided that the part of the loan covered by the fund is not secured with mortgages or insurance and bank sureties. For more information, or to verify the current status of an ongoing procedure, please visit [www.fondidigaranzia.it/richiesta-informazioni](http://www.fondidigaranzia.it/richiesta-informazioni).

9. **Italian Trade Agency (ITA): ad hoc services for the internationalisation of innovative SMEs.** The Agency provides assistance in legal, corporate and fiscal activities, real estate and credit matters: innovative SMEs 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](mailto:urp@ice.it). In addition, ITA, in order to favour the matching with potential investors, accompanies freely, or on a discounted prices, innovative SMEs to selected international events on innovation: the calendar of the activities in programme is available on the website [www.innovationitaly.it/en/](http://www.innovationitaly.it/en/).

**For further information:**

- Legal interpretations of the norms – in particular, on the requirement of certification of the balance sheet are available [here](#).
- The entire legislation – primary and secondary norms on innovative SMEs, guides, informative documents and the reports on the impacts of the measures, as well as the Annual Report of the Minister to the Parliament, are available on the [dedicated sector](#) of the Ministry of Economic Development website.
- Informative mailbox: [pminnovative@mise.gov.it](mailto:pminnovative@mise.gov.it).



## Additional measures to support the Italian innovation ecosystem

In addition to the instruments contained in the original package of regulations, the Italian Ministry of Economic Development is engaged in the following measures in order to support the innovation ecosystem:

- **R&D Tax Credit** ([executive summary](#)): 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 beneficiary. 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.
- **Patent Box**: unprecedentedly, the Budget Law 2015 (art. 1, paragraphs 37-45) introduced fiscal benefits on income deriving from the use of intellectual property. The so called “Patent Box”, applicable as of 2015, allows com-

panies the possibility to exclude from taxation 50% of income deriving from the commercial use of intangible assets (copyrights, industrial patents, commercial brands). The more recent Investment Compact has enhanced such instrument, fully including trademarks and commercial brands among the intangible activities subject to tax benefits. The Patent Box represents a powerful measure for the attraction of investment in the value of intangible capital, of brands and industrial models. 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 clarification has been provided by the Italian Revenue Agency on 7 April 2016 ([Circular 11/E](#)).

- **Super- and hyper-depreciation:** the first measure cited consists in an increase up to 140% of the deduction of depreciation for investments in new capital goods. In addition to having extended the applicability of super-depreciation to 2017, the Budget Law for 2017 has introduced also a hyper-depreciation of 250% on tangible and intangible assets functional to the digital transformation of Italian enterprises. These measures, which represent a pillar of Italy's National Plan "[Industria 4.0](#)", apply to any Italian company, and are particularly interesting for innovative SMEs active in the field of digitised manufacturing.