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**EXAMINING THE EFFECTS OF DPIIT RECOGNITION ON INDIAN
STARTUPS: A COMPANY LAW PERSPECTIVE**

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Abstract

The DPIIT recognition, established under the initiative Startup India, is a program by the Department for Promotion of Industry and Internal Trade (DPIIT) that grants recognition to startups that fulfil specific eligibility criteria, providing an edge to foster the startups in the market. This paper examines the DPIIT recognition program's effect from the company law perspective. The paper is divided into two parts; the first part outlines the concept of DPIIT recognition, emphasising its advantages for startups and its alignment with the Sustainable Development Goals. Moreover, it delves into the challenges linked to this recognition, such as qualification requirements and potential legal ambiguities within company law. The second part of the paper includes detailed case studies of startups that have received DPIIT recognition, including their business models, growth trajectory, and the specific benefits they derived from the recognition. This section explores this recognition's immediate and long-term impacts on individual startups and the broader Indian economy.

The research methodology used in this paper is a secondary data analysis approach involving research from statutes, existing reports, and databases from government and company sources to examine the impact of DPIIT recognition on Indian startups. The paper discusses the practical implications of DPIIT recognition for Indian startups and company law. This paper suggests

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potential improvements to bridge existing gaps and ensure a more efficient and transparent legal environment for recognised startups. These potential improvements could include simplifying the qualification criteria for DPIIT recognition, enhancing the legal framework for protecting intellectual property rights, and promoting better corporate governance practices among startups.

Keywords: DPIIT Recognition, Indian Startups, Company Law, Startup Ecosystem

Introduction

In recent years, the Indian startup ecosystem has grown exponentially. The Department for Promotion of Industry and Internal Trade (DPIIT) launched the Startup India initiative to promote and foster this innovation engine. A critical component of this strategy is DPIIT recognition, which provides entrepreneurs with a slew of benefits and accelerates their growth trajectory. The DPIIT recognition supplements the already existing benefits for startups under the Companies Act of 2013. The Companies Act 2013 establishes the groundwork for startups by providing a legal framework for their incorporation as private limited corporations. DPIIT recognition expands on this basis, providing additional benefits and improving existing operations. The first part of the paper delves into the theoretical aspects of DPIIT recognition, its advantages, alignment with sustainable development goals, and the challenges currently being faced. The second part of the paper outlines the practical aspects of the recognition case studies of startups that have received DPIIT recognition and explores the immediate and long-term impacts of this recognition for individual startups and the broader Indian economy.

PART I

The procedure of DPIIT Recognition

The G.S.R. Notification 127 (E) 2019 defines “startups” eligible for the DPIIT Recognition.² The eligibility criteria provide that the “startups” shall be a private limited company, partnership firm, or limited liability partnership. Previously, the threshold for the turnover of startups was INR 25

² Ministry of Commerce and Industry, G.S.R. 127 (E) (Issued on February 19, 2019).

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crores, but it has been increased to INR 100 crores, including an increased range of startups within its ambit.³ The notification further provides that the entity shall be deemed a “startup” for up to 10 years from its incorporation date. It was earlier, five years, then increased to 7 years.⁴ Increasing the criterion for turnover and years of incorporation grants recognition to a diverse spectrum of businesses. The startup shall also be working to innovate/improve existing products, services, and processes, and it should have the potential to produce jobs/wealth. An entity created by dividing or restructuring an already-existing company shall not be regarded as a "startup".

To apply for recognition, startups must present supporting documents at the time of application. DPIIT offers Startup Recognition to all qualified businesses (companies, LLPs, and registered partnerships) through the National Single Window System (nsws.gov.in). To apply, the startup needs to create an account on the National Single Window System (NSWS) and complete the 'Registration as a Startup' form. Startups can use NSWS to apply for various business approvals from the Central and State Governments, including labour regulations and company incorporation. After receiving the DPIIT Certificate, startups can apply for the 80 IAC tax exemption and the exemption under Section 56 of the Income Tax Act (Angel Tax).⁵

Advantages of DPIIT Recognition to Startups

The DPIIT recognition offers a variety of benefits to startups, ranging from financial incentives to regulatory relaxations, all targeted at promoting their growth and development. In contrast to earlier regulations, the Companies Act streamlines company incorporation and ongoing compliance procedures. The DPIIT recognition further simplifies compliance by allowing self-certification under specific environmental and labour laws, lowering the regulatory load on entrepreneurs. This is consistent with the Companies Act's aim of promoting ease of doing business. It also provides for lower regulatory compliance requirements, such as more

³ Ministry of Commerce and Industry, G.S.R. 180 (E) (Issued on February 17, 2016).

⁴ *Id.*; Ministry of Commerce and Industry, G.S.R. 501 (E) (Issued on May 23, 2017).

⁵ Ministry of Commerce and Industry, Startup DPIIT Recognition Application on National Single Window System (Issued on November 1, 2022).

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straightforward incorporation procedures and little paperwork, reducing the administrative burden for entrepreneurs and allowing them to focus on their primary business activities.

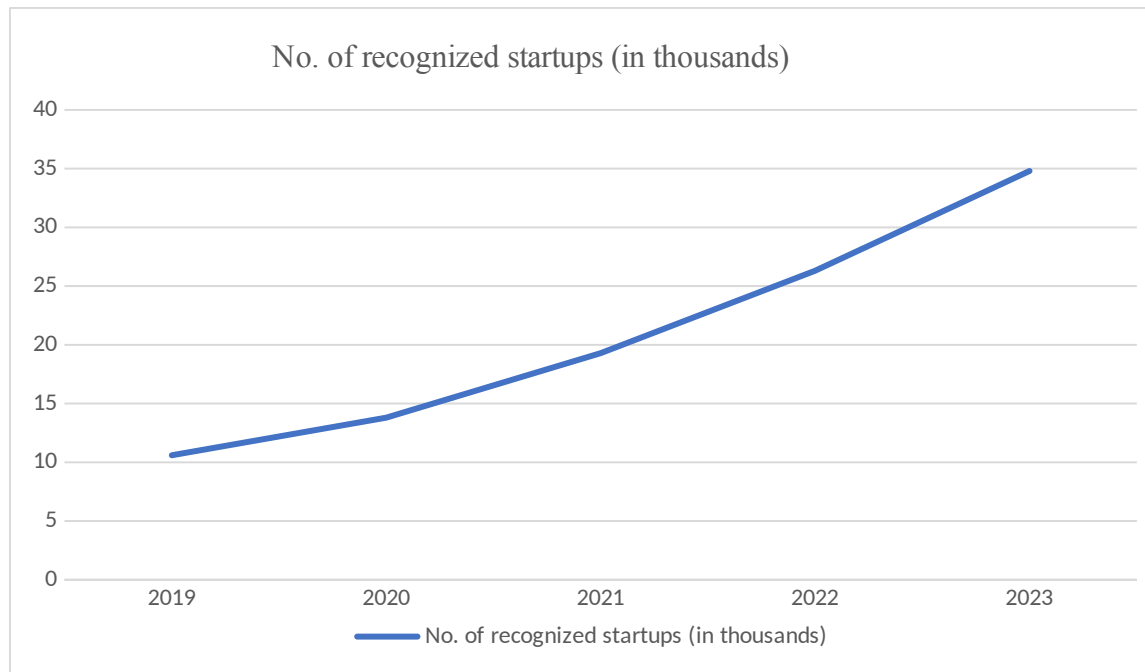
Moreover, the DPIIT recognition provides significant tax breaks aimed primarily at startups. These include an exemption from the angel tax (tax on investments beyond fair market value) and a lower capital gains tax for investors.⁶ This encourages investment and drives growth, supporting CA's 2013 goal of a thriving business sector. The DPIIT-recognized startups are eligible for various tax breaks and incentives under the Income Tax Act 1961.⁷ These incentives include a three-year tax break during the first ten years of incorporation, which helps to accumulate money for future investments and research and development of the company. The DPIIT recognition also expedites the patent application process, which is critical for startups with unique ideas. This immediately supports the Companies Act's focus on intellectual property protection for businesses. Provides access to government funding schemes, incubation centres, and mentoring programs. This allows for greater access to resources and networks than the Companies Act of 2013, improving the startup support system. Graph 1 depicts data from the Ministry of Commerce and Industry, indicating that the DPIIT has recognised over 1 lakh startups as of 2023.⁸

⁶ Ministry of Commerce and Industry, G.S.R. 127 (E) (Issued on February 19, 2019) ¶ 4.

⁷ *Id* at ¶ 3.

⁸ Press release, Ministry of Commerce and Industry, DPIIT recognises 1, 17,254 startups as on 31st Dec 2023 (Feb. 02, 2024), <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2002100>.

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Graph 1: Growth of recognised Startups in India from the year 2019-2023.

Mapping DPIIT Recognition with Sustainable Development Goals

The Sustainable Development Goals (SDGs) set forth by the UN are closely aligned with the DPIIT recognition of startups, especially in industry, innovation, and economic growth areas.

The following SDGs are aided by DPIIT recognition's ability to support startups:

- **SDG 8: Decent Work and Economic Growth:** DPIIT recognition creates job possibilities by encouraging entrepreneurship and aiding in the development of startups, which helps to reduce poverty and promote sustainable economic growth.⁹
- **SDG 9: Infrastructure, Industry, and Innovation:** Prominent startups propel technological innovation in multiple domains, promoting industrial growth and augmenting infrastructure with innovative solutions and offerings.¹⁰

⁹ U.N. Department of Economic and Social Affairs, Sustainable Development Goal 8, <https://sdgs.un.org/goals/goal8>.

¹⁰ U.N. Department of Economic and Social Affairs, Sustainable Development Goal 9, <https://sdgs.un.org/goals/goal9>.

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- **SDG 10:Reduced Inequalities:** By giving entrepreneurs equal chances regardless of their size or location, DPIIT recognition fosters inclusion, reducing inequities and fostering a more equitable society.¹¹

Challenges of DPIIT Recognition

The DPIIT identification procedure presents several obstacles for startups despite its many advantages, making it more difficult for them to take full advantage of the available incentives. One of the criteria for eligibility for recognition is that the startup idea must be innovative and have the potential to generate employment.¹² However, the term "innovation" can hold a subjective meaning. For one IMB member, what is revolutionary may be considered an incremental improvement by another. The absence of a precise definition may cause assessments to differ. Moreover, the existing framework appears to favour technology-driven startups more than others. It may be difficult for startups in industries like handicrafts, social entrepreneurship, or agriculture to exhibit the kind of "scalability" typically associated with digital endeavours. According to a report released by the Ministry of Commerce and Industry, the most recognised sectors include IT, construction, and other commercial services.¹³ This distorts the market and makes it more difficult for creative solutions in non-tech industries to be identified. Another major challenge before the DPIIT recognition process is the lack of information and awareness among many startups based in non-metropolitan and semi-urban areas, resulting in limited inclusion of deserving startups in the recognition process and impeding their access to mentorship, funding, and networking possibilities.

¹¹ U.N. Department of Economic and Social Affairs, Sustainable Development Goal 10, <https://sdgs.un.org/goals/goal10>.

¹² Ministry of Commerce and Industry, G.S.R. 127 (E) (Issued on February 19, 2019) ¶ 1(a)(iii).

¹³ Ministry of Commerce and Industry, PRABHAAV: Powering a Resilient & Agile Bharat for the Advancement of Visionary Startups, (January 10, 2024) <https://www.startupindia.gov.in/content/dam/invest-india/Factbook-100K-Recognitions.pdf>.

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PART II

Effect of DPIIT Recognition: Case Studies

1. Sanicon IT Services Private Limited Company

Sanicon IT Services Private Limited Company was created in 2014 as a partnership firm but was later established as a private limited company on May 15, 2021. It identifies itself as a non-governmental organisation. It is registered with the Registrar of Companies in Pune, Maharashtra. Following its formation as a private limited company, it requested recognition from the Department for Promotion of Industry and Internal Trade (DPIIT) via the Startup India initiative. It would enable the firm to obtain various benefits, including tax breaks, simplified compliance, and other advantages. The Department for Promotion of Industry and Internal Trade (DPIIT) awarded the firm a certificate of appreciation. As a startup, becoming registered with DPIIT was advantageous for them.

Sanicon was founded in Nagpur and first provided essential IT solutions to small enterprises, as well as online security and penetration testing, before focusing primarily on managed cloud and associated services. SANICON became a trusted tech partner, providing a one-stop solution to small/medium enterprises and start-ups who lacked the resources and access to technology.¹⁴

2. GMS Hospitality Services Private Limited

GMS Hospitality Services Private Limited was founded on January 15, 2016. It is designated as a non-government corporation registered with the Registrar of Companies in Delhi. The authorised share capital is Rs. 500,000, whereas the paid-up capital is Rs. 100,000. It is involved in other service activities. Anshul and Ambuj Saxena serve as directors of GMS Hospitality Services Private Limited.¹⁵

¹⁴Sanicon, <https://saniconservices.com/about-us/our-story/> (last visited April 1, 2024).

¹⁵*GMS Hospitality Services Private Limited*, **THE ECO. TIMES**.

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On October 9, 2020, the Department of Promotion of Industry and Internal Trade acknowledged the firm as a startup. The effect of COVID-19 hurt the firm, and the Government of India's Startup India project has assisted the company in reviving.

Social Buzz, one of the GMS Hospitality Services Private Limited units, benefitted from the DPIIT recognition. It is an all-round digital marketing agency that uses consumer insights and research to develop and execute plans from start to finish. The certificate of recognition to the parent company has helped the firm to expand its reach.¹⁶

Effect of DPIIT Recognition on Startups

I. SHORT RUN

- **Enhanced Acknowledgement and Assistance:** The initiatives of the DPIIT, including Startup India, have effectively enhanced awareness regarding startups and secured governmental recognition and support. This has resulted in immediate advantages such as improved resource accessibility, mentorship prospects, and networking opportunities.
- **Decreased Regulatory Obstacles:** The initiatives undertaken by DPIIT to streamline regulations and enhance the business environment have facilitated more streamlined bureaucratic processes for startups. This may reduce lead times for business formation and obtaining required permits and licenses.
- **Funding Accessibility:** The Startup India initiative and other programs implemented by DPIIT have effectively streamlined the funding process for startups using credit guarantee schemes and the Fund of Funds for Startups (FFS). This can furnish startups with essential funding to expand their activities in the immediate future.

II. LONG RUN

- **Sustainable Growth:** The support provided by DPIIT to startups fosters an environment conducive to their long-term, sustainable growth. Startups may flourish and contribute substantially to employment and economic expansion by providing financial resources, mentorship, and market access.

¹⁶ Social Buzz, <https://socialbuzz.org.in/> (last visited April 1, 2024).

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- **A Culture of Entrepreneurship and Innovation:** The initiatives of DPIIT cultivate an atmosphere favourable for both entrepreneurialism and innovation. This can eventually result in a thriving startup ecosystem characterised by a culture fostering innovation, risk-taking, and problem-solving.
- **Global Competitiveness:** The promotion and facilitation of startup growth by DPIIT serve as significant contributors to the enhancement of India's competitiveness in the global arena. Proficient startups can stimulate innovation, disrupt established sectors, and position India as a technological progress and entrepreneurial centre.¹⁷

To conclude, the endeavours of DPIIT impact startups in India in both the immediate and long term. The latter encompasses more sustainable outcomes, such as cultivating an entrepreneurial culture, promoting innovation, and enhancing global competitiveness, in addition to the former, which includes increased support and diminished regulatory barriers.

Effect of DPIIT Recognition on the Economy as a Whole

I. SHORT RUN

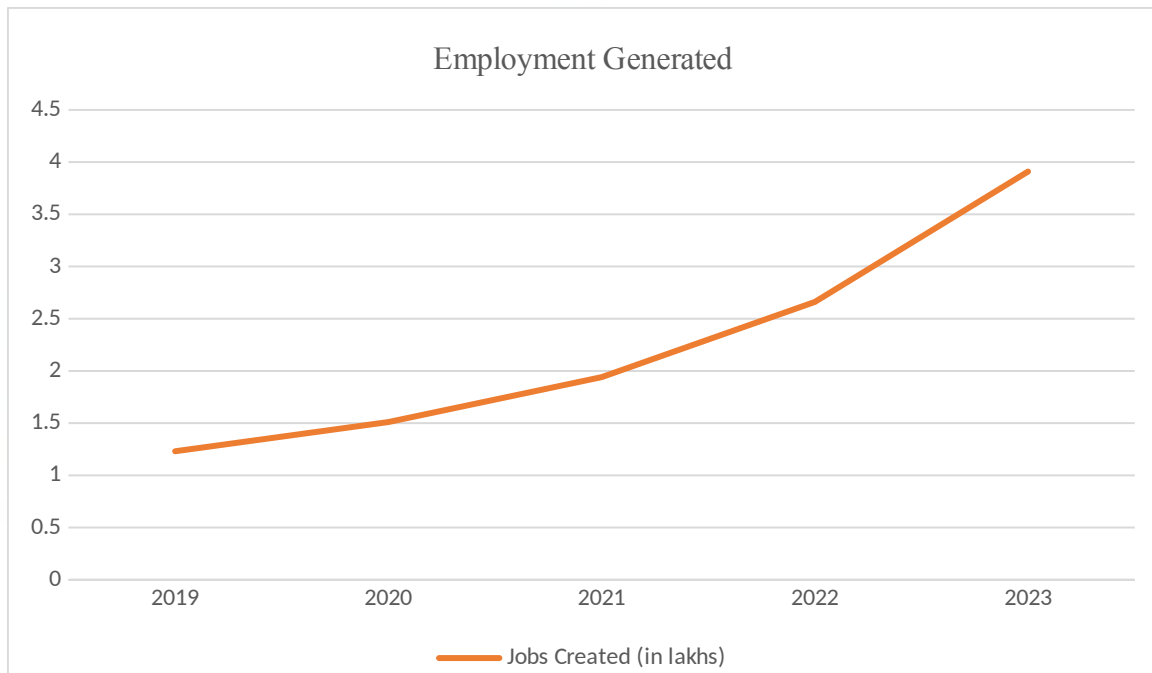
It is anticipated that DPIIT recognition, facilitated by the Startup India initiative, will bolster the Indian economy in its entirety by:

- **Fostering Entrepreneurship and Innovation:** Acknowledgment streamlines the business initiation and operation processes, motivating more individuals to undertake venturesome entrepreneurial endeavours and cultivate groundbreaking concepts. This may result in developing novel services, products, and business models, thereby stimulating economic expansion.
- **Employment Generation:** Startups significantly generate employment opportunities, particularly in sectors experiencing rapid expansion, such as technology and manufacturing. Recognition from the DPIIT can contribute to developing a more entrepreneurial-friendly environment, which can increase job creation and decrease

¹⁷*Why Should Startups get the DPIIT Recognition under the Startup India initiative?*, **ILO CONSULTING** (May 25, 2021) <https://www.iloconsulting.in/knowledge-center/dpiit-recognition-under-start-up-india>.

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unemployment. Graph 2 provides for employment generation through the DPIIT recognition of startups between the years 2019 to 2023. Ministry of Commerce & Industry, in its report dated 2nd Feb 2024, has provided an elaborated list of States and UTs along with the data regarding employment generation in each State. This recognition of startups has generated over 12 lakh employments in India.¹⁸



Graph 2: Employment Generation through DPIIT recognition in the years 2019-2023.

- **Acquiring Investments:** Recognition enhances the appeal of startups to potential investors, including those from both domestic and international sources. This increased investment can provide the capital necessary for the expansion and scaling of startups, thereby contributing further to economic development.
- **Facilitating Technological Progress:** DPIIT recognition can potentially expedite technological advancements across multiple industries through promoting innovation. This may enhance efficiency, competitiveness, and productivity within the Indian economy.

¹⁸*Supra* note 7.

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- **Cultivating a Robust Ecosystem:** The initiative's objective is more than just acknowledgement of the startup. It aims to establish a robust startup ecosystem through mentorship, financial support, and additional resources. This all-encompassing strategy can foster a thriving startup culture advantageous to the economy.

II. LONG RUN

Despite this, it is crucial to remember that the effects of DPIIT recognition are still developing. Potential obstacles may include the following:

- Ensuring the efficacy of the recognition process
- Ensuring that startups have access to sufficient funding and resources
- Streamlining procedures and regulations¹⁹

In general, the acknowledgement of DPIIT can substantially stimulate economic expansion in India by promoting innovation, entrepreneurship, and employment generation. Nevertheless, the achievement of sustained success will be contingent upon the resolution of the current obstacles.

Practical Implications of DPIIT Recognition On

I. STARTUPS

Recognising that the Department for Promotion of Industry and Internal Trade (DPIIT) does not alter Indian company law, it may, however, indirectly affect how some company law rules relate to startups. How to do it is as follows:

- **Exemptions and Relaxed Requirements:** Startups may find that some regions of company law are less stringent due to DPIIT registration. For example, the Companies (Acceptance of Deposits) Rules may ease fundraising restrictions by exempting startups recognised by the DPIIT from recognising specific amounts as deposits [MCA modifies Deposits Rules].

¹⁹ Neeraj Tyagi, *Role of start-ups in the growth of the Economy in India*, The Times of India (December 2, 2022, 10:45 AM), <https://timesofindia.indiatimes.com/blogs/voices/role-of-start-ups-in-the-growth-of-the-economy-in-india/>.

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- **Tax incentives:** Under the Income Tax Act, startups may be eligible for specific tax incentives upon recognition. Although the legislation applies to all firms, the applicability of particular provisions or exclusions can be determined via DPIIT recognition. For instance, specific requirements that tax angel contributions as income may not apply to recognised firms [Recognized startups not to face the impact of proposed changes in income tax legislation].
- **Concentration on Particular Startup Needs:** The DPIIT and other ministries may advocate for changes to company law that would better meet the requirements of startups. This can entail creating new company classifications or streamlining startup compliance requirements.

It is crucial to remember that business law is superseded by DPIIT recognition. Acknowledged startups may benefit from particular exemptions or lessened requirements but must still abide by the fundamental rules and regulations.²⁰

II. COMPANY LAW

In the context of Company Law, it is essential to note that DPIIT recognition does not supersede or replace existing laws. Startups must adhere to fundamental regulations; however, they may receive exemptions or have simplified restrictions depending on their recognition status.

- **Stimuli-Specific Provisions:** Recognition might activate the relevance of particular sections within the company law framework. For example, established startups may be eligible for tax advantages outlined in specific provisions of the Income Tax Act.
- **Policy Advocacy:** In collaboration with other ministries, the Department for Promotion of Industry and Internal Trade (DPIIT) may push for modifications in company legislation that are more suitable for the startup environment. This may entail implementing novel organisational frameworks or streamlining regulatory procedures tailored explicitly for startups.

²⁰ PIB Delhi, *Department for Promotion of Industry and Internal Trade (DPIIT) recognized startups create over 8.6 lakh direct jobs since the launch of Startup India*, **MIN. COMMERCE AND INDUS.** (December 16, 2022).

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Conclusion

In conclusion, DPIIT recognition is critical for promoting entrepreneurship and generating economic growth in India. Offering tax incentives and support to startups promotes innovation, job creation, and long-term development. However, specific issues must be addressed, such as expediting the application process, raising awareness, and revising eligibility requirements.

Numerous suggestions can be considered to solve the difficulties associated with DPIIT recognition. Firstly, awareness initiatives and outreach programmes should be implemented to educate entrepreneurs on the advantages of DPIIT recognition. Furthermore, the eligibility requirements should be revised to enable a broader spectrum of entrepreneurs, particularly those operating in niche markets or with unusual business models. Moreover, the government must take a more objective approach to make the recognition process more effective.

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