



MSC Malaysia Status for Startups



Startups has always been a grey area in the entrepreneur of Malaysia. Now with MSC's third tier classification, it is no longer.

By Edwin Lee Yong Cieh

A practising lawyer specialising in telecommunications, media & technology law, Edwin is in a constant effort to educate users on the many legal happenings in the IT world

I was invited to speak at Tech In Asia Conference in Singapore in May 2015. Tech In Asia Conference is one of Asia's largest conferences organised for entrepreneurs, investors, media and friends in the technology and startup community across the region. The topic of my talk was "Startups and the Laws in Malaysia". The other 2 speakers speaking on the same panel were Warren Leow (Executive Director at MaGIC) and Ng Wan Peng (Chief Operating Officer at MDeC).

In line with the theme of the conference "Connecting Asia's Tech World", the conference brought more than 2,500 participants, 200 startups and 100 investors (mostly venture capital companies and angel investors) from all over the world to gather at one place. It was certainly an eye-opener event for me and I was thrilled to see so many innovative and promising startups coming up from all over Asia.

MaGIC (Malaysian Global Innovation and Creativity Centre) and MDeC (Multimedia Development Corporation of Malaysia)

shared about the work that these 2 government agencies have been doing in creating and promoting a vibrant and sustainable ecosystem for tech startups and ICT companies in Malaysia. MDeC manages the Multimedia Super Corridor (MSC) project, which aims to boost the ICT sector in Malaysia while MaGIC is entrusted to develop Malaysia's tech startup ecosystem, with the vision of making Malaysia the startup capital of Asia.

It was during the talk that MDeC announced that it was collaborating with MaGIC to launch a new programme called "MSC Malaysia for Startups". MDeC also receives support from some other major startups ecosystem players such as StartupMalaysia.org, the New Entrepreneurship Foundation (MyNEF), Cradle, Cyberview, National Incubator Network Association (NiNA), 500 Startups, Technopreneur Association of Malaysia (TeAM) and Founder Institute (FI).

As we all know, MSC Malaysia was an initiative conceptualised and launched by the Malaysian government in 1996 to drive the growth and development of ICT industry in Malaysia. MSC Malaysia status offers multi-tiered incentives to ICT companies that develop or use multimedia and digital technologies to produce and enhance their products and services. It serves as recognition of world-class service and achievement, while opens access to a host of privileges granted by the Malaysian government to qualified business

entities.

So what is MSC Malaysia for Startups programme ("Programme") all about?

The Programme provides an alternative for startups to attain MSC Malaysia status without being tied to any location requirements (i.e. the startup does not have to be located in any of the MSC Malaysia Cybercities and Cybercentres). Prior to the Programme, MSC Malaysia status companies must be located in a designated premises within MSC Malaysia Cybercities/Cybercentres (Tier-1 Companies) or a commercial premises within MSC Malaysia Cybercities/Cybercentres (Tier-2 Companies) for them to enjoy the various incentives offered under the MSC Malaysia status. The Programme now creates a third category for MSC Malaysia status companies that are located outside of MSC Malaysia Cybercities/Cybercentres (Tier-3 Companies).

The Tier-3 Company status is the one that is designed for startups. One primary concern before the Programme was launched was that startups who wanted to enjoy MSC Malaysia status but cannot afford to move to a designated premises or a commercial premises within MSC Malaysia Cybercities/Cybercentres missed out from the MSC Malaysia status incentives. MDeC recognises that startups at different growth cycles have different needs and affordability. Bearing that in mind, MDeC therefore decided to launch the Programme for startups and it hopes that "the Programme will position Malaysia as the Entrepreneur Hub for Southeast Asia," said MDeC's CEO, Dato' Yasmin Mahmood.

For a startup to enjoy the incentives under the Programme, it must first apply for a MSC Malaysia status from MDeC. The Programme was launched on 12 May 2015 and it is only applicable to MSC Malaysia status companies approved from 1 January 2015 onwards.

MSC Malaysia status companies approved after 1 January 2015 and have not activated their pioneer status incentive are eligible to apply for Tier-3 Company status. A Tier-3 Company can apply to move up to Tier-1 or Tier-2 Company status after 5 years of pioneer status incentive or it can choose to remain as a Tier-3 Company as long as the company is still active. However, such company will be liable to the applicable taxation laws after 5 years of pioneer status incentive. In other words, the company will have to upgrade to Tier-1 or Tier-2 Company status in order for it to enjoy another 5 years of pioneer status incentive.

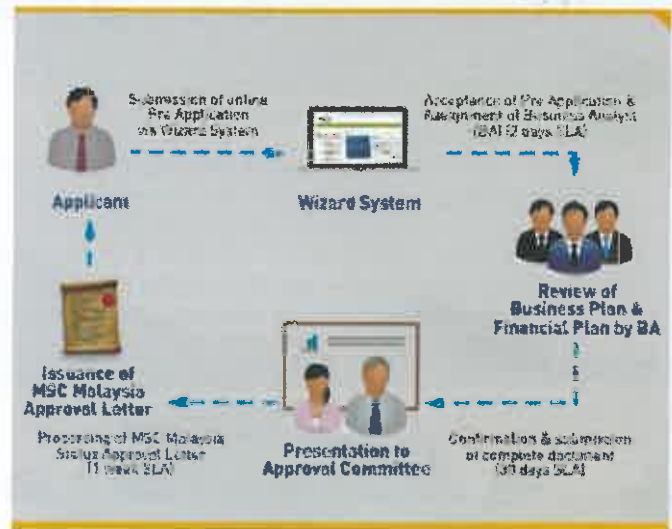
MSC Malaysia status companies approved prior to 1 January 2015 (i.e. Tier-1 or Tier-2 Companies) will still need to adhere to the location requirements as stated in their Conditions of Grant. If they move outside the designated location, it will be considered a breach of the Conditions of Grant. These companies are not eligible to migrate to Tier-3 Companies status and participate in the Programme but will continue to enjoy the full suite of incentives offered under MSC Malaysia status.

Some of the main incentives offered to Tier-3 Companies under the Programme are as follows:

- flexibility in choosing location of operation;
- ease of hiring foreign talents (they can hire up to 20 foreign knowledge workers in key positions);

- competitive financial incentives i.e. 70% tax exemption of statutory income for 5 years and no duties on the import of multimedia equipment;
- benefits such as networking opportunities, capability building programs and market access programs; and
- other MSC Malaysia Bill of Guarantees.


For a comparison of the different incentives offered to Tier 1-3 Companies, please refer to MDeC's website at <http://www.mscmalaysia.my/msc4startups/faq>. Chart 1 illustrates the application process for Tier-3 Company status.



Application Process for Tier-3 Company status

There are currently 3,600 MSC Malaysia status companies comprising global and local companies across multiple sectors. MDeC expects a further expansion of 8,000 potential ICT companies to participate in MSC Malaysia in the years to come.

"Technology is making the world borderless and advancing rapidly; if Malaysian entrepreneurs do not leverage it to grow and scale their ventures quickly, global competitors will take our market share away. We have the talent, resources and public/private support to do this. There is no reason why Malaysia cannot rise about ourselves on the global map," says Cheryl Yeoh, CEO of MaGIC.

The launch of the Programme indicates that the Malaysian government indeed recognises that tech startups has become the primary growth engine of the new economy. It is hoped that the Programme will take aspiring startups to the next level of growth to become regional and global players, innovation, productivity and quality of life as well as spur the growth of digital entrepreneurs and startups in this region. It is hoped that the Programme will take aspiring startups to the next level of growth to become regional and global players, increase and improve innovation, productivity and quality of life as well as spur the growth of digital entrepreneurs and startups in this region. 

The view expressed in this article is intended to provide a general guide to the subject matter and does not constitute professional legal advice. You are advised to seek proper legal advice for your specific situation.