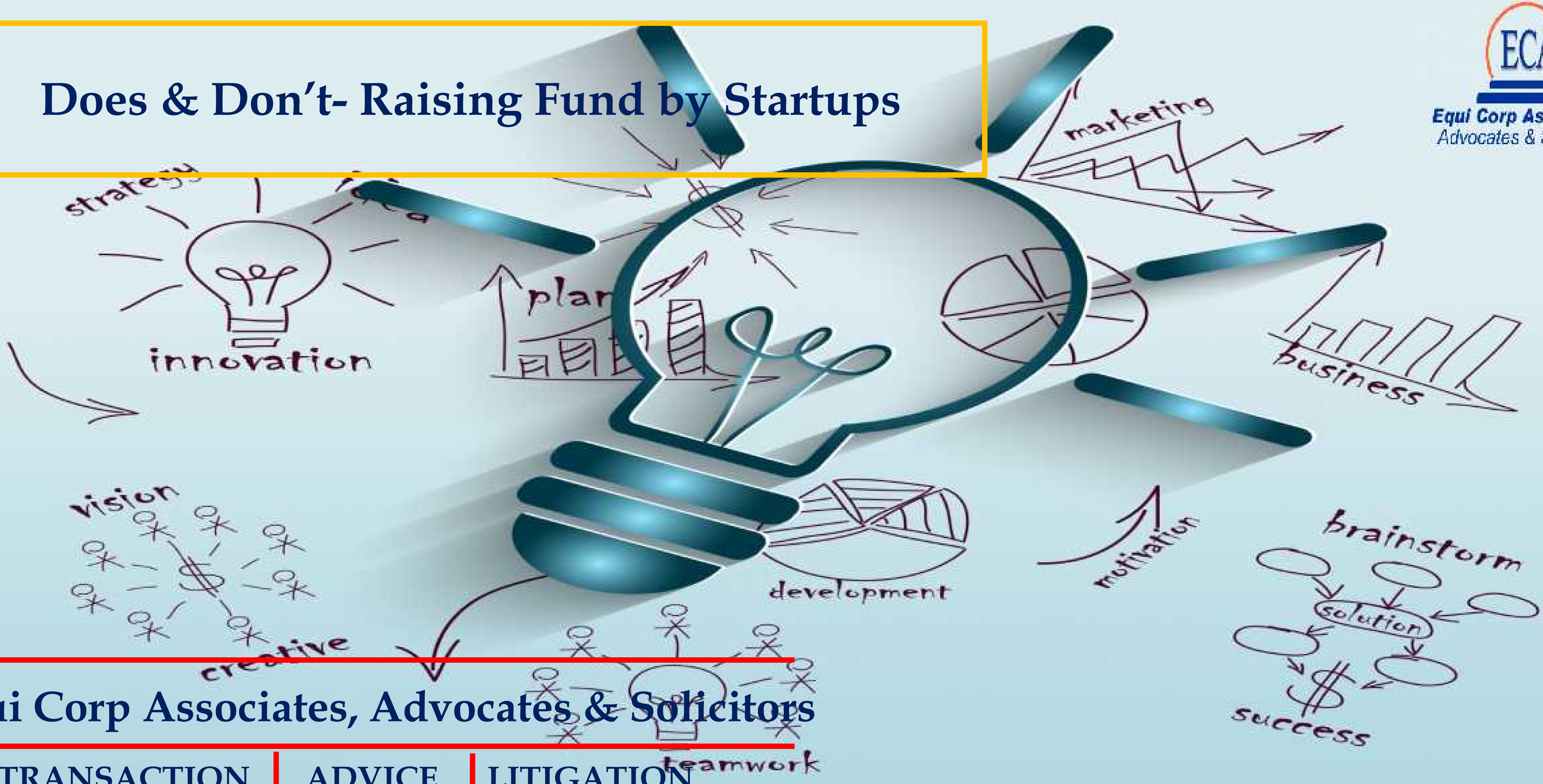
Does & Don't- Raising Fund by Startups



Equi Corp Associates
Advocates & Solicitors

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Basic Dilemma faced by each Startup

It takes more than just a great idea to run a successful business. Entrepreneurs and existing business owners need capital to pursue their vision. There are few basic questions which every startups face…..

Legal Aspects for Starting Up: *What are the basic forms of doing business and their relative benefits? Essential procedures and prerequisites of each form of business.*

Contractual safeguards: *How do we limit contractual liability? Relevant stakeholders (promoters/co-founders; employees; consultants; clients and vendors) and the respective contract liability mitigating strategies.*

Employees and workplace regulations: *When are we subject to employee benefits? With increasing international focus on workplace regulations, employees have many legal rights that must not be neglected. Basic criteria for applicability of such regulations and their implications shall be discussed.*

Data Protection: *How do we protect the competitive value of data in our business? Data protection is distinct from IPRs, and therefore, we must understand the legal framework of protecting data and the relevant international trends in this regard.*

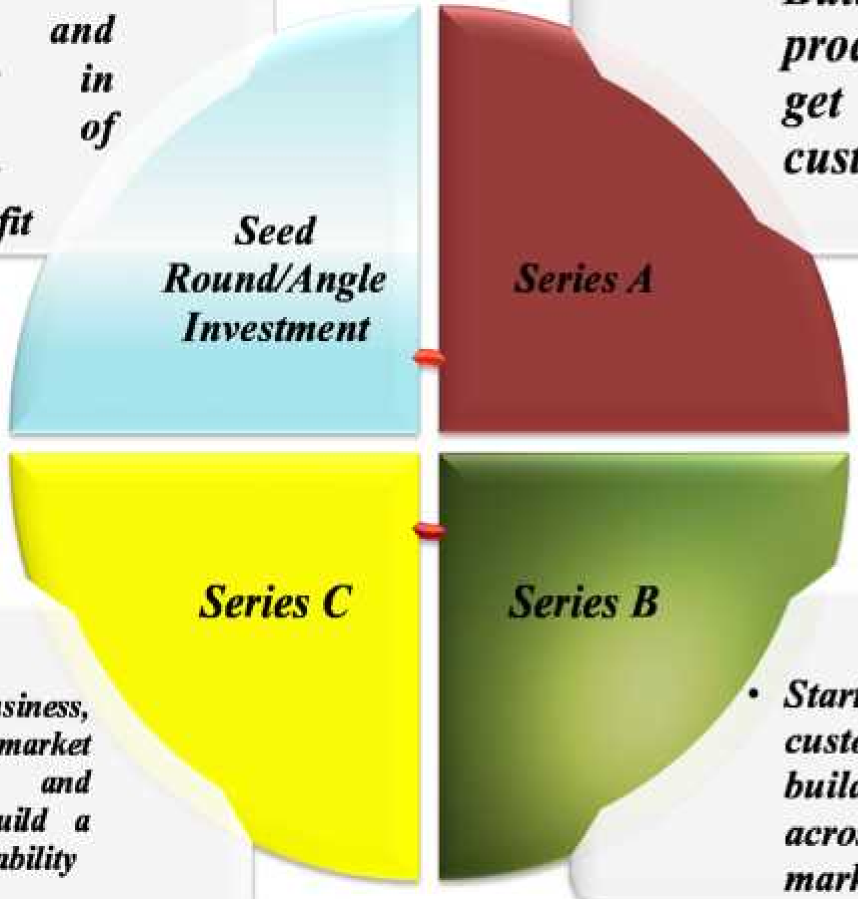
*However, the most fundamental and important question is – **"How to fund your startup?"***

If you don't have the cash in your wallet, what do you do?

Stages of Fund Raising

- *Prove the team and concept in terms of product market fit*

- *Build the product, get initial customers*



- *Scale the business, establish market leadership and reach or build a path to profitability*

- *Start getting customers and build traction across the market*

"This really is an innovative approach, but I'm afraid we can't consider it. It's never been done before."

Pointers for Startup- Before Meeting the Investor

1. ***Two Major drivers that matter to raise money successfully****: your team your idea. No investor wants to commit to help a company that's boring or with founders who suck. The major exception to all rules: incredible growth rates;*
2. ***Your pitch deck should not tell your company's story, YOU should****. The pitch deck is supporting material but its important to show investor how much you know, how committed you are and excited you are. A pitch deck, alone will never accomplish that.*
3. ***One of the most important rule****: One founder focuses on fundraising while the rest stay focused and work. Put your ego aside. Fundraising sucks. It's more fund to keep the company progressing than to get turned down each day;*
4. ***Raise what you need and may be a little more****. Don't lock yourself into a valuation and a preferred money stack you can't realistically exceed. It'll hurt you in the long run and you may make $0. Don't use valuation as a personal measuring stick of your success;*

*5. **Be flexible, Raise smart money you can get**. Be ready to share more if the investor is a past founder/CEO. There can be different structure for raising funds, so have a open mind to accommodate the demands of investors, however, in case, if it kills your own venture then have a firm foot to not accept or deny such conditions;*

*6. If you raise money but are reticent about a new person you've never met joining your Board, "**just break bread with them, to break the ice**." Work hard at the relationship though too;*

7. Stop using hyperbole about your market being $400B. Don't make amazing projected growth targets 5 years out. An investor is a smart person who can sniff the bluff mile away;

*8. Lastly try to remember through all the rejections that sometimes you only need one "**YES**" to survive and continue the journey. Nobody knows market like you do- especially not investors so don't get discouraged. You got this.*

Pointers for Startup- Before say "AYE" to Investor

- ***Do not negotiate options, negotiate deals.*** *Look at the successful model as precedent -- negotiate specific performance of the financing letters. Must be aware of the commercial risks.*
- ***Two-tiered termination fees mean nothing.*** *The recent trend is to have a two-tiered termination fee -- the lower if financing is unavailable, the higher for a pure breach. Realize that in a renegotiation, the investor is always going to have a strong case for the lower one and that it is the starting point and settlement will only be lower. It is highly unlikely that the fee will ever go much above the lower one. A two-tiered breakup fee is a cosmetic.*
- ***Avoid complex drafting.*** *If any section of your agreement has one or more* ***"to the extent applicable", "Notwithstanding",*** *or otherwise has too many caveats redraft it to make it clearer and unambiguous. Stay awake the extra two hours to do this.*
- ***Choice of Forum clauses matter.*** *Don't give your investor leverage for settlement and postponement by being able to litigate in multiple jurisdictions.*
- ***Do not boilerplate deals.*** *For example, Mr. A using the same structure for X limited they used in Y limited created. Market forces require a rethink of how these documents work -- do not simply use the old ones.*
- ***Financing Documents matter.*** *Think about third party beneficiary clauses in equity commitment and financing letters.*
- ***Guarantees matter.*** *If you have a specific performance model make it clear the guarantee is unaffected. Read these letters thoroughly and make sure they interact correctly with the merger agreement.*
- ***Think three steps ahead.*** *Spend an hour talking through scenarios in light of what happens in the case if any dispute or litigation arises.*

Role of EquiCorp Associates

Completion:

-Board & Shareholder Resolutions

-Statutory filings
-Monitoring Compliance with Agreements

Feasibility of Transaction:

-To advise on requisite legal compliance under applicable laws for successful completion of the transaction.

Structuring:

-Determine the tax efficient & compliant structure

-Instruments for the implementation of the agreed terms

Due Diligence:

-Investor's Perspective

-Risk Assessment
-Legal, financial & commercial affairs of the company

Term Sheet:

-Commercial understanding

-Investment Structure
-Identification of Investing Vehicle
-Exit Options
-Protective Clause like ROFR

Negotiations & Documentation:

-Subscription Agreement

-Shareholder Agreement
-Exit Rights Agreement

Subscription Agreement:

-Terms of subscription

-Types & terms of instruments
-Warranties & Indemnities
-Governing laws, dispute resolution & boiler plate clauses

Shareholders Agreement:

-Transfer Restrictions like lock in, ROFR, Tag, Drag etc.

-Non-Compete
-Management of Investee Company
-Boiler Plate Clauses

Exit Rights Agreement:

-Put & Call Options

-Buy Back
-Consequences of not delivering agreed exit within agreed terms
-Protective Clause for mitigating price regulation risks

TIME FOR LEGAL EXPERT?

Let the Professionals at EquiCorp Associates take over the matter

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