The Singapore Variable Capital Companies (VCC) at a glance

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The introduction of the Singapore Variable Capital Companies ("VCC") legislation in Singapore is a potential game-changer for the fund management industry, both within the city-state and across the Asia-Pacific region. As this development stands poised to usher in a new era of options for fund and wealth managers, we answer some pertinent questions regarding this regime below.

What is a VCC?

It is a new legal entity form/ structure for investment funds

What can it be used for?

Traditional and alternative fund strategies (both open-ended and close-ended)

How can it be set up?

As a stand-alone or as an umbrella entity with multiple sub-funds

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Can a foreign fund be re-domiciled?

Foreign corporate entities set up as funds could be inward re-domiciled as VCCs

What are the benefits?

Improved operational and tax efficiency

It could avail itself of the US "check-the-box" election

Financial statements are not required to be made public

It can be used...

...for a variety of investment strategies – viz., traditional, hedge funds, private equity and real estate funds

...to list funds as information listing and also for trading purposes

...as a pooling and investing vehicle, thereby dispensing with multi-tiered fund structures

...and an option for wealth management industry as well.

What are the requirements of a VCC?

1. The capital of a VCC will always be equal to its net assets, thereby providing flexibility in the distribution and reduction of capital.

2. It will require a Singapore-based licensed or regulated fund manager (unless exempted under the regulations*).

3. Existing Securities and Futures Act (SFA) requirements for investment funds will apply to VCCs.

4. It must have at least one Singapore resident director for non-authorised schemes and at least three directors for authorised schemes.

5. It must have its registered office in Singapore and must appoint a Singapore-based company secretary.

6. It must be subject to audit by a Singapore-based auditor and must present its financial statements as per IFRS, Singapore FRS, or US GAAP.

Currently, fund managers exempt from regulations – viz., real estate and related party exemption – cannot use a VCC.

VCCs can be used for all types of investment funds in Singapore

	Today			VCC		
	Authorised	Restricted	Exempt	Authorised	Restricted	Exempt
Mutual funds	Unit Trust	Unit Trust	Unit Trust	Unit Trust/ **VCC**	Unit Trust/ **VCC**	Unit Trust/ **VCC**
Hedge funds	N.A.	Unit Trust/ Ltd. Partnership/ Company*	Unit Trust/ Ltd. Partnership/ Company*	N.A.	Unit Trust/ Ltd. Partnership/ Company*/ **VCC**	Unit Trust/ Ltd. Partnership/ Company*/ **VCC**
Private equity & real estate funds	N.A.	Ltd. Partnership/ Company*	Ltd. Partnership/ Company*	N.A.	Ltd. Partnership/ Company*/ **VCC**	Ltd. Partnership/ Company*/ **VCC**

** Currently, company form legal entities are mostly used as a step-down vehicle in Singapore primarily for investing purposes as a special purpose vehicle with pooling outside of Singapore. In the future, VCCs can be used as a pooling and investing vehicle.*

Explaining VCC as each investment fund type

The key issues that ultimately characterise the investment fund legal entity are highlighted below:

	Mutual fund**	Hedge fund**	Private equity**	Real Estate fund (Private)**	Venture Capital**
Fund manager [Singapore regulated]	CMS Licence (Retail)	RFMC/CMS licence (A/I)	RFMC/CMS licence (A/I)	RFMC/CMS licence (A/I) [No exemption available]	VC Manager regime/ RFMC/CMS licence (A/I)
Fund type	Authorised	Restricted ***	Restricted ***	Restricted ***	Restricted ***
Compliance to code of collective investment schemes	Yes	No	No	No	No
Custodian requirement	Yes Approved trustee only	Yes*	Typically No	Typically No	Typically No
Local administrator	Yes (through tax incentive schemes)	Yes (through tax incentive schemes)	Yes (through tax incentive schemes)	Yes (through tax incentive schemes)	Yes (through tax incentive schemes)
Number of Board of Director members required	3	1	1	1	1
Number of Board of Independent Directors required	1	–	–	–	–
Number of Board of Directors required to be Residents	1	1	1	1	1
Financial Statements	CIS Code - RAP 7	IFRS/SFRS/US GAAP	IFRS/SFRS/US GAAP	IFRS/SFRS/US GAAP	IFRS/SFRS/US GAAP

** The prescribed entities are:*

(i) a bank licensed under the Banking Act (Cap. 19); (ii) a merchant bank approved as a financial institution under the MAS Act (Cap. 186); (iii) a finance company licensed under the Finance Companies Act (Cap. 108); (iv) a depository agent within the meaning of section 81SF of the SFA for the custody of securities listed for quotation or quoted on Singapore Exchange Securities Trading Limited or deposited with the Central Depository (Pte) Ltd; (v) an Approved Trustee; (vi) any person licensed under SFA to provide custodial services for securities; or (vii) a foreign custodian that is licensed, registered or authorised to conduct banking business or to act as a custodian in the country or territory where the account is maintained

*** The terms "mutual fund", "hedge fund", "private equity", "real estate fund", "venture capital", etc. have been used in a manner that they are commonly understood in the fund management industry. These are not terms that are defined in the Securities and Futures Act.*

**** Or, if offered to Institutional investors/Private placement, then Exempt*

Other salient features

Delegation

The Fund Manager of the VCC can delegate fund management activity and operational duties to other parties (e.g. a sub-manager) that are regulated as fund managers in other jurisdictions, provided the Fund Manager of the VCC retains overall responsibility of the duties, and mitigate any conflicts.

Single shareholder

VCCs can have a single shareholder or hold a single asset. This allows for the application of VCCs as a Master-Feeder structure.

Conversion

There are no statutory provisions for automatic or procedural conversion of existing Singapore Companies (set up as investment funds). However, transfer of assets, liabilities and shareholders is permissible.

Umbrella VCC

It is permissible to have open-ended and close-ended sub-funds within an umbrella.

Segregation

Segregation of sub-funds' assets and liabilities are clarified through various provisions. For any agreements/ arrangements, the contracting party will be the VCC umbrella and not the sub-fund. However, the name of the sub-fund should be identified.

Director of FMC or Qualified Representative

At least one director of the VCC must be a Director of the Fund Manager or must be at least a Qualified Representative.

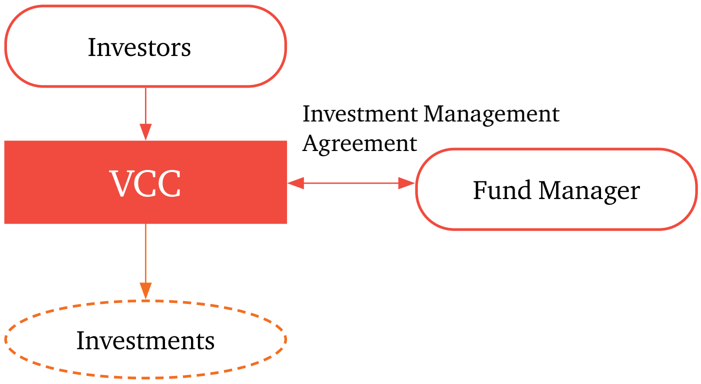
Tax treatment of the VCC

Stand-alone (single fund) VCC

One of the key features of VCCs is that it may be set up as a single fund VCC (commonly referred to as a stand- alone VCC) or a VCC with multiple sub-funds (commonly referred to as an umbrella VCC).

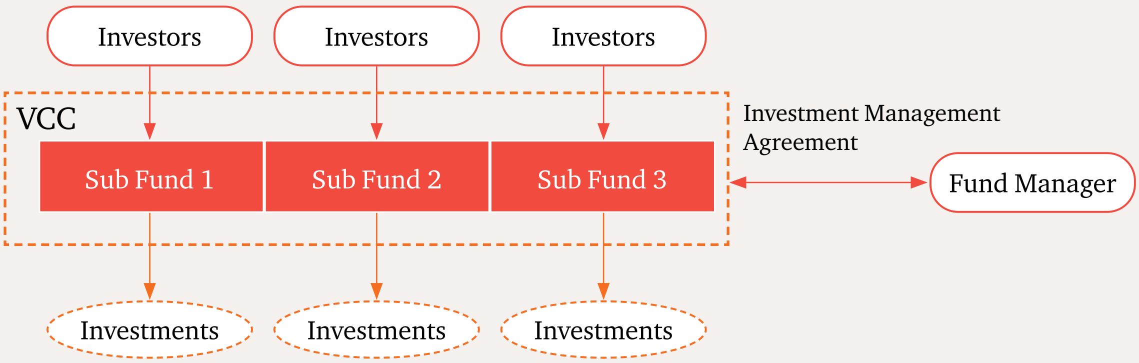
The tax treatment of a stand-alone VCC will remain the same as that of a Singapore company.

Accordingly, the **Enhanced Tier Fund ("ETF")** Scheme and **Singapore Resident Fund ("SRF")** Scheme under the Income Tax Act will apply to a stand-alone VCC similar to how it would apply to a Singapore company.



Umbrella (multiple sub-fund) VCC

The new provisions for an umbrella VCC that were announced are distinctive and provide significant benefits.



Economic conditions under the ETF and SRF Schemes

Under the ETF Scheme, the fund has to fulfil (among other things) the following economic conditions:

1. The applicant fund must have a minimum fund size of S$50 million at the point of application;
2. The fund must have an annual local business spend of at least S$200,000.

Similarly, there is a condition under the SRF Scheme that the fund should have an annual business spend (need not be local) of at least S$200,000.

For an umbrella VCC, it has been announced that the above will be applied to the VCC (and not to each sub- fund).

Therefore, if a VCC has three sub-funds, the business spend requirement will be set at S$200,000 for the VCC as a whole (and not S$600,000). If this VCC were to apply for the ETF Scheme, then the minimum fund size requirement will be S$50 million (and not S$150 million).

Using an umbrella VCC poses significant benefit to fund managers who, in the past, would have had to use three Singapore companies with a fund size of at least S$150 million and a business spend of at least S$600,000, rather than now having the option of using a VCC with three sub-funds.

Non-qualifying investor test under the SRF Scheme

Under the SRF Scheme, non-qualifying investors are required pay a financial penalty. Broadly, non-qualifying investors refer to investors from Singapore which are not individuals and which own more than 30% (or 50% in some instances) in the fund.

It has been announced that the above test will be applied at the VCC level, not at each sub-fund level. Given that the test is applied across the VCC (thereby increasing the denominator when applying the 30% or 50% test), it improves the chances of a Singapore non-individual investor to qualify as a qualifying investor.

The VCC approach is evidently the recommended option in these situations and the Government's announcements are laudable.

Investment objective condition

One of the current conditions of the ETF and SRF schemes is that once the fund has been approved under either of the schemes, the investment objective of the fund cannot be changed (other than in certain situations and subject to approval of the authorities).

It has been clarified in the recent announcement that the investment objective condition must be satisfied at the VCC level (and not a sub-fund by sub-fund level). This means the following:

1. If there is a breach of the investment objective condition by one sub-fund, it will adversely impact the entire VCC (i.e. even the other sub-funds). A breach could occur when the sub-fund invests outside of the VCC's investment objective as approved under the ETF and SRF schemes.
2. Each time a new sub-fund is added to the VCC, which has a different investment objective than what was previously approved under the ETF or SRF schemes, the VCC will need to update the investment objective under the ETF and SRF schemes and obtain approval from the authorities.

The investment objective condition was introduced in the schemes in order to avoid misuse or recycling of the approved entities. We hope that the authorities reconsider this aspect, such that only the sub-fund breaching the investment objective condition would lose the incentive for the year in which the breach occurs (and not the rest of the sub-funds).

The stipulation that a breach of this condition by one sub-fund will affect the other sub-funds is not desirable. This may deter many fund managers from using umbrella VCCs.

Other conditions under the ETF and SRF schemes

The other conditions under the ETF and SRF schemes continue to apply to the VCC. This includes the requirement to have a Singapore-based fund administrator.

Other key elements

GST

The current GST remission will be made available to VCCs approved under the ETF and SRF schemes.

Certificate of Residence ("COR")

A Singapore COR is available for the VCC subject to the VCC establishing that it is controlled and managed from Singapore.

In the case of an umbrella VCC, the COR will be issued on the VCC, with the names of the sub-funds receiving the same nature of income from the same treaty country included in the COR

Withholding tax exemption

The current withholding tax exemption available to funds approved under the ETF and SRF schemes will be available to VCCs approved under the ETF and SRF schemes.

Incentive scheme for fund managers

The 10% concessionary tax rate under the Financial Sector Incentive - Fund Management Scheme will be extended to approved fund managers managing incentivised VCCs.

Addition of new sub funds

There is no need to seek approval from or inform the authorities if there are new sub-funds added to a VCC. However, where the investment scope has changed with the addition of a new sub-fund, an approval will be needed from the authorities to expand the investment scope. Further, if there is an announcement of termination of the ETF and SRF schemes, then additions of sub-funds will not be allowed.

Conclusion

The announcements are largely in line with industry feedback and expectations. The main takeaway for fund managers should be that an umbrella VCC has only one set of economic conditions applicable under the ETF and SRF schemes.

Learn how VCC compares with the rest of the corporate fund structures around the globe here.

How PwC can help you

Our dedicated team brings together senior and experienced subject matter experts and trusted specialists who can support you at every step of the way to achieve a successful outcome with the VCC launch.

- Incorporating your VCC
- Assist in licensing your fund management company (V/R/LFMC)
- Drafting your legal documents
- Provide market intelligence for Market Entry
- Provide day one compliance assistance
- Determine tax structure for your VCC (Tax advisor)
- Serve as your company secretary
- Tax review of VCC fund documents
- Serve as your registered filing agent
- Tax compliance of your VCC
- Serve as your registered office
- Assist with FATCA compliance
- CISnet application for your VCC
- Audit your VCC

We are able to provide all these services comprehensively, subject to restrictions.

Contacts

Justin Ong
Asia Pacific Asset and Wealth Management Leader
PwC Singapore
+65 6236 3708
justin.ong@sg.pwc.com

Tan Hui Cheng
Asset and Wealth Management Tax Partner
PwC Singapore
+65 6236 7557
hui.cheng.tan@sg.pwc.com

Anuj Kagalwala
Asset and Wealth Management Tax Leader
PwC Singapore
+65 6236 3822
anuj.kagalwala@sg.pwc.com

Lim Maan Huey
Asset and Wealth Management Tax Partner
PwC Singapore
+65 6236 3702
maan.huey.lim@sg.pwc.com

Armin Choksey
Asian Investment Fund Centre Leader
PwC Singapore
+65 6236 4648
armin.p.choksey@sg.pwc.com

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