



Singapore to Launch Variable Capital Company Framework Later This Year

The Variable Capital Company (VCC) is a new corporate structure for investment funds constituted under the Variable Capital Companies Act. On 3 September 2019, Parliament passed the Variable Capital Companies (Miscellaneous Amendments) Bill. My second reading speech is available at www.mof.gov.sg. The Bill can be accessed at <http://sso.agc.gov.sg>.

The Bill:

- Puts in place the tax treatment for VCCs by making amendments to the Income Tax Act, Goods and Services Tax Act, and Stamp Duties Act.
- Amends the VCC Act to incorporate relevant insolvency provisions under the Insolvency, Restructuring and Dissolution Act (IRDA) and other technical amendments.

With the passing of the Bill, the main legislative and tax frameworks are now in place. The next step is the finalisation of the operational framework through the subsidiary legislation. Once that is done, the VCC framework will be launched. The launch is targeted for year-end 2019.

This Note:

- Recaps what the VCC is;
- Explains the tax treatment for VCCs; and
- Summarises the amendments to the VCC Act.

What is the VCC?



The VCC will complement the existing suite of fund structures in Singapore, and encourage more fund managers to co-locate the domicile of their investment funds with their fund management activities in Singapore.

- A VCC is a corporate structure incorporated under the VCC Act.
- It will be administered by the Accounting and Corporate Regulatory Authority (ACRA), and managed by a fund manager regulated by the Monetary Authority of Singapore (MAS).
- A VCC will have a variable capital structure that provides flexibility in the issuance and redemption of its shares. It can also pay dividends out of capital, which gives fund managers flexibility to meet dividend payment obligations.
- A VCC can be set up as a single standalone fund or an umbrella fund with two or more sub-funds, each holding a portfolio of segregated assets and liabilities. For fund managers that structure their funds as umbrella VCCs, there may be cost efficiencies from using common service providers across the umbrella and its sub-funds.
- A VCC can be used for both open-ended and closed-end fund strategies.

More details pertaining to the VCC framework can be found at www.mas.gov.sg. Reactions from the industry are captured in [Annex 1](#).

What is the tax treatment for VCCs?

The tax treatment for VCCs, formulated in consultation with the industry, recognises the unique characteristics of this new structure.

- To ease the compliance burden, an umbrella VCC will only need to file a single Corporate Income Tax (CIT) return with the Inland Revenue Authority of Singapore (IRAS), regardless of the number of sub-funds the umbrella VCC has.
- Deductions and allowances for umbrella VCCs will be applied at the sub-fund level to determine the sub-fund's chargeable income.



- Where applicable, an umbrella VCC will enjoy start-up or partial tax exemption which will be applied once at the umbrella level, regardless of the number of sub-funds the umbrella VCC has.
- Tax incentives under sections 13R and 13X of the Income Tax Act will be extended to VCCs¹. For umbrella VCCs, these tax incentives will be granted at the umbrella level.

Goods and Services Tax (GST)

- GST will apply at the sub-fund level as each sub-fund makes independent sale and purchase decisions based on its respective investment mandate.

Stamp Duty (SD)

- SD treatment will be applied at the sub-fund level. This is because each sub-fund can, through its umbrella VCC, enter into transactions relating to immovable property and shares.

More details of the tax treatment are in [Annex 2](#). IRAS will provide further guidance and details on its website and e-Tax Guides.

What amendments were made to the VCC Act?

The VCC Act was amended to:

- Ensure that the VCC insolvency regime remains aligned with that of other corporate structures in Singapore. The provisions relating to the receivership and winding up of VCCs in the VCC Act were adapted from the Companies Act (CA). When the IRDA (which consolidates all personal and corporate insolvency and debt restructuring laws) comes into force, the insolvency provisions in the CA will be repealed.
- Make other technical amendments to the VCC Act, including clarifying that a VCC should have at least one member (to align with the minimum number of members for companies under the CA).



MAS officers with representatives from the Singapore asset management industry who participated in engagement sessions and industry events in New York, USA.

¹ The tax incentive schemes for funds under sections 13R and 13X of the ITA provide tax exemption to fund vehicles that are managed by Singapore-based fund managers, subject to the fulfilment of the schemes' conditions. The tax exemption is granted in respect of "specified income" derived by the fund vehicles from funds managed by a fund manager in respect of "designated investments".

Opportunities for the industry

The VCC framework is a key initiative to position Singapore as the leading pan-Asian fund management and domiciliation hub.

It will create new business opportunities for fund servicing providers such as lawyers, accountants, tax advisors, fund administrators and custodians.

It will enhance the suite of fund structuring options in Singapore with a bespoke structure intended for use as an investment fund vehicle. It will help Singapore remain competitive with other established fund domiciles.

Onboarding

To encourage VCC adoption, the Singapore Academy of Law (SAL) is working with the industry to develop two model VCC constitutions for use for private funds:

- One for a VCC structured as an open-ended fund; and
- One for a VCC structured as a closed-end fund.

These model constitutions will be useful templates for early adopters of the VCC. They will be available on the SAL website in Q4 2019 and can be downloaded for reference and/or customised for use as required.

MAS will be running a pilot programme for selected fund managers and service providers who are seeking to launch their new investment funds as VCCs on the day that the VCC framework is launched.

This pilot programme is open to Permissible Fund Managers² who wish to register a new VCC or re-domicile a foreign corporate entity as a VCC. Fund managers who are interested to participate in this pilot programme should email the MAS at vccpilot@mas.gov.sg by 1 October 2019 with details of their proposed fund strategy.



MAS officers at industry events and engagement sessions with Singapore asset management industry.

² A Permissible Fund Manager is one that it is: (1) a licensed fund management company, i.e., a holder of a capital markets services licence for fund management under section 86 of the Securities and Futures Act (SFA); (2) a registered fund management company, i.e., a corporation which is exempted from holding a capital markets services licence under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations; or (3) a financial institution exempted under sections 99(1)(a), (b), (c) or (d) of the SFA from the requirement to hold a capital markets services licence to carry on business in fund management, i.e., a bank licensed under the Banking Act a merchant bank approved under the MAS Act, a finance company licensed under the Finance Companies Act or a company or co-operative society licensed under the Insurance Act.

Conclusion

We plan to launch the VCC framework by year-end 2019. Do familiarise yourselves with the latest updates on the features, benefits and applications of the VCC framework and consider how the VCC can be used as a fund structure for upcoming fund launches, as well as the re-domiciliation of existing overseas investment funds to Singapore.



Annex 1

Reactions from the Industry

“AIMA strongly supports Singapore’s efforts to attract investment fund assets onshore and boost additional growth of the local alternative asset management industry.

Our members welcome the increased choice and flexibility offered by the forward looking VCC structure.

We are proud to have hosted the MAS at a recent roadshow in New York. The positive feedback garnered from the AIMA event, along with high levels of interest by fund managers to utilise the new structure, signals the enormous potential of the VCC.”

– Kher Sheng Lee, Managing Director, Co-Head of APAC, Deputy Global Head of Government Affairs, The Alternative Investment Management Association (AIMA)

“IMAS is supportive of the VCC regime, which will encourage the use of Singapore as a fund domicile and complement Singapore’s role as a leading asset management hub.”

– Carmen Wee, CEO, the Investment Management Association of Singapore (IMAS)

“With the introduction of the VCC, Singapore’s position as a top domicile of choice for the asset and wealth management industry will be further enhanced. For members of the SFAA we have received a huge amount of interest and excitement with the anticipated launch of VCC as it creates renewed opportunity for services providers on the ground in Singapore.”

– Martin O’ Regan, Chair, Singapore Fund Administrators Association (SFAA)



Annex 1

Reactions from the Industry

“In the context of onshoring and consolidation in view of the need for economic substance, the VCC is the perfect vehicle for housing investments – its design facilitates the creation of economic substance which, in turn, enables access to Singapore’s 80-plus DTAs and tax incentives. The VCC’s cellular structure is also key – it enables consolidation of multiple asset classes while ensuring segregation of risk, investment strategy, dividend policy and shareholder right. Many of us in Singapore have already seen the first wave of queries and interest from investors across various jurisdictions and sectors.”

– Valerie Wu, Chair of Technical Committee, The Society of Trust and Estate Practitioners (STEP) Singapore branch



“Given its greater flexibility, the VCC will provide a viable alternative for fund managers currently utilising investment holding company structures in Singapore. The extension of tax incentives to the VCC is a welcome step in the right direction.”

– Dr. Thomas Lanyi, Chairman, Singapore Venture Capital & Private Equity Association (SVCA)



Annex 2

Details of tax treatment of VCCs – Corporate Income Tax

S/N.	Clause in the Bill	Legislative Change	Brief Description of Legislative Change
1	9,11	A VCC will be treated as a company and a single entity for tax purposes, subject to such modifications and rules made under the ITA	<p>Subject to such modifications and rules made under the ITA, a reference to a company in the ITA and the relevant subsidiary legislation will include a VCC. For instance:</p> <p>(a) A single CIT return will be filed by the umbrella VCC regardless of the number of its sub-funds.</p> <p>(b) Tax incentives under sections 13R and 13X of the ITA will be extended to VCCs. These tax incentives will be granted at the VCC level regardless of whether it is set up as a standalone VCC (with no sub-funds), or as an umbrella VCC (with sub-funds).</p> <p>(c) The chargeable income of an umbrella VCC will be the total of the chargeable income of each sub-fund.</p> <p>(d) Partial Tax Exemption and Start-Up Tax Exemption (“SUTE”) will be applied once at the umbrella level, regardless of the number of sub-funds the umbrella VCC may have. Subject to conditions, a VCC will enjoy the SUTE for its first three years of assessment (“YAs”). In the case of an umbrella VCC, the first three YAs are determined with reference to its date of incorporation and not the date of registration of its sub-funds.</p> <p>(e) Tax residence will be determined at the umbrella level of VCC.</p>
2	11	Specific exclusions for VCCs	VCCs will be excluded from the schemes listed in Appendix .
3	10,11	Application of CIT rules at the sub-fund level for umbrella VCCs	<p>In recognition of the segregation of assets and liabilities between sub-funds, the following treatment will apply at the sub-fund level:</p> <p>(a) Deductions and allowances will be applied at the sub-fund level for determination of each sub-fund’s chargeable or exempt income;</p> <p>(b) Where applicable, unutilised capital allowances, trade losses and donations (hereinafter referred to as “tax losses”) will be applied and kept to each sub-fund to be (1) carried forward for utilisation against future year’s taxable profits of that sub-fund, or (2) carried back for utilisation against the immediate preceding year’s taxable income of that sub-fund;</p> <p>(c) The shareholding test and where applicable, the same trade test for the purpose of the carry-forward / carry-back of tax losses will be applied at the sub-fund level³;</p> <p>(d) Foreign tax credits will be allowed at the lower of the Singapore tax attributable to the sub-fund, or the foreign tax paid by the umbrella VCC on behalf of that sub-fund; and</p> <p>(e) The amount of any corporate income tax attributable to any part of the chargeable income of an umbrella VCC that is income of a sub-fund, and any interest or penalty imposed, is considered liability incurred by the umbrella VCC on behalf of the sub-fund. This is for the purpose of section 29(1) of the Variable Capital Companies Act 2018, with the effect that the tax attributable to the income of a sub-fund would be discharged solely out of the assets of that sub-fund, including in the winding up of the sub-fund.</p>

³ Shareholding of each sub-fund will be determined separately based on the shareholders of the umbrella VCC in respect of that sub-fund.

S/N.	Clause in the Bill	Legislative Change	Brief Description of Legislative Change
			<p>If the fine or penalty cannot be attributable to any sub-fund, the liability incurred by the VCC will be considered as incurred on behalf of all of its sub-funds. Hence, under section 29(3) of the Variable Capital Companies Act 2018, the umbrella VCC may allocate this liability between its sub-funds in a manner that it considers fair to shareholders.</p> <p>In addition, as each sub-fund can have different sets of investors and investment objectives, the existing CIT rules will be applied at the sub-fund level:</p> <p>(a) Tax exemption of gains or profits from disposal of ordinary shares under section 13Z of the ITA; and</p> <p>(b) References to “related party” for the purposes of transfer pricing rules and issuance of qualifying debt securities.</p>
4	11,12	Re-domiciliation of VCCs	The tax framework for re-domiciliation of companies into Singapore will, with necessary modifications, be extended to the re-domiciliation of VCCs.

Annex 2

Details of tax treatment of VCCs – GST

S/N.	Clause in the Bill	Legislative Change	Brief Description of Legislative Change
1	2-4, 6	Application of GST at the sub-fund level	<p>GST registration, accounting and reporting will be performed separately by the umbrella VCC on behalf of the respective sub-funds (herein referred to as "sub-fund").</p> <p>Each sub-fund is required to assess its GST registration liability based on the value of taxable supplies made, and if GST-registered, is required to charge and account for GST on taxable supplies made. GST-registered sub-funds are also required to file separate GST returns.</p>
2	4, 6-8	Taxability of transactions made by the sub-fund	<p>Existing GST rules apply to supplies made by a GST-registered sub-fund to its customers, including to other sub-funds under the same umbrella VCC. The sub-fund is required to charge and account for GST on taxable supplies made.</p> <p>Existing deeming rules to require GST to be accounted for when business assets are given away for free or put to non-business use will apply to the sub-fund as well. This prevents GST-free consumption of goods and services.</p>
3	4	Input tax claims	<p>The GST-registered sub-fund is able to claim input tax incurred on its purchases, based on existing input tax recovery and attribution rules.</p> <p>In general, GST on purchases attributable to the making of taxable supplies is claimable in full, GST on purchases attributable to the making of exempt supplies is not claimable, while residual GST is apportioned based on a standard apportionment formula.</p>
4	4	GST collection and enforcement	<p>The collection and enforcement of GST will be conducted at the sub-fund level based on the GST returns filed by the respective GST-registered sub-funds.</p> <p>The segregation of assets and liabilities between sub-funds under the VCC is respected. The assets of a sub-fund will not be used to discharge the liabilities of other sub-funds, even in the event of winding-up of a sub-fund.</p>

Annex 2

Details of tax treatment of VCCs – Stamp Duty

S/N.	Clause in the Bill	Legislative Change	Brief Description of Legislative Change
1	14, 15	Application of stamp duty at the sub-fund level	Stamp duty treatment will be applied at the sub-fund level in view of the segregation of assets and liabilities of sub-funds within an umbrella VCC.
2	15	Application of the Additional Conveyance Duty (ACD) for VCCs	The following assessment with respect to the application of ACD will be made at the sub-fund level: a) whether an entity is a Property Holding Entity. This determines whether the investors of the sub-fund will be subject to the ACD. b) whether an entity is an associate of a significant owner in a Property Holding Entity. c) whether certain instruments effecting certain arrangements (e.g. cancellation or redemption of equity interests) should be regarded as conveyances liable for the ACD.
3	15, 16	Application of stamp duty for distribution in specie in connection with the liquidation of sub-funds	Stamp duty is applicable when a sub-fund liquidates and distributes its assets in specie to its shareholders. This is in line with the prevailing stamp duty treatment for the distribution of assets when a company liquidates.
4	13	Application of stamp duty on transfer of shares in VCCs	Stamp duty is applicable when investors/shareholders of VCCs transfer shares in the VCCs. This is in line with the prevailing stamp duty treatment where stamp duty is applied on transfers of shares in companies.

Appendix

- 14A. Deduction for costs for protecting intellectual property
- 14B. Further deduction for expenses relating to approved trade fairs, exhibitions or trade missions or to maintenance of overseas trade office
- 14D. Expenditure on research and development
- 14DA. Enhanced deduction for qualifying expenditure on research and development
- 14E. Further deduction for expenditure on research and development project
- 14F. Management expenses of investment companies
- 14H. Expenditure on building modifications for benefit of disabled employees
- 14I. Provisions by banks and qualifying finance companies for doubtful debts and diminution in value of investments
- 14K. Further or double deduction for overseas investment development expenditure
- 14KA. Further or double deduction for salary expenditure for employees posted overseas
- 14L. Further deduction for expenses incurred in relocation or recruitment of overseas talent
- 14N. Deduction for upfront land premium
- 14O. Deduction for special reserve of approved general insurer
- 14P. Deduction for treasury shares transferred under employee equity-based remuneration scheme
- 14PA. Deduction for shares transferred by special purpose vehicle under employee equity-based remuneration scheme
- 14Q. Deduction for renovation or refurbishment expenditure
- 14R. Deduction for qualifying training expenditure
- 14S. Deduction for qualifying design expenditure
- 14V. Deduction for amortisation of intangible asset created under public-private partnership arrangement
- 14WA. Enhanced deduction for expenditure on licensing intellectual property rights
- 14ZB. Deduction for expenditure for services or secondment to institutions of a public character
- 37C. Group relief for Singapore companies
- 37L. Deduction for acquisition of shares of companies