

Singapore Variable Capital Companies (VCC)



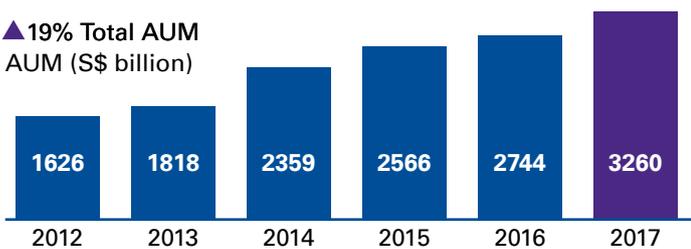
With the introduction of the Variable Capital Companies (“VCCs”) regulation, the fund revolution has finally arrived to Asia. We highlight some of the key features and requirements of the new proposed VCC fund vehicles covering accounting and audit, corporate secretarial, taxation and Anti-Money Laundering/ Countering the Financing of Terrorism regulations.

Singapore Asset Management Landscape

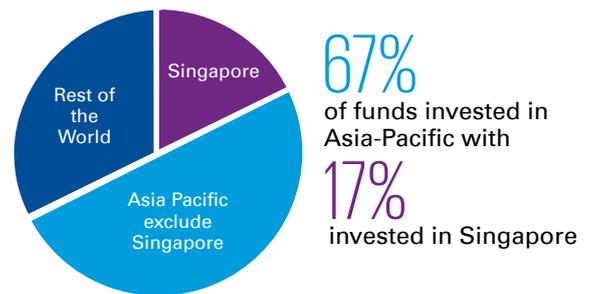
Singapore is experiencing exceptional growth in the asset management sector, with growth in total Assets Under Management (AUM) reaching close to S\$3.3 trillion in 2017 and a track record of 10 years of growth year on year. With the recent introduction of VCCs, it is expected that this growth will continue to reach even higher levels.

S\$3.3 trillion
Assets Under Management

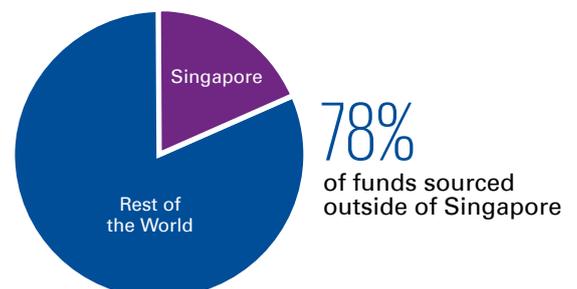
▲ 19% Total AUM
AUM (S\$ billion)



Pan-Asian Asset Management Centre- Investment Destination



Serving Global Investors: Source of AUM



VCC Key Features and Requirements



Provides flexibility to issue and redeem investments by investors and pay dividends out of capital



Addresses privacy to investors as they specifically prohibit public access to VCC financial statements and investor/shareholders' registers



The tax incentive schemes for Singapore funds such as the Enhanced-Tier Fund and Singapore Resident Fund Schemes will be extended to VCCs



Used for a variety of investment strategies as they can hold both open-ended and close-ended funds, thereby allowing for a multi-fund structure



Assets and liabilities of each sub-fund under the VCC are segregated



VCC are required to appoint a MAS regulated fund manager to manage investments



Wider scope of accounting standards in preparing financial statements in order to serve the needs of global investors



Accounting and Audit

Audit Considerations

Auditors of VCC need to be registered in Singapore with ACRA (Accounting and Corporate Regulatory Authority).

Accounting Considerations

Segregated assets and liabilities of sub-funds

1. Assets and liabilities of each sub-fund are to be segregated such that the assets of one sub-fund cannot be used to discharge the liabilities of another sub-fund.
2. Each sub-fund must be wound up separately to ensure that the ring-fencing of each sub-fund's assets and liabilities applies during insolvency.
3. For common assets and liabilities, including shared costs incurred by the umbrella VCC on behalf of the sub-funds (e.g. directors fees, establishment or set up costs), the manager needs to exercise judgement to establish a fair method of allocation between the sub-funds (e.g. based on invested capital, time incurred, no. of investments, complexity of deal, etc.).

Disclosure of sub-fund details

Processes and controls are to be in place to ensure that the arrangements, assets and liabilities of each sub-fund are segregated.

Financial year

1. On registration, the Registrar must be provided with the last day of the first financial year.
2. The first financial period must not be longer than 18 months, unless approved by the Registrar.

Accounting records and systems of control

1. The same procedures as a Singapore Company apply with regards to accounting and other records, and internal controls.
2. An umbrella VCC must maintain separate records and financial statements for each sub-fund.

Financial statements

Standalone VCC and umbrella VCC

Each VCC must have audited financial statements for each financial period/year which gives a true and fair view of the financial performance of the standalone VCC, or in the case of an umbrella VCC, for each sub-fund.

Consolidated standalone VCC and umbrella VCC

- For a VCC that is a parent company the VCC must have its consolidated financial statements of the group audited for each financial period/year.
- For a VCC that is a parent company, which is an umbrella VCC with sub-funds being its subsidiaries, the investments in the sub-funds are measured at Fair Value Through Profit and Loss ("FVTPL"). The umbrella fund does not need to present consolidated financial statements and therefore no Non-Controlling Interest arises in the umbrella fund's financial statements in respect of the investments in the sub-funds that are measured at FVTPL.

Directors' responsibilities over the financial statements are similar to other Singapore incorporated companies.

Accounting standards

VCC are allowed to prepare their financial statements using not just the Singapore Financial Reporting Standards (SFRS) framework but also the International Financial Reporting Standards (IFRS) and US Generally Accepted Accounting Principles (US GAAP).

In this regard, VCC are different to existing Singapore Unit Trust structures, which require the RAP 7 (Recommended Accounting Practice 7) framework to be used. The RAP 7 framework has certain differences to IFRS, is not well known or understood outside Singapore, and is considered inflexible in its disclosures.

The ability to prepare financial statements using US GAAP as well as IFRS will make it more likely that sponsors/managers will consider using Singapore as a jurisdiction to incorporate funds.

Although Singapore Financial Reporting Standards (International) ('SFRS(I)s') is mandatory for Singapore-incorporated companies with publicly traded debt or equity instruments, (with the exception of listed Unit Trusts such as REITs which have to use RAP7), it is also available as an alternative financial reporting framework for VCC, which provides dual-compliance to the equivalent of the IFRS issued by the International Accounting Standards Board as well. We expect VCC to adopt pure IFRS rather than SFRS(I)s or US GAAP.

Activities and constitution of a VCC

Consistent with the sole object of a VCC and the implied constitution of every VCC, we expect that a VCC should meet the criteria to be considered as an investment entity in accordance with IFRS 10/ FRS 110 Consolidated Financial Statements, and apply the exception to consolidation. Investments of a VCC, including those through a subsidiary investment vehicles (if any), are measured at fair value through profit or loss in accordance with IFRS 9/ FRS 109. In accordance to IFRS 13/ FRS 113.9, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

The constitution of the VCC provides flexibility for distribution and reduction of capital as and when determined by the manager.

As shares of the VCC are to be issued, redeemed or repurchased at a price equal to the proportion of the net asset value of the VCC represented by each share, there needs to be reliable systems and processes in place to calculate the net asset value of the VCC as and when shares are issued, redeemed or repurchased (daily, monthly or quarterly, as prescribed by the constitution).

This may pose challenges to private equity and venture capital funds in particular as up-to-date fair value information may not be readily available to facilitate the calculation of net asset value during a share issuance, redemption or repurchase.

Hence, different type of funds (i.e. hedge fund, private equity, venture capital, etc.) may have varying terms under their constitutions to tailor to their operational needs and requirements.

Corporate Secretarial



Registration

A VCC must at all times have a manager that complies with the below paragraph, to manage its property or operate the collective investment scheme or schemes that comprises the VCC.

A manager of the VCC must be:

- (a) A holder of a capital market service license for fund management under the Securities and Futures Act;
- (b) A Registered Fund Management Company;
- (c) A person mentioned in section 99(1)(a), (b), (c) or (d) of the Securities and Futures Act; or
- (d) Such person, or person within such class of person, as may be prescribed.

A VCC must have VCC as part of and at the end of its name.

One of the directors of the VCC needs to be a director or a qualified representative of the manager.



Registration of sub-fund

A sub-fund is required to be registered within 7 days of formation. There will be a separate name and registration number for each sub-fund.



Constitution

The property of the VCC is measured on fair value basis. Actual value of paid up capital is at all times equal to the net asset value of the company. Shares of the VCC are issued, redeemed or repurchased at a price equal to proportion of fee and charges.



Annual Return

A VCC needs to lodge its Annual Return within 7 months after the end of its financial year.

The timeline in the Act provides flexibility for the manager to complete the audit and lodge Annual Return. However, managers should consider the investors' expectation for the audited financial statements despite receiving monthly or quarterly statements. Typically funds issue their financial statements between 90 to 120 days after the last day of the financial period/ year.

The format of the Annual Return has not been prescribed.

Availability of Tax Incentive Schemes

1

Enhanced Tier Fund Scheme
("ETF Scheme")

2

Singapore Resident Fund Scheme
("SRF Scheme")

The current tax incentive schemes for Singapore funds (i.e. the Enhanced Tier Fund Scheme ("ETF Scheme") and Singapore Resident Fund Scheme ("SRF Scheme")) will be extended to VCC. Accordingly, the conditions under these schemes would similarly apply to VCC.

The ETF and SRF Schemes provide for tax exemptions on "specified income" derived from "designated investments".

Subject to the satisfaction of certain conditions, funds that were approved under the ETF and SRF schemes are also entitled to withholding tax exemptions on interest payments made to non-residents as well as recovery of GST incurred based on a fixed recovery rate.



Standalone VCC

The Monetary Authority of Singapore (MAS) is responsible for the administration of the Act on the Prevention of Money Laundering and Terrorism Financing, and has the power to issue directions and regulations in relation to AML/CFT to VCC.



Umbrella VCC

VCC that are set up on an umbrella basis can apply for the tax incentive schemes on behalf of their sub-funds. The tax incentive conditions under the ETF and SRF Scheme and the corresponding economic commitments will be applied on the umbrella VCC (and not to each individual sub-fund of the VCC).

Examples of the above applications are as follows:

If a VCC has five sub-funds, the minimum fund size requirement under the ETF Scheme will only have to be met at the umbrella VCC level and not at the level of each sub-fund.

The requirement to maintain a consistent investment objective (i.e. investment objective of an incentivised fund cannot be changed unless approved by the relevant authorities) must be satisfied at the level of the umbrella VCC as a whole, and not only on a sub-fund basis.

If an umbrella VCC breaches a condition under the tax incentive schemes, all the sub-funds within it would not enjoy the benefits for the tax incentive schemes for the given year.



Certificate of Residency ("COR")

VCC that are tax residents in Singapore will be eligible to access Singapore tax treaties. In the case of an umbrella VCC, the COR will be issued in the name of the VCC, with the name of the relevant sub-funds included in the COR. Accordingly, the VCC and its relevant sub-funds should be able to access the tax treaties entered into by Singapore.



Availability of the Financial Sector Incentive – Fund Management ("FSI-FM") Scheme to fund managers of VCCs

The 10% concessionary tax rate under the FSI-FM Scheme will be expanded to include fee income received from the managing or advising of incentivized VCCs.

Anti-Money Laundering/ Countering the Financing of Terrorism (“AML/CFT”) Regulations



The MAS is responsible for the administration of the Act on the Prevention of Money Laundering and Terrorism Financing, and has the power to issue directions and regulations in relation to AML/CFT to VCC.

The MAS requires VCC to conduct customer due diligence measures and maintain records on transactions and information obtained through the conduct of the due diligence measures.

Assistance to foreign and domestic authorities for their supervisory and other actions in respect of money laundering, terrorism financing and other offences

VCC may be subject to consolidated supervision by a foreign AML/CFT Authority if it is a subsidiary of a foreign financial institution (“FI”) incorporated or established in the foreign country and the foreign AML/CFT Authority carries out consolidated supervision of the foreign FI as well as the subsidiaries/branches/agencies/offices for compliance with the AML/CFT requirements of the foreign country.

Foreign AML/CFT Authorities and domestic Authorities may request to the MAS for information on the VCC which the MAS can obtain from the VCC and provide to the foreign AML/CFT Authority and domestic Authority subject to certain conditions.

The MAS may order a VCC or any person who is or used to be a director or an executive officer, fund manager, approved custodian, employee, agent or office holder, of a VCC to furnish to the MAS any information requested by the foreign AML/CFT Authority and domestic Authority. The MAS may also order a domestic Authority to furnish to the MAS any information requested by the foreign AML/CFT Authority.

Inspection by the MAS and Foreign AML/CFT Authority

The MAS may from time to time inspect the VCC or any of its subsidiary, branch, agency or office outside of Singapore for the purposes of compliance with the requirements of AML/CFT.

Information obtained by the MAS in an inspection may be transmitted to a foreign Authority which exercises consolidated supervision authority over the VCC to which the inspection is related.

Inspection by the MAS and Foreign AML/CFT Authority

A foreign AML/CFT Authority may conduct inspection on the VCC if the inspection is solely for the purpose of consolidated supervision and the foreign Authority undertakes to protect the confidentiality of the information and other conditions imposed by the MAS.

The VCC need not provide access to its books, information and facilities if it would unduly interfere with the proper conduct of the normal daily business of the VCC.

Inspection reports produced by the MAS or foreign AML/CFT Authority must not be disclosed to any person by the VCC unless the disclosure is made to an MAS officer or Auditor, or if the MAS approves in writing.

Other matters

The MAS may exempt any person or class of persons from any regulations made under the requirements in relation to AML/CFT of the Act, subject to conditions or restrictions in writing.

Within the Act, a number of fines and penalties have been put in place for failure or refusal or contravention of the requirements in relation to AML/CFT under the Act.

VCC will be able to delegate their AML/CFT responsibilities to a financial institution regulated and supervised by the MAS for AML/CFT purposes (such as a bank acting as a fund distributor). The delegated financial institution may in turn outsource the functions to another entity which may or may not be regulated by the MAS for AML/CFT purposes (such as a fund administrator). Notwithstanding the delegation of AML/CFT duties, the VCC will remain ultimately responsible for fulfilling its AML/CFT obligations.

Conclusion

The introduction of the VCC framework provides asset managers with greater operational flexibility and complements the existing suite of fund structures available in Singapore. The MAS expects to launch the VCC framework in the second half of 2019. KPMG will be working closely with the industry to obtain further insights and clarification to assist asset managers in the areas of accounting and audit, corporate secretarial, taxation and Anti-Money Laundering/ Countering the Financing of Terrorism.



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