



Project:	Corporate Collective Investments	Meeting	AASB February 2018 (M162)
Topic:	Update and implications for Standards	Agenda Item:	12.1
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		Decision-Making:	Low
		Project Status:	Update

Objective of this paper

- 1 The objective of this paper is to update the Board on Australian Government proposals regarding establishing a new corporate collective investments regulatory framework and potential implications for Australian Accounting Standards.

Attachments

- Agenda Paper 12.2 Diagram of the proposed regulatory framework for a corporate collective investment vehicle (CCIV)

Background

- 2 The Australian Government has been developing a new company structure for collective investment vehicles (CIVs) that would be familiar to overseas investors and similar to CIVs in other jurisdictions. The aim is to enhance the international competitiveness of Australian managed funds and ensure that the vehicles available in Australia are familiar to overseas investors, thereby increasing exports of fund management services and foreign capital flows into Australia. Funds in Australia typically use unit trusts, whereas corporate and limited partnership vehicles are generally used overseas.
- 3 The Corporate Collective Investment Vehicle (CCIV) regime is being developed in conjunction with proposals for an Asia Region Funds Passport. The Passport will be a common framework of co-ordinated regulatory oversight to facilitate cross-border issuing of managed investment funds. Australia, Japan, Korea, New Zealand and Thailand are signatories to the Memorandum of Cooperation, which took effect on 30 June 2016. The intention is for CCIVs to offer an internationally recognisable investment vehicle that can be readily marketed to foreign investors, including through the Passport.
- 4 Draft Bills for new Chapters to the *Corporations Act 2001* for both initiatives were published by Treasury in August 2017, for a one-month comment period. In December 2017, draft legislation for the tax treatment of CCIVs was also exposed for comment, and there will be further consultation on the regulatory aspects of the

CCIV framework. The intention is to have the legislation in place in the first half of this year.

- 5 The AASB Chair and staff were consulted by Treasury staff occasionally as the draft core Corporations Act Chapters were being developed.

Proposed CCIV structure

- 6 A company would be able to register as a Corporate Collective Investment Vehicle (CCIV) if it was limited by shares and operated by a single corporate director that is a public company. The corporate director would owe duties to the members of the CCIV in precedence to its duties to its own shareholders. Agenda paper 12.2 provides a diagram of the overall regulatory framework for a retail CCIV.
- 7 The CCIV shares would be redeemable shares, to provide investors with the flexibility to withdraw their investments. Rules for redeeming redeemable shares would include a solvency test to protect the interests of creditors and, for a retail CCIV, a liquidity test to protect the interests of remaining members and redemption pricing requirements.
- 8 A CCIV would be required to have at least one sub-fund. Sub-funds would enable CCIVs to offer multiple investment strategies under a single ‘umbrella’ corporate vehicle. Investors in a particular sub-fund would be protected from the consequences of activities in respect of other sub-funds of a CCIV by segregating the assets and liabilities allocated to each sub-fund. However, sub-funds would not be legal entities in their own right.
- 9 A class or classes of shares of a CCIV would be referable to only one sub-fund of the CCIV. That is, the rights attached to every share in the class would be restricted to rights in respect of the assets that have been allocated by the corporate director to the sub-fund. A person would be a member of a sub-fund if they hold one or more shares of a CCIV that are referable to the sub-fund.
- 10 All the assets and liabilities of a CCIV would be allocated to specific sub-funds. Assets and liabilities of one sub-fund could not be used for the business of any other sub-fund. This means that any liability or expense of a sub-fund must be met solely out of the assets of that sub-fund. This protects the distinct investment activity carried on by each sub-fund (with its discrete portfolio of assets and its own investment objectives) from the impact of the investment activity carried on by all the other sub-funds of the CCIV. Creditors of a poorly performing sub-fund would not have access to the assets of a well-performing sub-fund.

Implications for Accounting Standards

- 11 The draft Bill and the Explanatory Memorandum (EM) do not make any reference to financial reporting requirements for a CCIV or its sub-funds. Financial reporting requirements presumably will be addressed in the regulatory aspects of the CCIV framework that are due for consultation later this year.
- 12 However, the EM notes at paragraph 1.18 that as a company, a CCIV would generally be subject to the ordinary company rules under the Corporations Act unless otherwise specified. Discussions with Treasury staff indicate that the regulatory

framework is expected to require a CCIV to prepare financial statements in accordance with the regular provisions of the Act, including compliance with Australian Accounting Standards.

Sub-fund financial reporting

- 13 One issue raised in the staff discussions has been the intention that the CCIV financial statements would include financial statements for each of the sub-funds. As the sub-funds would not be separate legal entities, Accounting Standards would not necessarily require financial reporting for the sub-funds. A sub-fund would be more like an operating segment of the CCIV than a separate reporting entity.
- 14 The definition of a reporting entity currently in Accounting Standards refers to either a single entity or a group comprising a parent and all of its subsidiaries. The term 'reporting entity' in the forthcoming revised IASB *Conceptual Framework for Financial Reporting* refers to a circumscribed area of economic activities that could be reported in a set of general purpose financial statements (GPFS). In other words, a reporting entity per the revised *Conceptual Framework* could be a single entity, a portion of an entity or a group of entities. This would permit identifying each sub-fund of a CCIV as a reporting entity. However, under the present approach to applying the reporting entity concept, it would be up to the CCIV to assess whether each sub-fund was a reporting entity and thus preparing GPFS. So a revised definition of reporting entity alone might not result in the preparation of financial statements for all sub-funds.
- 15 An alternative discussed with Treasury staff could be the amendment of AASB 1053 *Application of Tiers of Australian Accounting Standards* (Appendix B) to include sub-funds of CCIVs as for-profit entities deemed to have public accountability. This would therefore require sub-funds to prepare GPFS under Tier 1 reporting requirements.

CCIV financial reporting

- 16 Financial statements prepared at the level of a CCIV would incorporate the financial position and results of all of the CCIV's sub-funds, but would appear not to represent consolidated financial statements as the CCIV is the legal entity that incorporates the sub-funds. The classification of the redeemable shares issued by the CCIV as liabilities or equity would be subject to AASB 132 *Financial Instruments: Presentation*, which includes an exception to the definition of a financial liability for puttable instruments that satisfy certain criteria, such as the instrument class being subordinate to all other classes of instruments. Application of the exception could be a practical issue when there are two or more classes of shares referable to one sub-fund.
- 17 A CCIV might not have users of its financial statements. The segregation of assets and liabilities by allocation to individual sub-funds is to protect investors in respect of each sub-fund, and so is intended to extend to the rights of creditors, legal proceedings and external administration of or in relation to a CCIV. (The external administration process for CCIVs and sub-funds is expected to be covered in a further exposure draft Bill.) If the segregation to individual sub-funds is legally

effective, this could mean that the overarching CCIV financial statements might not be useful to investor-members, creditors and other users of financial statements.

- 18 A CCIV also would not be permitted to have officers or employees (other than the corporate director), again limiting the potential for users of the financial statements.

Staff recommendations

- 19 As the proposed CCIV structure and regulatory framework has not yet been completed in draft and further consultation processes are expected, it is too early to be definite about the implications for Australian Accounting Standards. However, issues will arise in relation to the scope of financial reports for CCIVs and their sub-funds.
- 20 Staff recommend the Board consider future proposals in relation to financial reporting by CCIVs (and sub-funds) to address any significant issues prior to the passage of legislation. Further proposals are expected to be issued for consultation in the first half of 2018.

Questions for Board members

Do Board members agree with the recommendation to consider future CCIV financial reporting proposals? Do Board members have any comments on the CCIV proposals to date?