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# Fund Structures – Variable Capital Company (VCC)

Investment funds in Singapore can be established as limited partnerships, private limited companies or VCCs. VCCs are corporate vehicles which can only be used as investment funds. A key feature of the VCC is that it may be incorporated either as a standalone fund comprising a single investment portfolio, or an umbrella fund with multiple sub-funds, each with their own investment portfolio and segregated assets.

**Illustration of a Standalone VCC**

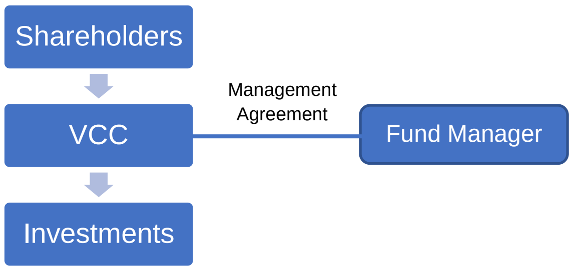
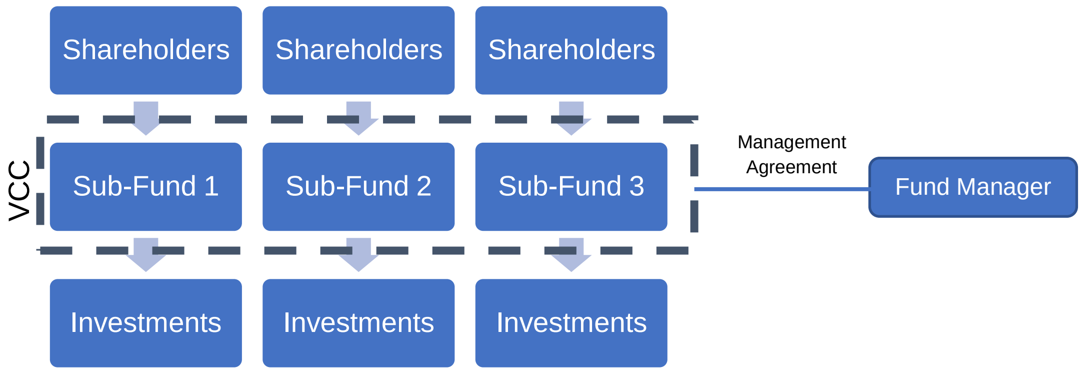



**Illustration of an Umbrella-Sub-Fund VCC**




In an umbrella VCC, the VCC is a single legal entity with its sub-funds operating as separate cells with no legal personality. Only the VCC has to be incorporated – each sub-fund may be constituted by registration with the Accounting and Corporate Regulatory Authority of Singapore (ACRA).

Each sub-fund of an umbrella VCC may have different investment objectives and different investors. However, an investor may invest in more than one sub-fund of an umbrella VCC (as seen in the illustration). The assets and liabilities of each sub-fund are to be segregated and the assets of a sub-fund cannot be used to discharge the liabilities of the umbrella VCC or another sub-fund of the umbrella VCC.

To mitigate against the risk of cross-cell contagion, under the Variable Capital Companies Act 2018 (VCC Act), any provision of an umbrella VCC's constitution, or any agreements and/or contracts entered into by the umbrella VCC, is void to the extent that it is inconsistent with the principle of segregation of assets and liabilities.

Further, an umbrella VCC is required to disclose the fact that the assets and liabilities of its sub-funds are segregated before entering into any agreements and/or contracts.

## VCC Advantages

### *Flexibility in issuing and redeeming shares*

There is no requirement for shareholder approval, solvency tests, or other cumbersome capital reduction procedures before shares may be issued or redeemed. This is done by imposing a requirement that shares may only be issued and redeemed at net asset value (other than during the initial offer period of the shares). Since net asset valuation is based on assets less liabilities, liabilities will always be accounted for in the price of redemption and this helps to safeguard the interests of creditors. As a result, VCCs will still retain the flexibility to adjust fees and charges (to account for transaction costs, default remedies, liquidity risk management, etc).

### *Dividends may be paid out of capital*

There is no requirement for dividends to be paid out of profits only.

### *Privacy*

A VCC's register of members is maintained by the VCC and need not be disclosed to the public. In addition, financial statements need not be disclosed to the public.

### *Availability of tax incentives*

Tax incentives available to current investment structures domiciled in Singapore extend to VCCs (13O and 13U tax incentives under the Income Tax Act 1947 of Singapore). The tax incentives apply at the umbrella level, so each sub-fund does not have to individually satisfy the pre-requisites of the tax incentives. The financial sector initiative – fund management award, which allows a Singapore fund manager to enjoy a concessionary tax rate, also applies to fund managers of VCCs.

### *Separate winding up of sub-funds*

A sub-fund may be wound up as if it were a separate legal person. This is to ensure ring-fencing of each sub-fund's assets and liabilities, and that claims of creditors will only be discharged out of assets of that sub-fund and the assets of other sub-funds will not be used to discharge any liabilities of the sub-fund being wound up.

### *Consolidation of service providers*

Only one director is required for the VCC. By appointing the same set of service providers across sub-funds (e.g. auditor, administrator, custodian), the VCC can reap economies of scale and save costs.

### *Inward re-domiciliation as a VCC is allowed*

A fund domiciled in another jurisdiction that is similarly structed as a VCC may be re-domiciled in Singapore. This can be advantageous as the VCC can be used for both open-ended and close-ended strategies. The VCC and its sub-funds may be opened-ended or close-end funds, as long as the rights of and limits to redemption of shares of the VCCs and the sub-funds are set out in the VCC's constitution.

## VCC Features

### *Composition of a VCC*

The VCC is governed by the VCC Act. The VCC is owned by shareholders. There must be a minimum of 1 shareholder, and no limit to the maximum number of shareholders. The Board of Directors of the VCC are responsible for the day-to-day management of the business. The VCC must have at least 1 director. However, if the VCC comprises at least one authorised scheme (i.e. a scheme authorised by MAS and units in the scheme are offered to the public), the VCC must have at least 3 directors (including 1 independent director).

A VCC is required to appoint a manager to manage its property or operate the CIS or schemes that comprise the VCC. The manager must be a Singapore-based asset manager licensed, registered or exempted by MAS. Thus, the VCC is not permitted to have a foreign asset manager (although asset managers based in Singapore can manage foreign investment funds).

The VCC is a separate legal entity and is able to hold property in its own name. The rights and obligations are separate from those of its shareholders and directors. The sub-fund of an umbrella VCC is not a legal person separate from the umbrella VCC. Nevertheless, the umbrella VCC may sue or be sued in respect of a sub-fund as if each sub-fund were a legal person and the property of a sub-fund is treated in law as if the sub-find were a separate legal person.

### *Returns and Interests*

The shares in the VCC entitles the shareholder to rights that are specified in the VCC's constitution. Rights such as the right to participate in or receive payments from the VCC's property (or a sub-fund of an umbrella VCC) may be available to the shareholder.

### *Liabilities*

The obligations of the VCC are solely the obligations of the VCC, and the obligations of each sub-fund is solely the obligations of each particular sub-fund. The VCC's liabilities are to be met out of the VCC's property or assets. And the liabilities of a particular sub-fund are to be met out of that sub-fund's property and not the VCC's property or that of other sub-funds. The shareholders' liability to contribute to the VCC's liabilities or a sub-fund of the VCC is limited to the amount, if any, unpaid on his shares.

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*Minimum Capital Requirements*

The VCC must have at least 1 share. The value of the paid-up capital of the VCC is at all times equal to the net asset value of the VCC.

*Continuity in Law*

The VCC has perpetual succession until wound up in accordance with the VCC Act. Each sub-fund continues to exist unless it, or the umbrella VCC, is wound up. The sub-fund in an umbrella VCC may be wound up without affecting the continuing existence of the umbrella VCC or other sub-funds in the umbrella VCC.

Unlike private companies limited by shares, the capital maintenance rules do not apply to VCCs.

*Taxation*

The VCC would be taxed based on prevailing corporate tax rates on its profits (subject to any tax incentive scheme that it may be entitled to). Similar to a private company limited by shares, the shareholders do not pay tax on dividends. The VCC is treated as a company and a single entity for tax filing purposes. This means that only one set of income tax returns is required to be filed with the IRAS. Any chargeable income or exempt income of the umbrella VCC is the total of that of each of its sub-funds, as if each sub-fund were a VCC.

***Note: The information in this publication is intended to provide a brief overview of the fund structuring options in Singapore. It is not intended to provide legal advice on the subject matter.***