

Australia: Why You Should (Or Shouldn't) Use a CCIV

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Australia's new fund vehicle, the corporate collective investment vehicle (**CCIV**) came into effect on 1 July 2022. Since then adoption has been meagre, to say the least.

Some of the key reasons that you should consider using a CCIV for your next fund are:

1. the corporate structure is a more familiar structure than a trust for many offshore investors;
2. the CCIV allows for the creation of sub-funds under one umbrella CCIV which has statutory protection unlike sub-funds under a single umbrella trust;
3. it could be faster to establish a CCIV or a CCIV sub fund than a new registered scheme. ASIC says it will generally provide confirmation of registration within two business days of receiving the application. However, you do need to allow for the fact that registration applications may only be submitted by mail at this stage (ie there is no online registration application for CCIVs);
4. broadly, CCIVs are taxed like AMITs. However, this could also be a disadvantage as a CCIV is deemed to be a trust for tax purposes which causes the same tax treaty issues that currently apply to trusts.

However, you might not adopt a CCIV because:

1. there are some features (both regulatory and tax) of CCIVs that mean it is not perfect. Stakeholders have raised these issues with the Government since the CCIV was introduced but it remains to be seen if or when these will be addressed;
2. the CCIV structure is novel in Australia which may result in higher costs to establish one initially (there are no government incentives available like in certain other jurisdictions) and delays in getting financiers to understand the structure;
3. there is no transitional regime for existing funds to convert to a CCIV including in relation to tax (rollover relief) and regulatory (to facilitate amendments to existing fund constitutions) issues, or to redomicile offshore funds to the CCIV;
4. existing responsible entities and trustees need to vary their existing Australian financial services licence to authorise them to operate a CCIV;
5. the States and Territories have not amended their tax legislation to provide for CCIVs. This is particularly an issue for real estate funds in relation to corporate reconstruction and

landholder duty;

6. wholesale CCIVs are subject to great regulation than unregistered managed investment schemes because they are registered with ASIC. In particular, the corporate director of a wholesale CCIV must be a public company (rather than a proprietary company) and a wholesale CCIV constitution must be lodged with ASIC (although it is not publicly available).

A number of industry bodies have raised these issues with the Government and Treasury. Hopefully these issues will be resolved over time so that the CCIV can become a viable alternative fund structure. For further information on CCIVs, our previous CCIV-related posts are [here](#) and [here](#).

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