RBC Investor & Treasury Services

Australian regulatory intelligence:

Collective Investment Vehicles (CIVs)

Australia's 2016 federal budget included a commitment to introduce two CIVs into the Australian investment market. The products and the dates they will be accessible to investors are as follows:

1 July 2017 | Corporate Collective Investment Vehicles (CCIV)

1 July 2018 | Limited Partnership Collective Investment Vehicles (LPCIV)

At a recent RBC Investor & Treasury Services (RBC I&TS) forum, two industry experts from EY Australia, Antoinette Elias, Oceania Wealth & Asset Management Sector Leader, and Jennifer Kwok, Tax Director, discussed the potential structure and regulatory approaches for CIVs in Australia.

Australia as a global financial centre

The concept of introducing CIVs in Australia was first put forward in the Australian Financial Centre Forum's November 2009 report, *Australia as a Financial Centre: Building on our Strengths*, also known as the Johnson Report.

The report explored opportunities to position Australia as a global financial services hub and CIVs were proposed at that time as a vehicle to achieve this aim.

Currently, unit trusts are the typical vehicle used to hold passive assets in Australia. However, there have been challenges in developing interest in unit trusts with international investors, particularly investors across Asia that are less familiar with the unit trust structure. An additional barrier for foreign investors relates to withholding tax; for example a foreign investors in Managed Investment Trusts (MIT) are subject to a 15% tax rate. This is rather high in comparison to other markets such as Luxembourg where the withholding tax rate for foreign investors can be as low as 0%.

The report also cited complexities associated with the way tax treaties apply to unit trusts acting as a further barrier to foreign investors interested in buying Australian assets.

> "Reducing 'red tape' for global investors is important in helping to facilitate Australia's access to global capital"

The existing rules have prompted some Australian fund managers to use offshore CIVs rather than local structures, resulting in jobs and skills being moved offshore, which also serves to erode local tax revenues.

Tax rules aside, reducing 'red tape' for global investors is important in helping to facilitate Australia's access to global capital, and there is growing offshore interest in Australian assets. For example, in 2015, overseas funds coming into Australia grew by 8% to reach AUD 3,024.4 billion. The prior year foreign investment grew 10% to reach AUD 2,784.5 billion.

> "In 2015, overseas funds coming into Australia grew by 8%"

Against this backdrop, the Asia Region Funds Passport will soon make it easier for offshore investors to offer investment products in Australia, increasing competition for local funds management businesses. The introduction of the more universally understood CIV structure will help local fund managers compete in this environment.

Defining the Rules

Since the release of the 2016 budget papers, there has been ongoing industry consultation and discussion on both the regulation and structure of CIVs. It is widely expected that the rules will be broadly based on the attribution managed investment trust regime (AMIT) that came into force in Australia in May 2016.

Further, it is anticipated that existing overseas corporate vehicles, such as the UK Open Ended Investment Company (OEIC), and the Luxembourg SICAV will be instructive and taken into consideration by Australian regulators. Similar to the Australian experience, OEICs were introduced in the UK to attract foreign investors that were not familiar with the unit trust structure. OEICs have since become one of the most popular vehicles for foreign investors to hold UK assets with many of the unit trust participants switching into the OEIC framework.

> "The UK Open Ended Investment Company (OEIC), and the Luxembourg SICAV will be instructive and taken into consideration by Australian regulators"

Several key operational decisions regarding CIVs remain outstanding, including the transition rules and tax implications for assets that are moved by managers converting existing MITs/AMITs into CIV structures. From a withholding tax perspective, opacity in the existing rules poses an unnecessary risk for offshore investors. Addressing this in the lead-up to the 1 July 2017 implementation date may serve to drive additional interest from foreign investors.

Further details from the government are expected shortly. RBC I&TS will continue to monitor market developments and provide further information as it becomes available.

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