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Senate Standing Committees on Economics
Parliament House
PO Box 6100
CANBERRA ACT 2600

By Email: *economics.sen@aph.gov.au*

Dear Committee Secretariat

CORPORATE COLLECTIVE INVESTMENT VEHICLE FRAMEWORK AND OTHER MEASURES BILL 2021 - ECONOMICS LEGISLATION COMMITTEE INQUIRY

1. Thank you for the opportunity to provide comments to the Economics Legislation Committee's inquiry of the provisions of the *Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021* ("**Bill**").

2. Pitcher Partners specialises in advising taxpayers in what is commonly referred to as the middle market. Accordingly, we service many clients, including both investors and fund managers, that would be impacted by the introduction of the CCIV regime.

3. We acknowledge that this submission has been provided after the closing date as our office close period affected our ability to provide this submission in the first week of January 2022.

4. Our comments contained in this submission are particularly focused on the tax framework of the CCIV regime. We endorse the broad framework under the current design and believe it is a significant improvement on earlier versions and much simpler to understand and apply. However, we highlight some suggestions that we believe could improve the current design of the regime in a way that would increase its uptake and increase investment into Australia, particularly in the context of unlisted funds. Our concern is that if these issues are not addressed (in a legislative form) it will become impractical or impossible for the Australian Taxation Office ("**ATO**") to provide appropriate guidance that ensures the rules operate as intended in many circumstances. We believe that many CCIVs will therefore run the risk of being taxed at 47%, which will create a risk on uptake of the CCIV regime as compared to the current use of unit trusts as the vehicle of choice for fund managers.

5. We attach at the Appendix a preliminary list of issues that we have identified. Most of these issues are in relation to applying the deeming rules in proposed Division 195 to the *Income Tax Assessment Act 1997* ("**ITAA 1997**"), which relate particularly to those CCIV sub-funds that do not meet (or are at risk of not meeting) the criteria to be taxed as an Attribution Managed Investment Trust ("**AMIT**").

6. In particular, our main concern is the use of "profits" as a proxy for the "income of a trust estate" for a non-AMIT sub-fund. We believe the use of this concept will be problematic from an ATO administration (as well as a taxpayer compliance) perspective. We believe that the difference between this term and taxable income will likely result in many cases where a CCIV sub-fund is taxed at 47%. We believe that the use of this concept will result in a significant amount of resource time being devoted from the ATO in trying to resolve issues associated with the use of the concept of "profits". We hope that the Appendix demonstrates this issue and the problems created by this issue fairly clearly.

7. We consider that many of the interpretive issues raised in the Appendix may be mitigated or eliminated for non-AMIT CCIV sub-funds if they are able to make an upfront (and irrevocable) statutory election to deem their "income of the trust estate" for each income year to be an amount equal to the taxable income of the CCIV sub-fund, disregarding franking credits and foreign tax credits (or other tax credits). This is essentially how most non-AMIT managed funds currently define their distributable income and is something that can be used as a basis for reconciliation (e.g. for the purpose of standard distribution statements).

8. This would significantly reduce the risks of non-AMIT CCIV sub-funds being taxed at 47% under section 99A of the *Income Tax Assessment Act 1936* ("**ITAA 1936**") (e.g. where they have taxable income but otherwise no "profits" under accounting standards) and would remove a major risk that may otherwise dissuade unlisted funds from using the CCIV regime. We do not see an integrity issue arising if this election is an irrevocable one.

9. We do not believe the purpose of the CCIV regime is to tax CCIV sub-funds at 47%. Therefore, any way to simplify the rules to avoid this harsh outcome would make CCIVs a more attractive vehicle. We understand that the provisions in the Bill attempt to do this via certain deeming rules, but we do not believe they sufficiently achieve this.

10. We understand that the ATO is preparing administrative guidance on the CCIV framework but they are severely limited in their ability to interpret the law contrary to its plain meaning. We believe that there would be a significant number of unresolved issues if this alternative option (i.e. irrevocable election to treat income as taxable income) is not seriously considered.

11. For completeness, we also note that there are other issues in the Appendix that are not related to the definition of "income of the trust estate" for CCIV purposes. However, these all generally relate to the taxation of non-AMIT CCIV sub-fund.

12. If our submission above is not accepted then, alternatively, if amendments were made to the Bill to treat all CCIV sub-funds as AMITs (i.e. taxed on an attribution basis) then these issues would essentially fall away in their entirety. Accordingly, we believe that this would be a preferred option that would help to reduce the potential scope of these issues.

13. We note that for non-AMITs that this deemed AMIT status should not extend to the ability to make a capital account election under Division 275 of the ITAA 1997 or to

access MIT withholding rates for fund payments made to non-resident members. These concessions should only be available to those CCIV sub-funds which actually meet the AMIT requirements.

14. However, to address the anomalies identified in the attached Appendix, we believe that the legislation must deal with the method of taxation of these types of CCIVs. In summary, we believe that this could be simply addressed by either:

    14.1. allowing a CCIV sub-fund the ability to make an irrevocable election to treat income of the trust estate as being its taxable income (with certain adjustments); or

    14.2. allowing a CCIV sub-fund to be taxed on an attribution basis (rather than present entitlement basis)

    in order for the CCIV regime to be a vehicle that meets its objectives of successfully attracting foreign investment.

If you would like to discuss any aspect of this submission, please contact either Leo Gouzenfiter on [redacted].

Yours sincerely

[redacted]

A M KOKKINOS
Executive Director

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APPENDIX – LIST OF ISSUES RELATING TO CCIV BILL (TAX FRAMEWORK)

Item	Section Reference	Background	Additional comment
1.	195-100	**Note on interaction with capital gains tax** The last dot point in the outline says 195-C "includes rules to support the application of the rules around trust losses and capital gains". Is there actually anything in there around capital gains or than something general like deemed trust means entitlement to CGT discount? We are unclear what this note means.	
2.	195-115	**Trust interaction issues and the trust deeming rule** Some of the provisions of the tax legislation use the term "beneficiary of a trust estate" for example section 97 and section 6B of the ITAA 1936. These words are not used anywhere in Division 195 and we are left with the deeming rule in section 195-115(3) to ensure that this is the case. Guidance would be required on the breadth of the rule in section 195-110 and 195-115.	<u>Example</u>: A CCIV sub-fund derives foreign income and pays foreign tax. The sub-fund pays a dividend to the shareholders comprising an amount attributed to the foreign income. Section 770-130 of the ITAA 1997 operates to allow foreign taxes to be passed through the sub-fund to the unitholder. Guidance required to confirm that the deeming rules are sufficient to allow this to occur.
3.	195-120	**Fixed entitlements** The provision only deems a beneficiary to have a fixed entitlement to income and capital. However, the fixed entitlement rule contained in the former section 160APHL(11) of the ITAA 1936 requires the beneficiary to have "a vested and indefeasible interest in so much of the corpus of the trust as is comprised by the trust holding." Where a CCIV sub-fund is not an AMIT for the income year, investors in the CCIV will need to meet this requirement for franking credit entitlements to flow through.	Given this specific requirement contained in former section 160APHL(11), would it be poss ble for franking credit entitlements to flow through a CCIV sub-fund to a beneficiary?

Item	Section Reference	Background	Additional comment
4.	195-120(1) & (2)	**Fixed entitlements (single class)** It is unclear how proposed sections 195-120(1) and (2) are to operate, in particular whether one assumes a payment of a hypothetical distr bution or whether one needs to look at actual distributions made. The wording contained in the two provisions is different and thus it is ambiguous how the ATO will interpret this and apply the provision. For example, subsection 195-120(2) includes explicit reference to the entitlement to capital "in the event of a return of capital", which appears to include a hypothetical test. However, subsection 195-120(1) only refers to the "right to receive dividends" and uses the term "dividends that are payable" for the denominator, which suggests that actual dividends payable need to be used. This is particularly important for the trust loss recoupment provisions, which require one to determine the "50% stake test" during a period of losses where no such distr butions are made.	Example (single class): A CCIV sub-fund has a single class of shares. The CCIV sub-fund derives a profit in each year other than year 3, in which it incurs a loss. Would the formula in section 195-120(1) result in a fixed entitlement to income for year 3 which was undefined? Would the CCIV fail the 50% stake test despite no change in ownership during the relevant period?
5.	195-120(1)	**Fixed entitlements** Clarity is required on the treatment of the provision where there are accounting losses, particularly where there are two classes with different dividend entitlements. Under Schedule 2F to the ITAA 1936, in order for a trust to deduct carry forward tax losses, the trust will generally be required to satisfy the 50% stake test from the start of the loss year to the end of the recoupment year. Where there is an accounting loss, both the numerator and denominator in section 195-120 may be zero, meaning the beneficiary's fixed entitlement during that period would be undefined. Similarly, where there are multiple classes with different dividend entitlements, there may be difficulties in applying this formula.	Example (multiple classes): A CCIV sub-fund has issued two classes of shares. Class A provides priority to dividends up to a hurdle rate (8%). Once the hurdle rate is achieved, Class A and Class B share in residual profits equally (based on the number shares held). The CCIV sub-fund incurs losses from years 1 to 4 and then derives a profit in year 5. Using the formula, how does one determine the % of fixed entitlement for years 1 to 4 for the purpose of this test?

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Item	Section Reference	Background	Additional comment
6.	195-123(3)(b)	**Determining profit for a wholesale CCIV sub-fund** Proposed section 1232C mandates the application of the accounting standards for retail funds (through section 292 and 295 of the *Corporations Act 2001*). A wholesale CCIV sub-fund is required to determine profit as though it were a retail fund covered by 1232C(2)(a). Guidance is required as to whether this means that the wholesale CCIV is required to apply all accounting standards (subject to reduced disclosure requirements) in determining profit for the relevant year. The ATO would also face challenged in administering this rule as the application of accounting standards are generally outside the expertise and proper function of the ATO. Paragraph 13.96 of the EM to the Bill states that requiring a wholesale CCIV sub-fund to prepare financial records in accordance with accounting standards is "necessary because the CCIV's registration type can change during the financial year. In addition, the EM states that these sub-funds are already required to keep financial records (implying that this would not impose an additional compliance burden). In our view, these statements are incorrect. The preparation of financial records of the kind described in paragraph 5.20 of the EM do not extend to a requirement to apply all accounting standards, thereby imposing an extra burden on these funds (e.g. keeping a general ledger does not amount to accounts in accordance with the accounting standards). In addition, the occasions in which a CCIV's registration type would change from year to year would be so limited as to completely outweigh any perceived integrity risk.	Example: A wholesale CCIV sub-fund is a property scheme that is both the lessee and lessor of property. AASB 115 (Leases) and AASB 140 (Investment Assets) could both have application to the sub-fund (if it were a retail scheme) which would materially adjust the amount of profit recorded by the sub-fund. Does section 195-123(3)(b) mandate this application? Would the ATO be capable of reviewing and administering these requirements for a wholesale CCIV?
7.	195-123	**Unrealised gains recorded in profit** A number of accounting standards require unrealised profits to be recorded as revenue in the profit and loss statement. Does the operation of this provision mandate the unrealised amount to be included in the "income" of the sub-fund for that income year? Does this amount need to be distributed to its beneficiaries to avoid a section 99A assessment?	Example: A CCIV property sub-fund acquires a commercial building for rental purposes. Under AASB 140, the building revaluation increase is recorded in profit under para 35 when applying the fair value method. The amount is equal to $800,000. The realised profit for the year is equal to $200,000. The taxable income is equal to $200,000. If the sub-fund fails to record the unrealised reserve (e.g., does not prepare accounts in accordance with the accounting standards) or fails to distr bute the amount recorded thereby resulting in 80% of the "profit" for the year being undistributed, would the corporate director be subject to tax on 80% (or $160,000) of the taxable income of the CCIV sub-fund?

Item	Section Reference	Background	Additional comment
8.	195-123	**Interest on borrowings to distribute unrealised gains may not be deductible** If the ATO considers that a wholesale CCIV sub-fund would be required to record (and distr bute) unrealised profits to avoid a section 99A assessment, this may force the sub-fund to borrow to distribute that unrealised profit to shareholders. Under the principle outlined in *Roberts v Smith*[1] (and the ATO's views in Taxation Rulings TR 95/25 and TR 2005/12), the interest on these amounts would not be deductible.	Example: A CCIV sub-fund is required to distribution $1 million of profit in order to avoid a section 99A assessment. Of this amount, $100,000 is realised and $900,000 is unrealised. The CCIV sub-fund has cash reserves of $200,000 and a working capital overdraft account. The sub-fund borrows an additional $700,000 to fund the distribution of profit. The ATO may seek to apply TR 2005/12 to the borrowings (both the direct and the overdraft account) to fund the distribution of the profit in this example thereby creating higher effective tax rates for investors.
9.	195-123	**Distribution reinvestment** To the extent that item 7 requires 100% of the profit (including unrealised profits) to be distr buted, would this rule be satisfied if the sub-fund mandated annual reinvestment of the amount?	<u>Example:</u> Following the previous example, if the sub-fund distr buted the amount and reinvested the amount to avoid a section 99A assessment, would the ATO have concerns from an anti-avoidance perspective? For example, section 100A may have application (resulting in a deeming of there being no present entitlement) as this arrangement may be seen as resulting in a payment made to an entity other than the beneficiary (i.e. the CCIV sub-fund) for a tax purpose (i.e. to avoid a section 99A assessment). This may also create an issue regarding "specific entitlements" to capital gains. See item 10 below.

1 *FCT v Roberts; FCT v Smith* [1992] FCA 363; (1992) 23 ATR 494; (1992) 92 ATC 4380; (1992) 108 ALR 385; (1992) 37 FCR 246.

Item	Section Reference	Background	Additional comment
10.	195-123	**Specific entitlement and dividend reinvestments** Example 2.3 of the EM to the *Tax Laws Amendment (2011 Measures No. 5) Bill 2011* ("**2011 Bill**") outlines that the distr bution of an unrealised amount can result in specific entitlement to a capital gain. Furthermore, it outlines that no specific entitlement will occur to the extent that the beneficiary has left the trust (i.e. is no longer a unitholder). As a member's percentage may change over time, it is not clear whether example 2.3 of that EM would have application in this case where the unrealised amount relates to a CGT asset that is later disposed of. If so, this could require the CCIV to track the exact quantum and percentage during the life of the asset in order to determine the amount of specific entitlement on the ultimate disposal of the asset. If the unitholder is no longer a beneficiary, it is unclear how the excess would be taxed if there are no other assets and distr butions made (i.e. would this result in a section 99A assessment or would the remaining amount be taxed to the remaining members proportionately)?	None
11.	195-123	**Application of Division 7A to distribution of unrealised profits** A company may be a member in a CCIV sub-fund. Under Division 7A of Part III of the ITAA 1936, the shareholders of the company may be regarded as an associate of the sub-fund (that is deemed to be a unit trust, by virtue of the indirect rule contained in section 318(6)). Following on from the above, if a CCIV sub-fund were to instead declare a distribution with a payable date set in the future (i.e., in 5 years), this would create a payable from the unitholder (company) to the sub-fund (trust). The ATO may regard the company as providing financial accommodation to the trust (even though the company cannot call on the amounts) and the ATO may seek to apply Division 7A to that arrangement (such that the sub-fund would be regarded as receiving an unfranked deemed dividend)?	None

Item	Section Reference	Background	Additional comment
12.	195-123	**Reimbursement agreements** Given that only AMITs are excluded from the operation of section 100A, the ATO may seek to apply section 100A to distribution reinvestment plans of the sub-fund? Would such an arrangement meet the technical definition of a reimbursement agreement? We understand that the ATO are developing guidance on section 100A and are taking a broad approach as to the interpretation of this provision.	Example: Following the previous example, the distribution reinvestment plan is outlined in the Information Memorandum accompanying the creation of the sub-fund (and thus is contemplated from inception). We understand that a pre-ordained arrangement that requires (1) the payment to the beneficiary and (2) repayment back to the sub-fund trust runs the risk of meeting the requirements of a reimbursement agreement under the ATO's view, unless it is treated as an "ordinary commercial dealing". Given the avoidance of applying section 99A to the trustee may be seen as the primary purpose of such an arrangement, the ATO's guidance on section 100A is critical for the operation of the CCIV regime. If no safe harbours are provided be the ATO fund managers will be wary in using CCIVs for non-AMIT funds despite paragraph 13.105 of the EM to the Bill which alludes to dividend reinvestment plans as being a way to ensure all profits can be distributed to avoid a section 99A outcome.
13.	195-123	**Accounting loss with taxable income** Will the rule contained in section 195-123 result in a section 99A assessment in the case where the sub-fund has an accounting loss yet taxable income in the same income year?	Example: The CCIV sub-fund records certain amounts for accounting purposes that do not result in a deduction for income tax purposes (e.g., impairment of loan receivables, devaluation of the fair value of an investment property). The adjustments result in an accounting loss for the year. Will the trustee be subject to income tax at the rate of 47% on the taxable income for the income year?

Item	Section Reference	Background	Additional comment
14.	195-123	**Application of section 99B and the meaning of corpus** Given that there will be substantial timing differences between "dividends paid" and taxable income of the sub-fund, clarity is needed as to the application of section 99B of the ITAA 1936 with respect to distributions made to investors of timing differences (given the CCIV would be an Australian resident fund in most cases). We also note an interpretive issue that arises in the context of section 99B. While the EM uses the terms capital and corpus interchangeably, it is unclear whether the deeming provisions go so far as to deed amounts that are not current year profits are "corpus" of the trust. Without an additional deeming provision, there is a risk that the exceptions to section 99B would not apply appropriately.	We understand that the ATO is considering the potential application of section 99B to capital payments made by a trust to beneficiaries. Confirmation that it it will not seek to apply section 99B to CCIV sub-funds and that the ordinary application of CGT event E4 would prevail may be necessary. Further we believe the ATO would need to confirm the extent of the deeming rule contained in proposed sections 195-110 and 195-115 (in particular subsection (3)) in this context.
15.	195-123	**Standard distribution statement (SDS) for non-AMIT sub-fund** Given that dividends paid will represent profits, the ATO needs to considered how disclosures will need to be made for: - AIIR purposes - SDS disclosure purposes - Reconciling taxable income to distr butions made	Example: A CCIV sub-fund generates an accounting profit of $20,000 and has taxable income of $100,000. The sub-fund pays dividends equal to $20,000 for the income year. The ATO should provide an example of how to complete the AIIR and SDS in this example.
16.	195-123	**Duplication of reporting requirements for AMITs** Proposed subsection 195-123(3) applies equally to AMITs as it does to non-AMITs. Given AMITs are already subject to strict reporting requirements (of the kind outlined above), it is unclear what utility the additional reporting information would provide. Could the AMIT fulfil this reporting requirement by lodging the AMMA?	The ATO should confirm that the AMMA should be sufficient to meet the requirements of 195-123 and that no additional disclosures are required.

Item	Section Reference	Background	Additional comment
17.	195-125	**Timing of present entitlement** It is unclear when a beneficiary becomes presently entitled to the income of the CCIV sub-fund under proposed section 195-125. For the purposes of section 97, there is a temporal requirement for a beneficiary to be presently entitled to income at the end of the income year. Subsection 195-125(1) merely states that a beneficiary will be presently entitled to the income for an income year **if** the sub-fund's profit was or is payable to that beneficiary. Given this, there is ambiguity as to the timing of the present entitlement. Similarly, section 109XA of the ITAA 1936 operates on the basis of a present entitlement existing at the time of the loan. If section 195-125(5) operates to switch off section 95A of the ITAA 1936, these timing rules may not be overcome.	Example: if the sub-fund declares the dividend after the end of the income year, is the present entitlement provision only enlivened at that point, and will the present entitlement be retrospective to the end of the previous income year? Alternatively, would it apply prospectively if the dividend is paid during the year (i.e. would a dividend paid on 31 December result in a deemed present entitlement as at the following 30 June)?
18.	195-125(1)	**Regular distributions and present entitlement** Can a CCIV sub-fund comply with the 3-month rule by ensuring that dividends paid within that period are identified appropriately in the books or records of the sub-fund? Does a CCIV sub-fund need to determine profit for each month in which it seeks to make a dividend? If it makes a loss for that month, but there is an overall profit for the year, is the dividend payment for that month a payment of corpus (and therefore there is a risk that the full profits are not paid out)? Will a CCIV sub-fund need to apply similar rules to those contained in Taxation Ruling TR 2012/5 to determine the extent to which a profit is distributable to Investors (given that the taxation ruling deals with the determination of a profit amount, which is the key concept for CCIVs)	Example: A CCIV sub-fund makes regular distr butions to its investors (i.e., on a monthly basis). Investors also come and go throughout the income year. During the year, the CCIV sub-fund generates $120 of profit. It has paid $10 per month to Investor A and B (equally) for the first 11 months and pays the remaining $10 in July. In August and September, the sub-fund pays a further $10 each month proportionately to Investor B, C, D and E (i.e. $2.50 each). In determining the amount of dividends derived by A and B, would it be correct to only count the $60 each received, or would all dividends to the end of September be counted (i.e. $60 for Investor A and $65 for Investor B).

Item	Section Reference	Background	Additional comment
19.	195-130(2)	**Collective investment test** Does this provision allow for the ATO to second guess whether a sub-fund qualifies as a MIT? Why isn't registration of the sub-fund sufficient? In what circumstances would the ATO seek to apply this additional test? Is this aimed at single member sub-funds?	None
20.	Subdivision 115-C of the ITAA 1997	**Specific entitlement** Under section 115-228 of the ITAA 1997, specific entitlement to a capital gain requires the financial benefits referable to the capital gain to be distributed to the beneficiaries. This can raise complex questions. (1) the EM to the 2011 Bill suggests that prior year distr butions of an asset revaluation reserve gives rise to a specific entitlement; (2) how is this distribution made when the sub-fund is in an overall loss position but generates a profit on the sale (given that 115-228 only allows the offset of losses that represent capital losses). Is the CCIV sub-fund able to apply losses against gains consistent with section 102-5 if accounting standards are applying automatically? Other issues with specific entitlement include differences between the 3-month rule for CCIVs and the 2 month rule for capital gains specific entitlements. For subdivision 207-B of the ITAA 1997 (dealing with franked dividends), a specific entitlement must recorded by 30 June. Does the 3-month deeming rule act to treat the specific entitlement to also occur at 30 June? We also note that sections 115-228(2) and 207-58(2) talk about things being done in <u>accordance with the terms of the trust</u> and refers to "<u>exercise of a power</u>" and "<u>legislation/common law/equity</u>". The deeming of a sub-fund to be a trust may not go as far as deeming such "terms of a trust". The ATO are would need to consider the deeming rule in this context.	It is important to understand how the ATO will apply the specific entitlement rules in various circumstances where a CCIV sub-fund generates a capital gain. It is not uncommon for a fund to distribute specific assets to investors on redemption or to distribute the proceeds of selling an asset to investors on redemption.

Item	Section Reference	Background	Additional comment
21.	Section 100AA of the ITAA 1936	**Distributions to exempt entities** Section 100AA of the ITAA 1936 contains a 2-month notification rule for present entitlements to exempt entities. This is more onerous than the 3-month notification rule under proposed section 195-125(3). CCIV sub-funds may adopt a policy for notification in the third month based on s 195-125(3) and inadvertently breach section 100AA for members that are exempt entities.	None
22.	Section 100AB of the ITAA 1936	**Distributions to exempt entities** Given that a non-AMIT CCIV sub-fund is required to distr bute profit (and thus distribute timing differences) to avoid a section 99A assessment, there is a risk that the timing differences will lead to a deemed “no present entitlement” where the unit holders are charities or other exempt beneficiaries. The ATO may need to adopt of policy of applying the discretion available in section 100AB(5) to avoid this outcome for non-AMIT CCIV sub-funds.	Example: The adjusted division 6% in section 100AB could be 100% but the benchmark % could be 20% if the taxable income is $1,000,000 of rent but there is only a $200,000 present entitlement due to an $800,000 impairment that has been recorded in profit and loss.

Item	Section Reference	Background	Additional comment
23.	Subdivision 115-C of the ITAA 1997	**Dealing with straddle events** We are concerned with how straddle events may be dealt with the CCIV regime. For example, a CGT event can occur in year 1 but settlement in year 2. Under AASB, the profit may be recorded in year 2, but the CGT event and capital gain would occur in Year 1. Currently, a trust that adopts a definition of "income" being taxable income can deal with this, as the entering into a contract would represent an accretion to the Trust and thus be a distributable gain in Year 1 in accordance with Draft Taxation Ruling TR 2012/D1. However, a CCIV sub-fund may not obtain this outcome. In Year 1, there may be no profit to distribute so 99A could apply with respect to the capital gain. The ability to achieve an appropriate outcome may depend on whether the CCIV sub-fund can properly create a specific entitlement in Year 1. If the sub-fund is able to book the unrealised reserve (e.g. uses the fair value method under AASB 140) this outcome may allow for an unrealised profit to be distr buted. However, it may be that the CCIV sub-fund uses the cost method under AASB 140.	ATO guidance is required for the treatment of contracts that straddle the end of an income year.