

**Senator the Hon  
Nick Sherry**

Assistant Treasurer  
Labor Senator for  
Tasmania



**The Hon Chris  
Bowen MP**

Minister for Financial  
Services, Superannuation  
and Corporate Law

## **PRESS RELEASE**

### **BOARD OF TAXATION REVIEW OF COLLECTIVE INVESTMENT VEHICLES TAX REGIME**

The Assistant Treasurer, Senator Nick Sherry, and Minister for Financial Services, Superannuation and Corporate Law, Chris Bowen MP, today announced the Terms of Reference for a review by the Board of Taxation into the taxation arrangements that apply to collective investment vehicles (CIVs).

CIVs, which currently hold around \$1.3 trillion in investments, are widely held investment vehicles with typically long-term portfolio investors that undertake primarily passive investment activities.

“Collective investment vehicles are a critical part of our investment landscape and this is the first ever comprehensive review of all aspects of their tax treatment,” said the Assistant Treasurer.

The review, which was announced by the Assistant Treasurer and Minister Bowen in May 2010, will undertake to:

- assess the tax treatment of CIVs, having regard to the new managed investment trust (MIT) tax framework including whether a broader range of tax flow-through vehicles should be permitted;
- consider the nature and extent of, and reasons for, any impediments to investment into Australia by foreign investors through CIVs;
- consider the benefits of extending tax flow-through treatment for CIVs, including the degree to which a non-trust CIV would enhance industry’s ability to attract foreign funds under management in Australia;
- consider whether there are critical design features that would improve certainty and simplicity and enable harmonisation, consistency and coherence across the various CIV regimes, including by rationalisation of regimes where possible; and
- examine the treatment of Venture Capital Limited Partnership vehicles in a way that recognises its policy objectives.

“This review forms part of the Labor Government’s commitment to position Australia as a leading financial services centre,” the Assistant Treasurer said.

“It responds to a recommendation by the Australian Financial Centre Forum that the Board of Tax review the scope for a broader range of collective investment vehicles.” Mr Bowen said

“The Government firmly believes that the design features of CIVs should be, wherever possible, simple, clear and harmonised – this will help Australian investors, make the sector more efficient and also mean international investors will find investing in Australia an easier proposition.”

The Board has been asked to complete its full CIV review by 31 December 2011.

The full Terms of Reference are attached.

CANBERRA

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# TERMS OF REFERENCE FOR THE BOARD OF TAXATION

## REVIEW OF TAX ARRANGEMENTS APPLYING TO COLLECTIVE INVESTMENT VEHICLES

### Background

On 11 May 2010, the Assistant Treasurer and the Minister for Financial Services, Superannuation and Corporate Law announced that the Government would ask the Board of Taxation to:

- review the tax treatment of collective investment vehicles (CIVs), having regard to the new managed investment trust (MIT) tax framework and including whether a broader range of tax flow-through vehicles should be permitted, consistent with the Government's objective of developing Australia as a leading financial centre; and
- as part of the CIV review:
  - examine the treatment of Venture Capital Limited Partnership vehicles; and
  - consider the issues raised by the recommendation by the Australian Financial Centre Forum (AFCF) that an investment manager regime (IMR) be introduced into the tax law.

This reference by the Government follows a review already undertaken by the Board of the tax arrangements applying to MITs. The review was undertaken against certain central features of the MIT framework, particularly that:

- the tax treatment for investors that derive income from the MIT should largely replicate the tax treatment as if they had derived that income directly; and
- MIT tax treatment covers widely held trusts undertaking primarily passive investment, consistent with the eligible investment rules in Division 6C of the *Income Tax Assessment Act 1936*.

Under this framework, the review included an examination of potential reforms to the eligible investment rules.

On 7 May 2010, the Government announced its response to this review, which includes the establishment of specific new tax rules for MITs.

### Terms of reference

Against this background, the Board of Taxation is asked to examine and report on the tax treatment of CIVs, having regard to the MIT tax framework and including whether a broader range of tax flow-through CIVs (such as corporate CIVs) should be permitted.

The review should have regard to the following broad principles:

- CIVs in this context are widely held investment vehicles (with typically long term portfolio investors) that undertake primarily passive investment activities,

consistent with the eligible investment rules in Division 6C of the *Income Tax Assessment Act 1936*.

- The tax treatment of a CIV should be determined by the nature of its investment activities rather than the structure of the entity through which the funds are pooled.
- The tax outcomes for investors in a CIV should be broadly consistent with the tax outcomes of direct investment, other than flow through of losses (subject to limited special rules for their utilisation).

As part of the review, the Board is asked to examine the effectiveness of the special tax treatment accorded under the Venture Capital Limited Partnership regime in a way that recognises its policy objectives.

In making its recommendations, the Board should consider:

- the nature and extent of, and the reasons for, any impediments to investment into Australia by foreign investors through CIVs;
- the benefits of extending tax flow-through treatment for CIVs, including the degree to which a non-trust CIV would enhance industry's ability to attract foreign funds under management in Australia;
- whether there are critical design features that would improve certainty and simplicity and enable better harmonisation, consistency and coherence across the various CIV regimes, including by rationalisation of the regimes where possible.

The Board is also asked to examine and report on the design of an IMR for investments by foreign residents managed in Australia. The Government has asked the Treasury to consult on issues relating to the taxation of conduit income of managed funds as recommended in *Australia's Future Tax System* review (Assistant Treasurer's Media Release No 92 of 11 May 2010). Having regard to the likely overlap between certain issues in the Treasury consultations and the IMR, the Treasury is to regularly inform the Board of the progress and outcomes of its consultations.

The recommendations should seek to enhance Australia's status as a leading regional financial centre and support growth and employment in the Australian managed funds industry while maintaining the integrity of the tax system and revenue neutral or near revenue neutral outcomes.

The Board is asked to report to the Assistant Treasurer by 31 December 2011.