IC RegFin Legal Comments on the draft IFSCA (Amendment) Bill for Variable Capital Companies

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
7	13A	1(b)	The definition of the term beneficial interest should not be defined / hard coded in the regulations since various categories of funds operate differently.	This stand is similar to other jurisdictions like Singapore and Mauritius. While Ireland ICAV just simply defines the term 'member' which means a shareholder in the ICAV.
7	13A	1(c)	In light of above, the definition of the term beneficial owner should not be defined / hard coded in the regulations since various categories of funds operate differently.	To avoid contradiction of the definition of 'Beneficial interest' and beneficial owner being one who acquires beneficial interest, this term should also be deleted from the Bill.
7	13A	1(f)	Section 13A(1)(f) of the Bill reads as follows: "*(f) charge means an interest or lien created on the property or assets of a variable capital company as security*" Suggested modifications (*in* ***bold*** *and* *<u>underlined</u>*) - "*(f) charge means an interest or lien created on the property or assets of a variable capital company* ***<u>or any of its undertakings / subsidiaries or both</u>*** *as security* ***<u>and includes a mortgage</u>***"	We have suggested this clarificatory modification in line with the Companies Act, 2013.
8	13A	(1)(p)	Section 13A(1)(p) of the Bill reads as follows: *"(p) member, in relation to a variable capital company, means-* *(i) a subscriber to the memorandum, who shall be deemed to have agreed to become member of the variable capital company, and on its registration, shall be entered as member in its register of members;* *(ii) every other person who agrees in writing to become a member of the variable capital company and whose name is entered in the register of members of the variable capital company; and* *(iii) such other person as may be specified by regulations."*	Aligning the definition with section 2(55) of Companies Act 2013, while expressly accommodating depository-recorded beneficial owners preserves the VCC's bespoke regulatory flexibility but keeps the core concept of membership consistent with the Companies Act.

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			Suggested modifications in line with the Companies Act, 2013 (*in **bold** and underlined*) – *"(p) member, in relation to a variable capital company, means-* *(i) a subscriber to the memorandum, who shall be deemed to have agreed to become member of the variable capital company, and on its registration, shall be entered as member in its register of members;* *(ii) every other person who agrees in writing to become a member of the variable capital company and whose name is entered in the register of members of the variable capital company; ~~and~~* ***(iii) Every person holding shares of the variable capital company and whose name is entered as a beneficial owner ; and*** *(iv) such other person as may be specified by regulations."*	
9	13A		For clarity, we suggest including the following definition under the Bill: "***share means a share in the share capital of a variable capital company or a sub-fund of a variable capital company and may be fully or partly paid up***"	We have suggested this clarificatory modification since it is crucial to define the term 'share'.
10 & 12	13A & 13C	13A(1)(w) & 13C(d)	We suggest specifying the categorization of VCC sub-funds/schemes in terms that correspond to existing products (e.g. Category I/II/III AIFs, retail schemes, restricted non-retail schemes, etc). Additionally, clarity is sought on whether a single VCC may host both retail and non-retail sub-funds/schemes. Further, operational modalities on open ended and close ended schemes will be also be required.	In the existing domestic framework for AIFs, many substantive benefits are conferred by reference to category of the fund (including any tax pass-through status that currently apply with reference to AIFs; particularly category I and category II AIFs). The Bill clearly contemplates that sub-funds function in substance as 'schemes' launched by FMEs, "akin to schemes or funds as prevalent under extant fund management regime in

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
				IFSC" and acknowledges that such sub-funds can be of "various kinds". At the same time, the Bill provides that each sub-fund is a separate person for tax purposes. Hence, relevant changes in Income Tax Act, 2025 and corresponding rules may also be undertaken to provide taxation clarity with respect to taxation. In Singapore, the VCCs are permitted to house both open-ended and close-ended strategies which is enabled by the flexibility in redemption of shares i.e. they can be redeemed in accordance with the constitution as long as they are fully paid up and repurchase results in reduction in capital to the amount of consideration.
10	13B	(a)	Section 13B(a) of the Bill reads as follows: "*(a) shall, from the date of incorporation, be a body corporate having perpetual succession, with power to acquire, hold and dispose of property, to contract and to sue and be sued, in its name and/or on behalf of its sub-funds, and the liability of the members of the variable capital company shall be limited to the amount unpaid on their shares, if any*". Suggested modifications (*in **bold** and <u>underline</u>*) - "*(a) shall, from the date of incorporation, be a body corporate having perpetual succession, with power to acquire, hold and dispose of property, **<u>both movable and immovable, tangible and intangible</u>**, to contract and to sue and be sued, in its name and/or on behalf of its sub-funds, and the liability of the members of the variable capital company shall be limited to the amount unpaid on their shares, if any*"	We have suggested this clarificatory modification in line with the Companies Act, 2013.
10 & 11	13B	(c)	Section 13B(c) of the Bill reads as follows:	Jurisdictions like Singapore, the United Kingdom, Mauritius and Ireland provide for both stand-alone VCCs and umbrella VCCs.

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			"*(c) shall, as its main object, carry on the business of investment of funds through its sub-funds, or any other business as may be notified by the Central Government, and may carry on such other objects, as are ancillary to the main object*" Suggested modifications (*in **bold** and <u>underline</u>*) - "*(c) shall, as its main object, carry on the business of investment of funds**<u>, either on a standalone basis or </u>**through its sub-funds, or any other business as may be notified by the Central Government, and may carry on such other objects, as are ancillary to the main object*"	
11	13B	(d)	Section 13B(d) of the Bill reads as follows: *"(d) may alter participating share capital at any time as per the investment strategy of each sub-fund, wherein such alteration shall not be disadvantageous to the participating shareholders of such sub-fund".* Suggested modifications (*in **bold** and <u>underline</u>*) - *"(d) may alter participating share capital at any time as per ~~the~~ **<u>its</u>** investment strategy **<u>or the investment strategy</u>** of each sub-fund, wherein such alteration"*	Alternation to participating shares can be on account of many reasons *interalia* default, withdrawal of commitment, redemption which can reduce / increase the participating share capital. Any change being disadvantageous is a very subjective term and may be misinterpreted, hence such operational terms should be left to be defined in the offering documents.
12	13C	(1)(c)	Section 13C(1)(c) of the Bill states that the property of a sub-fund is subject to orders of a tribunal, a court, the Central Government, the Authority including the Registrar, or any other authority constituted under any other law for the time being in force, as the case may be, as it would have been if the sub-fund were a separate person. It is suggested that the Bill retain the aforesaid section and expressly couple it with provisions that (i) confine recourse to	The current drafting of section 13C(1)(c) ensures that public and regulatory authorities, including courts, tribunals, the Central Government, the Authority and the Registrar, can make and enforce orders directly against the property of a sub-fund "as it would have been if the sub-fund were a separate person", which is important to avoid enforcement gaps given that a sub-fund is not itself a separate legal person.

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			the assets of the relevant sub-fund in respect of liabilities attributable to that sub-fund only, and (ii) protect those assets, including as against statutory, regulatory and government bodies, from liabilities of the VCC and other sub-funds, save for clearly delimited statutory carve-outs (for example, for income-tax recovery).	However, without an express limitation tying such orders to liabilities attributable to that sub-fund and restricting their effect to the assets of that sub-fund, there is potential ambiguity as to whether cross-sub-fund recourse could be asserted under broad public law or revenue powers, which could undermine the core segregation principle also articulated in section 13C(1)(a) of the Bill. Our suggestion is referred from the Mauritius VCC framework which includes: (i) a strong segregation rule under which every asset attributable to a sub-fund is available only to its own creditors and protected from other creditors "including from any statutory, regulatory or Government body", with (ii) a clear "restriction of orders", confining any order or judgment in proceedings "in respect of a sub-fund" to that sub-fund. Mirroring this architecture in the Bill would (a) preserve effective supervisory and adjudicatory reach over each sub-fund, (b) enhance legal certainty that investor and creditor risk is genuinely compartmentalised across sub-funds, and (c) align the IFSC VCC framework with an established international model.
13-14	13E, 13F, 13G		The Bill currently requires incorporation of VCC through filing of memorandum, articles and such other information and documents. Memorandum of Association (MOA) and Articles of Association (AOA) works for structures like company. MOA talks about what are the activities which the Company can undertake and AOA covers the internal operations. In case of VCC structure the term should be 'VCC constitutional document' which covers all the operational disclosures essential for the investors to take a decision. This will create efficiency in terms of documents that investors	This is in line with the process followed in Singapore and Mauritius norms to ensure efficiency in operations and investor friendly approach.

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			need to refer to make an informed decision with respect to investment in the sub-fund of the VCC. Further, a standard by law for prescribing the contents of Articles should be done away with it, considering VCC is a fund structure and there cannot be standardization of mandatory content, unless it only describes the title and content can be designed by the manager.	
13	13F	1(d)	The Bill states that the liability of the members is limited to the amount, unpaid on the shares held by them. The VCC is a fund structure and the liability can vary from indemnification under various agreements to tax liability which may arise till the conclusion of the audit. In case of Cat I & II AIF till commitment period there is no unpaid amount on shares and in Cat III open ended schemes all contribution is paid upon investment. Under such circumstance if all the distribution is undertaken by the VCC and there is a liability which arises, claw back provision cannot be triggered and the investment manager will be under huge risk to bear the liability. This clause needs revisitation and should not be limited to unpaid shares but to the fullest extent of value of paid up shares plus dividend and distributions (if any) done by the VCC / sub-fund.	This is one of major issues in case of Singapore VCC due to which various funds find it difficult to operate upon. However, Mauritius VCC leaves it to the investment manager to determine the liability and its caps under the respective sub-fund documents.
14	13H		The Bill states that for variation in MOA and AOA will be done with consent of members holding note less than three fourth. Further, any alteration of rights shall require approval as per Reg.13O(3). The MOA/AOA is supposed to be a constitutional document which will be prepared at a very broad level. Accordingly any	Mauritius VCC is silent about the modus operandi for amendments. However, Singapore VCC regulations does specify certain exemptions for which consent is not required.

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			variation of right which does not negatively impact the investors should be permitted to do so. Further, any variation which negatively impacts investors then only for such sub-funds such consent mechanism should be initiated. Such operational issues should be left to the discretion of the manager and specified in the respective documents instead of regulations.	
15	13L	2	It is recommended that a definition or interpretive clarification of the term "launch" be incorporated in, or cross-referenced from, section 13L(2), given that "sub-fund" is defined in section 2(w) as a scheme or fund "launched as such under section 13L".	The Bill does not articulate what constitutes "launch", whether "launch" denotes the date of IFSCA approval or some other trigger. This creates potential uncertainty for timing-sensitive questions such as from what point a scheme qualifies as a "sub-fund" for regulatory and tax classification.
15	13M	1	Section 13M(1) of the Bill reads as follows: "*A variable capital company shall launch such kinds of sub-funds or any combination thereof, as may be specified by regulations*." Suggested modifications: "*A variable capital company* ***may*** ~~*shall*~~ *launch such kinds of sub-funds or any combination thereof, as may be specified by regulations*."	
17,18	13O	3	Section 13O(3) of the Bill requires written consent of holders of not less than 3/4 of the issued participating shares of a class/sub-class for variation of rights for the holders of that particular class/ subclass. In light of the above, clarification is sought on the nature and scope of "variation of rights" for which the aforesaid consent requirement is intended to apply. We recommend clarifying either in the Bill or in the regulations that only "material"	Without specifying a materiality threshold for triggering shareholder approval, routine, operational or non-prejudicial changes would also trigger consent mechanism, resulting in operational inefficiencies. Such amendment would also be in line with the material change framework of the SEBI (Alternative Investment Funds) Regulations, 2012. Section 48 of the Companies Act, 2013 proceeds on the basis that dissenting shareholders may apply to the National Company Law Tribunal for an order confirming or cancelling

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			variations of rights trigger 3/4th approval requirement and exit-related requirements, and to set out, illustratively or exhaustively, what would constitute a "material variation of rights" for this purpose. We would also recommend that the reference in clause 13O(3) to the application, *mutatis mutandis*, of sub-sections (2), (3) and (4) of section 48 of the Companies Act, 2013 for cancellation of a variation of rights of a class or sub-class of participating shareholders where not less than fifteen per cent of such class do not consent, be deleted. There is also no provision addressing how variation-of-rights consent is obtained from investors in a sub-fund where participating shares are held through nominees, depositories, or offshore feeder structures. We recommend clarifying whether members will include the registered holders or the beneficial owners.	a variation of class rights, with such order being binding on the company. In the proposed VCC framework, however, (i) VCC share capital and classes are already subject to bespoke voting and consent thresholds, including a three-fourths approval requirement and mandatory exit offers on variation of rights at the sub-fund level; and (ii) the Bill vests primary regulatory and supervisory responsibility for fund structures, governance, and investor-protection mechanisms in the IFSCA. Accordingly, importing section 48 in this context would unnecessarily replicate the traditional NCLT-based shareholder-protection mechanism and dilute the intended IFSCA-centric regulatory model for VCCs, and we therefore suggest that the reference to section 48 in clause 13O(3) be deleted. DFIs and sovereign wealth funds typically invest through nominee structures.
18	13O	4	The proviso to section 13O(4) may clarify that the "exit offer" for members dissenting from a conversion of one class or sub-class of participating shares into another is intended to operate only in respect of their <u>participating shares</u> in the affected class or sub-class, via redemption, buy-back or transfer in accordance with regulations framed under section 13O(2) and related capital-action provisions (including section 13S), and not by reference to their management shares, which are non-redeemable and subject only to restricted transfer and limited buy-back as may be specified.	Without clarification, this could be misread as creating a de facto redemption right even for <u>pure</u> management-shareholdings, contrary to the intent of the Bill. Stating that the exit offer is tied to the dissenting member's participating share exposure aligns with the Bill, keeps management capital distinct, and is consistent with the intent of the Bill where exit mechanics are channeled through economic (participating) interests and detailed regulations.
18	13P	2	The Bill states the votes shall be in proportion to his share in the net asset value of the participating share capital of the sub-fund.	

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			The proportion of voting should be left to the discretion of the offering document, since there are finer nuances for close ended and open ended schemes and hence the proportion should be decided.	
18	13P		Voting Mechanism Across various categories of funds, clarity should be provided on various modes of voting mechanism. In practical scenario some of the most commonly used voting mechanism : i) E-voting ii) Postal ballot iii) Dissenting mechanism where investors who do not agree and the proposal not meeting the minimum threshold should be given an exit iv) Deemed consent Clarification needs to be provided which matters require voting at VCC level and at sub-fund level and how will the mechanism work. Since the MOA/AOA is a constitutional document and will need modifications to suit the sub-fund requirements, such operational changes should be outside the purview of voting across all sub-funds. It is important to create such bifurcation to ensure efficiency in operations.	Clarity in the regulations towards voting mechanism is an important element since at various locations in the draft regulations, the hinge is towards casting of vote which may create practical challenge for the investment manager considering global investors / institutional investors.
20	13S	1	The Bill currently imports section 55(3) of the Companies Act, 2013 into section 13S(1), so that, on failure to redeem participating share capital or pay dividend, the Companies Act recourse applies *mutatis mutandis* to the unredeemed participating capital and unpaid dividend. Further, the explanatory note emphasizes that Companies Act provisions are only selectively and calibratively transplanted into this bespoke VCC framework, rather than being replicated. Against that backdrop, it should be clarified that the	Section 13P confines participating shareholders' voting rights to resolutions involving variation of their rights (including winding up of the VCC or the relevant sub-fund) or such other matters as may be specified by regulations, while management shareholders otherwise vote on all resolutions of the VCC in proportion to their management share capital. By importing section 55(3) of the Companies Act, 2013 into section 13S(1), the Bill effectively creates a specific consent right in favor of the investors whose capital has not been

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			consent under the imported section 55(3), in respect of the issue of further redeemable shares for unredeemed participating share capital or unpaid dividend, is an approval item only for the affected participating shareholders.	redeemed or whose dividend has not been paid, built on the requirement that three-fourths in value of the relevant preference shareholders consent to the restructuring of unredeemed preference shares under company law. This is aligned with the stated policy of limited, targeted participation rights for investors and with avoiding mixed-class voting ambiguity in the VCC structure, within a framework that selectively adapts rather than mechanically transplants company-law voting mechanics.
20	13T	2	Section 13T(2) may clarify that the expression "without sufficient cause" in relation to a VCC's refusal to register a transfer of securities is intended to be confined to objective grounds prescribed in the constitution documents.	This clarification anchors the phrase "without sufficient cause" in section 13T(2) in a closed set of objectives, disclosure-based criteria, thereby reducing scope for arbitrary refusals. It mirrors the Singapore VCC Act's approach, where section 40(5) exhaustively enumerates two permissible bases for refusal (minimum holding breach and inconsistency with the constitution), and section 40(3) otherwise obliges a VCC to register transfers once a proper instrument is delivered, while also reflecting the Mauritian model, under which the VCC Act leaves the mechanics of share transfer and refusal to the Companies Act and to constitutionally defined share rights and policies, including the fair-value and class-rights structure required by section 6(4)(b)(iii)-(iv). By explicitly tying permissible refusal grounds to (i) a disclosed minimum holding requirement and (ii) demonstrable inconsistency with the constitutional and contractual framework, section 13T(2) would be interpreted in line with these comparative regimes, ensuring predictability for investors, constraining opportunistic use of refusal powers, and preserving the remedial backstop of NCLT review under the Companies Act 2013.
21	13V	4	Section 13V(4) should clarify that the application of Companies Act 2013 provisions on charges (sections 78, 79,	This clarification is important because section 13V already adopts the comparative approach of importing the general

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			80, 81(1) and 84) extends to charges created at the level of each sub-fund.	companies-charges framework into the VCC context, rather than creating an entirely new security regime, but without an express reference to sub-funds there is a risk of uncertainty as to whether a charge registered against the VCC is over the "head" entity or a particular pool of segregated assets. Singapore VCC Act explicitly provides that the Companies Act charges provisions apply to charges over "any property or undertaking of a sub-fund" and by requiring sub-fund identification in the register. Mauritius similarly builds on its Companies Act by imposing VCC-specific disclosure for charges over SPVs so that counterparties and regulators can see which cell's assets are encumbered. Making sub-fund coverage and identification explicit in the Indian explanatory note will harmonise Indian practice with these regimes, protect creditors by clarifying the asset pool supporting their security, and reinforce the statutory segregation of assets and liabilities between sub-funds that underpins the VCC model.
23	13X	2	It is suggested that the VCC framework include, alongside section 13X(2), an express self-rectification mechanism for the register of members and other statutory registers.	This mirrors section 81(9) of the Singapore VCC Act, which permits a VCC to rectify errors or omissions in its register of members (including mis-statements of issued share capital) without court involvement where no one is prejudiced or the affected person consents, and sits within a wider rectification framework that otherwise requires recourse to the court under the applied Companies Act provision. By incorporating a similar safe-harbor style self-correction rule under section 13X(2), the Indian VCC regime would retain strong protection for members and creditors through the existing obligation to maintain accurate registers and beneficial ownership details, while avoiding unnecessary court applications for purely

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
				technical or non-prejudicial errors, thereby aligning the rectification architecture with Singapore's approach and supporting efficient maintenance of core statutory records.
24	13Y	(1)(b)	Clarification on which accounting policy is to be followed by VCC will be a good guiding point to ensure uniformity of disclosures and accounting principles.	The practice followed in foreign jurisdictions is as follows: • Singapore - The Singaporean VCC can adopt either the Singaporean Accounting Standards, US GAAP, IFRS or standards prescribed in the Securities and Futures Act, 2001. • Mauritius - IFRS or any other internationally accepted accounting standards.
27	13ZC	1	It is suggested that clauses (d) and (e) of section 13ZC(1), which permit the National Company Law Tribunal to wind up a VCC for default in filing financial statements or annual returns for five consecutive financial years and on the broad ground that it is "just and equitable" to do so, be omitted, so that Tribunal-ordered winding up of a VCC is confined to (i) a special resolution of members, (ii) cases where the VCC has acted against the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or (iii) cases involving fraudulent formation, fraudulent or unlawful conduct of affairs, or misconduct by directors or persons in the management of the VCC. Compliance-related defaults and residual situations could instead be addressed through IFSCA's supervisory and enforcement powers (including its power to initiate winding up in non-insolvency situations) and the Registrar's striking-off jurisdiction, while financial distress is dealt with under the Insolvency and Bankruptcy Code, 2016, thereby avoiding overlap and preserving a clear separation between regulatory supervision, insolvency resolution, and exceptional court-ordered liquidation.	Retaining clauses (d) and (e) in section 13ZC(1) - default in filings for five years and a broad "just and equitable" ground—imports generic company-law thresholds that sit uneasily with the calibrated, fund-specific regime of the VCC and the stated intent not to replicate Companies Act winding-up grounds. Omitting clauses (d) and (e) would more closely align the winding-up architecture with the explanatory note's stated policy that NCLT involvement in VCCs should be limited to specified, serious circumstances, public-interest and national-security concerns, fraud and analogous misconduct - while routine or technical non-compliances are handled administratively by IFSCA and the Registrar and payment defaults are channeled exclusively to the IBC framework.

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			It is suggested that the explanatory text elaborating on the liquidator-related provisions of the Companies Act, 2013 (in particular, the detailed description of the powers, duties and procedural framework applicable to the Company Liquidator under sections 275–288 and 290–302, as applied to a variable capital company or its sub-funds) be deleted, and that the Bill instead simply retain the cross-reference stating that, for the purpose of winding up of a variable capital company or its sub-funds by the National Company Law Tribunal, sections 273 to 288, 290 to 302, 324, and 326 to 365 of the Companies Act, 2013 shall apply, *mutatis mutandis*, subject to such form, manner and other matters as may be prescribed.	
27	13ZC	3	We have previously suggested that VCC sub-funds and schemes be categorized by reference to existing product categories (for example, Category I/II/III AIFs, retail schemes and restricted non-retail schemes). Building on this, we recommend that the framework expressly clarify whether the minimum corpus requirements, and the rules on validity and extension of validity of the placement memorandum / offer document under the FM Regulations, will apply *mutatis mutandis* at the VCC and, more specifically, sub-fund level. If so, we further suggest that the grounds for termination of a scheme under the FM Regulations- such as expiry of tenure, failure to achieve the prescribed minimum corpus within the validity period, or an investor resolution to terminate the sub-fund be applied *mutatis mutandis* as statutory grounds for winding up the corresponding VCC sub-fund.	Applying these conditions directly to VCC sub-funds provides clear, objective, pre-existing regulatory triggers for sub-fund termination, rather than creating a parallel and potentially inconsistent set of winding-up grounds within the VCC framework.
28	13ZC	4	The provision may be recast to mirror the Singapore–Mauritius model by (i) identifying only the relevant parts of the general insolvency framework to be applied and (ii) applying them "subject to" a dedicated schedule of VCC-specific modifications that distinguishes between VCC-level and sub-fund-level winding up.	Narrowing and structuring the cross-application of Companies Act winding-up provisions in this way would align the Indian VCC framework with the legislative techniques used in Singapore and Mauritius, where only specific parts of the general insolvency statute are applied to VCCs and sub-funds and are heavily modified to respect features such as sub-fund segregation, tailored winding-up grounds and regulatory roles

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			Illustratively: "*For the purposes of winding up of a variable capital company by the National Company Law Tribunal, the provisions of Chapter XX, Part I and Part III of the Companies Act, 2013 relating to winding up by the Tribunal and provisions applicable to every mode of winding up shall apply, with such modifications as set out in a Schedule [.]. For the purposes of winding up a sub-fund of a variable capital company, the said provisions shall apply, with the further modifications in the Schedule, as if references to the company were to the sub-fund and references to members, creditors, assets and liabilities were to those of the sub-fund only*." A separate clause could then, following the First Schedule technique in Singapore and specify how each concept is to be read in the sub-fund context.	It would avoid importing the full Companies Act winding-up architecture which was drafted for companies and not for multi-cell structures, thereby reducing the risk of unintended look-through to the VCC balance sheet or confusion over contributories, priorities and avoidance actions at sub-fund level. At the same time, by clearly specifying which elements of the general insolvency regime do apply the framework would remain familiar to insolvency courts and practitioners while still being tailored to the specific architecture of VCCs and their sub-funds.
28	13ZE	-	To reflect Singapore and Mauritius more closely and avoid any misalignment with sub-fund segregation and investor-protection objectives, section 13ZE could be refined along the following lines: "The Registrar may, on its own motion or on an application made by a variable capital company, remove the name of the variable capital company from the register of variable capital companies and dissolve the variable capital company, ***provided that all its sub-funds have been duly wound up or terminated in accordance with this Chapter, the regulations made thereunder, and there are no outstanding liabilities owed to members or creditors of any sub-fund***." Explanation.— For the purposes of this section, sections 248 to 251 of the Companies Act, 2013 shall apply, mutatis mutandis, ***subject to such modifications as may be prescribed to reflect that no asset, liability, income or expenditure is held at the VCC level and that all such matters are attributed to one or more sub-funds***."	Conditioning strike-off on prior closure of all sub-funds and on the absence of outstanding investor or creditor claims would align section 13ZE with the functional role that strike-off plays in Singapore and Mauritius-namely, as an administrative, non-insolvency exit mechanism complementary to the main court-based winding-up and insolvency regimes, rather than as an alternative route for dealing with active or distressed funds.

Page no. of the draft	Clause	Sub-clause	Comments / suggestions/ suggested modifications	Rationale
			The rules could further require a no-objection from IFSCA confirming that all regulatory obligations under the fund management framework and sub-fund winding-up provisions (including where the Insolvency and Bankruptcy Code is triggered under section 13ZD) have been discharged.	
28	13ZF	1	NCLT does not have experience in securities and funds related disputes. To ensure foreign investors have single regulatory body to deal with, we recommend on IFSCA to have jurisdiction and any further appeal should be referred to SAT.	
Other recommendations				
			Amendment to the Gujarat Stamp Act, 1958 Exemption to be created for transaction of shares under VCC for each Sub-Fund to create more cost efficiency for transactions in GIFT City.	Currently the Gujarat Stamp Act, 1958 is silent on the stamp duty implications for various documents i.e. subscription agreement and issue / redemption of Units. Hence, to ensure scalability of VCC structure relevant exemptions should be carved out from the stamp duty implications on execution of documents and transfer / transmission of shares of VCC.
			SEZ Compliances <u>Under the current regime, the FME has to get itself registered with SEZ and the funds thereafter launched get faster approval. Each Fund launched by the FME has to seek for separate PAN, GST registration.</u>	Clarification to be enabled under the SEZ provisions for the VCC structure including its sub-funds since there is no separate legal identification granted under the VCC Regulations. Also, from costing perspective it would be relevant to reduce the costing for PLOA, SEZ and IFSCA approvals for sub-funds to make it more competitive.