

# Update: 18 October 2007 Co-operatives & capital raising



**Fleming Muntz**  
Solicitors



## Summary

Co-operatives remain an important business structure, especially in agriculture and regional areas. While they are far less popular than companies, they still have significant advantages.

### What's a co-operative?

Co-ops have existed side-by-side with corporations for many years in Australia. Like a company, a co-op has members, a board and limited liability.

Importantly, however, each member of a co-op has only one vote, regardless of the number of shares held.

Co-ops are thought by many to be in decline, however, twelve of the 1000 largest businesses in Australia are co-ops. Well-known examples include Norco Co-operative Ltd, Golden Circle Ltd and Namoi Cotton Co-operative Limited.

### Difficulties in fundraising

One of the difficulties that has faced co-operatives has been access to capital. Historically, this has been limited to members' equity, profit retention or lender finance.

One response has been to list a non-member share class on a stock exchange, but this is only feasible for the largest co-ops.

A more cost-effective option for smaller co-ops is to issue 'co-operative capital units' or CCUs.

### What is a 'CCU'?

A CCU is a fundraising mechanism particular to co-operatives.

While it generally functions as a debt instrument (like a debenture) it has the flexibility to be created with some characteristics of equity instruments, such as redeemable preference shares.

Provided the offer is only made to members, the prospectus provisions of the *Corporations Act* do not apply.

### How can Fleming Muntz help?

Fleming Muntz has lawyers with particular experience in the niche area of co-operatives. One of our lawyers acted in a NSW CCU issue, as well as the take-overs of two significant co-operatives in Victoria and South Australia.

We can advise on aspects of compliance, fundraising and the particular importance of dealing with the co-operative regulators.

### Important fine print

**This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.**

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