Enabling KiwiSaver investment in private assets

Discussion document

December 2024

Ministry of Business, Innovation and Employment (MBIE)

Hīkina Whakatutuki – Lifting to make successful

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders. MBIE combines the former Ministries of Economic Development, Science and Innovation, and the Departments of Labour, and Building and Housing.

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December 2024

Foreword from the Minister

Hon Andrew Bayly
Minister of Commerce and Consumer Affairs

KiwiSaver has proven to be a big success for encouraging New Zealanders to save money for retirement. There is currently over $110 billion sitting in KiwiSaver accounts, some of which is invested in financial assets to increase the savings of scheme members.

My officials and I have been talking to our KiwiSaver scheme providers to understand how we can improve the scheme to make better use of the funds in these accounts, and potentially increase returns to scheme members.

One prominent issue with the KiwiSaver scheme at present is the low level of investment of KiwiSaver funds into private assets. Private assets are those that are not listed on stock exchanges. They may include things like unlisted infrastructure (e.g. road and rail projects, or renewable energy projects) and great, private New Zealand businesses.

I propose to remove some of the barriers I have heard about from KiwiSaver providers that currently prevent or discourage them from investing the KiwiSaver funds they manage into productive private assets.

We think more investment in private assets would bring substantial benefits to New Zealand. For businesses and the wider economy, it would mean a significant supply of private capital. For KiwiSaver members, exposure to different asset classes means better diversification of risk and potentially higher returns. The KiwiSaver scheme is a long-term investment tool, and it makes sense to invest more KiwiSaver funds in private assets whose growth expectations are also medium- to long-term.

The changes suggested here are mostly to the way KiwiSaver providers carry out the management of assets. We do not expect this to have major impacts on KiwiSaver members and it may provide them with more options for how their money is invested. We are keen to hear feedback from everyone.

I look forward to hearing your response to the changes we are considering.

Hon Andrew Bayly
Minister of Commerce and Consumer Affairs

How to have your say

Submissions process

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in this document by **5pm on 14 February 2025**.

We are keen to hear from both the financial markets industry (KiwiSaver providers or other financial markets participants) and from the general public, including KiwiSaver members. The document includes some technical questions for KiwiSaver providers only, but there are also questions specifically for the KiwiSaver members or the public. Each proposal in the documents also has a "Potential impact on KiwiSaver members" section explaining what the changes under discussion would mean for KiwiSaver account holders to assist the public in providing feedback.

Please respond using the submission template provided at: https://www.mbie.govt.nz/dmsdocument/29944-submission-template-enabling-kiwisaver-investment-in-private-assets. This will help us to collate submissions and ensure that your views are fully considered. Your submission may respond to any or all of the issues raised.

Please include your name, the name of your organisation (if applicable), and your contact details, as requested on the template.

You can make your submission:

- By emailing your submission to financialmarkets@mbie.govt.nz (Microsoft Word document strongly preferred)
- By mailing your submission to:

  Financial Markets
  Building, Resources and Markets
  Ministry of Business, Innovation & Employment
  PO Box 1473
  Wellington 6140
  New Zealand

Please direct any questions that you have in relation to the submissions process to financialmarkets@mbie.govt.nz.

Use of information

The information provided in submissions will be used to inform MBIE's policy development process and will inform advice to Ministers on potential reforms to financial markets conduct requirements. We may contact submitters directly if we require clarification of any matters in submissions.

Release of information

MBIE will publish the submissions on our website at www.mbie.govt.nz.

Submissions may be subject to release under the New Zealand Official Information Act 1982 and requests under the Privacy Act 2020.

Official information

Submissions may be requested under the Official Information Act 1982. If you have any objection to the release of any information in your submission, please set it out clearly in your submission, indicating which parts you consider should be withheld, together with the reasons for withholding the information and the grounds under the Official Information Act 1982 you believe apply. We will take such objections into account and will endeavour to consult with submitters when responding to requests under the Official Information Act 1982.

Private information

The Privacy Act 2020 governs how we manage personal information (e.g., collection, use, holding, disclosure, etc). Any personal information you supply to us in the process of making a submission for this consultation will only be used for the purpose of assisting in the development of policy advice in relation to this review, to attribute submissions or for contacting you about your submission. We may also use personal information you supply in the course of making a submission for other reasons permitted under the Privacy Act 2020 (e.g. with your consent, for a directly related purpose, or where the law permits or requires it).

Please clearly indicate in the submission template or email accompanying your submission if you do not wish for your name, or any other personal information, to be disclosed in any summary of submissions or external disclosures. You have rights of access to and correction of your personal information as explained on the MBIE website at www.mbie.govt.nz. If you include the personal information of another individual in your submission, they also have the right to access and/or correct of their own information.

Other information

If there is other information that you would like to submit to MBIE for consideration in this consultation but do not want it publicly disclosed, please clearly set that out in your submission for MBIE to consider.

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Glossary

Term	Meaning
Financial asset	Financial assets include cash, shares, and bonds. Money that a KiwiSaver member puts into their KiwiSaver account is invested in financial assets by the KiwiSaver provider to grow that money over time.
Public asset	An investment interest listed on a financial product market or public stock exchange.
Private asset	An investment interest that is not listed on the public stock exchange (sometimes called "unlisted assets").
KiwiSaver member	Anyone who has a KiwiSaver account.
KiwiSaver providers	The financial institutions that offer KiwiSaver schemes. There are currently 29 KiwiSaver providers listed on the Internal Revenue website: KiwiSaver providers
KiwiSaver scheme	The overall design of the KiwiSaver scheme set out in the KiwiSaver Act 2006, especially Schedule One: *KiwiSaver Scheme Rules.* May also refer to a specific scheme offered by a specific provider (schemes can vary across providers as long as they follow the rules in the KiwiSaver Act 2006).
Liquidate	To liquidate an asset is to change it from whatever form it is in (stocks, bonds) into cash that can be transferred, withdrawn, and spent.
Liquidity	Liquidity refers to the ease with which an asset can be converted into ready cash without affecting its market price. • 'Liquid assets' (such as shares listed on the New Zealand Stock Exchange) are easy to turn into cash by selling. • 'Illiquid assets' are more difficult to convert to cash or take longer to do so, for example infrastructure or private assets that are not sold on the public stock market.
LMT	Liquidity Management Tools are tools and practices used by fund managers to address issues related to the liquidity of managed investments.
TER	Total Expense Ratio—the ratio of totals costs of managing and operating an investment fund divided by the value of the fund's total assets. KiwiSaver providers are required to report the TER in their quarterly reports to members.
FMA	Financial Markets Authority
FMC Act	Financial Markets Conduct Act 2013
MBIE	Ministry of Business, Innovation and Employment
NZX	New Zealand Stock Exchange
XRB	External Reporting Board

Introduction

Background

1. KiwiSaver is a retirement savings scheme launched in 2007. Its purpose, set out in the KiwiSaver Act 2006, is to help people save money for retirement. It is designed to:

   encourage a long-term savings habit and asset accumulation by individuals who are not in a position to enjoy standards of living in retirement similar to those in pre-retirement. The Act aims to increase individuals' well-being and financial independence, particularly in retirement, and to provide retirement benefits.[1]

2. The amount of money in KiwiSaver accounts has grown steadily, with total funds under management now over $110 billion[2]. The money in KiwiSaver accounts is not simply held by the KiwiSaver provider in a deposit account. Some of it is invested in financial markets to get higher returns over time for KiwiSaver members.

3. Currently most of the funds held in KiwiSaver accounts are invested in 'public' assets—that is, things listed on stock exchanges. The level of KiwiSaver investment in 'private' assets is low (around 2-3 per cent). Private assets are not listed on stock exchanges, and can include:

   a. private debt and equity (e.g. investment in unlisted New Zealand or foreign businesses)

   b. unlisted infrastructure (e.g. road or rail projects, or renewable energy developments).

4. New Zealand's investment of retirement funds into private assets is particularly low compared to pension funds in other jurisdictions.[3] As at 31 March 2024, 72.4 per cent of KiwiSaver money was invested in stock in overseas businesses and fixed interest compared to around 2-3 per cent allocated to private assets.[4] By comparison as at 30 June 2024, Australia had $3.6 trillion (AUD)[5] in superannuation assets, with almost 16 per cent invested in private assets.[6]

5. There could be substantial benefits for KiwiSaver members from investment in private assets. Potential benefits include exposure to a broader range of investments, which diversifies risk. Greater diversity of investments may also bring higher returns for KiwiSaver members in the long run.

6. Investing the money currently held in KiwiSaver accounts in New Zealand private assets could also have broad economic benefits for New Zealand businesses and the wider economy. It could provide access to capital for leading New Zealand businesses who need money to develop and grow. New Zealand has also a limited supply of funding available for infrastructure development, and the funds within KiwiSaver could help bridge this gap.

7. Although some KiwiSaver providers do invest in private assets, we understand that current rules for the scheme, as set out in the KiwiSaver Act 2006 and the Financial Markets Conduct Act 2013 (FMC Act) are not clear, and some of the rules make it hard to do so. For example, the rules say that a KiwiSaver member can request that their funds be transferred to a different KiwiSaver provider, and the current provider must transfer those funds to the new

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[1] KiwiSaver Act 2006, Part 1 https://legislation.govt.nz/act/public/2006/0040/latest/whole.html#DLM378378

[2] Financial Markets Authority KiwiSaver Annual Report 2024 https://www.fma.govt.nz/assets/Reports/KiwiSaver-Annual-Report-2024.pdf

[3] This document will focus on KiwiSaver and not address other Managed Investment Schemes (MISs). MIS investment in private assets is a separate issue with similar benefits, but not clearly the same set of barriers.

[4] Financial Markets Authority KiwiSaver Annual Report 2024 https://www.fma.govt.nz/assets/Reports/KiwiSaver-Annual-Report-2024.pdf

[5] The Australian Prudential Regulation Authority superannuation statistics for June 2024 https://www.apra.gov.au/news-and-publications/apra-releases-superannuation-statistics-for-june-2024

[6] As above.

provider within ten working days. The rules also allow KiwiSaver members to withdraw KiwiSaver funds in a number of circumstances including hardship and to buy a house. These rules mean that KiwiSaver fund managers must keep a high level of 'liquidity' (ability to turn an asset into cash) in relation to their investments. These rules have resulted in many providers leaning toward lower-risk, shorter term investments.

8. We are not proposing changes to the ability of KiwiSaver members to transfer or withdraw funds—these are key features of the KiwiSaver scheme. We are looking at ways to adjust some of the rules that will make it easier for KiwiSaver providers to invest in private assets while meeting these rules, or adjusting the rules only where a KiwiSaver member agrees.

Awareness of this issue is not new, and government is considering its response

9. The 2019 industry report *Growing New Zealand's Capital Markets 2029*[7], funded by the Financial Markets Authority (FMA) and the New Zealand Stock Exchange (NZX), noted that KiwiSaver schemes do not have high investment in private assets, and suggested changes to the KiwiSaver scheme settings to encourage investment in less-liquid assets such as private equity and infrastructure.

10. In 2023, the Centre for Sustainable Finance Toitū Tahua (CSF) published *Investing in Private Assets*[8], which includes recommendations for changes made by the Investing in Private Assets Working Group to address the barriers and challenges KiwiSaver fund managers face when investing in private assets. The conclusions of that work have been factored into this paper.

11. More recently, the Minister of Commerce and Consumer Affairs and officials from the Ministry of Business, Innovation and Employment (MBIE) have conducted extensive consultation with KiwiSaver providers, supervisors and other industry participants to understand the extent to which the scheme rules may be limiting or discouraging their investment in private assets. We also discussed potential changes the Government could make to enable KiwiSaver managers to increase their investment in private assets.

12. We have heard through these conversations about a range of rules that are likely to be limiting or discouraging this type of investment, to the potential detriment of KiwiSaver members, businesses and the wider economy.

13. In this paper, we discuss how the Government would like to address these issues with the KiwiSaver rules to support greater investment in private assets without undermining the core purpose of KiwiSaver as a retirement savings scheme for New Zealanders.

Objectives

14. The primary objectives of this work are to enable greater KiwiSaver investment in private assets to:

    a. support the long-term financial wellbeing of KiwiSaver members

    b. support the long-term productivity and growth of New Zealand businesses

    c. support the funding and development of private assets such as infrastructure

[7] *Growing New Zealand's Capital Markets 2029* https://www.fma.govt.nz/assets/Reports/Growing-New-Zealands-Capital-Markets-2029.pdf.

[8] Centre for Sustainable Finance, *Investing in Private Assets: Joint paper on key recommendations to reduce barriers and challenges for KiwiSaver funds to invest in private assets*, 2023. https://static1.squarespace.com/static/637d83c964e50e3125f983aa/t/6530e629a2891e484b1f1ec9/1697703468948/Investing+in+Private+Assets+WG_Recommendations+Paper_v1.1+FINAL.pdf .

15. This work may also contribute to broader Government goals by providing funding to support climate measures such as emissions reductions and adaptation initiatives.

What is the problem?

16. Our view is that the current regulatory settings for KiwiSaver do not support investment in private assets by KiwiSaver providers. As discussed above, this means KiwiSaver members may be missing out on a better diversification of risk and better returns, and New Zealand businesses and the economy may be missing out on a significant source of funding.

17. KiwiSaver providers have told us that there are a number of potential factors contributing to this situation. Sometimes these are very specific scheme rules, and sometimes providers find that it is not clear what the exact rules or expectations are.

18. In addition to the pressure to focus on liquid assets so that KiwiSaver providers can meet the expected transfer and withdrawal requests of KiwiSaver members, the issues we have heard include the following:

The focus of this paper and current Government work

a. **KiwiSaver settings** impacting operational aspects of private asset investment including:

- **KiwiSaver providers' difficulty using 'liquidity risk management tools'** to enable them to better manage any risks of holding long-term private assets, while still meeting short-term member interests (e.g. withdrawals and transfers).
- **lack of clarity in the categories used for reporting by KiwiSaver providers** currently making it difficult or impossible to see whether funds are invested in public or private assets.
- **issues around valuation of private assets**, given that KiwiSaver providers must value KiwiSaver funds on a daily basis to meet withdrawal and transfer requirements. Most private assets are normally assigned a value on a longer basis, such as quarterly. For some providers, addressing this issue may require changes to trust deeds that govern their schemes, which can be difficult.
- **the way KiwiSaver providers are required to report fees related to private asset investment** can be an issue for providers because private assets often cost more to invest in, particularly if KiwiSaver providers 'outsource' the expertise required for private asset investment (that is, when they use a specialist fund manager outside their own company to manage the private asset investments).

Other issues that arose in discussions that the government is not addressing in this discussion document (some of which may be more appropriate for the industry to respond to)

b. **KiwiSaver managers' operational capacity and capability –** providers may not have the specialised skillset required to invest in private assets, and outsourcing increases fees and reduces returns.

c. **Other regulatory issues**, including lack of clear guidance on operational aspects of private asset investment, e.g. valuation, pricing, liquidity risk management and asset classification.

d. **KiwiSaver members' expectations and financial literacy** may tend to limit their focus to short-term returns, whereas private asset investments are typically long-term. They also may also not be willing to pay higher fees.

e. **Limited availability of suitable private investments, particularly in New Zealand**, for KiwiSaver providers to invest their member's funds in.

f. **'related party' transaction settings** in the FMC Act, sections 12, 173, 174, 175 that set rules around the relationship between KiwiSaver providers and the people who own or govern the private assets they may wish to invest in.

19. While 18b-f are not being considered in detail in this discussion document, we are open to receiving any feedback you may have on these issues (please use questions 33 and 34 in the response template for this feedback).

Scope of this paper

20. This paper is focused solely on the issues set out in paragraph 18a. The paper proposes ways to address the issues, in the given order of priority:

a. **Enabling KiwiSaver providers to use liquidity risk management tools** for investing in private assets.

b. **Improving visibility of private asset investment** by amending asset reporting categories.

c. **Ensuring valuation requirements support private asset investment** by considering ways to make it easier to amend valuation methodologies in trust deeds.

d. **Considering the total expense ratio (TER**) and how it may currently discourage investment in private assets.

21. Addressing these issues as a package is expected to create a regulatory environment that is more enabling of KiwiSaver investment in private assets.

Proposal 1: Enabling KiwiSaver providers to use liquidity risk management tools

Liquidity risk management – general background

22. Investment fund liquidity refers to the ease with which an asset can be converted into ready cash without substantially affecting its market value. Liquidity risk is the risk of the assets not being able to be 'liquidated' or converted into cash at a reasonable price or within a reasonable period as and when fund investors request it. Liquidity risk management is an essential part of delivering good outcomes for investors (such as KiwiSaver members), particularly so that any investors withdrawing funds or exiting a scheme can get their money out. Liquidity is a particular challenge for KiwiSaver fund managers due to the scheme's transferability across providers and withdrawal provisions (discussed further below).

23. In contrast to publicly listed assets, which are more highly liquid (as they can be sold much more readily), there is a wide range of liquidity risk in private assets. Private equities are less liquid and may require longer-term investment to gain in value and deliver returns. So-called 'illiquid assets,' like real estate and infrastructure, pose the greatest liquidity challenges as they are intended to be held for longer, are less predictable, and may be harder to value, price, and divest.

24. The FMA expects all fund managers to have appropriate liquidity risk management (LRM) policies, processes and tools for the schemes that they manage. This is set out in their guidance *Liquidity risk management guide* (April 2024). The guidance explains that having effective and appropriate LRM is an important part of how fund managers demonstrate they are meeting their statutory duties (such as exercising care, diligence, and skill, treating scheme participants equitably, and acting in the best interests of scheme participants).[9] It provides principle-based measures that managers should review and consider implementing in their schemes if it is appropriate. The guidance applies to all management investment schemes, not just KiwiSaver.

25. Liquidity management tools (LMTs) are essential for fund managers investing in private assets. These tools can assist and enable fund managers to fulfil those statutory duties set out above.

26. The FMA categorises LMTs in how they can be used (for example, pre-emptively to avoid liquidity issues or reactively to manage liquidity issues that emerge) and by type[10]:

    a. Quantity-based: such as redemption gates or withdrawal limits, temporarily suspending redemptions by suspending net asset value (NAV) calculations, or suspending redemptions (in extreme situations)

    b. Price-based: such as anti-dilution levies, subscription/redemption fees, valuation at bid or ask prices, dual pricing and swing pricing

    c. Others: such as side pockets, and redemptions in kind.

KiwiSaver managers' ability to use side liquidity risk management tools

27. We have conducted extensive consultation with KiwiSaver providers (fund managers), supervisors and other industry participants throughout 2024 through direct engagements, ministerial roundtables, and industry-wide forums. We have heard that there are currently

[9] Sections 143, 153, Financial Markets Conduct Act 2013
[10] FMA Liquidity risk management guide, p15 https://www.fma.govt.nz/assets/Guidance/liquidity-risk-management-guide.pdf

provisions in the KiwiSaver Act 2006 that limit the ability of KiwiSaver providers (as opposed to providers of other managed investment schemes) to use certain LMTs that may be necessary or appropriate for managing liquidity risk associated with private assets for the best interests of investors (KiwiSaver members).

28. These provisions include:

   a. **Transfer requirements:** Section 56(4) of the KiwiSaver Act 2006 requires transfers of funds in KiwiSaver accounts requested by members to a different KiwiSaver provider to be made within ten working days unless both providers agree otherwise. This ability of providers to agree to a slower transfer could allow 'side pocketing' (see para 32 below for further explanation), but we have heard that in practice it may be inefficient and current guidance is unclear. The overriding pressure to meet the timeframe for transfer may discourage providers from increasing their allocation of investment funds into private assets.

   b. **Withdrawal requirements:** Schedule 1 of the KiwiSaver Act 2006 allows members to withdraw money from their accounts in various circumstances (e.g. for purchase of a first home, significant financial hardship, serious illness, etc.). The withdrawal provisions do not impose time frame requirements on providers, but in practice are met reasonably quickly (many trust deeds indicate they will be met within 21 days). The pressure to be able to meet withdrawal requests could also discourage allocation of investment towards private assets.

29. The rule that KiwiSaver members can only be a member of one scheme (under section 53 of the KiwiSaver Act 2006) was also perceived as a possible barrier to using side pockets to manage transfer and withdrawal requests. This is because when a side pocket is used, a (small) portion of the funds remain behind with the 'old' provider, while the bulk of the fund is transferred to the 'new' provider, thus appearing to leave them in two schemes (old and new).

30. We do not think this situation would constitute being a member in two schemes, as the member would have only a residual financial interest in the side-pocketed assets at the old provider and would no longer be contributing to any KiwiSaver scheme at the old provider for the purposes of the KiwiSaver Act 2006.

Liquidity risk management tools that KiwiSaver providers would like to use

31. We have heard in discussions with the sector that there is particular interest in two LMTs that could lift fund managers' ability to investment in private assets: side pockets and redemption gates.

Side pockets

32. A side pocket is a type of account that fund managers can use to isolate a specific asset (one that may be 'in distress' or difficult to value and therefore less liquid than the remainder of the fund). This isolation in a separate account prevents the asset being sold and gives it time to recover some or all of its value. This separation from the rest of the fund allows the fund manager to provide investors with the majority of their money quickly, and then wait to get the best value for the asset that may be temporarily devalued or unable to be sold (rather than, for example, selling it at a significant loss).

33. How this might work with KiwiSaver is described further in the "example" box below.

Side pocket example

When a KiwiSaver member requests to transfer from one provider to another, in the vast majority of cases, members would have all their money transferred. However, very occasionally, certain assets in KiwiSaver funds (e.g. private or illiquid assets) might temporarily lose a lot or all of their value or not be possible to sell. This could happen in times of extreme market volatility like the Global Financial Crisis.

If this happens, the fund manager might consider that it is in the best interests of the KiwiSaver member to transfer the majority of the members' funds to the new provider, but 'side pocket' the asset which is distressed and hold onto it until it recovers its value, or they can sell it again. This could take some months but may be better in the long term for the value of the asset and therefore the member.

34. Trust deeds would need to provide for side pocketing for it to occur. There could be controls around how side pocketing is practiced, including for example, allowing supervisors to stipulate when it can be used, with which funds, and for how long. Clarity would also be needed on whether providers would be allowed to charge fees on side-pocketed funds.

35. We have heard some consensus that side pocketing, if used, should be a tool of last resort—and ideally a tool that is seldom used.

<u>Need for clarity on rules on side pocketing</u>

36. There are some differing views on whether side pocketing is in fact technically available to KiwiSaver managers. FMA guidance, for example, notes section 56(4) of the KiwiSaver Act 2006 which allows KiwiSaver managers (both 'old and new') to agree to complete transfers in a longer period than the default 10 working days in the context of suspending redemptions in situations such as extreme market conditions or scheme-specific liquidity issues.[11] In theory this could provide flexibility for a scheme provider to use side pocketing, with the agreement of the 'new' provider. However, there is no incentive for the new provider to agree.

37. We have heard from providers that use of this provision is not practical. Even if the legislation does technically allow the use of side pocketing as providers are able to use LRM tools, the current framework appears to be unclear and not providing sufficient assurance to providers or supervisors that they can use side pocketing. We believe this lack of clarity is contributing to low investment in private assets.

38. At best, therefore, we consider that the legislation and guidance could be more explicit in signaling and supporting the availability of side pocketing, as it may currently be interpreted and acted on differently by different KiwiSaver providers.

39. At the same time, we have heard concern from the sector about complicating the KiwiSaver scheme and confusing KiwiSaver members in a manner that undermines its brand reliability. It will be an ongoing challenge to communicate clearly to KiwiSaver members what the conditions of their investment are, particularly if more complex schemes are introduced.

<u>Redemption gates</u>

40. An investment fund redemption gate is a provision that enables a fund manager to carefully control withdrawals from a fund over a period of time—including by slowing or halting withdrawals. As discussed further below, if a redemption gate were used in a KiwiSaver scheme, it would require KiwiSaver members to 'opt-in' by waiving their right to transfer

[11] FMA Liquidity risk management guide (2024), page 16.

between KiwiSaver schemes within ten working days or to withdraw funds in certain circumstances.

41. We have heard from industry that this 'opt-in' model could enable the KiwiSaver industry to develop new products, such as those that have a relatively high exposure to private assets (such as unlisted infrastructure or renewable energy projects), that members can choose to invest in if this suits their circumstances.

42. By restricting an investor's right to withdraw funds, a gate prevents a forced liquidation of an asset in an adverse market situation, and helps to prevent 'runs on the fund' (where a number of investors might try to withdraw their funds from a particular fund or scheme in a short period) which can have a negative impact on remaining investors. The gate provision is built into the fund offering, particularly where there are private, illiquid or complex assets.

43. If used in KiwiSaver schemes, fund managers could choose to implement a redemption gate in a number of ways—for example, slowing down requested withdrawals with a longer minimum waiting period, or limiting withdrawals to a maximum proportion of the fund within a set timeframe. These practices should be spelled out for investors in the trust deed.

Current practice around investing in private assets

44. We are seeking information on current practices around KiwiSaver managers' investment in private assets and the management of liquidity risk associated with such investment.

Questions for feedback on current practice

	QUESTIONS for KiwiSaver providers (or other industry participants)
1.	For KiwiSaver managers: Please describe your current practice around investing in private assets, including levels of exposure you have to these types of assets, how you invest in these assets, and any liquidity risk management tools you use. Do you have safeguards or limits around your use of these tools?
2.	Do you think that the current legislative framework for KiwiSaver effectively allows for the use of side pocketing and redemption gating (or other tools) that may impact transfer or withdrawal times?
3.	For KiwiSaver managers: If you cannot use these tools, can you please explain the reasons for this and the impacts in terms of: a. your ability to increase investment in private assets b. risks associated with your current allocation of private assets.
4.	Please provide any other comments on the availability of liquidity management tools.

Enabling more use of side pocketing by KiwiSaver managers

Common view on the benefits of LMTs

45. From discussions with industry, we think there is broad agreement that KiwiSaver providers should have clearer access to LMTs including both side pocketing and gating, and in both cases including the ability to delay or suspend withdrawals or transfers of any assets that have been side pocketed or gated when it is in the best interests of scheme participants.

46. The ability to use these tools will give KiwiSaver providers the ability to development new schemes with increased focus on private assets, giving KiwiSaver members greater choice in how their retirement savings are being invested. Any use of side pocketing or gating that may impact withdrawal or transfers would be clearly disclosed, explained to scheme participants and used proportionally.

Proposed approach

47. Drawing on the sector proposal above, we propose the following approach to support KiwiSaver managers to use liquidity management tools that we would like feedback on:

Proposed approach	
Clarify availability of LMTs	This approach would leave most of the current KiwiSaver settings in place (e.g. the 10-working day transfer timeframe and withdrawal settings), but explicitly enable all KiwiSaver managers to override the scheme transfer and withdrawal requirements when it is a necessary step for them to manage liquidity risk of investments. In practice, we expect this would likely require clear disclosures in trust deeds, Statements of Investment Policy and Objectives, and Product Disclosure Statements as appropriate that LMTs may be used and communication of how and when they might work. As updates to these documents are made, members would have a choice to opt in or out of the scheme if they chose.

48. Further development of this approach will need to consider more detailed design consideration, policy questions and technical matters, including:

a. How general (e.g. all LMTs) or specific (limited to side pocketing and gating) should any legislative changes be?

b. When should LMTs be able to be used?

c. Should there be any regulatory conditions placed on the use of LMTs? For example, only for certain types of assets, or in certain market conditions?

d. What disclosure arrangements should apply for side pocketed or gated funds?

e. Should any changes extend to all managed investment schemes as well as KiwiSaver schemes?

f. How should these proposed changes be effectively communicated to members?

Potential impact on KiwiSaver members

48. As explained in the example box above, if some of a KiwiSaver member's funds were invested in assets that were side pocketed, this would impact how quickly that money could be either shifted to a different KiwiSaver provider or withdrawn. For example, if a member wanted to change providers, it could be that 98 per cent of their money would move quickly, but 2 per cent would stay with the current provider for a set period until the side pocket was resolved (had either regained its value or a decision made that it wasn't going to), and then it would also transfer to the new provider.

49. As noted above, we anticipate that LMTs like side pockets and gating are tools of last resort and would only be used if in the best interests of KiwiSaver members.

Questions for feedback on proposed approach

QUESTIONS for KiwiSaver providers (or other industry participants)	
5.	Do you support the proposed approach? Why / why not?
6.	If redemption gates were allowed, would you consider developing new products more focussed on private assets?
7.	Will you face implementation costs if this change is made (management, administration, etc)? If yes how much will they be and will they be one-off or ongoing?
8.	Do you have any comments on the detailed design considerations noted above?
9.	Please provide any further comments on this issue of liquidity management tools.

QUESTIONS for the public (including KiwiSaver members)	
10.	Do you support more investment by KiwiSaver funds into private assets? Why / why not?
11.	Do you support the use of liquidity management tools like 'side pockets', if they may have an impact on the availability of your KiwiSaver funds? Please explain.
12.	Please provide any further comments on the proposed approach.

Proposal 2: Improving private asset visibility in disclosure requirements

Asset categories in disclosure documents

50. Under the Financial Markets Conduct Regulations 2014 (Schedule 4, clause 1(4)), fund managers are required to disclose in quarterly fund updates which types of assets the fund invests in. The asset categories in Schedule 4 are:

    a. cash and cash equivalents

    b. New Zealand fixed interest (which are fixed-interest assets the country of which is New Zealand)

    c. international fixed interest (which are fixed-interest assets the country of which is not New Zealand)

    d. Australasian equities (which are those equities the country of which is Australia or New Zealand)

    e. international equities (which are equities the country of which is not Australia or New Zealand)

    f. listed property

    g. unlisted property

    h. commodities

    i. other.

51. The list above does not fit well with private assets, as they remain 'invisible,' included in categories such as 'Australasian equities', 'New Zealand fixed interest' or the general 'other.' This means that the level of exposure of each scheme and the KiwiSaver system as a whole to private assets may not be clear to investors or to the market generally.

Problems caused by lack of 'private assets' categories

52. The absence of appropriate private asset categories in the disclosure provisions of the FMC Regulations have flow-on impacts for KiwiSaver managers and for scheme participants. This is because disclosures shape the conduct of fund managers in the market and the availability of information to scheme participants and investors in the market.

    <u>Impacts for KiwiSaver managers and managed investment schemes</u>

53. The absence of appropriate private asset categories has been raised as a regulatory issue in industry engagement on ways to lift investment in private and illiquid assets. This issue has not previously been raised through either the Capital Markets 2029 report or the work of the Centre for Sustainable Finance.

54. The absence of asset categories for private assets may be a problem from the perspective of KiwiSaver managers in relation to the 'reasonableness' of fees. Investing in private assets has proportionally higher costs than other asset classes due to the administrative costs of private asset management and the specialist skillsets required to effectively manage these assets, whether by an independent private equity investment firm or internally. It is reasonable that some of these costs are passed on via fees.

55. Recognising private assets as an asset category should help to establish grounds – in disclosure documents – for the proportionally higher fees relating to the allocation of the fund assets that are in those private assets.

Impacts for scheme members and investors

56. There is little publicly visible information on whether KiwiSaver schemes are investing in private assets, and if so, which ones.

57. Any information that is available tends to come from voluntary disclosures or communications material. This information is not readily comparable between different funds in order for scheme members or investors to make investment decisions reflecting their preferences.

58. The absence of comparable information means that tools helping investors or KiwiSaver members to choose between schemes do not include much information on the types of assets that any particular scheme holds. This will not change unless reporting of type of asset is prescribed in regulations, as these websites tend to pull information from the Disclosure Register that is limited to prescribed disclosures.

Questions for feedback on asset categories as an issue

QUESTIONS for KiwiSaver providers (or other industry participants)	
13.	Do you consider that the current asset classes in the Financial Markets Conduct Regulations 2014 are problematic as they relate to private assets? If yes, please explain.
14.	How do you think the categories should be described?
15.	Please provide any other comments on the lack of private asset categories.

Improving disclosure of private assets categories by KiwiSaver schemes

Outline of options

59. We have identified four options for changing the regulations to make private assets more visible in the asset categories:

Option		Description
1	Create new category for 'private assets'	Add a new category for private assets, to include international and New Zealand private equities and debt. This would show the private assets held, but would not differentiate by jurisdiction. This would also leave the 'other' category as a more general mop-up (e.g. including hedge funds).
2	Modify existing categories to better include private assets and jurisdictions (so they do not all get listed in 'other')	Modify some categories to deliver a new list that is (roughly): • cash / cash equivalents • fixed interest (New Zealand, international, unlisted) • equities (New Zealand, international, unlisted) • property (listed, unlisted) • infrastructure (listed, New Zealand unlisted, international unlisted) • commodities • other. This roughly mirrors the asset categories used in Australia.

3	Modify existing categories and apply categories to the underlying assets	Use the same modified categories from Option 2 but add in a requirement that the category reflect the underlying assets held. This is particularly relevant as more schemes are investing in index tracking funds or other wholesale funds (e.g. Blackrock).
4	Adding sub-categories to current categories	Add unlisted debt under 'NZ Fixed Interest'; NZ unlisted equity under 'Australasian equities' and NZ unlisted property under 'Unlisted property' and reporting infrastructure under 'other' or a separate 'Infrastructure' category for better visibility of all NZ private assets.

60. The information in these new categories would need to be included in product disclosure statements (PDS), on the Disclose Register, and the quarterly fund update in the future. Transitional provisions may be required to give industry time to adjust to the changes and transitional provisions could be made to enable changes to be made when the PDS is next updated.

61. Some providers currently show their exposure to private assets for each category in the quarterly fund update (via a footnote under actual asset allocation). This approach can also be explored.

Potential impact on KiwiSaver members

62. The options around change discussed in this section relate only to the information that is available to KiwiSaver members about their KiwiSaver investments in reports that KiwiSaver providers publish four times per year. This proposal would improve the information available to KiwiSaver members, enabling them to more clearly see which types of assets their KiwiSaver funds are invested in and whether that includes private assets.

Questions for feedback on the proposed options

QUESTIONS for KiwiSaver providers (or other industry participants)	
16.	Which option do you think is best and why?
17.	Will you face implementation costs if this change is made, if yes how much will they be and will they be one-off or ongoing?
18.	Please provide any further comments on this issue of including private assets in asset categories.

QUESTIONS for the public (including KiwiSaver members)	
19.	Do you think it would be useful to have better visibility over how much KiwiSaver funds are investing into private assets?

Proposal 3: Ensuring valuation requirements support private asset investment

Daily pricing requirements and valuation methodologies in governing documents

63. The Financial Markets Conduct Act 2013 (FMC Act) requires that a scheme's governing documents set out valuation methodologies, and pricing must occur in accordance with those methodologies (section 135(1)(d)).

64. In practice, KiwiSaver funds are required to price assets in their funds daily so that they can process transfers and eligible withdrawals at any time. The value of the asset on the day determines the withdrawal amount. Most, if not all, KiwiSaver schemes have governing documents that "require managers to calculate the net asset value of a KiwiSaver scheme (or fund(s) within that scheme) within a set period (e.g. at least once every 5 business days)."[12]

65. Pricing, or valuing, private assets that are largely illiquid is different from pricing liquid assets such as listed equities or bonds, which have a clear price available every day. The valuation of illiquid private assets must be calculated – or estimated – using different methodologies because market pricing is not available. Many private assets, such as a privately held companies or an infrastructure asset, are valued quarterly or longer.

66. There is therefore a clear mismatch between any KiwiSaver scheme governing documents that stipulate a valuation of assets within the scheme within a set time period of around 5 business days or less, and quarterly valuations of private assets.

67. We have heard from some KiwiSaver providers that they have overcome the challenge of providing valuation methodologies appropriate for illiquid assets in their trust deeds. However, we understand that some trust deeds (and older ones in particular) still have valuation methodologies that do not provide for valuation methodologies for illiquid assets. Some of those providers have reported facing difficulty in amending those trust deeds, which requires the agreement of members or KiwiSaver supervisors.

Difficulty altering governing documents to include suitable valuation methodologies

68. The FMC Act imposes requirements on amending managed investment scheme governing documents (section 139). The process has two pathways for such change:

    a. Pathway one: with the approval of [all] scheme participants, or by special resolution of the scheme participants that is or may be adversely affected by the amendment or replacement.

    b. Pathway two: if the scheme supervisor or FMA is satisfied that the change to the governing document has:

        i. no material adverse effect on scheme participants for MIS or

        ii. no material adverse effect on scheme participants for KiwiSaver schemes.

[12] MinsterEllisonRuddWatts/Chapman Trip Joint Legal Opinion on KiwiSaver investing fund in private assets, para 4.3: https://static1.squarespace.com/static/637d83c964e50e3125f983aa/t/657a8308125a4947ade35286/1702527753874/CSF+Opinion+-+KiwiSaver+investment+in+private+assets.pdf

69. We understand from discussions with industry that updating older KiwiSaver trust deeds to incorporate valuation methodologies for private assets may be difficult given these requirements.

70. Pathway one requires approval from all scheme participants which is complex and impractical given the broad membership of many KiwiSaver schemes.

71. Pathway two also has challenges. We understand from certain industry participants that there is no clear benchmark for a "material adverse effect on scheme participants" that will give KiwiSaver managers confidence to seek approval from their supervisors for a change to the valuation methodologies in their governing documents. Without legal or commercial clarity about this test, we have heard from some industry participants that supervisors can be conservative in its application. In particular, updates to trust deeds around general valuation practices are unlikely to be problematic. However, updates around pricing frequency may raise questions about adverse effects on the interests of scheme participants.

Questions for feedback on status quo valuation methodology issues

	QUESTIONS for KiwiSaver providers (or other industry participants)
20.	For KiwiSaver managers: Do your governing document(s) include a valuation methodology which is challenging to apply to valuing private asset? If you do, can you please explain the impact in terms of: a. the extent to which your governing documents require amendments to allow for the inclusion and pricings of private assets within your funds. b. whether you have tried to amend the valuation provisions in the past or not, and why. Include examples of where the supervisor has or has not approved a valuation methodology.
21.	Please provide any other comments on the valuation methodologies in governing documents.

Enabling changes to governing documents to include suitable valuation methodology

72. The joint legal opinion on KiwiSaver investment in private assets cited in footnote 12 signaled two changes that could be made in relation to the valuation issue:

   a. a non-legislative change by private asset promoters (including Government) to establish what would effectively be a market for private assets

   b. an amendment to the FMC Act provisions on governing documents to allow supervisors to agree to trust deed changes to permit long-term valuation methodologies

73. While we have heard from engagement with stakeholders that New Zealand does not have a secondary market for trading private assets, this was not considered a high priority for the Government to address, nor is it an obvious role for government. We are not currently considering action in this area.

Proposed approach

74. We are interested in whether it is necessary to clarify the FMC Act so that KiwiSaver providers can modify their trust deeds to allow for valuation practices that support investment in private assets. If it is necessary, we are open to feedback on how best to achieve this. The primary suggestion we have heard from the sector is to deem a change in valuation methodology not

to be adverse, or materially adverse, to allow the changes to governing documents to be made. This could require a change to provisions in section 139 of the FMC Act.

75. We note in relation to side pocketing that if the KiwiSaver Act were amended to expressly allow side pocketing, amending of trust deeds to enable side pocketing should not pose an issue in relation to the interests of investors. If schemes wish to amend their trust deeds to also permit side pocketing this would need to follow the current requirements under section 139.

76. Consideration and further development of any proposal will need to consider:

  a. the standard or conditions for any legislative amendment

  b. disclosure or communication requirements, if any, beyond existing requirements to lodge governing documents on the Disclose Register[13]

  c. the duration of the change.

Potential impact on KiwiSaver members

74. The interests of KiwiSaver members are protected by the KiwiSaver provider's obligation to act in their best interest, and also to be specific in their governing documents, specifically the trust deed, on the valuation methodologies they use.

75. Any change in valuation methodology to be used for private assets would only affect a small portion of a member's KiwiSaver savings. Anyone who is a KiwiSaver scheme member will still be able to check the value of their KiwiSaver money on any given day. This would continue to support the withdrawal and transfer options that are open to members.

Questions for feedback

	QUESTIONS for KiwiSaver providers (or other industry participants)
22.	Do you agree that this is an issue that needs addressing?
23.	Do you have views on how it should be addressed?
24.	Will you face implementation costs if this change is made, if yes how much will they be and will they be one-off or ongoing?
25.	Please provide any further comments on this issue of valuation requirements.

[13] The Disclose Register is a register for offers of financial products and managed investment schemes (including KiwiSaver) under the Financial Markets Conduct Act 2013.

Proposal 4: Consideration of the total expense ratio formula

77. Disclosure of fees by KiwiSaver providers is necessary for members or the public to know if they are getting good value for money. It supports a competitive market where investors can make fully informed decisions about which KiwiSaver provider to use, including which providers align with their personal savings interests. Disclosing information about fees and charges is important for managed funds under the FMC Act and the Financial Markets Conduct Regulations 2014. The FMA provides advice to managers on fee disclosure requirements in their guidance Fee disclosure by managed funds.[14]

78. One fee measure used is the total expense ratio (TER)—the ratio of the total costs of managing and operating an investment fund divided by the value of the fund's total assets. The relevant costs consist primarily of management fees and additional expenses, such as trading fees, legal fees, auditor fees, and other operational expenses.

79. Schedule 4 of the Financial Markets Conduct Regulations 2014 provides that fund managers (including KiwiSaver providers) must disclose their synthetic total expense ratio in quarterly fund updates to investors, and on the Disclose Register (a register of financial product and managed investment scheme offers maintained by the New Zealand Companies Office). The regulation defines the TER as 'the ratio of the total charges charged for the operations of the fund and its underlying funds to the fund's average net asset value,' and sets out the formula for calculating the TER.

Regulation of KiwiSaver fees and returns and related principles

80. Transparency for KiwiSaver members and prospective members is essential for them to know what is happening with their funds, and to make informed decisions about which scheme they choose to join. This includes transparency around fees, returns pre-fees and pre-tax, and final returns.

81. Specifically in relation to fees, the KiwiSaver Scheme Rules (clause 1 of Schedule 1 of the KiwiSaver Act 2006), stipulate that "fees must not be unreasonable". Transparency assists members to assess whether they think a particular provider's fees are reasonable. We have heard that fee transparency remains important to the sector as well, and that the current TER calculation is an industry standard.

82. Thus, for KiwiSaver, as for other managed investment schemes, all costs to manage funds (whether in-house or third party) are recorded in the same way.

83. This provides for competition in the market so that KiwiSaver providers are offering investors value for their fees. This is particularly important where fees are proportional and will deliver more revenue to KiwiSaver providers as the funds under management increase.

Industry concerns with the current approach

84. We have heard from industry that the formula for calculating the TER and the requirement to make it public can disincentivise KiwiSaver managers from investing in private assets or using third-party fund managers, as those practices will make the TER less favorable. Some providers have also suggested that the fees for third-party managers are already reflected in the unit

[14] FMA guidance note, *Fee disclosure by managed funds* (May 2016) https://www.fma.govt.nz/assets/Guidance/160526-Guidance-Note-Fee-Disclosure-For-Managed-Funds.pdf

price or overall returns of the underlying private asset, and so do not need to be included in the TER calculation as well.

85. While visibility of fees may make sense from a perspective of ensuring a 'value for money' (that is, ensuring that any fees are "reasonable" because they may deliver higher returns), some KiwiSaver investors are focused on low fees and could be discouraged from enrolling in a scheme by a less favorable TER. From the provider point of view, the TER may not be sufficiently transparent as it does not always include an explanation of those fees or their relationship to value for money.

86. Managers may thus be motivated to keep the TER low by avoiding private asset investment, or by limiting the use of third-party management and advice. This can in turn prevent investment in private assets in providers who lack the in-house expertise to do so. It may also hinder the growth and development of private investment fund managers and block their access to investment capital in KiwiSaver funds if providers are incentivised to not use them.

87. Some KiwiSaver members may focus more on the 'returns after fees' their investment are delivering, and less on the specific fees. However, the returns will always be uncertain. KiwiSaver schemes disclose their past performance which is often a good way to compare how different funds have performed in the past and whether a fund manager has provided good returns (after fees and tax) to their members.

88. There have been calls from the sector to exempt these third-party private investment costs from the calculation of the TER in order to incentivise greater investment in private assets, including through the use of third-party managers, and more effective deployment of capital in KiwiSaver funds. Some have suggested that an exemption apply only to New Zealand-based funds. Some providers feel that the success or failure of the private asset strategy should be measured by the after-fee returns and not by fees.

Counter views

89. We have heard from other KiwiSaver providers who do not support changes to the TER because it would reduce transparency and potentially value for money for investors. Changes to remove some costs from TER mean a KiwiSaver member would not see the costs they are actually paying for their funds to be managed - they would only see the net returns.

90. The removal of third-party management costs from the TER formula reduces transparency and for that reason is not supported by the FMA. In addition to misleading investors, it could have roll-on undesirable outcomes such as:

    a. privileging one type of investment (third-party managed private assets) over others within the KiwiSaver scheme; and

    b. enabling KiwiSaver managers to outsource more of their schemes while maintaining (or even reducing) their fees as reported under TER. This could allow them to adopt higher-cost and potentially higher-risk investment strategies without adequate disclosure to their KiwiSaver members.

Maintaining transparency of KiwiSaver fees

91. To some extent, this appears to be a communication and education issue. That is, KiwiSaver members may not quite understand the difference between fee level and value for money, or that a higher TER may still make sense if it provides a longer-term opportunity for greater returns. It is up to the sector to continue to assist their current and potential scheme members to understand what the fees in the TER represent.

92. We are interested to hear further from the sector, particularly given the varying perspectives we have heard to date, on whether this presents an issue, and whether any changes are required.

93. We are also seeking views from others (beyond KiwiSaver providers—for example, members or other private equity or venture capital providers) on the fees reported under the TER and whether any changes are required.

94. We are not providing options on this issue at this stage. Possible options will be considered following feedback.

Potential impact on KiwiSaver members

95. Changes to the TER may impact how well KiwiSaver members are able to see and understand exactly what expenses they are being charged for through fees. This includes being able to see why their fees might be higher than fees of other providers (for example if their provider is paying another investment company to manage some of its private investments). This enables KiwiSaver members to decide if paying more in fees is worth the specific investment options that KiwiSaver provider offers.

96. If the change requested by the sector occurs, this does not necessarily mean that a KiwiSaver member's fees will be lower. The fee amount seen may be lower, but the charges removed from the fee calculation could (for example) be subtracted from the returns the member receives.

Questions for feedback on current Total Expense Ratio calculation methods

	QUESTIONS for KiwiSaver providers (or other industry participants)
26.	Do you currently outsource fund management for private assets?
27.	Do you see any issues with the current TER calculation and if so, what are they?
28.	Does the current TER calculation impact your decision to invest in private assets, or to utilise third-party fund management?
29.	Are there any other issues you would like to draw attention to on the TER?

	QUESTIONS for the public (including KiwiSaver members)
30.	Do you look at KiwiSaver scheme fees when deciding which KiwiSaver scheme to put your money with?
31.	Do you think it is fair to include outsourced management fees charged to KiwiSaver managers in the overall 'KiwiSaver scheme fee' that is eventually charged to members?
32.	Please share any other thoughts you have around the TER (total expense ratio) and its function to inform the public of the expenses involved in KiwiSaver management.

Final comments and next steps

Final comments

97. Please respond to the questions below if you have any further comments you would like to share:

QUESTIONS for KiwiSaver providers (or other industry participants)	
33.	Please provide any further comment on barriers to KiwiSaver investment in private assets that you see (including any comments in relation to issues identified in paragraph 18b-f).

QUESTION for all respondents	
34.	Please use this question to provide any further information you would like that has not been covered in the other questions.

Next Steps

98. This consultation closes on **14 February 2025**. Please see the instructions at the front of this document on how to submit your feedback.

99. MBIE will consider the feedback we receive through this consultation and use that feedback to further develop the options on possible responses to the issues raised in this paper around KiwiSaver investment in private assets.

100. MBIE will provide advice to the Minister of Commerce and Consumer Affairs on both the feedback received and options for next steps in early 2025. Proposals for change will then need to be submitted to Cabinet for approval.

Questions Asked

Liquidity management tools – questions for KiwiSaver providers or other industry	
1	For KiwiSaver managers: Please describe your current practice around investing in private assets, including levels of exposure you have to these types of assets, how you invest in these assets, and your management of liquidity risk.
2	Do you think that the current legislative framework for KiwiSaver effectively allows for the use of liquidity risk management tools that may impact transfer or withdrawal times (e.g. suspending redemptions or side pocketing)?
3	For KiwiSaver managers: If you cannot use these tools, can you please explain the reasons for this and the impacts in terms of: a. your ability to increase investment in private assets b. risks associated with your current allocation of private assets.
4	Please provide any other comments on the availability of liquidity management tools.
5	Do you support the proposed approach? Why/why not?
6	If redemption gates were allowed, would you consider developing new products more focussed on private assets?
7	Will you face implementation costs if this change is made? If yes how much will they be and will they be one-off or ongoing?
8	Do you have any comments on the detailed design considerations noted above?
9	Please provide any further comments on this issue of liquidity management tools.
Liquidity management tools—questions for the public	
10	Do you support more investment by KiwiSaver funds into private assets? Why / why not?
11	Do you support the use of liquidity management tools like 'side pockets', if they may have an impact on the availability of your KiwiSaver funds? Please explain.
12	Please provide any further comments on the proposed approach.
Private asset categories – questions for KiwiSaver providers or other industry	
13	Do you consider that the current asset classes in the Financial Markets Conduct Regulations 2014 are problematic as they relate to private assets? If yes, please explain.
14	How do think the categories should be described?
15	Please provide any other comments on the lack of private asset categories.
16	Which option do you think is best and why?
17	Will you face implementation costs if this change is made, if yes how much will they be and will they be one-off or ongoing?
18	Please provide any further comments on this issue of including private assets in asset categories.

Private asset categories—question for the public	
19	Do you think it would be useful to have better visibility over how much KiwiSaver funds are investing into private assets?
Valuation requirements – questions for KiwiSaver providers or other industry	
20	For KiwiSaver managers: Do your governing document(s) include a valuation methodology which is challenging to apply to valuing private asset? If you do, can you please explain the impact in terms of: a. the extent to which your governing documents require amendments to allow for the inclusion and pricings of private assets within your funds. b. whether you have tried to amend the valuation provisions in the past or not, and why. Include examples of where the supervisor has or has not approved a valuation methodology.
21	Please provide any other comments on the valuation methodologies in governing documents.
22	Do you agree that this is an issue that needs addressing?
23	Do you have views on how it should be addressed?
24	Will you face implementation costs if this change is made, if yes how much will they be and will they be one-off or ongoing?
25	Please provide any further comments on this issue of valuation requirements.
Total Expense Ratio—questions for KiwiSaver providers or other industry	
26	Do you currently outsource fund management for private assets?
27	Do you see any issues with the current TER calculation and if so, what are they?
28	Does the current TER calculation impact your decision to invest in private assets, or to utilise third-party fund management?
29	Are there any other issues you would like to draw attention to on the TER?
Total Expense Ratio—questions for the public	
30	Do you look at KiwiSaver scheme fees when deciding which KiwiSaver scheme to put your money with?
31	What do you think should be included in any figure that is called "KiwiSaver scheme fees"?
32	Please share any thoughts you have around the TER (total expense ratio) and its function to inform the public of the expenses involved in KiwiSaver management.
Final comments—question for KiwiSaver providers or other industry	
33.	Please provide any further comment on barriers to KiwiSaver investment in private assets that you see (including any comments in relation to issues identified in paragraph 18b-f).
Final comments—question for all respondents	
34.	Please use this question to provide any further information you would like that has not been covered in the other questions.