

Submission on discussion document: Enabling KiwiSaver investment in private assets

Your name and organisation

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Responses to discussion document questions

Please enter your responses in the space provided below each question.

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.
	Whilst we are not KiwiSaver Managers, in our role as Supervisor of KiwiSaver schemes we need to supervise the performance of the Manager's obligations including Private Asset investments and generally within that context we consider positions above 10% to 15% pose higher risks with respect to both valuation and liquidity. The industry would benefit from guidance on what level of Private Assets are reasonably acceptable.
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)?
	No, the current legislative framework for KiwiSaver does not adequately support the use of liquidity risk management tools.
	With greater policy certainty—provided by legislative clarification and regulatory guidance—managers and supervisors would more readily support the use of a wider range of LMTs. In particular, greater policy certainty would facilitate the use of LMTs that are beneficial for longer-term investment choices when consideration is also required of shorter-term KiwiSaver investor rights (transfer and withdrawal). That balanced use of LMTs would be directly aligned with the purpose of the KiwiSaver Act 2006, which encourages long-term asset accumulation.
3	While legislation currently allows for providers to agree to a slower transfer of member balances we consider that, in the absence of further clarification and guidance, KiwiSaver managers and supervisors are unlikely to use LMTs such as side pocketing or redemption gates. Regulatory guidance would be especially useful if it assisted managers and supervisors to form a view as to whether use of an LMT (to override shorter-term KiwiSaver investor rights) would be acting in the best interests of investors.
	The licensed supervisors, CTA's members, would welcome the opportunity to be actively involved in the policy design of that clarification and guidance.
	For KiwiSaver managers: If you cannot use these tools, can you please explain the reasons for this and the impacts in terms of: <ul style="list-style-type: none"> a. your ability to increase investment in private assets b. risks associated with your current allocation of private assets.
4	Refer above, there needs to be greater policy certainty as this will help the Manager being able to consider the use of LMT's and demonstrate that they are acting in the best interests of investors.
	Please provide any other comments on the availability of liquidity management tools.

GENERAL: As mentioned above, in the absence of further clarification and guidance managers and supervisors are unlikely to consider using certain LMT's. The underlying challenge is to achieve a balance between the long-term objectives and short-term investor rights of the KiwiSaver regime. Ideally the policy settings should be approached from an investor-first perspective. As the consultation document contemplates, that means providing relevant disclosure and requiring investors to opt in to a fund that uses certain LMTs.

In addition however, a broader—preferably well-funded and ongoing—public consumer education campaign that promotes the benefits of long-term retirement savings, would greatly enhance the likelihood of policy success. That would have multiple benefits aside from increasing investment in private assets: it would help get default members engaged with investment choices and might contribute to a reduction hardship withdrawals.

REDEMPTION GATES: Supervisors see potential difficulties—particularly in a KiwiSaver context—of using mechanisms such as redemption gates while endeavouring to treat all members equitably (and do so in a practical and cost effective manner). We would welcome an opportunity to discuss those further.

Redemption gates may be more feasible for a new product where all investors have opted in. In any event, if a redemption gate has been imposed on a fund, there should be policy clarity as to how a manager should deal with ongoing member contributions and new applications.

Managers would need to ensure that any increased risk of a redemption gate is disclosed to all members. Managers would need to be very mindful of communications with members in this respect, not wanting to risk the loss of members.

ABILITY TO BE A MEMBER OF 2 SCHEMES: There would need to be a clear confirmation by the policy makers as to whether a member can be a member of two schemes in certain circumstances as this will also help in advising members the risks they are taking. It is a risk if a Fund you have invested in has, for example, a redemption gate imposed and you can still transfer to another scheme but it is a significantly different risk if a redemption gate is imposed and until this is lifted you must remain with the same scheme.

ABILITY TO SIDE POCKET: There should be guidance on this area to ensure consistency and to help the Manager meet its obligation to act in the best interests of investors.

	Do you support the proposed approach? Why/why not?
5	<p>CTA supports the proposed approach set out in para 47 because it aligns with the purpose of the KiwiSaver Act 2006, in particular by supporting long-term asset accumulation.</p> <p>The potential use of LMT's will depend on the legislative settings allowing for implementation and clarity on when and how these should be utilised, to ensure that the duties to act in the best interest of members and treat them equitably have been considered and met.</p>
6	<p>If redemption gates were allowed, would you consider developing new products more focussed on private assets?</p> <p>N/A</p>
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?

	Supervisors would need to develop procedures to deal with any new regulatory provisions. The best control over implementation costs is well-informed policy design. As noted above, the licensed supervisors would welcome the opportunity to be actively involved in the policy design.
	Supervisors are expected to play a key role in the Manager’s decision-making process with the potential use and implementation of LMT’s., In addition, supervisors are required to supervise the performance Manager’s obligations including investments in private assets, ensuring that managers have the capacity and capability and proper policies and procedures in place associated with these investments and ongoing monitoring.
8	Do you have any comments on the detailed design considerations noted above? The design should include guidance on the steps Managers are expected to take in addressing and resolving any redemption gates imposed.
9	Please provide any further comments on this issue of liquidity management tools. N/A
Liquidity management tools—questions for the public	
10	Do you support more investment by KiwiSaver funds into private assets? Why / why not? N/A
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. N/A
12	Please provide any further comments on the proposed approach. N/A
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. CTA supports a review of the asset classes. At the least, it is important that investors know the exposure to private assets because that risk profile is generally different from other assets.
14	How do think the categories should be described? CTA has no particular preference, provided private assets are clearly disclosed. That is because, as noted above, the risk profile of private assets is generally different from that of other assets.
15	Please provide any other comments on the lack of private asset categories.

	<p>Investors need private asset transparency so that they can make informed decisions about the risk profile of those assets. Factors affecting the risk profile—and therefore the appropriate risk premium—include for example: valuation uncertainty, pricing infrequency, and liquidity risk. Infrequent risk ratings might artificially reduce the asset’s volatility. For example, listed property funds may be selling below NTA while an unlisted property fund may be selling at NTA, but only because valuations are less frequent. Investors require sufficient information to include such factors into their decision making.</p>
16	<p>Which option do you think is best and why?</p>
	<p>In relation to the options set out in para 59, CTA suggests that a table format be considered. A table could include columns that disclose the NZ unlisted/private assets and international unlisted/private assets included in each relevant category.</p> <p>CTA supports minimising the use of the “other” category.</p>
17	<p>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?</p>
	<p>CTA envisages that this would not result in significant additional costs for supervisors. Managers, however, may need to implement revised systems and procedures to calculate the new categories.</p> <p>It would help reduce complexity, and consequently cost, if there was a clear materiality threshold for asset categorisation.</p>
18	<p>Please provide any further comments on this issue of including private assets in asset categories.</p>
	<p>N/A</p>
<p>Private asset categories—question for the public</p>	
19	<p>Do you think it would be useful to have better visibility over how much KiwiSaver funds are investing into private assets?</p>
	<p>N/A</p>
<p>Valuation requirements – questions for KiwiSaver providers or other industry</p>	
20	<p>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:</p> <ol style="list-style-type: none"> the extent to which your governing documents require amendments to allow for the inclusion and pricings of private assets within your funds. 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.
	<p>N/A</p>
21	<p>Please provide any other comments on the valuation methodologies in governing documents.</p>

	This challenge is broader than only governing documents. Policy and framework clarity is needed so that managers and supervisors have a framework for demonstrating how they are acting in the best interests of investors in relation to valuation methodologies. Guidance that promotes consistency across the market would be welcomed.
22	Do you agree that this is an issue that needs addressing? CTA agrees that the issue requires consideration. Supervisors would welcome being involved in the development of an appropriate policy framework.
23	Do you have views on how it should be addressed? As noted in our response to Q21, CTA suggests that a regulatory framework be developed.
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? There would be initial costs, but CTA does not anticipate that these would be unreasonable.
25	Please provide any further comments on this issue of valuation requirements. N/A
Total Expense Ratio—questions for KiwiSaver providers or other industry	
26	Do you currently outsource fund management for private assets? N/A
27	Do you see any issues with the current TER calculation and if so, what are they? CTA suggests, given the extensive progress made by the FMA and industry on value for money, that this issue should not be considered at this time. While there may be merit in the argument for excluding third-party fees, managers already have the ability to explain what their TER contains.
28	Does the current TER calculation impact your decision to invest in private assets, or to utilise third-party fund management? N/A
29	Are there any other issues you would like to draw attention to on the TER? No
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? N/A
	What do you think should be included in any figure that is called “KiwiSaver scheme fees”?

31	N/A
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.
	N/A
Final comments—question for KiwiSaver providers or other industry	
	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).
33	The principle of “buyer beware” has historically been accepted for wholesale funds, but not for retail funds. To be consistent, it is important that there is sufficient regulatory guidance to ensure that the potential extent of private asset investments in KiwiSaver funds isn’t simply relying on a “buyer beware” disclosure as the primary control.
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.
	No further information