



Discussion Paper: Enabling KiwiSaver investment in private assets

1. Introduction

- 1.1 Milford Funds Limited (**Milford**) is the manager of the Milford KiwiSaver Plan. We welcome the opportunity to submit on the MBIE's proposals in relation to enabling KiwiSaver investment in private assets. We would be pleased to discuss any aspect of this submission further with MBIE.
- 1.2 Milford has operated its KiwiSaver Plan since 2010. As at 31 December 2024, the Plan's funds under management (FUM) stood at approximately \$10b. Included in that \$10b are multiple direct investments in private assets totalling some \$32m (being c.0.32% of the Plan's FUM). Milford's range of retail Investment Funds (unit trusts) also participate in private asset investment and the Milford Group operates two wholesale private equity limited partnerships (totalling approximately \$300m).

2. Milford's approach to private asset investment

- 2.1 Milford is supportive of investing in private businesses and has been doing so continuously and directly with its KiwiSaver Plan for over 10 years.
- 2.2 The absence of liquidity management tools such as side-pocketing and redemption gates from our Plan's Trust Deed has not to date impeded our ability to invest in private assets.
- 2.3 All Milford KiwiSaver Plan private asset investments are managed "in-house". We do not invest in externally managed private equity funds.
- 2.4 Milford's private asset investments are managed by a dedicated 5-person team of specialists located within our broader Investment Team.

3. Introductory comments

- 3.1 We consider that confidence and trust in the overall KiwiSaver scheme must be maintained and needs to be a guiding principle in consideration of any reforms.
- 3.2 Allowing LMTs such as side-pocketing and redemption gates has, we believe, the potential to undermine confidence and increase complexity in KiwiSaver as a whole.
- 3.3 In our view, the government's role is not to be directing KiwiSaver funds to invest in specific assets. There is a fiduciary duty on KiwiSaver providers to be managing their funds in the best interest of investors. This may (or may not) include investment in private assets (whether in New Zealand or internationally). While we encourage

promoting greater investment in NZ private assets, any goal to promote the overall interests of New Zealand should not be blurred with the duty on KiwiSaver providers to act in the best interests of investors.

- 3.4 We would argue that the KiwiSaver market is now at a scale where this issue is beginning to solve itself. As the overall size of KiwiSaver is increasing through ongoing contributions and investment returns, there will be more capital to invest in private assets and we expect over time the New Zealand market will more closely replicate the level of private asset exposure seen in overseas retirement savings schemes. Focusing on growing member contribution rates would also be beneficial, allowing a larger pool of assets to naturally find its way into alternative investments such as private markets. For larger schemes, scale is already enabling greater investment in private assets, with management of the inherent liquidity issues being able to be achieved without the necessity to resort to LMTs such as side pocketing and redemption gates.
- 3.5 Although the KiwiSaver retirement savings scheme is now reasonably well established in New Zealand, from an international perspective, our model would likely be considered as still immature and lacking diversification. We have yet to develop in New Zealand a deep understanding of the evolution of account balances and redemption patterns over time. Given this backdrop of comparative immaturity, the risks of investing in private assets are heightened further, and appropriate safeguards are needed including options such as limiting or capping KiwiSaver investment in private assets. These caps could encompass maximum overall limits on private asset investment per scheme, limits on sector exposures and caps on individual asset exposure (particularly where the investment concerned is a related party investment). Full disclosure to investors of the extent of the private investment exposure and the associated risks is paramount.
- 3.6 There are alternative options for increasing KiwiSaver investment in private assets, such as introducing funds available to investors who meet certain income thresholds or similar tests (e.g wholesale investor criteria). Allowing these types of investors to access dedicated private asset funds would follow approaches in established international jurisdictions, while providing appropriate safeguards.
- 3.7 While there are certainly benefits in encouraging greater investment in private assets, caution should be exercised before adopting liquidity practices associated with more mature overseas markets, given the skill-set required in managing these assets and the issues that can arise around practices such as valuations and having a clear appreciation of the acceptability of returns received when measured against the level of risk undertaken.

4. **Concluding comments**

- 4.1 Milford has appreciated this opportunity to submit on MBIE's discussion document. Getting the right outcomes is, we consider, vital to avoiding unintended consequences and maintaining confidence in KiwiSaver, to the benefit of all New Zealanders and the economy generally.

- 4.2 We would be pleased to discuss any aspect of this submission further with MBIE. Our contact details are as noted in the Submission Template **attached**.

Milford Funds Limited

February 2025

Submission on discussion document: Enabling private asset investment by KiwiSaver schemes

Your name and organisation

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Date	14 February 2025
Organisation (if applicable)	Milford Funds Limited
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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. Milford is supportive of investing in private businesses and first invested in private assets in its KiwiSaver Plan in 2010. We have continued to actively invest in this asset class since that time. We believe investment in private assets has a worthwhile place in KiwiSaver to diversify investment and sources of returns for KiwiSaver members. Milford's current practice around investing in private assets encompasses the following. ▪ Milford invests directly in shares and debt issued by private companies including through a dedicated Milford Private Equity vehicle. We do not invest through externally managed private equity funds. ▪ Milford has a dedicated 5-person private equity team, with specialist private asset investing experience, who manage these assets as part of Milford's broader in-house investment team. ▪ Our KiwiSaver Funds currently invest in equity and debt securities issued by unlisted Australasian companies. ▪ Our exposure to these assets across the Milford KiwiSaver Plan Funds currently amounts to approximately \$32m (being approximately 0.32% of the scheme's funds under management). In terms of managing liquidity risk, Milford's practice is to value all private assets at least monthly with valuations confirmed by the Milford Pricing Committee and with applicable valuation models reviewed annually by external audit. Given the scale of Milford's KiwiSaver Funds, management of the liquidity risk inherent in holding a small proportion of a Fund's assets in private equity is more easily achievable. Milford regularly considers the liquidity risks posed by private asset investment as part of its overall consideration of liquidity risk associated with investment of the Funds' assets generally.
	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)?

	We think the current legislative framework for KiwiSaver already enables the use of adequate liquidity management tools, without compromising existing transfer and withdrawal protocols. We do not think the introduction of side-pocketing and/or redemption gates is warranted for KiwiSaver and indeed introduces unnecessary risk which may erode the integrity of the KiwiSaver model. For Milford, we have been able to achieve desired levels of exposure to private assets in our KiwiSaver Plan while ensuring we can meet reasonably anticipated member transfer or withdrawal requirements within the current legislative framework and without the necessity to resort to liquidity risk management tools such as side pockets and redemption gates. The absence of those tools within our Funds has not acted as a deterrent to the Milford KiwiSaver Plan's private asset investment. We would caution, that the availability of tools such as redemption gates and side pockets should not be seen as a panacea for the liquidity risks inherent in holding private assets within a KiwiSaver Fund (we expand on our concerns in this regard later in this submission). An alternative approach could be to limit the ability to take advantage of longer transfer periods to funds that have been specifically constructed to house a higher proportion of private assets and where the inherent liquidity risks have been fully disclosed to potential investors at the outset. Such funds could embody less frequent pricing as well as LMTs, which if appropriate could include side pockets and redemption gates.
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. We are not supportive of the use of side pockets and redemption gates generally. The 10-day transfer and/or withdrawal period is central to supporting the overarching principle of member freedom to choose where to invest their KiwiSaver and LMTs such as these have the potential to water down this principle. The absence of these tools in the Milford KiwiSaver funds has not in any way impacted our ability to increase investment in private assets.
4	Please provide any other comments on the availability of liquidity management tools. No comment to make.
5	Do you support the proposed approach? Why/why not?

	We support retaining the current main KiwiSaver settings (being the 10-working day transfer and withdrawal timeframe). We do however accept that in very extreme circumstances, in order to ensure the integrity of the KiwiSaver system, it may be necessary to override the scheme transfer and withdrawal requirements. In these rare circumstances, we consider an override can be accomplished by using existing LMTs other than side pocketing and redemption gates. It follows that we do not support an additional ability to override the scheme transfer and withdrawal requirements purely to enable the use of side pockets and redemption gates. We think that the use of tools such as side pockets and redemption gates have the potential to undermine confidence in KiwiSaver as a whole: ▪ The KiwiSaver framework design is relatively uncomplicated, which is an advantage it has over other international retirement savings frameworks. ▪ Permitting LMTs such as side pockets and redemption gates may lead to investors effectively having exposure to more than one KiwiSaver scheme and provider. This complexity would amount to an unintended and unwanted consequence from trying to foster greater investment in private assets. ▪ The addition of these LMTs may not of themselves guarantee that the objective of greater private asset investment will be achieved.
6	If redemption gates were allowed, would you consider developing new products more focussed on private assets? No, we would expect that any decision to proceed with this type of single-asset class fund would not be predicated simply on the availability or otherwise of redemption gates.
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? Yes, if a decision were to be made to amend our KiwiSaver Plan trust deed to accommodate these liquidity tools then costs (mainly legal) would necessarily be involved. We expect such costs would be one-off. In addition, there would likely also be costs flowing from client notification requirements. Costs involved in these types of actions are difficult to quantify as we might also need to consider the issue of whether or not to provide members with the ability to opt-out of Plan membership if they do not agree with the changes to the offering.
8	Do you have any comments on the detailed design considerations noted above? No.
9	Please provide any further comments on this issue of liquidity management tools.

While we welcome the initiative to encourage greater investment in private assets (where appropriate and in the interests of KiwiSaver members), we question the effectiveness of relying on LMTs as a significant means to achieve this goal.

We think that the use of tools such as side pockets and redemption gates have the potential to undermine confidence and trust in KiwiSaver as a whole and we consider there to be a number of drawbacks inherent with these types of LMTs:

- The KiwiSaver framework design is relatively uncomplicated, which is an advantage it has over other international retirement savings frameworks.
- Members will have an interest in more than one KiwiSaver account for an indeterminate period of time. This adds further complexity and potentially diminishes KiwiSaver's unique advantage of being a relatively simple product offering.
- The availability of side-pocketing as a means of dealing with 'problematic' private assets may encourage a less than disciplined approach by Managers in selecting investments or may provide an avenue to deal with an unwanted or underperforming asset to the disadvantage of the scheme.
- The performance and liquidity of the main fund may be artificially improved by sequestering of 'problem' private assets, particularly when moved to a side-pocket. The rationale and timing for moving any assets would need to be clear and transparent. Complex valuation issues may arise that could have implications for determining accurate fund performance. These issues amount to a moral hazard for members.
- It is axiomatic with private equity investment that a proportion of investments made will fail and/or become very difficult to realise (in normal market conditions let alone specific disruptive conditions such as a GFC). Side pocketing such assets will not change that reality. Members who have an interest in side-pocketed assets may have an unrealistic expectation as to the prospects of recovery.
- The addition of these LMTs may not of themselves guarantee that the objective of greater private asset investment will be achieved.

Private asset categories – questions for KiwiSaver providers or other industry

	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.
13	We believe the categorisation of private assets for the purposes of the Regulations could be improved to enhance transparency; however, we consider it to be overstating the significance of Fund Updates in investor decision-making to contend that the present settings are somehow hindering KiwiSaver private asset investment.
14	How do think the categories should be described?

	Milford already discloses the extent of fund holdings in NZ private assets in its Quarterly Fund Updates. We do not, however, currently extend this disclosure to separately report on the extent of private asset investment in other jurisdictions, nor do we separately disclose investment in private debt as a distinct asset class. We agree that there would be benefits from a disclosure perspective in the Regulations being updated to better capture levels of investment in these discrete asset classes.
	Please provide any other comments on the lack of private asset categories.
15	Milford would be a proponent of requiring disclosure of holdings in both private assets and private debt as separate and distinct asset classes given that such disclosure would provide an indication of the illiquidity of those assets. This is particularly the case, as there is currently no requirement to elaborate on the liquidity figure in any other form of external disclosure. It would also be important to separately call out the level of investment in private equities versus private debt to ensure clarity in the extent of a fund's total growth versus income assets.
	Which option do you think is best and why?
16	We consider that either option 2 or option 4 would ensure a reasonable level of disclosure of private asset investment is continuously available. As the consultation document notes, option 2 would have the advantage of being broadly comparable with the approach taken in Australia.
	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?
17	We do not consider we would face any significant implementation costs from implementation of this change.
	Please provide any further comments on this issue of including private assets in asset categories.
	To provide greater clarity, we suggest the regulations should define specifically what is meant by 'unlisted fixed interest securities'.
18	We note the suggestion in paragraph 55 of the paper that: "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." Given the comparatively small proportion of a scheme's total assets likely to be represented by investment in private assets, we would be surprised if many KiwiSaver managers would be relying on the higher management costs involved in such investment as being a significant factor in substantiating the "reasonableness" of a particular scheme's overall fees.
Valuation requirements – questions for KiwiSaver providers or other industry	

	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: - 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.
20	No, the Milford KiwiSaver Plan Trust Deed, which was updated in 2021, provides sufficient flexibility to accommodate the valuation of private assets. As noted earlier in this submission (and as permitted by the Plan's Trust Deed), Milford's practice is to value all private assets at least monthly with valuations confirmed by the Milford Pricing Committee. Valuations may be adjusted intra month if there has been a material change in an asset's value and the applicable valuation models are reviewed annually by external audit.
	Please provide any other comments on the valuation methodologies in governing documents.
21	We have not encountered difficulties of the type described in paragraphs 64 to 67 of the consultation paper.
	Do you agree that this is an issue that needs addressing?
22	While this is not seen as a problematic issue for Milford, we would not have an issue with an amendment being made to the FMC Act provisions on governing documents to allow supervisors to agree to trust deed changes to permit long-term valuation methodologies.
	Do you have views on how it should be addressed?
23	An amendment to the FMC Act as outlined in the consultation paper would appear to be an appropriate way of dealing with any perceived issue.
	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?
24	We do not think any changes will be required to the Milford KiwiSaver Plan Trust Deed as a result of the proposed amendment to the FMC Act.
	Please provide any further comments on this issue of valuation requirements.
25	The robustness of valuing assets will need to be more enhanced as the percentage of private assets in a fund increases. There is an inherent and elevated risk regarding valuation in these circumstances requiring judgement and skill, particularly where data may often not be available for daily pricing. Where the investments are only a small percentage of a fund this issue is more readily manageable.
Total Expense Ratio—questions for KiwiSaver providers or other industry	
26	Do you currently outsource fund management for private assets?

	No.
27	Do you see any issues with the current TER calculation and if so, what are they? We are content with the current TER calculation.
28	Does the current TER calculation impact your decision to invest in private assets, or to utilise third-party fund management? The current TER calculation has not impacted Milford's decision to invest in private assets. We do not utilise third-party fund management for these types of assets.
29	Are there any other issues you would like to draw attention to on the TER? We are supportive of the "counter view" as described in paragraph 89 of the consultation paper and, in particular, consider that third-party manager fees should be included in the TER calculation. We accordingly "do not support changes to the TER because it would reduce transparency and potentially value for money for investors."
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). We see barriers to KiwiSaver investment in private assets as arising more from the current scarcity of suitable investment propositions rather than barriers emanating from restrictions in governing documents or present disclosure requirements. Of the issues identified in paragraph 18b-f, we consider the most salient point to be that described in paragraph 18e. The market for private asset investment in New Zealand is currently relatively constrained however, the emergence of more opportunities to invest in areas such as infrastructure could, we believe, lead to higher KiwiSaver participation in this asset class irrespective of any changes to the current regulatory environment and KiwiSaver scheme legal settings.

Other comments