



## COVERSHEET

<b>Minister</b>	Kris Faafoi	<b>Portfolio</b>	Commerce and Consumer Affairs
<b>Title of Cabinet paper</b>	Financial Markets Conduct Amendment Regulations 2019	<b>Date of release</b>	21/5/2019

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
7/05/2019	<i>Financial Markets Conduct Amendment Regulations</i>	<i>Office of the Minister of Commerce and Consumer Affairs</i>

### Information redacted

**NO**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982.

In Confidence

Office of the Minister of Commerce and Consumer Affairs  
Chair, Cabinet Legislation Committee

## Financial Markets Conduct Amendment Regulations 2019

### Proposal

- 1 This paper seeks approval for the submission of the *Financial Markets Conduct Amendment Regulations 2019* to the Executive Council, to require KiwiSaver annual statements to include retirement projections and associated information.

### Policy

- 2 KiwiSaver providers are required to send each KiwiSaver member an annual statement with personalised information about their investment including their balance and contributions over the year and the fees they have been charged in dollar terms. Statements are a convenient way to give investors relevant information to enable them to make informed choices about their KiwiSaver account and retirement savings.
- 3 Cabinet agreed to make changes to annual statements in 2016 to require the inclusion of total annual fees in dollar values, the total amount that the investor's account changed by and summary transaction figures. The final decision on whether to require projections in annual statements was delegated from Cabinet to the Minister of Commerce and Consumer Affairs [EGI-16-MIN-0339 refers].
- 4 In June 2018, I announced that changes will be made to require annual statements to include projected retirement savings and income figures to ensure investors have meaningful information to help them make decisions that lead to the best possible retirement outcomes.
- 5 The *Financial Markets Conduct Amendment Regulations 2019* give effect to my decision under the authority delegated by Cabinet. These regulations will require the inclusion of projected retirement savings in annual statements. These changes will help investors make positive retirement savings decisions by enabling them to 'project forward' and understand the relationship between current contributions and a retirement income. The information should help to prompt KiwiSaver investors to consider their KiwiSaver settings and make changes if required.
- 6 The development of the details of these regulations was informed by consultation with KiwiSaver providers, actuarial advice from Melville Jessup Weaver, and behavioural research by Colmar Brunton.
- 7 The regulations specify consistent assumptions and methodology to be followed by all KiwiSaver providers in calculating the retirement savings projections for each investor, and the substantive way (including prescribed statements) in which the projections will need to be presented. Examples of what these may look like are included as **Appendix 1**.

- 8 Consistency across providers will ensure that there are minimal variations in projections or information in annual statements across the KiwiSaver industry, beyond those due to differences in personal circumstances for individual investors. This will ensure that all investors receive the same benefits from the provision of retirement savings projections. There has also been media interest in some KiwiSaver providers overinflating projections they provide to investors. The assumptions used by these providers tended to have, for instance, unrealistic rates of return without accounting for tax. This kind of overstatement of retirement savings and income projections will be avoided in annual statements by mandating consistent assumptions across the industry.
- 9 The technical details (such as prescribed rate of return, rate of inflation, etc) will be periodically reviewed to ensure that they reflect market conditions. The Minister of Commerce and Consumer Affairs may bring amendments to these regulations in relation to those technical details to the Cabinet Legislation Committee in future years.

#### **Timing and 28-day rule**

- 10 These regulations will come into force 28 days after notification in the Gazette.
- 11 It is necessary to allow KiwiSaver providers time to adjust their systems to produce projections in accordance with the assumptions and requirements in the regulations. The regulations will therefore first apply to the annual statements for the accounting period from 1 April 2019 to 31 March 2020, which will be sent out in May/June 2020.

#### **Compliance**

- 12 The regulations comply with each of the following:
- a. the principles of the Treaty of Waitangi;
  - b. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - c. the principles and guidelines set out in the Privacy Act 1993;
  - d. relevant international standards and obligations; and
  - e. the *Legislation Guidelines* (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

#### ***Statutory prerequisites for regulations under the Financial Markets Conduct Act 2013 (FMC)***

- 13 Section 543 of the FMC allows the Governor-General, by Order in Council, on the recommendation of the Minister, to make regulations for the purposes of product disclosure statements, register entries, and other matters relating to disclosure. Section 549 requires the Minister to consult the Financial Markets Authority (FMA) prior to making a recommendation. This requirement has been met.

#### **Regulations Review Committee**

- 14 I do not consider there to be any grounds for the Regulations Review Committee to draw these regulations to the attention of the House of Representatives under Standing Order 319.

### **Certification by Parliamentary Counsel**

- 15 The draft regulations have been certified by PCO as being in order for submission to Cabinet.

### **Impact analysis**

- 16 A Regulatory Impact Assessment was prepared in accordance with the necessary requirements, and was submitted when Cabinet approval was sought for the policy relating to the regulations [EGI-16-MIN-0339 refers].

### **Publicity**

- 17 I have previously announced in June 2018 that this work is being progressed. MBIE has consulted with KiwiSaver providers both prior to the announcement and throughout the development of the regulations.

- 18 I intend to publish a press release once these regulations have been finalised.

### **Proactive release**

- 19 This paper, along with the Cabinet minutes and supporting documentation, is proposed to be proactively released on the Ministry of Business, Innovation and Employment's website within 30 working days of the final decision being made by Cabinet. The release of the information is subject to redactions consistent with the Official Information Act 1982.

### **Consultation**

- 20 The Department of the Prime Minister and Cabinet, the Treasury and the Ministry of Justice were consulted on this paper.

- 21 The FMA as the responsible regulator was consulted on the draft regulations. The Commission for Financial Capability was also consulted.

- 22 KiwiSaver providers were consulted at various stages including on the draft regulations. Providers were generally supportive of the proposed changes, although some have expressed concerns about having to use consistent assumptions rather than assumptions they have generated themselves. One provider in particular had strong reservations about changing their systems and assumptions since they had started providing retirement projections in advance of these changes. However, as set out in paragraph 8, it is important to ensure that consistent information is provided to investors across the KiwiSaver industry. Concerns have also been raised that the assumed rates of return are too conservative. However, using conservative assumptions is appropriate so as not to overstate projections, and to encourage investors to save.

## Recommendations

The Minister of Commerce and Consumer Affairs recommends that the Committee:

- 1 **note** that on 7 December 2016 the Cabinet Economic Growth and Infrastructure Committee [EGI-16-MIN-0339] authorised the Minister of Commerce and Consumer Affairs to decide whether KiwiSaver annual statements should be required to include information on retirement savings projections, after considering further advice and evidence;
- 2 **note** that after considering advice and consultation, the Minister of Commerce and Consumer Affairs decided to include retirement savings projections in annual statements under the authority delegated by Cabinet;
- 3 **note** that the Financial Markets Conduct Amendment Regulations 2019 will require the inclusion of retirement savings projections in annual statements in accordance with the decisions made by the Minister of Commerce and Consumer Affairs under authority delegated by Cabinet as referred to above;
- 4 **authorise** the submission to Executive Council of the Financial Markets Conduct Amendment Regulations 2019;
- 5 **note** that the Financial Markets Conduct Amendment Regulations 2019 will come into force 28 days after their notification in the *Gazette*;
- 6 **note** that section 549 of the Financial Markets Conduct Act 2013 requires the Minister of Commerce and Consumer Affairs to consult the Financial Markets Authority before recommending regulations be made under section 543 of that Act;
- 7 **note** the advice of the Minister of Commerce and Consumer Affairs that the condition in recommendation 6 has been met;
- 8 **note** that the Minister of Commerce and Consumer Affairs may, subject to Cabinet Legislation Committee approval, recommend amendments to the technical details (such as the assumed rates of return) specified in the Financial Markets Conduct Amendment Regulations 2019, in future years to reflect market conditions.

Authorised for lodgement

Hon Kris Faafoi

**Minister of Commerce and Consumer Affairs**

## Appendix 1: Examples of possible presentation in KiwiSaver annual statements

### What you're on track to receive at retirement

**\$390,000** as a lump sum

which would be about

**\$300** per week for 25 years

These figures only relate to KiwiSaver and do not take into account any other retirement savings or income you may have or be entitled to.

These figures are estimates only. They are calculated based on your current balance, contribution rate, fund choice and an assumed rate of investment return of 4.5%.

The calculation uses a number of assumptions, including some about future events such as what investment returns and inflation are likely to be.

The assumptions are set by the government and are important because they affect the result of the calculation. Find out more on the Financial Markets Authority website at [URL].

## Will your retirement savings be enough?

A number of choices affect the size of your retirement savings. These include:

- your choice of fund
- your contribution rate
- how long you contribute for

These are things you can change, so you may wish to consider if your current choices are right for you and your stage of life.

For help to work out what is right for you, contact us on or 0800 123 456, visit [www.sorted.org.nz](http://www.sorted.org.nz), or seek advice from a financial adviser.

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