

KIWISAVER REGULATORY FRAMEWORK

REGULATORY MEMO · Q3 2017

ABOUT KIWISAVER SCHEMES

Launched in 2007, KiwiSaver is a voluntary, work-based savings initiative to help New Zealanders with their long-term saving for retirement. It complements government superannuation. To date, over 2.7 million New Zealanders have invested approximately USD 29 billion into KiwiSaver (sources: Inland Revenue monthly KiwiSaver membership and Reserve Bank of New Zealand quarterly KiwiSaver assets, as at 31 March 2017).

KiwiSaver schemes are registered as managed investment schemes under the Financial Markets Conduct Act 2013, and are established in the form of unit trusts.

REGULATORY FRAMEWORK

Regulation

The Financial Markets Authority (FMA) is responsible for registering and regulating KiwiSaver schemes, and oversees licensed managers and supervisors. The main aspects of the regulatory framework are in place.

- **The KiwiSaver Act 2006** (http://bit.ly/NZ_KSA) sets out the major rules around how KiwiSaver schemes operate
- **The Financial Markets Conduct Act 2013** (http://bit.ly/NZ_FMCA) introduced a unified regime of governance and reporting for financial products
 - KiwiSaver schemes must be registered with the FMA
 - A governance framework now applies, including prescriptive duties for managers, supervisors and custodians
 - A licensing regime now applies for some participants including managers. Managers are responsible for issuing KiwiSaver schemes, managing their assets and administering them. They may outsource aspects such as unit pricing and fund accounting to service providers. Supervisors (a role equivalent to a trustee) are also licensed, they hold scheme assets and may appoint custodians, who may in turn appoint sub-custodians
 - New product disclosure requirements apply, with a mandatory single Product Disclosure Statement, Key Information Statement (overview of the offer) and quarterly fund updates (with performance data and risk indicators). Fund documents are posted on the Disclose public website

Tax

New Zealand has a “flow through” tax regime for investment schemes, which was designed to remove tax disadvantages for low to medium income earners’ saving through managed funds (previously taxed at 33%), making KiwiSaver an attractive savings scheme.

KiwiSaver schemes are usually Portfolio Investment Entities (PIEs). The unit price of a PIE excludes tax. Instead, the PIE calculates and allocates taxable income and tax credits out to each individual investor, based on the investor’s specific tax rate. The PIE is liable for the PIE tax but recovers this from the investors by way of redeeming or issuing units to pay tax/ receive a refund. These tax positions are reported to the Inland Revenue on behalf of investors.

INDUSTRY IMPLICATIONS

There is some peripheral change on the horizon. The Financial Advisers Act 2008 (FAA), which governs industry participants who advise on KiwiSaver, is being replaced. This will have an impact on KiwiSaver distribution.

The **new law** (likely to be live in 2019) will be technology-neutral, meaning it will not distinguish between humans advising people on financial decisions and technology doing so. This is intended to facilitate robo-advice. We expect that the law changes may encourage banks and other providers to invest in developing online software and technology to provide easy-to-use, low-touch access to advice on KiwiSaver investments. However it seems unlikely that robo-advice would completely replace human intervention.

As an **interim measure** before the FAA is replaced, the FMA has proposed an exemption to enable entities to provide personalised financial advice through a digital channel, provided they comply with certain conditions. The FMA has also released new regulatory guidance on KiwiSaver sales practices, clarifying that, in many circumstances, advice can be given without the need to take into account a person’s specific financial situation or goal. It also outlined that incentives offered by providers relating to KiwiSaver investments are permitted, as long as they do not distract the customer from making a good decision about KiwiSaver.

BNP PARIBAS SECURITIES SERVICES’ VIEW

- ▶ The general direction of regulatory change is to encourage more New Zealanders to consider investing in KiwiSaver and increase transparency for investors. Our view is that KiwiSaver will continue to be the **mainstay** of the NZ retail funds environment, and that there will be increasing levels of public interest in KiwiSaver investment as account balances grow
- ▶ There is likely to be continuing public interest in how managers of KiwiSaver schemes take into account **ethical, social and governance factors**. 38% percent of KiwiSaver schemes include an ethical option (source: sorted survey 2016), but we expect this number to grow (especially strategies that are managed locally). Many local fund managers have aligned with the approach that New Zealand’s sovereign wealth fund takes to screening undesirable investments. However we expect that going forward managers will be looking for useful third party technology, or building proprietary systems, to develop their own ethical investment strategies for KiwiSaver money. The government may consider incorporating ethical investment criteria into KiwiSaver regulations, or manager licences

For additional information, please contact your local relationship manager or email: securitieservices@bnpparibas.com

KEY DATES

- **2007**
KiwiSaver framework introduced
Tax transparent PIE regime introduced
- **DECEMBER 2014**
New FMCA regime for KiwiSaver schemes (and other managed investment schemes) introduced
- **DECEMBER 2016**
New FMCA regime fully implemented
- **2019**
New Financial Advisers legislation will be introduced simplifying the regulatory framework for financial advice and encouraging New Zealanders to seek advice on KiwiSaver



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world

IN A CHANGING WORLD

We believe that changing regulations are a critical business issue for our clients and are shaping their priorities today. There is a huge cost in meeting new regulations, but perhaps a bigger one in getting it wrong. The pace of regulatory change calls for agility. Business models will need to be adapted and our insights help you address these issues.

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Recent updates include key regulations such as EMIR on obligations for cash equities and fixed income clearing, the China Interbank Bond Market and MIFID II, the EU directive for markets in financial instruments.

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