

# Impact Summary: Business Transformation related KiwiSaver refinements

## Section 1: General information

### Purpose

*Inland Revenue* is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with policy changes to be taken by or on behalf of Cabinet.

### Key Limitations or Constraints on Analysis

#### Timing

To maximise the administrative efficiencies of the proposals, changes need to align with Inland Revenue's Business Transformation timelines for transferring KiwiSaver into its new administrative system. KiwiSaver is scheduled to be transferred into START on 1 April 2020.

To ensure that policy decisions are taken, and legislation passed in this timeframe, this has created a constraint on the time available to analyse options. Despite this, officials are confident that the proposed approach would be the most effective option to address the problem definition.

#### Consultation and testing

Inland Revenue has undertaken targeted consultation with KiwiSaver scheme providers. However, as a result of time constraints, wider public consultation has not been carried out. Due to the largely technical administrative nature of the changes proposed, they are unlikely to have generated public interest. Moreover, taken as a whole, the package of options proposed would be beneficial to KiwiSaver members.

There would be some compliance costs for employers, although these are expected to be small (they would be required to communicate information that they already hold to Inland Revenue, on a one-off or infrequent basis). While not consulted on directly, the RIA has been informed by employer feedback generated as part of public consultation undertaken on similar requirements that were introduced as part of the wider Business Transformation work programme.

#### Assumptions underpinning impact analysis

In relation the proposal to guarantee employer contributions, additional funding is not expected to be required. The primary caveat to this is that it assumes static behaviour. If the introduction of the proposal created a behavioural change amongst employers (that is it results in more unpaid employer contributions), this would increase the fiscal cost of the proposed approach. However, given that levels of employer contribution debt are currently comparable to levels of employee contribution debt (which are already guaranteed), this suggests that the proposal should not have a significant impact on employer's behaviour.

**Responsible Manager (signature and date):**

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## Section 2: Problem definition and objectives

### 2.1 What is the policy problem or opportunity?

As part of Inland Revenue's Business Transformation programme, the administration of KiwiSaver is scheduled to be transferred from its current system to its new administration system on 1 April 2020. This provides an opportunity to make refinements to KiwiSaver settings to improve administrative efficiency and enhance members' experience with the scheme. The following are areas that would assist in achieving these outcomes:

- facilitating the faster transfer of contributions from Inland Revenue to KiwiSaver scheme providers (and between scheme providers); and
- improving information flows between members, employers, scheme providers and Inland Revenue.

#### **Transfer of contributions**

Part of Inland Revenue's role as the central administrator for KiwiSaver, involves receiving KiwiSaver employer and employee contributions from employers and then forwarding these contributions on to KiwiSaver scheme providers. A reduction in the time taken to transfer contributions would improve the efficiency of the central administration of KiwiSaver.

Payday filing reforms, which become compulsory from 1 April 2019, will result in Inland Revenue having employer information sooner after a payday (within 2 days of a payday for large employers and with 10 days for smaller employers). This will include information about KiwiSaver employee and employer contributions. The reforms will allow KiwiSaver employee contributions to be passed to scheme providers sooner after a member's payday. This is because current KiwiSaver settings permit the use of Crown funds to pay employee contributions to scheme providers before contribution amounts have been paid to Inland Revenue by employers (effectively creating a Government guarantee of employee contributions). This Government guarantee does not currently extend to employer contributions.

To ensure that the benefits of Inland Revenue being in receipt of earlier payday information are fully realised in relation to KiwiSaver, this RIA considers how to enable Inland Revenue to forward employer contribution amounts to scheme providers as soon as payday reporting information from employers has been received, rather than having to wait until the employer has actually paid the amount of the contribution to Inland Revenue (the current state).

This RIA also considers other refinements that would facilitate the faster transfer of contributions.

#### **Improving information flows**

Inland Revenue is in the unique position of having on-going contact with KiwiSaver scheme providers and employers. This means Inland Revenue is able to facilitate the flow of information between relevant KiwiSaver parties (employers, providers and members) and also should have access to information to ensure that members are receiving the correct KiwiSaver contribution entitlements.

Currently, in some instances, Inland Revenue does not have access to sufficient information to effectively police the accuracy of contribution amounts received from employers. For example, Inland Revenue does not receive information from employers about the employer superannuation contribution (ESCT) rates they are taxing employees at (ESCT is the tax payable on employer contribution amounts). However, based on ESCT amounts paid to Inland Revenue, potentially up to 63% of employers could be incorrectly calculating their employees' ESCT rate.<sup>1</sup>

This RIA considers refinements that could be made to improve existing KiwiSaver information flows, to help ensure that KiwiSaver members are receiving their correct contribution entitlements. Consideration is also given to how information flows could be utilised to give members increased flexibility (for example whether the application process for changing an employee contribution rate could be simplified for members).

## 2.2 Who is affected and how?

### **KiwiSaver members**

Taken as a whole, KiwiSaver members would benefit from the package of proposals – the changes would result in them earning market investment returns on contributions sooner, help ensure they are receiving the correct contribution amounts and give them additional flexibility in respect of how they can change their contribution rate.

### **KiwiSaver scheme providers**

KiwiSaver scheme providers would benefit from the faster transfer of contributions, as it would result in them having more funds under management. Schemes have also indicated enabling KiwiSaver contribution rates to be changed through providers, would enhance member-provider relationships.

### **Employers**

Helping to ensure members are receiving correct contribution amounts, would result in employers being required to communicate some additional information they should already hold to Inland Revenue. Employers would not be directly affected by any other proposals.

### **Inland Revenue**

The proposals would enhance Inland Revenue's central administration of KiwiSaver and create administrative savings. As implementation of the proposals would be aligned with Business Transformation, there would be no additional implementation costs.

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<sup>1</sup> Figure based on analysis of early adopters of payday filing reforms for the month of June 2018.

**2.3 Are there any constraints on the scope for decision making?**

There are no constraints on the scope for decision making.

## Section 3: Options identification

### 3.1 What options have been considered?

The following criteria were used to assess the options considered:

- *Compliance*: compliance costs should be minimised as far as possible.
- *Administration*: administrative costs should be minimised as far as possible.
- *Equity*: the option should ensure that KiwiSaver members are receiving the correct contribution amounts.
- *Sustainability*: the option should be consistent with wider KiwiSaver settings.

#### Option One: Status quo

*Administration*: The status quo would not reduce administrative costs.

*Compliance*: The status quo would not reduce compliance costs.

*Equity*: The status quo results in some KiwiSaver members not receiving employer contributions that other members are receiving (as a result of employers not paying the correct contribution amounts or not paying employer contribution amounts at all).

*Sustainability*: As far as practical, the KiwiSaver regime settings are intended to facilitate administrative efficiency. The problem definition identifies that there are some aspects of the regime that would be more efficient if subject to further refinements.

#### Option Two: build on payday filing reforms

This option would build on the improved information available through payday filing reforms to facilitate the faster transfer of employer contributions to scheme providers and to improve the accuracy of contribution entitlements passed to scheme providers. Specifically, it would involve passing employer contribution amounts to scheme providers based on payday information received by employers, before Inland Revenue had received the contribution amount (essentially a Government guarantee, that would align with the existing treatment of employee contributions). Based on the improved information received through payday filing, this option would also align the commencement of interest paid while contributions are held by Inland Revenue with a member's payday.<sup>2</sup>

*Administration*: This option would increase administrative efficiency, as employer contributions could be passed to scheme providers sooner. However, as it does not include other administrative enhancements to KiwiSaver, savings may not be maximised.

*Compliance*: This option should make it easier for members to reconcile the amounts in their KiwiSaver accounts with the KiwiSaver contributions recorded on their payslips (as employer contributions would be passed in full to KiwiSaver providers sooner after the member payday). Consequently, this should also reduce the level of contacts from members to scheme providers.

*Equity*: This option would ensure that all KiwiSaver members receive the employer

<sup>2</sup> Currently, interest on employee contributions commences on the 15<sup>th</sup> of the month the amount was deducted from the member's salary or wages and interest on employer contributions commences on the 1<sup>st</sup> of the month the contribution amount was paid to Inland Revenue.

contributions amounts they are entitled to. It would also improve the accuracy of interest paid on contributions by Inland Revenue (the current rules result in under and over payment of interest on employee contributions and under payment of interest on employer contributions). However, this option would not address situations where a member's employer is incorrectly calculating contributions amounts.

*Sustainability:* This option would ensure that the benefit of information obtained via payday filing reforms were fully utilised in the KiwiSaver context. It would also align the treatment of employer contributions with employee contributions and other PAYE deductions (which are guaranteed).

### **Option Three: Additional transfer, information and administrative refinements**

In addition to the changes proposed under option 2, this option would use the opportunity created by Business Transformation, to make further refinements to KiwiSaver settings.

Refinements aimed at facilitating faster transfers would be to reduce the initial KiwiSaver provisional period from 3-months to 2-months (this would mean initial contributions could be transferred to providers a month earlier) and to reduce the period schemes have to send funds and member information, when a member decides to transfer to a new scheme from 35 to 10 days. The later change would only impact non-default providers, as arrangements with default providers already require them to complete transfers in 10-days.

Information flows would be utilised to ensure members were receiving their correct contribution amounts, by requiring employers to provide information to Inland Revenue about the income KiwiSaver contributions have been calculated from<sup>3</sup> and the ESCT rate used. This information would be provided in respect of new employees and existing employees where the information had changed. To recognise that members will have different first points of contact for information on their KiwiSaver account, this option also proposes that members should be able to apply to change their contribution rate through their scheme provider or Inland Revenue (in addition to their employer).

As a further administrative refinement, is also proposed that the 3-month grace period – that a person who has been incorrectly enrolled in KiwiSaver has to gain New Zealand residence before their account is shut – be removed. This period has not operated as intended and is not utilised by members.

The below analysis of this option against the assessment criteria, identifies impacts that are additional to those set out in the analysis of option 2 above.

*Administration:* Reducing the provisional period and the removing the 3-month grace period would increase administrative efficiency.

*Compliance:* The option would reduce compliance costs for members looking to change contribution rates. There would be some additional compliance costs for scheme providers and employers (relating to the proposals to reduce the period schemes have to send funds and information to a new provider when a member transfers schemes and the additional employer information requirements, respectively). These compliance costs are expected to

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<sup>3</sup> Some amounts that are treated as income for PAYE are exempt for the purposes of calculating KiwiSaver contribution amounts. Examples includes the value of accommodation and a benefit from an employer share scheme.

be small.

*Equity:* The additional employer information should make it easier for Inland Revenue to identify situations where contribution amounts have been calculated or taxed incorrectly. Based on this information it would be possible to follow-up with employers, so these issues could be resolved sooner and would not arise again.

*Sustainability:* This option identifies enhancements to KiwiSaver administrative settings in addition to the changes proposed in option 2 – to maximise improvements to KiwiSaver it would be logical to implement all changes. Implementing a package of changes is also more sustainable in terms of the legislation (as opposed to making singular refinements to KiwiSaver legislative settings on an on-going basis).

### **Other options not considered**

#### *Aligning payment of KiwiSaver contributions with an employee's payday*

As part of the work on the payday filing reforms, consideration was given to the option of employers being required to pay PAYE and other deductions from salary or wages (including KiwiSaver employee and employer contributions) to Inland Revenue to align with an employee's payday. If employers were required to pay KiwiSaver contribution amounts to Inland Revenue sooner after their employees' payday, this would facilitate the faster transfer of these contributions to scheme providers.

However, the decision was made only to require employers to file information sooner after a member's payday, as feedback from employers was that requiring them to pay the actual monetary amounts of deductions (including KiwiSaver contributions) in a shorter timeframe would be too onerous to comply with.



### 3.2 Which of these options is the proposed approach?

The proposed approach is option 3. This package of refinements is comprised of the following proposals:

- the Crown funding the payment of employer contribution amounts passed to KiwiSaver scheme providers until these amounts are received from the employer (essentially a Government guarantee of employer contributions);
- changing the date the calculation of interest on employer and employee contributions commences, to align with the pay date a member's employer has reported;
- reducing the KiwiSaver provisional period from 3-months to 2-months;
- reducing the maximum period an old scheme provider has to share information and transfer funds to a new provider when a member transfers schemes, from 35-days to 10-days;
- allowing members to change contribution rates through their scheme provider or Inland Revenue, rather than only through their employer;
- removing the 3-month grace period for members who have been incorrectly automatically enrolled in KiwiSaver, to gain New Zealand residence; and
- requiring employers to provide Inland Revenue with KiwiSaver information about a member's employer superannuation contribution tax rate and the income their contributions are calculated from.

Of the options considered this package would be most effective in facilitating the faster transfer of contributions to (and between) KiwiSaver scheme providers, and reducing on-going administrative costs for Inland Revenue.

It is also the most coherent and equitable option for KiwiSaver members as it will help ensure members are receiving the correct contribution amounts and these contribution entitlements are being passed to scheme providers.

The proposed approach is not incompatible with the Government's '*Expectations for the design of regulatory systems*'.

## Section 4: Impact Analysis (Proposed approach)

### 4.1 Summary table of costs and benefits

Affected parties	Comment	Impact
Additional costs of proposed approach, compared to taking no action		
Regulated parties (KiwiSaver members, scheme providers and employers)	<p><i>KiwiSaver members</i></p> <p>Aligning KiwiSaver interest payments to a member's payday would result in a reduction in interest paid on employee contributions for some members with paydays after the 15<sup>th</sup> of the month. The impact of this would be small given interest is paid at a rate of 0.91% per annum and would be offset by their contributions earning market investment returns sooner and an increase in interest on employer contributions in many cases.<sup>4</sup></p>	Low.
	<p><i>Scheme providers</i></p> <p>Reducing the time scheme providers have to send members' information and funds to a new provider in scheme transfer situations from 35-days to 10-days would have compliance costs for non-default providers, who are not already required to comply with the 10-day transfer time. Feedback from providers indicates this would be manageable and would align with industry best practice.</p>	Low.
	<p><i>Employers</i></p> <p>Employers would need to provide information on KiwiSaver income and employee's ESCT rates to Inland Revenue. Compliance costs should be small, as employers would already need to hold this information to accurately calculate contribution amounts and the information would only need to be provided about new employees or existing employees where the</p>	Low.

<sup>4</sup> A decrease in interest payable on employee contributions would be expected to be offset by an increase in interest on employer contributions for employees with a payday between the 15<sup>th</sup> and 23<sup>rd</sup> of the month.

	information has changed. For new employees the information would be provided as part of employee on-boarding processes and it is expected that updates to this information for existing employees would be infrequent. <sup>5</sup>	
Regulators ( <i>Inland Revenue</i> )	<p>The proposals do not require additional funding.</p> <p>Inland Revenue already writes-off amounts of unpaid employer contributions. For the financial year ending 30 June 2018 the write-off of employer contributions was \$2.6 million. The only change would be Inland Revenue would pass on contribution amounts to scheme providers, in addition to writing them off.</p> <p>System changes to implement the proposals would be absorbed as part of Business Transformation baselines.</p>	Nil.
Wider government	None identified.	Nil.
Other parties	None identified.	Nil.
<b>Total Monetised Cost</b>		Nil.
<b>Non-monetised costs</b>		<i>Low.</i>

Expected benefits of proposed approach, compared to taking no action		
Regulated parties ( <i>KiwiSaver members, scheme providers and employers</i> )	<p><i>KiwiSaver members</i></p> <p>The package of proposals would have a number of benefits for members. It would result in members earning market investment returns sooner, mean their savings are with their scheme of choice sooner in transfer situations, help ensure they are receiving the correct contribution entitlements (including addressing current interest underpayment issues) and give them additional flexibility in respect of how a contribution rate change can be made.</p> <p><i>Scheme providers</i></p> <p>The proposals would result in</p>	<p>Medium.</p> <p>Medium.</p>

<sup>5</sup> Differences between amounts treated as income for PAYE purposes and amounts treated as income for KiwiSaver purposes generally do not change over the course of an employment relationship and ESCT rates apply for the full income tax year (and employees' rates will not change each year).

	<p>contributions being transferred to scheme providers sooner (from Inland Revenue and potentially from other schemes not currently subject to the 10-day transfer rule), which would increase the funds under their management and fees chargeable.</p> <p><i>Employers</i></p> <p>Most of the changes would not directly impact employers. The additional employer information requirements may reduce employer contact time with Inland Revenue. (Currently, where it appears employers may have calculated contributions incorrectly, Inland Revenue will contact the employer to obtain the relevant information).</p>	Low.
Regulators ( <i>Inland Revenue</i> )	<p>The package of proposals would increase the efficiency of Inland Revenue's administration of KiwiSaver and create on-going administrative savings.</p> <p>The faster transfer of employer contributions to KiwiSaver providers and reduction of the holding period for initial contributions would decrease KiwiSaver interest payable by Inland Revenue.</p>	<p>Medium (the proposal to guarantee employer contributions would result in an estimated \$260,000 in savings per annum).</p> <p>Under \$500,000 per annum.<sup>6</sup></p>
Wider government	None identified.	Nil.
Other parties	None identified.	Nil.
<b>Total Monetised Benefit</b>		\$760,000.
<b>Non-monetised benefits</b>		<i>Medium.</i>

<sup>6</sup> This savings is after the reduction in interest payable due to faster transfer of employer contributions to scheme providers has been offset by the increase in interest payable on employer contributions with interest calculations commencing from a member's payday. Costs associated with calculating employee contributions from a payday would be negligible (as current under and over payments would broadly offset).

## 4.2 What other impacts is this approach likely to have?

There is the potential that the proposal to guarantee employer contributions could have a behavioural impact on employers - that is employer's may be less likely to pay employer contributions. (While only \$2.6 million in employer contribution debt was written-off for the financial year ending 30 June 2018, approximately \$2 billion in employer contributions were passed to KiwiSaver scheme providers during this same year).

Current levels of employer and employee contribution debt are broadly comparable (as at 30 June 2018, employer contribution debt since the commencement of KiwiSaver was \$18 million, while employee contribution debt was \$24 million). This suggests that the existing guarantee of employee contributions has had limited behavioural impact on employers and that introducing a guarantee of employer contributions would also have a minimal behavioural impact. Moreover, Inland Revenue has processes to monitor and recover unpaid amounts of employer contributions from employers, which would remain in place after the introduction of this proposal. These include interest and penalties available under the Tax Administration Act 1994.

## Section 5: Stakeholder views

### 5.1 What do stakeholders think about the problem and the proposed solution?

The Ministry of Business Innovation and Employment and the Treasury have been consulted on the proposals and support them. The proposals also reflect feedback on the operation of the KiwiSaver regime from the Financial Markets Authority.

Inland Revenue has undertaken targeted consultation with KiwiSaver scheme providers (in the form of Business Transformation focused co-design workshops). Providers are supportive of the proposals.

General consultation with KiwiSaver members has not been undertaken. On a whole, the package of changes should be beneficial for KiwiSaver members and given the technical nature of the proposed changes, they are unlikely to have generated public interest.

The only proposal to directly impact employers would be for them to communicate to Inland Revenue the income amounts a member's KiwiSaver contributions are calculated from and the member's ESCT rate. This is information the employer already needs to hold, and they would only be required to provide it to Inland Revenue in relation to new employees or existing employees where the information has changed. While consultation with employers has not been carried out on these specific requirements, the proposal has been informed by the extensive public consultation that has been undertaken as part of the wider Business Transformation programme. In particular, feedback on the discussion document *Making Tax Simpler – Better administration of PAYE and GST: a Government discussion document* which was released in November 2015 and sought feedback on the payday filing reforms. This included, proposals aimed at refining the new employee on-boarding process, by merging PAYE and KiwiSaver reporting requirements and requiring employers to provide Inland Revenue with additional information about new employees – such as date of birth and other employee details. Although not universally supported, in consultation these new information requirements received majority support from employers. The additional

information requirements proposed in this RIA, would support the shifts in employee on-boarding processes.

Before the proposals are implemented there will be the opportunity for public consultation, as employers and KiwiSaver members would be able to make submissions on the omnibus taxation Bill the legislative changes are included in.

## Section 6: Implementation and operation

### 6.1 How will the new arrangements be given effect?

The proposals would require amendment to the KiwiSaver Act 2006. Amendments would be included in the next available omnibus taxation Bill. To align with the transfer of the administration of KiwiSaver from its current operating system into its new operating system, the changes would come into effect from 1 April 2020.

The Minister of Revenue would make an announcement, on the contents of the proposed omnibus taxation Bill (including these proposals) when it is introduced in the House.

Inland Revenue would be responsible for the on-going administration of the new arrangements. Aligning implementation of the proposals with Inland Revenue's Business Transformation programme, would mean the cost of system changes would be absorbed into Business Transformation.

## Section 7: Monitoring, evaluation and review

### 7.1 How will the impact of the new arrangements be monitored?

Inland Revenue would monitor the outcomes of the proposals pursuant to the Generic Tax Policy Process (GTTP) to confirm that they match the policy objectives.

Inland Revenue collects KiwiSaver data which could be used to assess the effectiveness of the changes in facilitating the faster transfer of employer contributions and enhancing information flows.

### 7.2 When and how will the new arrangements be reviewed?

No formal review is planned. However, the final step in the GTTP is the implementation and review stage, which involves post-implementation review of legislation, and the identification of remedial issues. Post-implementation review is expected to occur around 12 months after implementation.

All KiwiSaver scheme providers have an on-going relationship with Inland Revenue, which includes an annual meeting to discuss policy and operational issues that have arisen over the past year. This would provide an opportunity for scheme providers to give feedback about the effectiveness of the proposed approach.