

In Confidence

CBC Min (06) 3/7

KiwiSaver - Various Issues

On 7 February 2006, the Cabinet Business Committee:

Automatic Enrolment Provisions

- 1 noted that on 2 May 2005 Cabinet agreed to features of the KiwiSaver scheme's design including that:
 - 1.1 new employees who are automatically enrolled can opt out in the second and third week of a new job [CAB Min (05) 15/2 para 10];
 - 1.2 deductions for individuals who are automatically enrolled start on the first pay day after the employee has been in the job for eight weeks [CAB Min (05) 15/2 para 12];
- 2 rescinded the decisions referred to in paragraphs 1.1 and 1.2; and instead
- 3 agreed that:
 - 3.1 an employer must notify the Inland Revenue Department that a new employee has started and pass on the new employee's name, IRD number and address within three weeks of the employee starting work with that employer;
 - 3.2 new employees who are automatically enrolled can opt out in weeks two to six inclusive of a new job;
 - 3.3 the Inland Revenue Department allocate the new employee to a default provider and send the employee the investment statement for the default product with that provider, if the Inland Revenue Department has not been advised that the new employee has already opted out or chosen a provider;
 - 3.4 employees be treated as having received an investment statement for the allocated default fund if the Inland Revenue Department has sent one;
 - 3.5 deductions for individuals who are automatically enrolled start on the first pay day after the employee has been in the job for eleven weeks;
- 4 agreed that investment statements for default funds be concise and simple to understand;

Contribution holidays

- 5 noted that on 2 May 2005 Cabinet agreed that employees should be able to take a contribution holiday after the person has been contributing for at least three

6 months [CAB Min (05) 15/2 para 18];
rescinded the decision referred to in paragraph 5; and instead

7 agreed that:

7.1 employees should be able to take a contribution holiday after the person has been contributing for at least twelve months;

7.2 members who suffer significant financial hardship during the first twelve months of membership in KiwiSaver be able to apply to the Inland Revenue Department for a three months (or such longer period as the Commissioner of Inland Revenue may determine) contribution holiday;

Selection of providers

8 noted that on 11 April 2005 Cabinet agreed in principle that product providers will be selected by a competitive tender process and/or a requirement to meet a set of minimum specified criteria [CAB Min (05) 13/9 para 5.1];

9 rescinded the decision referred to in paragraph 8; and instead

10 agreed that default providers will be selected through a competitive tender process, which will, amongst other things, enable a provider's suite of products to be considered;

11 agreed that any provider be able to register an active choice KiwiSaver product if they meet the general KiwiSaver rules, including a requirement that their fees are not unreasonable;

Tax treatment of KiwiSaver

12 agreed that default KiwiSaver providers be required to offer qualifying collective investment vehicle funds, but these providers should also be able to operate funds which do not have qualifying collective investment vehicle status;

13 agreed that the KiwiSaver Bill clarify the treatment of registered superannuation schemes that convert to KiwiSaver and ensure that the transfer of property as part of a KiwiSaver conversion will not trigger an income tax liability;

Mortgage diversion

14 agreed that, in light of feedback from unions, retirement groups and mortgage providers, KiwiSaver members not be given the option to divert their savings contributions to repay the mortgage on their principal residence as part of KiwiSaver;

Multiple job holders

15 agreed that employees may make KiwiSaver contributions from any or all primary and secondary salary and wage sources to encourage scheme participation;

Fee subsidy

- 16 noted that on 11 April 2005 Cabinet agreed that the government will negotiate down fees payable to KiwiSaver providers, and pay the remaining ongoing fees[CAB Min (05) 13/9 para 3.14];
- 17 rescinded the decision referred to in paragraph 16; and instead
- 18 agreed that:
- 18.1 the government will negotiate down fees payable to KiwiSaver default providers;
 - 18.2 the fee subsidy will be a flat dollar amount payable to each KiwiSaver per annum;
 - 18.3 trustees be responsible for ensuring that the fee subsidy is correctly applied to individuals' accounts;
 - 18.4 eligibility for the fee subsidy cease when a KiwiSaver member becomes eligible to withdraw all of their funds;

Privacy issues

- 19 agreed that the Inland Revenue Department may use and share personal information across the department for administering KiwiSaver and its other statutory obligations;
- 20 agreed that the Inland Revenue Department may use and share personal information with, for example, the Government Actuary, providers, employers, members and other relevant persons so that it may discharge its duty of administration of KiwiSaver and other statutory obligations;

Independent trustees

- 21 agreed that KiwiSaver schemes should be required to have an independent trustee as one of the trustees for the scheme to protect the interests of members;
- 22 agreed that the requirement to have an independent trustee should not apply to registered superannuation schemes in existence before 1 April 2007 that convert into a KiwiSaver scheme;
- 23 agreed that the independent trustee of each default KiwiSaver provider should be a statutory trustee company governed by the Trustee Companies Act 1967;

Anti-money laundering requirements

- 24 agreed that an exemption be given from the initial verification of the identity of clients in the Financial Transactions Reporting Act 1996 for all members

allocated to the default product of default providers, provided that these providers make reasonable efforts to verify the identity of the new person;

- 25 agreed that providers must verify the identity of any person making a voluntary payment in accordance with the Financial Transactions Reporting Act 1996, unless the identity of the person has already been verified;
- 26 agreed that providers must verify the identity of any person in accordance with the Financial Transactions Reporting Act 1996 before any withdrawal or voluntary transfer is processed, unless the identity of the person has already been verified prior to that request;
- 27 agreed that all KiwiSaver providers have, or be prepared to put in place, anti-money laundering policies and procedures;

Unclaimed money

- 28 agreed that all unclaimed money held by the Inland Revenue Department be treated under the Unclaimed Money Act 1971;

Offences and penalties

- 29 agreed that the offences and penalties in the parts of the KiwiSaver legislation administered by the Inland Revenue Department be the same as the existing tax offences and penalties, in particular the “pay as you earn” offences in the Tax Administration Act 1994;
- 30 agreed, where possible, to align the offences and penalties in the KiwiSaver legislation relating to the regulatory regime with existing Inland Revenue Department offences and penalties in the Tax Administration Act 1994;

Authorisation

- 31 noted that on 11 April 2005 Cabinet authorised the Minister of Finance, in consultation with the Minister of Housing and Minister of Education, to agree outstanding detailed design issues for KiwiSaver [CAB Min (05) 13/9 para 7];
- 32 rescinded the decision referred to in paragraph 31; and instead
- 33 authorised the Minister of Finance, in consultation with the Minister of Commerce, Minister of Revenue, and Minister of Housing where there may be an impact on home ownership, to agree outstanding detailed design issues for KiwiSaver;

Financial implications

- 34 noted that:
 - 34.1 these decisions, in particular extending the minimum period before a contribution holiday can be taken and changes to the automatic enrolment

process of new employees, may have financial implications but these are uncertain and unlikely to be significant;

34.2 the Minister of Finance expects to manage any changes within the existing Savings Allocation;

35 noted that legislation is expected to be introduced in early 2006;

36 noted that the Minister of Finance indicates that the submission has been and will be the subject of consultation with the government caucuses and other parties represented in Parliament.

Secretary

Reference: CBC (06) 32