# Chapman Tripp comments on recent equity raising structures

## Overview

The most common secondary equity raising structure during the peak COVID-19 capital raising period and throughout, 2021 and 2022 to date, has been a placement and upsized share purchase plan (**SPP**).

In simplistic terms, usually up to 15% of an NZX issuer's total number of shares can generally be issued in a placement in a rolling 12 month period, without shareholder approval. Up to 5% of the pre-issue number of shares can be issued in an SPP if limited to $15,000 per shareholder/beneficial owner. Issues above those amounts ($15,000 per applicant, or 5%) will generally need to be deducted from the 15% placement capacity.

An Accelerated Renounceable Rights Issue (**AREO**) can generally be undertaken without shareholder approval, as can a traditional rights issue.

An AREO will usually provide for the offer of shares to institutional investors to be accelerated ahead of retail investors, with any shortfall offered in a market bookbuild following close of the institutional offer. Similarly any shortfall in the retail offer is also usually offered in a bookbuild following close of the retail offer. The premium over the issue price is paid to non-participants, and will almost always differ (often the institutional premium is higher).

Traditional rights issues must be renounceable (tradeable), but rights do not need rights to be quoted (i.e. they could simply be traded privately). If a traditional rights offer does not provide for quoted rights, most will have a shortfall bookbuild at the end of the rights issue with any premium over the issue price paid to non-participants. Occasionally rights and traded and there is a shortfall bookbuild.

During the period from March 2020 to December 2020, NZX Regulation had granted a class waiver to enable an Accelerated Non-Renounceable Rights Issue offers (**ANREO**) without shareholder approval as long as the offer ratio did not exceed 2 shares for one existing share.

A **SAREO** is similar to an AREO but has one combined bookbuild at the end. A **PAITREO** is similar to an AREO but also has tradable (quoted) rights.

## Placement and SPP most common structure

As shown below, the Placement and SPP structure has by far been the most common, since the start of 2020.

We consider a placement and SPP structure will generally be more efficient to execute than an AREO or ANREO, and can be structured to be fair to shareholders – institutional and retail – so long as appropriate allocation policies are applied under the placement[1].

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[1] A number of issuers adopted a similar structure for their COVID-19 capital raising in 2020. Other COVID issuers were forced to adopt a more aggressive Accelerated Non-Renounceable Rights Offer structure with steep discounts because of the significant adverse impact on their businesses and consequent need to raise large amounts.

In addition to the additional time and underwriting cost to complete an AREO, aspects of the structure can be perceived as unfair – some holders might feel aggrieved they are treated as retail rather than institutional (especially since the shortfall bookbuild outcome often differs markedly between the institutional and retail book builds)[2], or holders are offshore and cannot participate, and the current rules do not allow price downside protection for the retail component of an AREO (as an SPP often does).

An ANREO is not permitted by the NZX Listing Rules without shareholder approval (since expiry of the COVID-19 class waivers), and can be perceived as more unfair than a SPP or AREO as the ANREO issue price discount can be larger. ANREOs are common in Australia, for acquisition funding or balance sheet repair.

The New Zealand Shareholders' Association Inc. seem accepting of an SPP structure, particularly when the SPP amount is upsized from the $15,000 per beneficial owner in the NZX Listing Rules to a higher amount (by offering say, an additional $35,000 per holder for a total application of up to $50,000, through the placement capacity), although the current NZSA policy statement prefers AREOs.

In response to Precinct's February 2019 placement/supersized SPP, NZSA's media release said:

> "In our view their solution is innovative, and while not a pro forma rights issue, it will largely achieve the same outcome."

In Australia a PAITREO or SAREO is generally regarded as the fairest structure but involves other trade-offs, particularly sub-underwriting can be harder to secure.

A significant majority of SPPs have provided shareholders with downside protection to protect them from adverse market movement over the longer offering period than a placement, and potentially encouraging higher retail take-up – through the SPP price being the lower of the placement price and a discount to the 5 day VWAP prior to the closing date.

Notably the Precinct in June 2021 set a market practice of pricing the downside protection at VWAP (with no discount), which seems more equitable than rewarding retail shareholders beyond the level needed for downside protection (as had generally been the case prior to that deal).

The SkyCity placement during COVID sought to reduce underwriting risk, and ensure fairness for institutions, by securing pre-commitments from the largest institutional shareholders at levels reflecting their existing relative shareholdings (which were therefore not underwritten, so no fee in that bit).

Section 47 of the Companies Act 1993 requires those directors approving a share issue to resolve and certify that "*in its opinion, the consideration for and terms of the issue are fair and reasonable to the company and to all existing shareholders*".

Given the significant market precedent, support from NZSA and potential for downside protection we do not think this fairness assessment is difficult to make for an SPP.

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[2] In *RinRim Pty Ltd v Deutsche Bank AG [2017] NSWCA 169*, a shareholder excluded from an institutional offer in an AREO failed to establish in the New South Wales Court of Appeal that any of the company, the joint lead managers or the underwriters owed the shareholder a duty of care in the circumstances.

## Structural considerations – Placement and SPP compared to an AREO

| Structure | Overview | Key considerations |
|---|---|---|
| **Placement/ Upsized SPP** | **T:** Transaction announced. Placement conducted under trading halt<br>**T+2:** Retail Offer opens<br>**T+4:** Confirmation of allocation and allotment of placement shares<br>**T+9:** Retail Offer closes<br>**T+13:** Allotment of Retail Offer shares<br>Retail Offer period ~7 business days<br>Placement to existing shareholders and potentially select new investors<br>Retail Offer that allows all shareholders to subscribe for up to $50,000 of new shares | • While a Placement is not strictly pro rata, if undertaken at a fixed price scaling preference can be given to existing shareholders and other shareholders can also be introduced. In recent New Zealand transactions a placement has been the most common institutional structure.<br>• Placements can be designed in New Zealand to allow as many larger existing shareholders as possible to participate (including holdings through custody such as Sharesies), and an upsized SPP can be structured so most other shareholders in New Zealand can apply for and receive at least the equivalent number of shares that they would have under a pro rata raise – scaling is applied pro rata to existing holdings<br>• Placement pricing should be tighter than an entitlement offer given a shorter period of market risk<br>• The structure is easier to understand and execute than an AREO or ANREO |
| **Accelerated entitlement offer (AREO)** | **T:** Transaction announced. Institutional Offer Conducted under trading halt<br>**T+2:** Institutional Offer completed<br>**T+4:** Retail Offer opens<br>**T+6:** Confirmation of allocation and allotment of Institutional shares<br>**T+11:** Retail Offer closes<br>**T+16:** Allotment of Placement & Retail Offer shares<br>Retail Offer period ~7 business days<br>• Trading halt commences<br>• Institutions confirm commitments by end of day 2 after announcement<br>• Bookbuild for institutional entitlements not taken up | • The Institutional component of the offer is accelerated, compared to a regular entitlement offer, and occurs over three days immediately after the offer is announced (which reduces the risk period for the transaction compared to a traditional rights offer)<br>• Retail shareholders have the benefit of knowing the outcome of the institutional offer prior to deciding to take up their entitlements. Small holders will only receive small entitlements<br>• Larger discount required compared to a placement to mitigate adverse market risk movements / secure sub-underwriting and ensure attractiveness during retail offer period.<br>• Can be confusing to understand and institutional bookbuild usually clears at higher price than retail so could be perceived as unfair. |

## Recent New Zealand transactions – Placements and SPP ($5m+)

| Issuer | Date of Placement launch | Placement size | Placement discount to last close | Final SPP size (oversubs) | Ratio SPP to total offer | Entitlement per holder | SPP discount term | Lead Manager(s) |
|---|---|---|---|---|---|---|---|---|
| EBOS Group | December 21 | $674m | 5.5% | $171m ($66m o/s) | 20.2% | $50k NZD/ $47.5k AUD | Lower of placement and 5-day VWAP (no discount) | Macquarie |
| Stride Property & Stride Investment Management | November 21 | $110m | 9.5% | $23.9m ($3.9m o/s) | 16.85% | $50k | Lower of placement and 2.5% discount to 5-day VWAP | Goldman Sachs |
| Serko | November 21 | $75m | 10.2% | $8.3m ($1.7 u/s) | 9.9% | $50k NZD/ $46.5k AUD | Lower of placement and 5-day VWAP* (no discount) | Craigs / Cameron Partners / Ord Minnett |
| The New Zealand Refining Company | November 21 | $38.5m | 5.7% | $9.5m ($4.5m o/s) | 19.8% | $15k | Lower of placement and 2.5% discount to 5-day VWAP | Forsyth Barr |
| Vital Healthcare Property Trust | October 21 | $115m | 3.7% | $27.8m ($2.8m o/s) | 19.5% | $15k | Lower of placement and 2.5% discount to 5-day VWAP* | Forsyth Barr / Goldman Sachs |
| Pacific Edge | September 21 | $80m (A$77.5m) | 8.2% | $23.5m ($3.5m o/s) | 22.7% | $50k | Lower of placement and 5-day VWAP (no discount) | Bell Potter / Jarden / Forsyth Barr |
| Plexure Group | September 21 | $15.6m (A$15.0m) | 8.3% | $5.3m | 25.3% | $30K | Placement price | Bell Potter / Ord Minnett |
| IkeGPS Group | August 21 | $19.2m (A$18.3m) | 13.0% | $5.5m (A$5.2m) ($2.4m o/s) | 22.3% | $15K NZD/ $14.3K AUD | Placement price | Bell Potter |
| EROAD | July 21 | $64.4m | 9.2% | $20m ($3.9m o/s) | 23.70% | $32k NZD/ $30k AUD | Lower of placement and 5-day VWAP (no discount) | Canaccord LM/ [Bell Potter Co-Manager] |

| Issuer | Date of Placement launch | Placement size | Placement discount to last close | Final SPP size (oversubs) | Ratio SPP to total offer | Entitlement per holder | SPP discount term | Lead Manager(s) |
|---|---|---|---|---|---|---|---|---|
| Radius Residential Care | July 21 | $30m | 32.1% | $8.2m ($3.2m o/s) | 21.5% | No limit – shareholder approval | Placement price | Jarden |
| Precinct Properties New Zealand | June 21 | $220m | 4.4% | $30m | 12.00% | $50k ($35k upsized) | Lower of placement and 5-day VWAP (no discount) | Jarden |
| Me Today | May 21 | $10m | 12% | $5.75m | 36.5% | $15K | Placement price | CM Partners |
| Oceania Healthcare | March 21 | $80m | 6.5% | $20m | 20.00% | $50k ($35k upsized) | Lower of placement and 2.5% discount to 5-day VWAP* | Jarden / Macquarie |
| Contact Energy | February 21 | $325m | 2.8% | $75m | 18.75% | $50k ($35k upsized) | Lower of placement and 2.5% discount to 5-day VWAP* | Jarden / Macquarie |
| Stride Property & Stride Investment Management | November 20 | $180m | 7.0% | $50m ($10m o/s) | 21.74% | $50k | Lower of placement and 2.5% discount to 5-day VWAP | Goldman Sachs |
| Plexure Group | November 20 | $32m | 23% | $5m | 13.51% | $50k | Placement price | Bell Potter / Ord Minnett |
| Synlait Milk | November 20 | $180m | 14.0% | $20m | 10.00% | $50k | Lower of placement and 2.5% discount to 5-day VWAP | Jarden |
| Vital Healthcare Property Trust | October 20 | $125m | 6.0% | $32.5m ($7.5m o/s) | 20.63% | $50k | Lower of placement and 2.5% discount to 5-day VWAP | Goldman Sachs / Forsyth Barr |
| Serko | October 20 | $47.5m | 0.9% (Premium) | $20m ($10m o/s) | 29.62% | $50k | Lower of placement and 5-day VWAP (no discount) | Craigs / Ord Minnett |

| Issuer | Date of Placement launch | Placement size | Placement discount to last close | Final SPP size (oversubs) | Ratio SPP to total offer | Entitlement per holder | SPP discount term | Lead Manager(s) |
|---|---|---|---|---|---|---|---|---|
| EROAD | September 20 | $42m | 10.3% | $11m ($3m o/s) | 20.75% | $50k | Lower of placement and 2.5% discount to 5-day VWAP | Canaccord / Bell Potter |
| SkyCity Entertainment Group | June 20 | $180m | 6.4% | $50m | 21.74% | $50k | Lower of placement and 2.5% discount to 5-day VWAP* | Jarden / Credit Suisse / UBS |
| AFT Pharmaceuticals | June 20 | $73.8m | 20.2% | $2m | 2.630% | $50k | Placement price | Bell Potter / Forsyth Barr |
| Infratil | June 20 | $250m | 8.0% | $50m | 16.67% | $50k | Lower of placement and 2.5% discount to 5-day VWAP* | UBS |
| Z Energy | May 20 | $290m | 7.6% | $57.5 m (target was $60m) | 16.55% | $50k NZD/ $47k AUD | Lower of placement and 2.5% discount to 5-day VWAP* | Goldman Sachs / Forsyth Barr / Jarden |
| Investore Property | April 20 | $85m | 6.8% | $20m ($5m o/s) | 19.05% | $50k | Lower of placement and 2.5% discount to 5-day VWAP | Goldman Sachs |
| Cannasouth | April 20 | $334K | N/A | $5.69m (0.69m o/s) | N/A | $50k | Placement price | N/A |
| Auckland International Airport | April 20 | $1,000m | 7.5% | $200m | 16.67% | $50k NZD/ $47k AUD | Lower of placement and 2.5% discount to 5-day VWAP | Jarden /Credit Suisse / Citi |

**Notes**: * indicates if the downside protection discount was actually applied at the time of the retail allotment (in the majority of cases it has not been).

The transactions undertaken from March 2020 to November 2020 could rely on a class waiver which lifted the SPP per beneficial shareholder amount from $15,000 to $50,000. Transactions since then (e.g. Contact, Precinct) have allocated the excess above $15,000 by reducing the placement capacity.

Custodian applicants are required to specify the names and existing holdings of beneficial owners, so the same scaling methodology is applied as those held on register. Custodians include Sharesies, NZ Central Securities Depository (RBNZ), Craigs Investment Partners, Jarden (FNZ Custodians), Forsyth Barr, JBWere, Leveraged Equities, Investment Custodial Services and Hobson Wealth.

## Recent New Zealand transactions* – Placement only

| Issuer | Date of Placement launch | Placement size | Comment | Lead Manager(s) |
|---|---|---|---|---|
| Evolve Education Group | March 21 | A$21.7m | A 7.9% discount to the closing price of EVO shares on the ASX. The net proceeds to be used to provide funding flexibility for future centre acquisition opportunities in Australia. | Canaccord / Petra Capital |
| Pacific Edge | July 20 | $22m | Placement to ANZ Investments at 14% premium to 5 day VWAP prior to placement (4.9% of pre placement capital) | N/A |

**Note**: * = for total raise sizes of $5m+

## Recent New Zealand transactions – Placement and ANREOs

| Issuer | Date of Placement launch | Placement size | ANREO size | Discount to close | Discount to TERP | Ratio | Comment | Lead Manager(s) |
|---|---|---|---|---|---|---|---|---|
| ikeGPS Group | July 20 | $9.8m | $9.9m | 11.7% | | 1 for 7 | ANREO had shortfall | Bell Potter / Forsyth Barr |
| Asset Plus | September 20 | $12.1m | $48.1 | 17.8% | 8.8% | 1 for 1.01 | Augusta Capital pre committed | Jarden |
| Comvita | May 20 | $20m | $30m | 34.4% | 27.2% | 1 for 4.15 | "Improve balance sheet flexibility and build resilience" | Craigs / Forsyth Barr |
| Sky Network Television | May 20 | $9.1m | $148.1m | 63.6% | 30.4% | 2.83 for 1 | "ensure capitalised to withstand the impacts of COVID-19" | Forsyth Barr / Goldman Sachs |
| Augusta Capital | May 20 | $12.4m | $32.6m | 31.3% | 19.2% | 1 for 1.9 | Centuria Funds Management committed to 15.6% under Placement | Forsyth Barr / Jarden |

| Issuer | Date of Placement launch | Placement size | ANREO size | Discount to close | Discount to TERP | Ratio | Comment | Lead Manager(s) |
|---|---|---|---|---|---|---|---|---|
| Vista Group International | April 20 | $25m | $40m | 25.0% | 19.5% | 1 for 4.37 | "support the business through the significant disruption caused by the COVID-19 pandemic" | Macquarie / Craigs |
| Kathmandu Holdings | April 20 | $30m | $177m | 51.0% | 30.2% | 1.2 for 1 | "pre-emptive action to fortify its balance sheet" | Jarden / Forsyth Barr / Craigs / Credit Suisse |

## Recent New Zealand transactions – Placement and Traditional rights issue

| Issuer | Date of Placement launch | Placement size | Rights issue size | Discount to 5 day VWAP | Discount to TERP | Ratio | Comment | Lead Manager(s) |
|---|---|---|---|---|---|---|---|---|
| Arvida Group | October 21 | $155m | $175m | 6.9% (Placement) 12.2% (Rights) | 9.2% | 1 for 6.57 | Placement at premium to Rights offer. No rights quoted. Shortfall bookbuild | Jarden / Forsyth Barr |
| Moa Group *(now Savor)* | April 20 | $2.5m | $5.8 m | Not stated | Not stated | 1 for 4 | - | N/A |

## Recent New Zealand transactions – AREOs

| Issuer | Date of launch | Issue size | Discount to close | Discount to TERP | Ratio | Comment | Lead Manager(s) |
|---|---|---|---|---|---|---|---|
| NZX | February 22 | $44m | 16.4% adjusted for (cum) dividend | 15% to dividend adjusted TERP | 1 for 9 | Insto bookbuild at 20 cps premium. Retail offer had 66% shortfall with most of shortfall taken up by sub-underwriters | UBS / Craigs |
| Move Logistics | November 21 | $40m | 13.6% | 10.6% | 1 for 3.06 | Insto bookbuild at 8 cps premium. Retail bookbuild at 34 cps premium | Craigs / Bell Potter |

## Recent New Zealand transactions – Traditional rights issue

| Issuer | Date of launch | Issue size | Discount | Ratio | Comment | Lead Manager(s) |
|---|---|---|---|---|---|---|
| Air New Zealand | March 22 | $1.2b | 61.5% to last price, 34.7% to TERP | 2 for 1 | Rights quoted, oversubscriptions facility, Shortfall bookbuild at end. More than 175,000 beneficial owners. Underwritten by UBS New Zealand and Citigroup Global Markets (but not Forsyth Barr) excluding Crown's 51%. Crown pre-committed for $602m of shares. | UBS New Zealand, Citigroup Global Markets, Forsyth Barr |
| Cooks Global Foods | December 21 | $9.4m ($8m target) | - | 1 for 2 | No rights quoted. Shortfall part placed in parallel under private placement IM | N/A |
| New Zealand Rural Land Company | May 21 | $20.3m | 8.64% to 10 day VWAP | 2 for 3 | Rights were quoted | N/A |
| Savor | March 21 | $6m | 5% to last close | 1 for 4.3077 | No rights quoted. $3.6m raised from shareholder and remainder from underwriters (existing substantial shareholders and new professional financial investors) | N/A |
| Asset Plus | March 20 | $100m | 6.7% to TERP | 1.235 for 1 | Offer withdrawn due to material adverse change. Augusta Capital had pre-committed for $5 million (26.5% of its rights). Rights were not quoted. Shortfall bookbuild | Jarden |
| PaySauce | Jan 20 | $4.07m | ~61.5% to TERP; ~50% to 186 day VWAP | 1 for 7 | Rights were quoted | N/A |

## Case study: Auckland International Airport – Placement and SPP scaling

In April 2020 Auckland International Airport Limited (**AIA**) undertook a $1 billion placement and $200 million share purchase plan (**SPP**). AIA relied on the COVID-19 waivers granted by NZX Regulation (now NZ RegCo) to increase the permitted amount to $50,000 per beneficial shareholder.

On 7 April 2020, AIA announced that the $1 billion placement was fully subscribed at a 7.5% discount to the last close price, and 9.5% to the 5 day VWAP (assessed from 30 March 2020).

On 30 April 2020, AIA announced the $200 million share purchases plan had been oversubscribed, receiving application for of approximately $489 million. Applications were scaled on a proportionate basis in accordance with the number of AIA shares held by the applicants on the Record Date (3 April 2020, being the close of business on the day before announcement of the placement and SPP).

The dilutionary impact to retail investors was minimal (less than 1% of shareholders, and most of these very large shareholding individuals would likely have also been entitled to bid in the placement):

- Out of the 32,619 eligible shareholders that applied, only 438 (1.3% of applicants) who received the $50,000 allocation did not receive an equivalent pro rata allocation against the $1.2b offer - but, we would expect these very large shareholders to be broker advised and brokers did receive allocations in the placement. Also, a number of these applications may be institutional style investors who also participated in the placement (applications are through custodians so it is difficult to accurately remove); and

- Over 88% of shareholders received more than an equivalent pro rata allocation under the SPP vs a $1.2b rights offer - i.e. 88% of applicants were better off under this structure.