CHAPMAN TRIPP


# New Zealand Equity Capital Markets – trends and insights

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This publication looks at current trends in New Zealand's equity capital markets (*ECM*) after an extraordinary year in 2014 and discusses the likely effects of the new Financial Markets Conduct Act (*FMCA*), in what will be its first full year of implementation.

Chapman Tripp was involved in most of the major ECM developments discussed below, including 14 of the 19 NZX Main Board listings in 2013/14. Our national ECM team is one of the largest and most highly regarded in New Zealand with a reputation for acting on the country's most significant and complex IPOs and other deals.

## Continued activity and a new era for regulation

2014 closed one chapter of New Zealand's equity capital markets history and opened another. The partial float of Genesis Energy concluded the government's mixed ownership model (*MOM*) programme, involving three of the highest profile ECM transactions in a decade. The full implementation from 1 December of the FMCA, described as a "once in a generation" rewrite of capital markets law, signalled a new era for all market participants - investors, issuers and advisers alike.

2014 was another very busy year for the NZX. $4.74b of new capital was raised, and there were 16 new listings (the largest number in a single year since 2004). The result was a 4.2% year-on-year increase in the number of NZX-listed equity securities and a 17.3% increase in NZX's equity market capitalisation by year's end to $96.5b, or 42.1% of GDP.

Where 2013 saw New Zealand's largest-ever IPO (the Government's partial float of Meridian Energy) and the floats of a number of other mature businesses offering expected stable performance and steady dividend streams, 2014 saw a mix of small to mid-sized businesses seeking growth capital, entrepreneurial roll-up transactions and private equity exits.

Market commentators and participants agree that the IPO pipeline should keep pumping this year. NZX chief executive Tim Bennett has noted that "key structural changes" in New Zealand, including the ongoing build-up of Kiwisaver funds, will continue to drive investment demand. Continued low interest rates and bond yields should whet investor appetite for equities, while strong capital markets make an IPO an attractive exit option for private company shareholders. These factors, combined with the impending launch of NZX's new NXT market for growth issuers, support a story of continued strong ECM activity in 2015.

This is not to suggest that unbridled growth is the new normal. Perceived value for money remains important. Investor discontent with the pricing of the Hirepool offer resulted in listing plans being shelved and investors do not yet appear to be showing signs of the irrational exuberance that has characterised IPO booms. Nor has the New Zealand market yet seen examples of the listing day price explosions (such as US restaurant chain Shake Shack's recent 118% price rise on its NYSE debut) that have become a regular feature of major overseas markets.

Chapman Tripp sees neither boom nor bust on the horizon. Our view is that 2015 is likely to see continued healthy IPO activity, with an emphasis on the mid-market and the potential for a number of market deals reflecting a streamlined regulatory environment for offers by listed firms. However, the possibility of offshore uncertainty, such as a European debt/currency crisis, disrupting local activity cannot be discounted.


## Regulatory change

In August 2013, the FMCA was enacted and has come into effect progressively from April 2014. From 1 December 2014, issuers were able to fully utilise the new disclosure regime for offers of financial products. Transitionally, issuers can choose to continue to register prospectuses under the old Securities Act until 1 December 2015 (or 1 December 2016 for continuous issuers).

We expect almost all issuers will elect to use the new regime for IPOs, with its more coherent liability regime, including reduced scope for criminal liability, and a focus on shorter, clearer offer documents.

The FMCA has replaced investment statements and prospectuses with a single offer document – the page or word limited product disclosure statement (*PDS*) – with additional material information placed on an online register. Clear, concise and effective disclosure is the key regulatory test, reflecting the FMCA's underlying policy goal to make disclosure documents shorter and more accessible to non-expert investors.

We expect the FMCA will result in fundamental changes to many different types of ECM transactions, not just IPOs. Secondary sell-downs of existing shares can now be offered more easily to retail investors where in the past they were typically targeted only at wholesale investors. The so-called "same class" regime, which enables offers of securities of an already-quoted class using little more than a term sheet, has already revolutionised the market for secondary capital raisings by significantly reducing the compliance burden. Liberalisation of advertising restrictions enables a fundamentally different and more open approach to offer advertising, particularly during the pre-registration period.

The FMCA has also enabled new mechanisms to promote smaller, alternative equity raisings, including equity crowd funding. The first two licences were granted to equity crowd funding intermediaries in July. Nine offers have now been presented to the public, with six reaching their funding goal, raising a total of $4.1m.

## In prospect for 2015

With the MOM programme and several long-awaited listings, such as Orion Health, now completed, the crystal ball for 2015 is somewhat hazy. However, it's expected that a number of potential listings could be announced in the coming months.

Companies that decided against listing in 2014, such as equipment rental firm Hirepool and data storage company Wherescape, might try again this year. And while the market remains strong, new issuers are likely to want to test the public's demand for their shares.

Market chatter suggests a number of other technology businesses are exploring IPOs in 2015, following a strong showing in this sector in 2014. NZX's current alternative equity market, the NZAX, will soon be replaced by the NXT market, offering a reduced regulatory and compliance burden and aimed at growth companies with a market capitalisation under $100m.

Roll-ups, the acquisition and aggregation of private companies operating in the same market, seem likely given the warm reception they received in 2014, as do more private equity exits. The current strength of both the M&A and ECM markets means dual-track processes could also feature, where an IPO and a trade or private equity sale are pursued simultaneously.

We consider below some key trends and features that we believe will affect equity capital markets in the coming year.

## Dual listing trend

We expect many issuers to pursue dual ASX and NZX listings this year. The strength of the trend is perhaps illustrated by the fact that ASX has been actively marketing to New Zealand issuers, both new and existing.

Although listing on the ASX incurs extra fees and expenses and imposes additional compliance burdens, it improves access to Australia's deeper pool of capital and may provide greater liquidity. Many Australian fund mandates require an ASX listing in order to be able to invest in a New Zealand issuer.

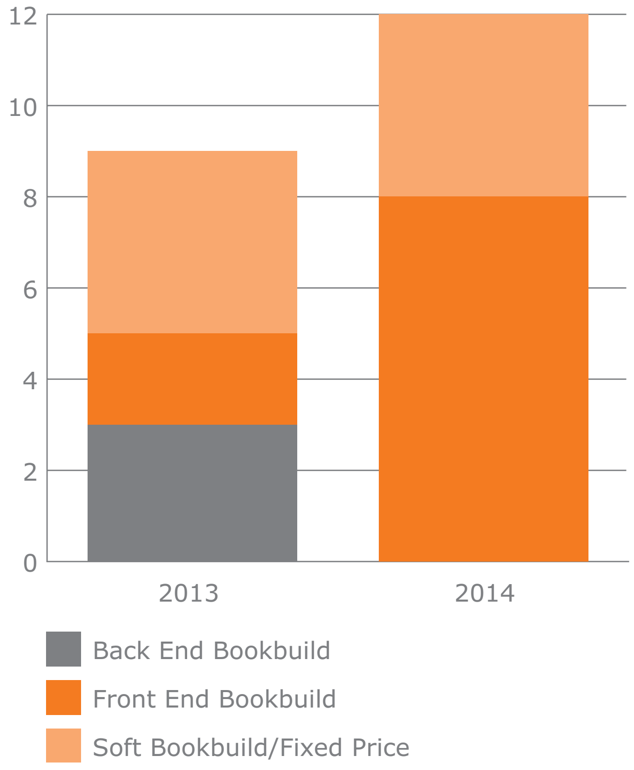
Companies which chose to dual list in 2014 included: Genesis, Intueri Education, Gentrack, Metro Glass, Evolve Education, Orion Health and Vista Group.

## Front-end bookbuilds

All IPOs in 2014 were conducted using either a front-end bookbuild or a soft bookbuild/fixed price structure, where the offer price is known prior to the offer opening. We expect this trend to continue in 2015, as the desire to mitigate pricing risk is outweighed by the desire to be seen to be providing certainty and clarity to prospective investors.

The balance between these two objectives seems to have shifted in favour of transparency after the criticisms directed at the government for using back-end bookbuilds in its first two MOM offers. Although preferred by institutional investors, some commentators felt that it was inappropriate to expose unsophisticated "mum and dad" investors to the "dark arts" of the back-end bookbuild process, with its requirement that retail investors invest without knowing the final offer price.

*Table 1: Bookbuild choice in 2013 and 2014*




## Escrow expiry

A number of companies that listed in 2013 and 2014 have major shareholders coming off escrow at least in part this year, enabling those shareholders to sell down their holdings should they wish. This includes Gentrack, Serko and Metro Glass.

The FMCA now permits shareholders to sell down major stakes in listed companies with the issuer's active involvement, without triggering the need to produce formal offer documentation. Combined with the "same class" regime discussed above, we expect this will result in more consultation between issuers and major shareholders looking to sell their holdings, and in sell downs targeted at retail shareholders, as well as institutions.

*Table 2: Escrow release in 2015*

| Issuer | Escrow release |
|---|---|
| Wynyard Group Limited | 25 February 2015 |
| Airwork Holdings Limited | 25 February 2015 |
| Gentrack Group Limited | After preliminary financial results announcement of year ending 30 September 2015 |
| Serko Limited | Partial escrow release after preliminary financial results announcement of year ending 31 March 2015 |
| Metro Performance Glass Limited | After preliminary financial results announcement of year ending 30 September 2015 |
| ikeGPS Group Limited | Partial escrow release after preliminary financial results announcement of year ending 31 March 2015 |
| Orion Health Group Limited | Partial escrow release after preliminary financial results announcement for six months ending 30 September 2015 |
| EROAD Limited | Partial escrow releases after preliminary financial results announcement for year ending 31 March 2015 and six months ending 30 September 2015 |

*Escrows for Z Energy and Synlait shareholders expired in 2014*

## No prospective financial information

We expect the omission of prospective financial information in offer documents will remain unusual, particularly after Orion Health's experience.

Orion Health chose not to include any prospective financial information in its offering documentation for its late 2014 IPO, saying that its uncertain revenues, caused by the unpredictable timing of major contracts, made forecasts potentially misleading. This decision may have been influenced by the fate of Gentrack which, with a similarly lumpy earnings profile, was punished by the market when it had to publish a profit downgrade shortly after listing due to a delay in a major project.

However, the market reacted adversely when Orion Health also announced, shortly after listing, that revenues were lower than expected in the previous quarter and that this trend was likely to continue into the next quarter. It was essentially treated as though it had made forecasts and failed to meet them.

## Chapman Tripp recent capital markets highlights

Chapman Tripp has acted on most of New Zealand's recent large capital markets transactions, including eight of the 12 Main Board IPOs in 2014.

We recently advised:

- Deutsche Craigs as underwriter and arranger of AWF Group's $14m rights issue under the same class regime
- Arvida Group on all aspects of its 2014 $80m IPO and NZX Main Board listing, in conjunction with a roll-up acquisition of 17 aged care facilities for scrip for a deal value of $329m
- APN News & Media on the proposed IPO of its New Zealand media interests, NZME., and its NZX Main Board listing
- First NZ Capital and Deutsche Craigs on the $125m IPO and NZX Main Board listing of Orion Health
- EROAD on all aspects of its 2014 $46m IPO and NZX Main Board listing
- Vista Group on all aspects of its 2014 $92m IPO and NZX Main Board/ASX listing
- Scales Corporation on all aspects of its 2014 $149m IPO and NZX Main Board listing
- ikeGPS on all aspects of its $25m IPO and NZX Main Board listing
- Intueri Education Group on all aspects of its 2014 $167m IPO and dual NZX Main Board/ASX listing
- New Zealand Treasury on all aspects of its sale of up to 49% of Genesis Energy Limited as part of the government's mixed ownership model (*MOM*) programme
- Deutsche Craigs as underwriter of The Warehouse Group's NZ$100m institutional and habitual investor share placement, and $15m underwrite of its share purchase plan for New Zealand shareholders
- First NZ Capital as underwriter of The New Zealand Refining Company's $48m institutional and habitual investor share placement, and $5m partial underwrite of its share purchase plan for New Zealand shareholders
- Heartland New Zealand on its 2014 $20m capital raising, by way of a $15m placement and $5m share purchase plan, to partially fund the acquisition of Seniors Money International's home equity release businesses in New Zealand and Australia from Quadrant Private Equity
- Airwork Holdings on its 2013 $40m IPO and NZX Main Board Listing
- New Zealand Treasury on all aspects of the Government's $365m partial sell down of its majority stake in Air New Zealand, and
- the Instalment Receipts trustee on the Meridian IPO.


## For more information, please contact

**ROGER WALLIS – PARTNER**
T: +64 9 357 9077
M: +64 27 478 3192
E: roger.wallis@chapmantripp.com

**GEOF SHIRTCLIFFE – PARTNER**
T: +64 4 498 6322
M: +64 27 481 1699
E: geof.shirtcliffe@chapmantripp.com

**JOHN HOLLAND – PARTNER**
T: +64 3 353 0027
M: +64 27 437 7583
E: john.holland@chapmantripp.com

**RACHEL DUNNE – PARTNER**
T: +64 9 357 9626
M: +64 27 553 4924
E: rachel.dunne@chapmantripp.com

**JOHN STROWGER – PARTNER**
T: +64 9 357 9081
M: +64 27 478 1854
E: john.strowger@chapmantripp.com

**STEPHEN LOWE – PARTNER**
T: +64 9 357 9042
M: +64 27 490 4633
E: stephen.lowe@chapmantripp.com

**TIM TUBMAN – PARTNER**
T: +64 9 357 9076
M: +64 27 344 2178
E: tim.tubman@chapmantripp.com

**JOSH BLACKMORE – PARTNER**
T: +64 4 498 4904
M: +64 21 828 814
E: josh.blackmore@chapmantripp.com

**PIP ENGLAND – PARTNER**
T: +64 9 357 9069
M: +64 27 434 8854
E: pip.england@chapmantripp.com

**JOSHUA PRINGLE – SENIOR ASSOCIATE**
T: +64 9 358 9831
M: +64 27 504 6572
E: joshua.pringle@chapmantripp.com

**FIONA BENNETT – SENIOR ASSOCIATE**
T: +64 3 353 0341
M: +64 27 209 5871
E: fiona.bennett@chapmantripp.com

**ADRIEN HUNTER – SENIOR ASSOCIATE**
T: +64 9 357 9501
M: +64 27 504 6574
E: adrien.hunter@chapmantripp.com

## Recent awards

*New Zealand Law Firm of the Year* - 2014 Chambers Asia Pacific Awards for Excellence

*Large Law Firm of the Year* - 2014 New Zealand Law Awards

*Employer of Choice (100+ employees)* - 2014 New Zealand Law Awards

*New Zealand Employer of Choice* - 2014 Australasian Lawyer Employer of Choice Awards

Thank you to Joshua Pringle and Ben Land-Maycock for writing this report.