



# A New Route to Listing on the TSX: Sandbox Initiative Paves a Formalized Route for Staff Discretion to Relax Certain Requirements

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**Canada’s principal stock exchange, the TSX, recently unveiled the “TSX Sandbox”, an initiative that will provide an alternative path to a stock exchange listing or listing of other securities by existing listed issuers for certain qualifying companies. The TSX Sandbox is designed to achieve this by providing a framework for the exercise of the TSX’s discretion to accept meritorious applications even if they do not satisfy all of the exchange’s traditional requirements.**

In addition to the greater flexibility that it may offer to many aspiring and current public companies, the TSX Sandbox also aims to serve the broader public interest by allowing the TSX to test out new potential policy initiatives (e.g. the relaxing of certain rules) that otherwise may take a long time to formally implement.

## Eligibility

Under the initiative detailed in [Staff Notice 2019-0002](#) (April 12, 2019), applicants from all industry sectors and at all stages of growth may apply to the TSX Sandbox for original listings and existing TSX issuers may apply with respect to additional listing applications, including novel financings.

## How to Apply

To apply, applicants should follow standard application procedures and include a submission requesting that the application be reviewed via TSX Sandbox, together with a discussion of relevant eligibility criteria.

## Assessment Process

Potential applicants will be assessed on a case-by-case basis with a view to assessing a range of factors. At the most general level, these include evidence of broad public support, investor interest and established corporate governance practices. More specific factors that the TSX will be looking for include (among others):

- Experienced management team, board of directors and other supporters with demonstrated track record in public markets;

- Significant public raise resulting in wide distribution of the applicable securities;
- Adequacy of market capitalization;
- Significant pre-tax cash flow from operations;
- Incorporation in Canada or in a jurisdiction with corporate governance practices comparable to Canadian standards;
- A long-form prospectus recently received by a member of the Canadian Securities Administrators or a U.S. registration statement recently made effective through an SEC filing; and
- Sponsorship by a TSX participating organization or commentary and support from another entity with recognizable sector-specific expertise.

Excluded from eligibility to participate in the TSX Sandbox are emerging market issuers and past TSX applicants (TSX staff may make exceptions in the latter case). Other factors precluding eligibility include (i) the existence of negative information (including in the media) relating to the applicant, its management or its board and (ii) ongoing or historical sanctions or investigations regarding the applicant or its management, directors, insiders and/or affiliated persons.

The Staff Notice notes that “first mover” applications to the TSX Sandbox may benefit. The TSX advises that a decision to exercise discretion in favour of one type of applicant will not necessarily mean that similar applicants will automatically be able to list or be approved. Those subsequent similar applications may have to wait until the TSX has had a chance to analyze the first (and similar) mover’s market impact.

## Conditions

While the TSX may approve a listing or provide certain waivers or exceptions to approved TSX Sandbox applicants, it may at the same time impose additional special conditions on the applicant’s continued listing. Such conditions may include (among others):

- Minimum public raise and market capitalization;
- Enhanced sponsorship and escrow requirements;
- Time limitation for listing or waiver; and
- Enhanced disclosure in offering and continuous disclosure documents which identifies that the application was approved through TSX Sandbox and includes the risks of listings via TSX Sandbox and any exemptions, waivers and special conditions applied.

## Leaving the Sandbox

Once the waivers or exemptions granted under the program are no longer required and/or the issuer listed via TSX Sandbox has met any special conditions, the goal is for the issuer to exit the TSX Sandbox and be subject to standard TSX continued listing requirements.

## Looking Ahead

While securities regulators have programs with similar objectives in place, such as the CSA Regulatory Sandbox and OSC LaunchPad, the TSX Sandbox appears to be a novel idea for an exchange. As it evolves, the TSX Sandbox could become a platform through which eligible applicants pursue novel listings or financings. However, only time will tell exactly how the TSX applies its discretion through the TSX Sandbox, the impact it may have on the issuer by listing through the TSX Sandbox and how it shapes future policy developments and TSX requirements.

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