



PIPE transactions in Canada

A practical guide to private investments
in Canadian public equities

OSLER

Table of contents

Strategic considerations	4
Legal requirements	7
Investor rights and company protections	11
Conclusion	15

Overview

This guide provides a high-level overview of private investments in Canadian public equities (PIPE), including common areas of negotiation, strategic rationale, typical deal terms and relevant regulatory and stock exchange approvals involved in such transactions. We invite you to contact the contributing editors of this guide or any other member of our Corporate practice group to discuss PIPE transactions.

A PIPE is a transaction between a public company and a qualified investor that involves a private placement of securities by the company to the investor. PIPEs are usually a significant, but still minority, investment in a company and are frequently accompanied by a negotiated package of investor rights and protections.

PIPE transactions can vary significantly in structure. In most cases, a PIPE will involve the issuance of common equity, although preferred equity, convertible securities, warrants or a combination of such securities may also be used.

There is no single blueprint for a PIPE. Each is the product of deal-specific objectives and dynamics. This guide summarizes common considerations and themes that we regularly encounter in negotiating PIPE transactions.

Strategic considerations

The company

There are several potential advantages to raising capital through a PIPE for companies to consider.

Developing a long-term and/or strategic relationship with a large shareholder

A PIPE can result in a block of shares being held by a strategically significant partner and may form part of a larger commercial relationship between the investor and the company. The block of shares may also act as a bulwark against potential activist investors or unsolicited bidders.

Alternative source of financing

A PIPE offers companies a flexible means of raising capital, potentially with greater speed, efficiency and certainty than traditional public offerings. In addition, a PIPE may provide companies with access to financing during periods of market volatility or turmoil, financial distress, or when a company's low market capitalization or other circumstances restrict access to institutional investors or make access to public capital markets unattractive or unavailable.

Confidentiality

Typically, a PIPE will only be disclosed publicly after definitive agreements have been negotiated and entered into. There is no formal public offering or marketing process associated with a PIPE, which can reduce risks associated with stock price fluctuations.

Bespoke rights and protections

Subject to stock exchange rules and applicable securities laws, the parties may negotiate a broad range of rights and protections that govern the terms of the investment. For companies, these protections may include extended hold periods, standstills or voting support obligations imposed on the investor.

Quick access to capital on a controllable time frame

Given that a PIPE is typically negotiated directly between two parties and does not require the preparation of a disclosure document or review of such disclosure document by a securities regulator, PIPE transactions can often be concluded more quickly than other forms of capital raising.

Lower transaction expenses

Transaction costs for the company can be lower than many other financing alternatives.

There can also be certain disadvantages to raising capital through a PIPE.

Significant investor control

The relative size of the investment and negotiated investor rights may result in an investor acquiring influence over a company without providing liquidity to existing shareholders. This may limit the company's freedom to make certain business or operational decisions without consulting — or, in some instances, soliciting the approval of — the investor.

Discount to market price

Given the longer hold periods and associated lack of liquidity, investors may insist that the securities be issued at a discount to prevailing market prices.

Toehold may discourage future acquirors

The presence of a significant block of shares in the hands of a strategic investor may discourage future buyers from attempting to acquire the company.

Risk of debt-like treatment

Negotiated investor rights may include features that result in rating agencies or applicable accounting rules treating all or a portion of a PIPE investment like debt, which could negatively affect covenant compliance or credit ratings.

Limited investor access

Because a PIPE by definition is only offered to investors eligible to purchase securities on a prospectus-exempt basis, the company sacrifices access to the broader public market and, in some cases, participation by its existing shareholders. Limited investor access may require the company to price the transaction at a steeper discount or agree to more investor-friendly terms to secure sufficient capital.

The investor

There are distinct advantages to investing in a company through a PIPE that may not be available through other investment channels.

Favourable economic terms

A PIPE will often (but not always) be priced at a discount to current market prices to compensate the investor for a lack of immediate liquidity imposed by securities law and stock exchange hold periods. PIPE investments are sometimes also accompanied by warrants that provide the investor with an additional "sweetener."

Opportunity to influence corporate strategy

An investor may negotiate governance (including board appointment) and approval, veto or consultation rights that provide it with influence over the company's go-forward strategy.

Additional investor rights and protections

An investor may negotiate additional rights and protections not commonly available in a public offering, such as anti-dilution protections (i.e., pre-emptive rights), registration rights and information rights. These rights can offer a level of investment monitoring and protection for public securities that more closely resemble those afforded to investors in private companies and may not otherwise be available to the company's broader shareholder base.

Structuring flexibility

An investor may wish to invest in preferred shares, debt securities or convertible securities on the basis that such securities may grant them preferential dividend or interest entitlements, a liquidation preference over common shares and/or priority over equity securities. So-called "structured equity" investments are becoming increasingly commonplace globally, but as of 2025 remain relatively infrequent in Canadian public equity markets outside recent structured investments in telecom infrastructure. There has, however, been a surge in [structured investments in private companies](#).

Alternative to M&A

Investing in a company through a PIPE may allow the investor to realize some of the objectives of an acquisition without having to acquire the entire company. A PIPE may provide a pathway to a future acquisition of the company or an opportunity for the investor to generate a return.

Investing in a company through a PIPE may also include certain disadvantages.

Hold periods and standstills

An investor may be subject to extended hold periods for the securities that it acquires, as well as a standstill that prevents it from acquiring further securities or voting its securities against management.

Insider reporting and limitations

An investor that holds more than 10% of a public company, whether prior to or as a result of the PIPE, will be subject to insider and early warning reporting requirements and may be subject to related party transaction restrictions. In addition, if the insider holds material non-public information, the investor may be precluded from trading in the company's securities under applicable insider trading restrictions.

Equity investment risk

In addition to the inherent exposure to downside risk associated with equity investments, PIPE investors often face reduced liquidity. This is primarily due to securities law restrictions that can complicate the ability to exit a control position.

Legal requirements

Process

The negotiation and implementation of a PIPE transaction typically involves three stages.

Pre-announcement period

Prior to announcement, the parties will enter into a confidentiality agreement and, in some instances, an exclusivity agreement. Both parties will typically engage legal counsel (internal and/or external) and may engage financial advisors. The investor and its advisors will then complete a due diligence review of the company, the scope of which will depend on the size of investment and the industry of the company, among other factors. The parties then negotiate and enter into a subscription or investment agreement, which will specify the terms of any new securities to be issued, the terms of any company protections or investor rights and any additional agreements to be entered into concurrently with, and conditional on, the closing of the PIPE transaction. Though less common, the parties may also use the pre-announcement period to file applications for conditional approval of the stock exchanges on which the company's securities are listed for trading or to seek pricing certainty through the price reservation mechanisms of applicable stock exchanges.

Post-announcement period

Following execution of the subscription or investment agreement, the parties will publicly announce the transaction and, if not already completed, file applications for conditional stock exchange approval and seek any shareholder or other regulatory approvals required in connection with the transaction. In cases where a new insider is created or a board seat is granted, there may be a need for a "personal information form" to be filed with and cleared by the stock exchange prior to closing. In our experience, the clearance of personal information forms and related background checks can sometimes lengthen the overall deal timeline and should be factored in accordingly.

Closing and post-closing period

Once all conditions to closing have been satisfied, including receipt of all stock exchange and regulatory approvals, the investor will pay the subscription price to the company and the transaction will close in accordance with the terms of the subscription agreement. Finally, post-closing filings with stock exchanges, securities regulators and other regulatory authorities are made, as required.

Prospectus and approval requirements

The availability and terms of a PIPE transaction are limited by provincial securities laws and stock exchange rules. The terms of a PIPE transaction will also determine the nature of any corporate approvals required of the issuing company.

Distribution rules

Securities distributed by a company must be qualified by a prospectus unless an exemption is available under applicable securities law. A company will therefore need to satisfy itself that a prospectus exemption is available prior to issuing securities as part of a PIPE transaction. This will necessarily be a fact-specific exercise and will depend on the profile of the investor. In the context of a PIPE transaction, we frequently see companies relying on the “accredited investor” exemption, which permits the sale of securities to a person or company with a minimum asset or income base on a prospectus-exempt basis. Securities issued to an investor under an exemption will be subject to certain resale restrictions under applicable securities law.

Related party

In circumstances where a company seeks to complete a PIPE transaction with a related party, Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* (MI 61-101) may impose additional disclosure and approval requirements, including the need for approval by a majority of disinterested shareholders.

Similarly, an investor may become a related party after consummating a PIPE transaction, with the result that certain subsequent transactions or arrangements between the company and the investor may be subject to additional disclosure and approval requirements.

Corporate law

Under Canadian corporate law, the board of the company will need to conclude that the transaction is in the best interests of the company. If the proposed transaction contemplates the creation of a new class of shares, the articles of the company will have to be amended. The creation of a new class of shares is a fundamental change which, depending on the jurisdiction, may require a special resolution of shareholders (approval by two-thirds of the votes cast at a meeting of shareholders). The articles of a company will sometimes provide the ability to create new series of preferred shares without the need for obtaining shareholder approval.

Stock exchange rules

If the company is listed on the Toronto Stock Exchange (TSX), the company will be subject to the rules of the TSX that require, among other things, the company to provide immediate notice to the TSX of any transaction involving the issuance of any of its securities other than unlisted, non-voting, non-participating securities. The notice typically takes the form of a letter addressed to the TSX seeking its approval to list the new securities and includes a copy of the subscription agreement and any other agreements to be entered into in connection with the transaction. The company may not proceed with the proposed transaction unless and until approved by the TSX.

The TSX may require the company to seek and obtain shareholder approval as a condition to the TSX's approval of a transaction, if, in the opinion of the TSX, the transaction does any of the following:

- materially affects the control of the company
- provides consideration to insiders in aggregate of 10% or greater of the market capitalization and has not been negotiated at arm's length
- enables securities to be sold at prices lower than permitted under the TSX pricing rules
- includes the issuance of convertible securities or warrants containing anti-dilution provisions that may result in securities being issued at prices lower than the TSX's pricing rules
- involves the issuance of more than 25% of the company's outstanding listed securities (on a non-diluted basis) before the date of closing where the price per security is less than market price

Where shareholder approval is required, such approval must be obtained from holders of a majority of the company's securities at a duly called meeting. A meeting may be avoided if the company provides the TSX with written evidence that holders of more than 50% of the company's securities are familiar with the terms of the proposed PIPE and are in favour of such transaction. In these circumstances, any written evidence or related materials supporting shareholder approval must be pre-cleared by the TSX.

The TSX Venture Exchange (TSX-V) imposes similar rules and obligations in respect of PIPE transactions for companies listed on the TSX-V. There are, however, some notable differences between the TSX-V and the TSX in their regulation of the terms of a PIPE. For example, the TSX-V does not permit the price per share to be lower than the maximum discount of the market price, whereas the TSX may permit a greater discount where shareholder approval is obtained.

Regulatory issues

While PIPE transactions can often be completed without triggering mandatory regulatory filings or approvals, factors such as the number of securities issued, the size of the transaction and the nature of the business are important considerations in determining whether a PIPE triggers notification, review or approval under the *Competition Act* (Canada) or the *Investment Canada Act*.

Regulatory filing requirements can lengthen the deal timeline and should be factored in accordingly, particularly when the investor's stake approaches control levels, the investor has other holdings in the sector, the company operates in highly concentrated markets or the investment raises possible national security considerations.

Parties should also consider whether industry-specific statutes may apply, including those that limit foreign ownership or require additional regulatory approvals.

Securities

The type and terms of securities to be issued to the investor by the company as part of a PIPE transaction are typically negotiated on a deal-by-deal basis, but often involve the issuance of common or preferred equity, convertible securities, warrants or other equity-linked securities. Generally, a company will prefer to issue common equity, while an investor may want preferred or convertible equity to ensure an additional level of investor protection and priority over the company's other shareholders in receipt of dividends and upon liquidation.

Pricing rules

The TSX and TSX-V rules provide for the following limits on the discount that may be offered on securities issued in a PIPE:

Market price	Maximum discount
Up to \$0.50	25%
\$0.51 to \$2.00	20%
Above \$2.00	15%

The TSX and TSX-V also have specific pricing requirements in respect of the issuance of convertible securities and warrants.

The transaction must generally close within a specified period of time. For securities to be listed on the TSX, the transaction must close within 45 days of the date on which the market price of the securities being issued is established (or, if a shareholder meeting is required, within 135 days). For securities to be listed on the TSX-V, the transaction must close within 30 days of the date the company reserves the proposed offering price. The applicable exchange may approve an extension on a case-by-case basis to align with a longer regulatory timeline or a concurrent transaction.

Investor insider reporting obligations

A PIPE transaction may result in an investor becoming subject to restrictions and ongoing compliance obligations under Canadian securities laws. The nature and extent of these restrictions and obligations will be a function of the investor's percentage security holdings.

- If an investor acquires voting or equity securities of a company that result in the investor owning 10% or more of the outstanding voting or equity securities of the company, the investor will be an insider and subject to the insider trading and "early warning" requirements under applicable securities laws. The insider reporting requirements include creating an insider profile and reporting future acquisitions and dispositions of the applicable securities in a timely manner. The early warning requirements include issuing a news release and filing a public report, a one-business-day moratorium on further acquisitions and further reporting upon (i) acquisitions and dispositions of 2% of voting or equity securities, (ii) falling below the 10% ownership threshold or (iii) any change in a material fact contained in the public report. Certain eligible institutional investors may be able to avail themselves of the more lenient alternative monthly reporting regime. Investors will also become subject to insider reporting requirements at this threshold.
- If an investor acquires voting or equity securities of a company that results in the investor owning 20% or more of the outstanding voting or equity securities of the company or holds enough shares to "materially affect" the control of a company future (i) dispositions of securities by the investor must be made pursuant to a prospectus or a prospectus exemption and (ii) acquisitions of securities by the investor may trigger the requirements of the Canadian take-over bid regime in the absence of a take-over bid exemption.

Investor rights and company protections

Investor rights and company protections tend to be the most extensively negotiated aspects of a PIPE transaction. While they can vary considerably from deal to deal, we summarize certain common rights and protections we see when negotiating PIPE transactions below.

For private equity investors, an important aspect of investing involves securing strategic oversight of portfolio companies. PIPEs generally do not provide an investor with the same degree of control over the company as would be typical in a pure private equity buy-out transaction. While an investor may gain some influence over corporate decisions, public companies may resist granting the investor approval rights over key business decisions or fundamental changes to the organization; there are few examples where approval rights have been given. As a result, there may be an underlying tension between traditional private equity and PIPEs, depending on an investor's typical investments and strategy.

Investor rights

Investors may request certain types of rights to safeguard and monitor their investment.

Registration rights

The investor may have the right to require the company to file a prospectus to qualify the securities issued under the private placement for resale, typically pursuant to a registration and qualification rights agreement (registration rights). Registration rights may include, or be limited to, “piggyback” rights to participate in an offering being conducted by the company, but without the ability to “demand” a registration. Principal areas of negotiation will include

- the threshold at which the registration rights fall away
- the number of times that registration rights may be exercised
- postponement rights for the company in certain circumstances
- who bears the costs associated with any registration or qualification
- indemnification obligations

Information and inspection rights

The investor may have the right to receive certain information over and above regular public company disclosure required to be made to shareholders. Information rights may include the right to review monthly financial statements and to be provided advance notice of certain transactions. Similarly, the investor may have the right to conduct inspections of the company's records. These rights are typically subject to confidentiality obligations as well as restrictions on the use of information.

Anti-dilution protection and pre-emptive rights

Convertible securities may include anti-dilution provisions that automatically adjust the conversion price or increase the number of shares an investor receives under certain circumstances, such as

- a consolidation of the outstanding common equity
- a share dividend or other distributions of common equity to existing shareholders
- a payment of an extraordinary cash dividend
- the issuance of convertible securities with unequal conversion terms.

These provisions, commonly structured on a "weighted-average" or, less frequently, a "full-ratchet", basis, are intended to preserve the investor's economic position and must be carefully drafted to comply with TSX and TSX-V rules on pricing and shareholder approval.

Investors may also negotiate for pre-emptive rights. Pre-emptive rights are a preferential right to

- provide future financing
- acquire a proportionate share of any securities issued as part of future financings
- maintain an investor's proportionate equity interest in the company

These rights are usually exercisable within a specified notice period and at the same price and terms offered to other investors.

Anti-dilution protections and pre-emptive rights may be subject to limitations to avoid unduly constraining future capital raising flexibility; for example, a company may not have to comply if

- any actions taken in connection with this right would require seeking shareholder approval
- the investor's ownership falls below certain thresholds
- the securities are issued under employee plans or as consideration for strategic acquisitions

Board nomination rights

Board nomination rights provide the investor the right to require the company to nominate one or more directors to the board of the company. Nomination rights are often proportionate to the investor's interest, and may terminate if the investor disposes of a certain percentage of securities it acquired from the company pursuant to the PIPE transaction or if the investor's ownership in the company drops below a certain threshold. Nomination rights may include the right for the board nominee to sit on all, or a subset of, board committees. Where nomination rights are unavailable, an investor may instead negotiate for the right to appoint an observer to the board and its committees. When negotiating director nomination rights, investors should keep in mind that all directors, including nominee directors, will be subject to shareholder approval and owe fiduciary duties to the company (and not to the investor specifically).

Investor redemption rights (put rights)

Investor redemption rights are the right of the investor to require the company to repurchase the investor's securities typically at a pre-determined price, such as a floor return, in certain circumstances, including if the company sells all or substantially all of its assets, becomes de-listed from the stock exchange on which its securities are listed or engages in a fundamental change (including a change of control). Investor redemption rights may be mandatory (i.e., the triggering event results in an automatic redemption with no election by the investor or the company required and no option for partial redemption) or at the option of the investor (i.e., the investor may elect for the company to redeem all or part of its securities). Contractual redemption rights are challenging in light of the securities law requirements for issuer bids, though redemption or retraction rights may be included in the terms of a particular class of securities.

Approval or veto rights

The investor may have the right to approve or veto significant actions or important decisions of the company regarding its business, including

- fundamental changes, such as amending the company's articles and/or bylaws
- issuing new classes of securities ranking in priority to the class of security issued as part of the PIPE transaction
- incurring additional indebtedness in excess of prescribed thresholds
- payment of dividends by the company
- making substantive changes to the company's business plan or operations

Ancillary business rights

The investor may negotiate for additional rights to safeguard its strategic interests, such as a right of first refusal on the sale of identified assets, a right to appoint members to a technical or advisory committees or a right to enter into future collaboration or commercial agreements.

Company protections

Companies may also require certain protections in connection with a PIPE.

Transfer/resale restrictions

A company may negotiate for a mandatory post-closing hold period that is beyond the four-month statutory period (typically varying from one to three years) or other restrictions on the investor's ability to transfer its securities. These restrictions provide the company with greater certainty that the investor will remain aligned with the company and its strategy over a longer period. Other restrictions that may be negotiated include limitations on how resales may be made (e.g., restricting resales to broadly marketed distributions or prohibiting resales to customers, competitors or other significant shareholders of the company). Alternatively, a company may seek an opportunity to "place" the securities in the hands of a supportive shareholder before the investor is able to sell them.

Standstill

A company may be able to negotiate an investor standstill for either a fixed period of time or for so long as the investor owns a minimum percentage of the company's securities. During the standstill, the investor agrees not to acquire any additional securities of the company or to engage in actions that the company's board of directors considers hostile, which may include proxy contests that involve replacing the directors and unsolicited take-over bids.

Company redemption (call rights)

A company may be able to negotiate the right to force a repurchase or redemption of the investor's securities in certain circumstances, such as the expiration of a lock-up period, the attainment of a predetermined share price or the passage of a defined period of time. Investors may try to mitigate against company-forced redemptions with redemption premium payments. In the context of convertible securities, redemption rights may allow the company to redeem the securities prior to conversion, thereby managing or limiting potential dilution to existing shareholders.

Voting support

A company may seek a commitment from the investor to vote as directed by the company for a fixed period of time. The scope of these voting support arrangements can vary, but may include agreements to support board-nominated director candidates or to vote in line with the board's recommendations on certain corporate matters. If the investor agrees, these provisions typically exclude special business, such as a potential sale transaction.



Conclusion

PIPE transactions offer many benefits to investors and companies alike, providing a mechanism for public companies to access private capital pools and for investors to deploy capital relatively quickly into public markets on flexible terms. Given the bespoke nature of these transactions, financial and legal advice is critical to help the parties navigate these deal dynamics effectively.

About Osler's Mergers and Acquisitions Group

Osler's M&A group, consistently ranked Band 1 in *Chambers Canada*, advises on all types and sizes of transactions and has deep experience from decades of deal flow, be it for domestic, cross-border or multinational companies. Our lawyers have designed and implemented innovative legal structures that have revolutionized the M&A landscape and continue to provide valuable solutions for our clients.

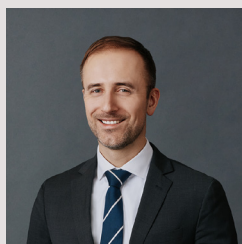
At Osler, we understand the business imperative behind a transaction and the business environments in which our clients operate. Our client-first approach pervades every aspect of our firm culture and we bring that approach to the way we structure and negotiate deals, mitigate risk, and staff and efficiently manage files.

Based across Canada and in New York, our team focuses on the core practice areas that best meet the needs of our cross-border clients. By providing an integrated Canadian and U.S. cross-border service, our clients benefit from business-critical advice from just one firm.

Awards and recognition

- **Chambers Canada: Canada's Leading Lawyers for Business:** Recognized in Corporate/M&A (Band 1); Corporate/Commercial: The Elite: Ontario (Band 1), Alberta (Band 1), British Columbia and Québec
 - "Their reputation as an M&A shop is virtually unrivalled. They have great bench strength and field multiple teams without anything slipping through the cracks. As a client, we are very well treated."
 - "They are not only knowledgeable and smart but are also prepared to work hard, are businesslike in their focus on legal issues and meet their commitments to clients."
 - "They have a deep bench, which is invaluable. They are incredibly responsive and helpful in everything that they do."
- **Chambers Global: The World's Leading Lawyers for Business:** Recognized in Corporate/M&A (Band 1)
 - "Both Canadian and international clients rely on Osler for its breadth and depth of expertise in corporate/M&A law."
 - "Osler has played a key advisory role in many of the largest M&A transactions in Canada over the past several years."

Key contacts



Alex Gorka

Partner, Corporate
Co-Chair, Mergers
and Acquisitions

416.862.4857

agorka@osler.com



Brett Anderson

Partner, Corporate

416.862.6788

banderson@osler.com



Douglass Dawson

Partner, Corporate

416.862.6722

ddawson@osler.com

About Osler, Hoskin & Harcourt LLP

Osler is a leading law firm with a singular focus – your business. From Toronto, Montréal, Calgary, Vancouver, Ottawa and New York, we advise our Canadian, U.S. and international clients on an array of domestic and cross-border legal issues. Our collaborative “one firm” approach draws on the expertise of over 600 lawyers to provide responsive, proactive and practical legal solutions driven by your business needs. For more than 160 years, we’ve built a reputation for solving problems, removing obstacles, and providing the answers you need, when you need them.

Osler, Hoskin & Harcourt LLP

Toronto Montréal Calgary Vancouver Ottawa New York | osler.com

© 2025 Osler, Hoskin & Harcourt LLP
All rights reserved. 09/2025

OSLER