REGULATION A TIER 2 DIRECT PUBLIC OFFERING

GUIDE FOR OTC MARKETS GOING PUBLIC TRANSACTIONS

A Comprehensive Roadmap from Form 1-A to OTC Quotation

AS SEEN IN

FORBES · BLOOMBERG · BLOOMBERG LAW
BUSINESS INSIDER · RADIO FREE EUROPE

FEATURED COMMENTARY & INTERVIEWS

"As Investment Fraud Losses Hit $8.6 Billion, The SEC Rethinks a Job It Was Already Supposed to Be Doing" — **FORBES**

"'Bro I'm Going Rogue': The Wall Street Informant Who Double-Crossed the FBI" — **BLOOMBERG**

"SEC Eyes Changes to Short Sale Rule After Hedge Funds' Court Win" — **BLOOMBERG LAW**

"When Wall Street's Financing Turns 'Toxic'" — **BUSINESS INSIDER**

Also cited in the South Florida Business Journal, Forbes Africa, Dealflow, New Cannabis Ventures, EB5Investors, and Willamette Week

HAMILTON & ASSOCIATES LAW GROUP, P.A.

Regulation A Tier 2 Direct Public Offering Guide

A Comprehensive Roadmap from Form 1-A to OTC Quotation

This guide addresses an issuer-direct, self-underwritten Tier 2 offering under Regulation A, followed where appropriate by Rule 15c2-11 review, Form 211 processing, OTC quotation, and DTC eligibility. It is based principally on current SEC rules and guidance, FINRA Rules 5250 and 6432, OTC Markets requirements, and DTC materials. The organizational approach is informed in part by the Troutman Pepper Locke publication on Tier 2 Regulation A offerings, but the analysis, language, tables, and practical guidance are original and substantially expanded. Rules, fee schedules, and market standards change. This publication is educational only and is not legal, accounting, tax, investment, or underwriting advice.

Table of Contents

---

1. Introduction: What a Tier 2 Direct Public Offering Is

A Regulation A Tier 2 Direct Public Offering is a public capital raise in which an eligible issuer offers and sells its own securities directly to investors under a Form 1-A offering statement qualified by the Securities and Exchange Commission. For purposes of this guide, the offering is self-underwritten: there is no investment bank purchasing the securities, no firm-commitment underwriting, and no placement agent responsible for investor distribution.

The structure should be distinguished from several transactions that are often grouped together under the word "direct":

A registered or underwritten public offering. A conventional IPO is registered on Form S-1 and ordinarily uses one or more underwriters. A registered direct offering typically uses a placement agent to place registered securities with selected investors. Neither is the issuer-direct Tier 2 structure addressed here.

An exchange direct listing. A direct listing is a method of listing a class of securities on a national exchange without a traditional firm-commitment underwriting. It is not the same as a Regulation A offering or an OTC quotation.

Regulation Crowdfunding. Regulation Crowdfunding is a separate exemption with a lower offering cap and a mandatory registered intermediary. Tier 2 permits a much larger public offering and does not require use of a funding portal.

A typical Tier 2 DPO sequence is: determine issuer eligibility and offering design; complete corporate and capitalization cleanup; prepare audited financial statements; submit or file Form 1-A; conduct compliant testing-the-waters activity; respond to SEC comments; obtain qualification; accept subscriptions and close sales; issue shares through the transfer agent; maintain Tier 2 reporting; and, if an OTC market is intended, complete the separate Rule 15c2-11, Form 211, OTC Markets, symbol, and DTC workstreams.

---

2. Strategic Rationale: When Tier 2 Is the Right Tool

Tier 2 can be attractive to a U.S. or Canadian operating company that wants to raise capital from accredited and non-accredited investors, use broad public communications, avoid state-by-state registration of the primary offering, and establish a public shareholder base without a traditional underwriting syndicate.

Control and flexibility. The issuer controls the offering price, minimum investment, subscription acceptance, allocation, closing schedule, and marketing plan, subject to the qualified offering circular and applicable law. A continuous offering can permit capital to be raised over time rather than in a single closing.

Broader investor access. Tier 2 permits sales to the general public. Non-accredited investors remain subject to the Rule 251 investment limit when the securities will not be listed on a national securities exchange upon qualification, but they are not categorically excluded.

Brand and community participation. Companies with customers, members, suppliers, employees, or a strong industry following may be able to turn existing awareness into investor interest. That advantage is meaningful only when communications remain balanced, documented, and consistent with the offering circular.

Honest trade-offs. A self-underwritten offering lacks an underwriter's distribution network, price support, research coverage, and institutional relationships. Qualification does not guarantee subscriptions, OTC quotation, DTC eligibility, broker acceptance, liquidity, a particular trading price, or a later exchange listing. The issuer must budget for compliance before, during, and after the offering.

---

3. Core Regulation A Tier 2 Requirements

Tier 2 is a Securities Act exemption for public offerings, not a private-placement exemption and not a full Securities Act registration. It combines public solicitation and unrestricted issuer sales with audited financial statements, SEC review, federal ongoing reports, investor limits, bad-actor screening, and continuing antifraud liability.

3.1 Offering Amount and Secondary-Sale Limits

Rule 251 permits a Tier 2 issuer to offer up to $75 million during a rolling 12-month period. Within that amount, securities offered by selling securityholders who are affiliates of the issuer are capped at $22.5 million. The calculation includes the aggregate offering price of the current offering and gross proceeds from other Regulation A offering statements during the applicable period.

In the issuer's first Regulation A offering, and in any Regulation A offering qualified within one year after the first qualification date, all selling-securityholder sales - affiliate and non-affiliate combined - may not exceed 30% of the aggregate offering price. Convertible securities and warrants can require qualification and valuation of the underlying securities when the conversion, exercise, or exchange features fall within Rule 251.

3.2 Eligible Issuers and Securities

The issuer must be organized under the laws of the United States or Canada and have its principal place of business in the United States or Canada. Exchange Act reporting companies may use Regulation A if they satisfy the applicable eligibility and reporting-currentness requirements.

- Eligible securities include equity securities, debt securities, securities convertible or exchangeable into equity, warrants, and guarantees of eligible securities. Asset-backed securities and fractional undivided interests in oil, gas, or similar mineral rights are not eligible.
- Regulation A is unavailable to registered investment companies, companies required to register under the Investment Company Act, business development companies, blank-check companies, issuers with specified recent Section 12(j) orders, issuers delinquent in required Regulation A or Exchange Act reports during the applicable two-year lookback, and issuers subject to Rule 262 bad-actor disqualification.

Eligibility is tested before filing and must be monitored through each sale. A company that becomes delinquent, discovers a disqualifying event, materially changes its business plan, or no longer satisfies the geographic or issuer requirements should stop sales until counsel determines the appropriate corrective action.

3.3 Non-Accredited Investor Limit

Unless the securities will be listed on a registered national securities exchange upon qualification, a non-accredited natural person generally may not purchase more than 10% of the greater of annual income or net worth. A non-accredited entity generally may not purchase more than 10% of the greater of annual revenue or net assets at its most recent fiscal year end. The issuer may rely on the purchaser's representation unless it knows the representation is untrue.

3.4 Federal Preemption and State Law

Tier 2 securities are covered securities for purposes of state registration and qualification of the primary offering. States may still require notice filings, consent to service, and fees, and they retain antifraud and enforcement authority. Secondary-trading blue-sky issues, broker solicitation rules, and state treatment of an OTC-quoted security must be analyzed separately.

3.5 Ongoing Reporting and Section 12(g)

After qualification, a Tier 2 issuer must file Forms 1-K, 1-SA, and 1-U and, when eligible to exit the reporting regime, Form 1-Z. Equity securities issued in a Tier 2 offering may be excluded from the Exchange Act Section 12(g) holder count under Rule 12g5-1(a)(7) if the issuer remains current, uses a registered transfer agent, and satisfies the public-float or revenue condition. The exemption is conditional and should be monitored at every fiscal and semiannual measurement date.

---

4. Tier 2 Framework at a Glance

The following summary highlights the features that most directly affect a self-underwritten Tier 2 offering intended to create an OTC-quoted public market.

Topic	Tier 2 Requirement	Practical Effect
Offering size	Up to $75 million in a rolling 12-month period	Large enough for a meaningful public raise, but all Regulation A sales must be aggregated correctly
Investors	Accredited and non-accredited investors; 10% limit applies to most non-accredited purchasers in OTC-bound offerings	Subscription procedures must capture investor status and investment-limit representations
Financial statements	Audited financial statements in the offering circular	Audit readiness and auditor selection are usually on the critical path

Topic	Tier 2 Requirement	Practical Effect
State law	Primary-offering registration is federally preempted	Notice filings and fees may remain; secondary-market blue-sky analysis is separate

This guide focuses on companies that intend to sell directly to investors and then seek an OTC quotation. A company planning an immediate Nasdaq or NYSE listing must address the exchange's listing standards, governance, registered-transfer-agent and clearing arrangements, and the different treatment of the Rule 251 non-accredited-investor limit.

---

5. Eligibility, Offering Limits, and Gatekeeping Requirements

A disciplined eligibility review should occur before the audit is commissioned or testing-the-waters materials are released. The review should cover the issuer, every proposed security, all covered persons, prior and concurrent offerings, selling securityholders, reporting history, and the intended post-offering market.

5.1 Issuer Eligibility Review

Confirm organization and principal place of business; operating-company status; Investment Company Act analysis; current Regulation A and Exchange Act filings; absence of a disqualifying Section 12(j) order; and a specific operating business rather than a plan to merge with an unidentified company. Shell and former-shell history should be disclosed and analyzed even when it does not technically make the issuer a blank-check company.

5.2 Rule 262 Bad-Actor Disqualification

Covered persons include the issuer, predecessors and affiliated issuers; directors, executive officers, other officers participating in the offering, general partners and managing members; 20% beneficial owners calculated on voting power; promoters connected with the issuer; compensated solicitors; and certain principals of those solicitors. The issuer must evaluate disqualification at filing and at each sale, obtain questionnaires and certifications, update searches, and disclose certain events that predate the applicable lookback rather than assuming they are irrelevant.

5.3 Tier 2 Requirements - Detailed Checklist

The table below is a planning checklist. It does not replace Regulation A, Form 1-A, the SEC's interpretations, or advice based on the issuer's particular facts.

Requirement	Rule or Standard	Issuer Action
Eligible jurisdiction	Organized and principally based in the United States or Canada	Confirm charter, headquarters, operations, and management location

Requirement	Rule or Standard	Issuer Action
Operating-company status	No blank-check company; no unidentified acquisition plan	Document the current business, assets, employees, and operating plan
Eligible securities	Equity, debt, convertibles, warrants, and guarantees; no asset-backed securities	Analyze every offered and underlying security
Maximum amount	$75 million in a rolling 12-month period	Aggregate current and prior Regulation A sales
Affiliate secondary sales	No more than $22.5 million within the Tier 2 cap	Identify affiliates and selling-holder allocation
First-year secondary sales	All selling holders limited to 30% of aggregate offering price	Model primary and secondary components before filing
Investor limit	10% cap for most non-accredited purchasers in OTC-bound offerings	Use suitability questions and purchaser representations
Financial statements	Audited financial statements and required interim periods	Engage an appropriate independent auditor early
Disclosure document	Form 1-A, including offering circular and exhibits	Prepare consistent Part I, Part II, and Part III disclosures
Testing the waters	Permitted before and after filing with legends and filing obligations	Archive, review, and file required solicitation materials
Ongoing reporting	Forms 1-K, 1-SA, 1-U, and sometimes 1-Z	Build the compliance calendar before qualification

Defined terms matter. Affiliate status, beneficial ownership, voting power, selling-securityholder status, public float, held-of-record calculations, and whether a security is debt, equity, or asset-backed should be resolved under the controlling rule rather than by using labels from a cap table or marketing deck.

5.4 Primary and Secondary Offering Components

A primary offering raises capital for the issuer. A secondary component permits existing holders to sell and receive the proceeds. Secondary sales require additional disclosure about each selling securityholder, the acquisition history of the securities, relationships with the issuer, beneficial ownership before and after the offering, and the allocation of expenses.

1. Primary capital should ordinarily be the central purpose of an issuer-direct Tier 2 DPO. The use-of-proceeds table must reconcile to offering expenses, debt repayment, working capital, acquisitions, and any payments to insiders or affiliates.
2. Affiliate selling holders are subject to the $22.5 million Tier 2 cap, and all selling-holder sales are subject to the 30% first-year limitation described above. Contractual

lockups or staged resale rights may be appropriate where a large secondary component would undermine the capital-raising purpose or aftermarket float.

Secondary shares sold under the qualified offering statement are not automatically free from all restrictions. Affiliate status, contractual restrictions, state law, transfer-agent procedures, broker policies, and the terms of the offering must still be considered.

5.5 Investor Eligibility and Suitability Procedures

The issuer should use a subscription questionnaire that identifies accredited-investor status, applies the 10% investment limit where required, captures the purchaser's legal name and beneficial ownership, confirms investment authority, obtains tax and contact information, and authorizes sanctions, anti-money-laundering, and identity checks. The process should permit rejection or reduction of a subscription without inconsistent side arrangements.

5.6 Continuous Offerings, Duration, and Pricing

A continuous Tier 2 offering can be useful, but it is not an unlimited shelf registration. Rule 251(d)(3) imposes specific conditions:

- The offering must commence within two calendar days after qualification if it relies on the continuous primary-offering provision.
- At qualification, the amount included must be reasonably expected to be offered and sold within two years from the initial qualification date.
- Securities generally may not be offered under the same qualified offering statement more than three years after initial qualification, subject to the transition provisions for a replacement offering statement.
- The issuer must be current in its annual and semiannual Regulation A reports when making sales in a continuous offering.
- An at-the-market offering into an existing trading market at variable market prices is not permitted under Regulation A. The offering circular must state a fixed price or a permitted disclosed pricing method.
- Offering-circular supplements may update information that does not require requalification. Material changes, fundamental changes, specified increases in price or volume, and annual updates for continuing offerings may require a post-qualification amendment and a new qualification order.

A continuing issuer should calendar the three-year outside date, annual post-qualification update, financial-statement staleness dates, report deadlines, state notice renewals, and the date on which the offered amount would exceed the rolling 12-month cap.

---

6. Pre-Filing Preparation: Corporate, Financial, and Operational Readiness

The strongest Form 1-A starts with a company that has already completed the legal, accounting, and operational work needed to support public disclosure:

Corporate and capitalization cleanup. Confirm good standing, charter authority, board and stockholder approvals, capitalization, option and warrant records, convertible instruments, prior issuances, related-party transactions, intellectual-property ownership, subsidiaries, and material contracts. Defective historical offerings should be analyzed before they become an SEC comment or rescission problem.

Financial statements and auditor selection. Tier 2 requires audited financial statements. The audit may be conducted under AICPA generally accepted auditing standards or PCAOB standards as permitted by Form 1-A, but an issuer targeting OTCQB, OTCQX, future Exchange Act reporting, or an exchange listing should determine whether a PCAOB-registered firm is required or strategically necessary.

Management, governance, and background diligence. Collect officer, director, 20% holder, promoter, and related-party questionnaires; investigate litigation, bankruptcies, regulatory orders, criminal matters, sanctions, conflicts, compensation, and prior public-company roles; and adopt disclosure, insider-trading, related-party, whistleblower, and document-retention policies appropriate to the intended market.

Transfer agent, CUSIP, and EDGAR. Engage an SEC-registered transfer agent before accepting subscriptions, obtain EDGAR access through Form ID, secure the CUSIP, establish DRS and book-entry procedures, and determine how the issuer and subscription platform will transmit accepted investor data and funds instructions to the transfer agent.

Offering architecture. Select the security, fixed price, minimum investment, maximum amount, minimum-offering condition, escrow mechanics, rolling-closing policy, termination date, oversubscription policy, selling-securityholder component, use of proceeds, and whether the issuer will conduct a continuous offering.

Compliance infrastructure. Choose the EDGAR filing agent, investor-onboarding system, payment processor, escrow bank, sanctions and identity vendors, marketing-review process, complaint-response procedure, shareholder-communications system, and responsible internal officers. A self-underwritten offering needs written controls because no underwriter is performing those functions for the issuer.

---

7. Form 1-A and the Offering Circular

Form 1-A has three parts. The XML data, narrative offering circular, and exhibits must tell the same story and use the same capitalization, offering amount, financial data, and dates.

Part I - Notification. Part I contains structured information about the issuer, eligibility, Rule 262, the offering, jurisdictions, securities offered, unregistered issuances, and financial data. The SEC highlighted recurring inconsistencies between Part I XML and Part II narrative disclosures; the filing team should perform a line-by-line reconciliation before each submission.

Part II - Offering circular. The offering circular ordinarily includes the cover page and summary; risk factors; dilution; plan of distribution; use of proceeds; the business; property;

management's discussion and analysis; directors, officers, and significant employees; compensation; beneficial ownership; related-party transactions; securities being offered; financial statements; and other material information necessary to make the disclosure complete and not misleading.

Part III - Exhibits. Required exhibits can include the charter and bylaws, rights instruments, subscription agreement, material contracts, escrow agreement, underwriting or broker agreements if any, testing-the-waters materials, auditor consent, legality opinion, and plans of acquisition or reorganization. Redactions must comply with the form and applicable rules.

Draft submission and public filing. An eligible first-time issuer may submit a substantially complete draft Form 1-A for nonpublic SEC staff review. The initial draft, amendments, and staff correspondence must be publicly filed on EDGAR at least 21 calendar days before qualification. Financial statements, interim periods, consents, and exhibits must remain current through qualification.

---

8. Testing the Waters, Marketing, and Building the Investor Base

Regulation A permits the issuer and its authorized representatives to solicit indications of interest before or after filing Form 1-A. Testing the waters is a communications exemption, not permission to accept money, bind investors, or omit material risks.

- Every testing-the-waters communication must contain the required legends. After public filing, solicitation materials must be accompanied by the preliminary offering circular or tell the recipient where and how to obtain the most current version. Written materials that must be filed should be preserved in their exact distributed form and included as Form 1-A exhibits.
- Marketing content should be derived from and reconciled to the offering circular. Revenue forecasts, valuation statements, product claims, customer references, government approvals, intellectual-property assertions, market-size claims, endorsements, and comparisons with public companies require substantiation and balanced risk disclosure. Paid promoters and influencers must disclose compensation and cannot make claims the issuer could not lawfully make itself.
- Channel rules matter. SEC Securities Act Rules C&DI 182.28, updated February 17, 2026, explains that television, radio, and online audio or video advertising must be analyzed differently before filing, during the pre-qualification period, and after qualification. Post-qualification written offers must be accompanied or preceded by the current offering circular; online delivery can often be structured with an active hyperlink, while broadcast media may not permit compliant delivery.

For an OTC-bound offering, investor distribution should be real rather than manufactured. The issuer should build a documented base of unaffiliated beneficial owners, avoid nominees and coordinated subscriptions, and understand the holder-count and public-float requirements of the intended OTC market and any independent standards imposed by a prospective sponsoring market maker.

9. Self-Distribution, Investor Onboarding, and Closings

A company selling its own securities is generally not acting as a broker merely because it is the issuer. The more difficult issue is whether the officers, employees, consultants, marketers, technology providers, or other persons participating in sales are acting as unregistered brokers.

Path A - Issuer Personnel Under Exchange Act Rule 3a4-1

Rule 3a4-1 is a nonexclusive safe harbor for associated persons of an issuer. At the time of participation, the person must not be statutorily disqualified, must not receive commissions or other transaction-based remuneration, must not be associated with a broker-dealer, and must satisfy one of the rule's limited sales-activity conditions. The issuer should document job duties, compensation, training, scripts, supervision, and the basis for relying on the safe harbor.

Path B - Vendors, Finders, Platforms, and Broker-Dealer Boundaries

A consultant or platform may cross into broker activity by soliciting investors, recommending the investment, negotiating terms, participating in execution, handling funds or securities, or receiving compensation tied to the amount raised or number of investors. Administrative, technology, marketing, escrow, payment, and investor-relations contracts should be reviewed for substance rather than title. Transaction-based compensation should be paid only through an appropriately registered broker-dealer under a compliant arrangement.

- Subscription agreement. The agreement should incorporate the offering circular, identify the securities and purchase price, obtain accredited-investor and investment-limit representations, disclose acceptance and rejection rights, address escrow and refunds, authorize identity and sanctions checks, collect tax and ownership information, and prohibit undisclosed nominees or side agreements.
- Investor verification. Regulation A generally allows reliance on purchaser representations for the 10% investment limit unless the issuer knows the representation is false. The issuer should nevertheless use reasonable controls to identify inconsistencies, duplicate accounts, entity authority problems, sanctioned persons, suspicious payment patterns, and subscriptions that would violate the offering terms.
- Escrow and minimum offering. When the offering has a minimum amount, investor funds should be held and released exactly as described. The escrow agreement, offering circular, subscription platform, and payment instructions must agree on the minimum, outside date, partial closings, rejected subscriptions, interest, fees, and refund procedures.
- Offering-circular delivery. No sale may occur before qualification. A person who indicated interest before qualification generally must receive a preliminary offering circular at least 48 hours before sale if the issuer was not already subject to Tier 2

reporting. The issuer in a self-underwritten sale is responsible for final offering-circular delivery or the permitted electronic notice containing the EDGAR hyperlink and request information.

- Closing and issuance. Accept subscriptions under a documented approval process, confirm cleared funds, prepare a closing memorandum, transmit an accurate issuance instruction to the transfer agent, issue the shares in the disclosed form, reconcile the cap table and bank records, and update the amount sold. Do not treat a reservation, soft circle, or incomplete payment as a completed sale.

Records should preserve the version of the offering circular delivered, every communication and consent, investor representations, identity results, payment trail, acceptance date, share issuance, refunds, complaints, and any exception approved by management. Those records support Form 1-Z sales reporting, the transfer agent, the audit, state notices, Rule 15c2-11 review, and future financing diligence.

---

10. SEC Review, Qualification, and Post-Qualification Updates

The Division of Corporation Finance reviews Form 1-A and may issue multiple comment letters addressing disclosure, financial statements, valuation, dilution, plan of distribution, broker-dealer issues, testing-the-waters materials, related parties, prior offerings, use of proceeds, selling holders, and exhibits. The issuer responds through EDGAR and files amendments until the staff is prepared to qualify the offering. Sales begin only after the SEC issues a notice of qualification or the form is qualified through an available procedural mechanism. Qualification is not an endorsement of the issuer, the price, or the investment.

After qualification, the issuer must keep the offering circular accurate. A Rule 253(g)(2) supplement can update information that does not require requalification, while a post-qualification amendment is required for specified material or fundamental changes, annual updates in an ongoing offering, certain price or volume changes, or information that must be added to keep the offering statement current. The issuer should suspend sales whenever the offering circular is materially inaccurate, required reports are delinquent, the offering cap has been reached, or a required amendment has not yet been qualified.

---

11. Rule 15c2-11, Form 211, OTC Markets, and DTC Eligibility

Qualification and completion of sales do not create an OTC quotation. Before a broker-dealer initiates or resumes a proprietary quotation, Exchange Act Rule 15c2-11 generally requires current issuer information to be reviewed and made publicly available. A FINRA member may perform the review and submit the electronic Form 211 under FINRA Rule 6432, or a Qualified Interdealer Quotation System may make the permitted publicly available determination and submit its modified filing. The issuer cannot file Form 211. FINRA Rule 5250 prohibits payment, directly or indirectly, for publishing a quotation, acting as a market maker, or submitting the related application.

The issuer should select its intended OTC market early. OTCQB, OTCQX, and OTCID have different reporting, shareholder, float, price, governance, audit, certification, transfer-agent, and application requirements. The issuer must separately coordinate the OTC Markets application, symbol and corporate-action process, Rule 15c2-11 work, transfer-agent verification, and DTC eligibility. DTC eligibility requires a willing DTC participant or eligible correspondent and may involve legal opinions, offering documents, issuance records, transfer-agent confirmations, and enhanced diligence. Neither qualification nor Form 211 processing guarantees DTC acceptance or broker deposits.

---

12. Ongoing Tier 2 Reporting and Compliance

A Tier 2 issuer becomes subject to a continuing federal reporting regime after qualification. The principal filings are:

Filing	Requirement
Form 1-K	Annual report with audited financial statements; generally due within 120 calendar days after fiscal year end
Form 1-SA	Semiannual report for the first six months; generally due within 90 calendar days after the end of the semiannual period
Form 1-U	Current report for specified events; generally due within four business days
Form 1-Z	Exit report or notice used when the offering ends and, if eligible, to suspend Tier 2 reporting

Section 12(g) monitoring. Rule 12g5-1(a)(7) can exclude Tier 2 securities from the holder-of-record count if the issuer is current in its annual, semiannual, and special financial reports; uses an SEC-registered transfer agent; and has public float below $75 million or, if public float is zero, annual revenue below $50 million. Loss of eligibility can begin a two-year transition period, but a late report can terminate the transition immediately and trigger a 120-day registration deadline.

Late reports and suspension. Form 12b-25 does not extend a Form 1-K, Form 1-SA, or Form 1-U deadline. A late filing can interrupt continuous sales, impair Rule 12g5-1 treatment, affect Rule 15c2-11 current-information status, and jeopardize OTC market eligibility. Suspension of Tier 2 reporting through Form 1-Z is available only when the rule's holder, currentness, timing, and offering-completion conditions are satisfied.

Additional compliance. The issuer must maintain complete books and records, update state notices, comply with antifraud rules, disclose material changes promptly, make required FINRA corporate-action notifications, satisfy OTC Markets certifications and profile updates, oversee paid promotion, protect material nonpublic information, and coordinate the auditor, transfer agent, EDGAR agent, and disclosure committee.

---

13. Cost Breakdown: What a Tier 2 DPO Actually Costs

A self-underwritten Tier 2 offering avoids an underwriting discount, but it still requires legal, audit, accounting, filing, transfer-agent, escrow, technology, marketing, OTC, and DTC work. The ranges below are planning estimates for a relatively small U.S. issuer and are not fee quotes.

13.1 Published Charges vs. Negotiated Professional Fees

Published charges are set by regulators, states, CUSIP Global Services, OTC Markets, and other market utilities. Negotiated costs depend on the issuer's complexity, record quality, industry, offering size, number of investors, comment rounds, selling period, and target OTC market.

Table A - Mandatory Regulatory and Quasi-Regulatory Charges

Charge	Who Sets It	Typical Treatment
Form 1-A filing	SEC	$0 federal filing fee
Regulation A reports	SEC	$0 filing fee for Forms 1-K, 1-SA, 1-U, and 1-Z
State notice filings	State securities regulators	Varies by state; filing, renewal, and consent fees may apply
CUSIP assignment	CUSIP Global Services	Published one-time and maintenance charges
Form 211	FINRA / Rule 5250	No issuer filing fee and no payment to the market maker for the filing or quotation
OTC Markets	OTC Markets fee schedule	Application, onboarding, annual, and other market-specific fees
FINRA corporate actions	FINRA Rule 6490 fee schedule	Action-specific fees; late submissions can be substantially more expensive
State franchise and entity fees	State of organization and qualification	Annual statutory charges
DTC charges	DTC and sponsoring participant	Utility charges plus participant and professional fees

Table B - Negotiable Professional and Service-Provider Costs

Cost	Illustrative Initial Range	Illustrative Ongoing Range
Securities legal counsel	$35,000-$125,000+	$15,000-$60,000+ annually
Accounting cleanup / CFO support	$5,000-$40,000+	$5,000-$30,000+ annually
Independent audit	$20,000-$75,000+	$15,000-$60,000+ annually

Cost	Illustrative Initial Range	Illustrative Ongoing Range
EDGAR / document conversion / XBRL	$2,000-$10,000+	$3,000-$20,000+ annually
Transfer agent	$500-$3,000 setup	$2,000-$15,000+ annually
Escrow / subscription platform / payment processing	$5,000-$50,000+ plus processing charges	Varies with offering activity
OTC / Rule 15c2-11 issuer-side support	$5,000-$30,000+	Market and reporting support varies
DTC eligibility support	$5,000-$30,000+	Event-driven
Marketing, media, and investor communications	$15,000-$150,000+	Variable; all content requires compliance review

No SEC filing fee does not mean a low-cost transaction. The audit, legal work, accounting cleanup, and investor-acquisition program usually dominate the budget. A vendor fee tied to the amount raised, securities sold, or investors obtained can create broker-dealer issues unless it is paid through a properly registered broker-dealer.

A relatively clean issuer may spend approximately $100,000-$300,000 from readiness through qualification, initial sales, OTC quotation, and DTC eligibility. Complex financial statements, deficient prior offerings, multiple subsidiaries, a large secondary component, extensive marketing, unusual securities, or prolonged SEC comments can move the total materially higher.

13.2 Legal Fees

Counsel's scope may include eligibility and structure; corporate remediation; prior-offering analysis; bad-actor diligence; Form 1-A drafting; testing-the-waters review; SEC comment responses; subscription and escrow documents; state notices; officer and director questionnaires; Rule 3a4-1 analysis; closings; post-qualification amendments and supplements; Form 1-K, 1-SA, and 1-U support; OTC Markets; Rule 15c2-11; legal opinions; DTC; and corporate actions. A flat fee should identify excluded amendments, comment rounds, closings, reports, state filings, and post-qualification work.

13.3 Accounting and Auditing

Accounting and audit costs should be separated because they are different services and independence rules may prevent the auditor from performing management functions:

- Independent audit. The audit covers the periods required by Form 1-A and must be performed by an independent firm using an acceptable audit standard. Industry complexity, inventory, revenue recognition, subsidiaries, digital assets, valuation, going-concern issues, and restatements increase cost and time.
- Audit readiness and ongoing accounting. Management must produce reconciled general ledgers, bank statements, contracts, tax returns, capitalization schedules,

equity rollforwards, revenue support, debt schedules, related-party analyses, and draft financial statements. Outsourced accounting or CFO support may be required before the auditor can begin.

The issuer should confirm the auditor's independence, licensing, peer-review or PCAOB status as applicable, Regulation A and public-company experience, acceptance procedures, engagement scope, consent process, and capacity to meet the filing timetable.

13.4 Federal Filing Fees and State Notices

The SEC does not charge a filing fee for Form 1-A or the ongoing Regulation A forms. The issuer will still pay its filing agent and professionals, and it may owe state notice fees, OTC Markets charges, CUSIP fees, and FINRA corporate-action fees.

Filing or Process	Federal Filing Fee	Separate Costs to Budget
Form 1-A / amendments	$0	Legal, audit, accounting, EDGAR, exhibits, and state notices
Forms 1-K and 1-SA	$0	Audit or interim financial work, legal review, EDGAR and XBRL
Form 1-U	$0	Legal and EDGAR costs; rapid four-business-day workflow
Form 211	$0 to issuer	Issuer-side diligence package; no compensation to the filing or quoting firm

States may require notice filings before the first sale, periodic renewals, sales reports, fees based on offering size or amount sold, and a consent to service. The state matrix should be maintained throughout the offering rather than prepared after sales have occurred.

13.5 EDGAR and Filing-Agent Costs

EDGAR access through Form ID is free. Filing-agent charges cover HTML conversion, XML tagging, exhibit linking, financial-statement tagging when required, submission, proof review, and amendments. The issuer should require final proofs of both the human-readable offering circular and Part I XML and should independently confirm EDGAR acceptance.

13.6 Transfer Agent and Shareholder Services

Transfer-agent pricing may include onboarding, monthly maintenance, per-holder charges, DRS statements, subscriptions, issuance instructions, lost-holder searches, legends, corporate actions, proxy and annual-meeting support, reports for OTC Markets, and deconversion or termination fees. The contract should provide prompt data export and reasonable exit terms.

13.7 OTC Markets and DTC Costs

Use the current OTC Markets Corporate Services Fee Schedule and market rules when budgeting. DTC eligibility involves DTC charges, a willing participant or correspondent, legal and transfer-agent work, and sometimes enhanced diligence. Neither the OTC application fee nor DTC-related professional fees may be disguised compensation for market making or Form 211.

13.8 Other Recurring and Situational Costs

Additional costs can include escrow banking, ACH and card processing, identity and sanctions checks, website hosting, cybersecurity, D&O insurance, tax advice, valuation, investor relations, press-release distribution, annual meetings, proxy materials, state franchise taxes, registered agents, market surveillance, and independent directors or committees required by the target market.

13.9 Marketing and Investor Acquisition

Marketing may be the largest variable expense in a self-underwritten offering. The issuer should distinguish ordinary brand advertising from securities solicitation, require written approval and archives, disclose paid relationships, prohibit unsupported performance and liquidity claims, and avoid compensation models that create unregistered-broker risk. A large audience is not the same as qualified investor demand.

---

14. Realistic Timeline

Phase	Planning Range
Corporate cleanup and audit readiness	1-4 months
Audit and Form 1-A preparation	2-5 months
Optional testing the waters	Can begin before filing; commonly 2-8 weeks before launch
SEC review through qualification	2-5+ months depending on complexity and comment rounds
Offering and selling period	1-12+ months; continuous offerings may continue subject to Rule 251
OTC, Form 211, symbol, and DTC work	2-6+ months and may overlap with the selling period

A six-to-eighteen-month path from initial readiness to an operating public market is a reasonable planning range, not a regulator commitment. The issuer controls record cleanup, drafting, marketing, and response speed; it does not control SEC comments, investor demand, market-maker willingness, OTC review, broker policies, or DTC diligence.

---

15. Common Pitfalls and How to Avoid Them

Starting marketing before diligence. Public claims can create a record that later conflicts with Form 1-A. Complete eligibility, capitalization, background, and factual substantiation work before launching a testing-the-waters campaign.

Confusing interest with subscriptions. Testing-the-waters indications are nonbinding. Do not count them as committed capital, accept funds before qualification, or imply that qualification or a public market is certain.

Using unregistered finders. A consultant who solicits, recommends, negotiates, handles funds, or is paid based on sales may be acting as a broker. Review every marketing, platform, call-center, influencer, and consulting arrangement.

Under-scoping the audit. Informal books, unsupported revenue, related-party payments, convertible instruments, stock compensation, and subsidiaries can delay the audit for months. Use a readiness checklist and confirm the auditor standard required by the target OTC market.

Inconsistent Form 1-A data. Part I XML, the cover, capitalization, dilution, use of proceeds, financial statements, selling-holder tables, and exhibits must reconcile. Assign one person responsibility for the master numbers and dates.

Overpromising quotation or liquidity. SEC qualification is separate from Form 211, OTC admission, DTC eligibility, broker deposits, and investor trading. Describe each step accurately and disclose that no active market may develop.

Letting the offering circular become stale. Stop sales when a material event, financial update, price change, acquisition, financing, management change, or other development makes the document materially inaccurate. Determine whether a supplement or qualified amendment is required before resuming.

Missing post-qualification reports. Late Forms 1-K, 1-SA, or 1-U can disrupt ongoing sales, Rule 12g5-1 treatment, OTC eligibility, and Rule 15c2-11 status. Build a reporting calendar, disclosure committee, and backup filing process before qualification.

---

16. The Long Game: Exchange Act Reporting and Uplisting

An OTC-quoted Tier 2 issuer may later register a class of securities under Exchange Act Section 12(g), list on a national exchange, conduct a registered financing, or continue under the Tier 2 reporting regime. The next step should be planned before the initial offering because auditor selection, governance, shareholder distribution, public float, security price, transfer-agent systems, internal controls, and reporting quality affect future eligibility. A credible uplisting plan is built on sustained compliance and business performance, not promotional claims or a reverse split alone.

---

17. Glossary of Key Terms

Accredited investor: A person or entity meeting one or more categories in Securities Act Rule 501(a). Accredited investors are not subject to the Tier 2 10% investment limit.

Bad-actor disqualification: Rule 262 can make Regulation A unavailable when specified covered persons have certain criminal, court, regulatory, suspension, bar, or postal-service events, subject to lookback, disclosure, waiver, and reasonable-care provisions.

Blue-sky laws: State securities laws. Tier 2 preempts state registration of the primary offering, but states retain notice, fee, antifraud, and enforcement authority, and secondary-trading rules remain relevant.

Continuous offering: An offering conducted over an extended period under Rule 251(d)(3), subject to commencement, expected-sale, current-reporting, duration, pricing, and update requirements.

DTC eligibility: Acceptance of the security for DTC depository and book-entry services. Eligibility is operationally important but is not guaranteed by SEC qualification or OTC quotation.

Form 1-A: The Regulation A offering statement, consisting of Part I structured data, Part II offering circular disclosure, and Part III exhibits.

Form 1-K: The Tier 2 annual report, including audited financial statements and annual business, management, ownership, and related disclosure.

Form 1-SA: The Tier 2 semiannual report covering the first six months of the fiscal year.

Form 1-U: The Tier 2 current report for specified material events, generally due within four business days.

Form 1-Z: The Regulation A exit report and notice used to report offering completion or termination and, when permitted, to suspend Tier 2 reporting.

Offering circular: The primary disclosure document in Part II of Form 1-A. It performs a prospectus-like function but is used in an exempt Regulation A offering.

Rule 15c2-11 and Form 211: The federal issuer-information review framework and FINRA filing process used before proprietary quotations are initiated or resumed in many OTC securities.

Testing the waters: Solicitation of indications of interest before or after filing Form 1-A under Rule 255. It does not permit sales before qualification and remains subject to legends, filing, delivery, and antifraud rules.

Primary Sources and Further Reading

SEC (www.sec.gov): Regulation A, Rules 251 through 263; Form 1-A and Forms 1-K, 1-SA, 1-U, and 1-Z; Regulation A: Guidance for Issuers; Securities Act Rules Compliance and Disclosure Interpretations, including updated Regulation A communications interpretations; Exchange Act Rule 12g5-1; and the SEC's broker-dealer registration guidance.

FINRA (www.finra.org): FINRA Rules 5250, 6432, and 6490; the electronic Form 211 materials; Regulatory Notices concerning Rule 15c2-11 and issuer compensation; and the current corporate-action fee schedule.

OTC Markets Group and DTC / DTCC: the current OTCQX, OTCQB, and OTCID rules, application guides, disclosure guidelines, transfer-agent verification requirements, fee schedules, stock-promotion policy, DTC eligibility materials, Operational Arrangements, and DTC fee guide.