

NEWSLETTER

Ordinance No. 689/2024



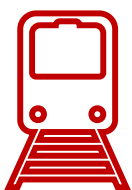
Ordinance for the classification of projects in the **road and rail transport sectors** aiming at the issuance of **incentivized bonds** and **infrastructure bonds**

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Projects Framing

What is eligible for the purpose of issuing bonds?

- ❑ **Partnership Agreements:** Investment projects must be part of the scope of a concession, sub-concession, permission, authorization or lease agreement, or its associated projects
- ❑ **Capex Projects:** Investment projects must cover actions for the implementation, expansion, acquisition, replacement, maintenance, recovery, adaptation or modernization of capital assets, excluding conservation actions
- ❑ **Equipment:** Investment projects may cover actions for the acquisition, maintenance and replacement of equipment linked to the compliance of contracts' obligations, including rolling stock and permanent track components for railway projects



- ❑ Railroad authorization projects can only be classified for the issuance of bonds if the object of the authorization has a prior environmental license

Projects Framing

How to use the funds raised?

- ❑ **Limit on the funds volume:** may not exceed the amount equivalent to the capital expenditures necessary for its realization



- ❑ **Capital expenditures:** Capital expenditures are all expenses necessary for the constitution of infrastructure assets, including those related to the granting value of the projects and government's capital contributions for project accounts

- ❑ **Use:** shall be allocated to the future payment or reimbursement of expenses, expenses or debts related to investment projects, including capital expenditures



- ❑ Reimbursement of expenses or payment of debts of investments made within 24 months of the closing date of the bonds' public offering

ESG Rules



General Rules

Rules that are not automatically in place for issuances in the coming months



Investment projects or contracts to which they are associated must provide for:

- ❑ Investment in mitigation of greenhouse gas emissions, energy transition or implementation and adaptation of infrastructure for climate resilience, aiming at adapting to climate change; and
 - ❑ For the federal highway sector, it is sufficient to frame the contracts in Ordinance No. 622/2024 of the Ministry of Transports
 - ❑ Rail projects are automatically framed
- ❑ Mechanisms for managing the impact of infrastructure on affected peoples and communities

- ❑ At the federal level, ANTT will be able to regulate ESG requirements to waive the certification for each project

- ❑ At the subnational level, the regulation of the ESG requirements will be the responsibility of local regulators, who must establish the framework and exemption requirements for subnational projects

Framing Process

Simplified Processes

Federal projects

Subnational public service concession projects



0. Before starting the process at the CVM, filing of basic information at the Ministry of Transport


1. Within 1 business day: Administrative Procedure Number aiming at filing at the CVM

2. Within 5 business days: Assessment of the need for complementation or attestation

The regular protocol will be **valid for 2 years**, and can be **reused** in case of fractional bond issuances

Simplified process for ministerial framing regardless the waiving of ministerial approval

3. Within 30 business days of the request: New* filing with technical statement (parallel to the issuance process)

Note: the offering process at the CVM can start with the **filing** at the Ministry of Transport 

*Declaration waived if proven in the original filing

Delay in obtaining the declaration due to the fault of the authorities will not delay the framing



Framing Process

Ordinary Proceedings

Subnational Permitting, Authorization, or Lease Projects

(0.) Before starting the process at the CVM, filling of basic information at the Ministry of Transport + additional information about the project framing

1.

Within 15 business days of presentation of all documentation (including additional requests): The Undersecretary of Development must issue a Technical Note of classification

2.

Within 10 business days after receiving of the process: The legal Counsel of the Ministry of Transport must issue a Legal Opinion

Within 30 working days after instruction of all the necessary documentation: Publication of an ordinance with ministerial approval declaring the project as priority

3.

Valid for 2 years from publication

Ordinary procedure for ministerial framing
With priority ministerial approval


Note: the process of offering at the CVM **cannot begin** without the ministerial ordinance




Other Key Points




Follow-up by sending information:


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- 1) About the offer:** The issuer must inform the number of bonds issued within 30 business days from the closing of the public offering;
 - 2) on corporate relations:** The issuer must inform, within 60 business days, the changes in the list of legal entities that are part of the issuer or the project company, as well as the change of the controlling company of the issuer or the project company



Amendment: The issuer must request an amendment to the terms of the project if there are changes in scope that change the nature, value or deadline. **It is important** that new investments are (i) contracted or (ii) **expressly authorized** by the competent authority or regulator.



Supervision of the implementation of the project: in federal projects, ANTT is responsible for the supervision, while in subnational projects the issuer must submit a statement from a local authority or regulator attesting to the regularity of the completion of the investment - The delay in issuing the statement will not affect the compliance of the obligations, since the issuer may present information demonstrating the authorities' default and the performance of the investment




Transition rules for projects with published ordinances: deadlines and conditions set for the use of ongoing processes, applying the rules of the Ordinance from now on to new projects. An orientation guide on the subject will be published within 30 working days



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