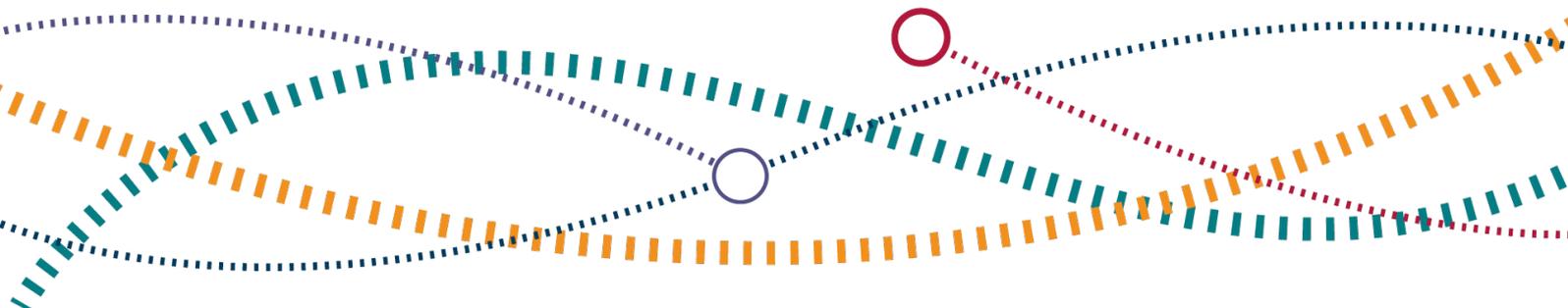




# Investment Framework Update Consultation

30 June 2022



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# Purpose of this consultation

1. ORR encourages investment in the rail network, supporting the Department for Transport, Transport Scotland and Network Rail's ambition to make it easier for a wider range of investors (such as investment funds, scheme promoters, developers and Local Authorities) to promote and deliver projects. We also ensure that there is a fair and reasonable balance of risk between investors and Network Rail.
2. Our key governance document on third-party investment into the rail network is our Investment Framework, which was originally published in 2006 and last updated in 2010. It contains ORR's policy and guidelines, setting out the legislation and processes for anyone who wishes to invest in the rail industry, including the role of respective parties and remedies for issues that may arise.
3. We are conducting an update of our Investment Framework to provide clear and user-friendly guidance on investment into the network, which we intend to publish in 2022. This version is a **draft** updated version. Once finalised, it will replace the current version. We will also update our website to ensure that information on third-party investment is up to date.
4. The changes in this update are making the document simpler and clearer and removing any out-of-date information. We are not proposing any changes to ORR's policy in this update. We welcome comments on the **clarity and comprehensiveness** of this draft. We would like to understand which **areas of the guidance you find useful, where you think the process is unclear, and what, if anything, is missing.**
5. The closing date for responses to this consultation is 29<sup>th</sup> July 2022.

# The Investment Framework and ORR's role in Third-Party Investment

## ORR's Role & Responsibilities

6. ORR helps to facilitate investment into the rail network through:
  - a) **Effective Governance:** developing, maintaining and owning the key governance document – the Investment Framework;
  - b) **Holding Network Rail to account:** reviewing and approving any changes Network Rail is proposing to make to its charges or template agreements;
  - c) **Supporting stakeholders:** responding to concerns and feedback from investors and industry stakeholders; and
  - d) **Monitoring funds:** monitoring the risk fund levels, specifically the industry risk fund and the Network Rail risk fund and monitoring overall feedback from investors to establish an impression of how well Network Rail is fulfilling its duties.

## The Investment Framework

7. The core governance document that ORR developed and owns regarding investment into the rail network is the Investment Framework. This is a guidance document setting out the high-level principles and obligations of ORR, Network Rail and investors.
8. In its current form (published in 2010), the Investment Framework contains information that is obsolete. For example, a significant portion of the current version provides guidance on Regulatory Asset Base (RAB) borrowing – a mechanism that has not been used since Network Rail was reclassified as a public body.

9. There is also information that is not covered in the current Investment Framework, such as details of the template agreements Network Rail has developed since it was last updated (e.g. Asset Protection Agreements), that are now used on most third-party projects.

## Updating the Investment Framework

10. This iterative update to the Investment Framework will:
  - a. deliver a concise, relevant and informative framework that will clarify the roles and responsibilities of ORR and other stakeholders;
  - b. provide useful guidance to potential investors delivering a streamlined and accurate framework to support investors, Network Rail and other stakeholders;
  - c. remove obsolete information in the current Investment Framework; and
  - d. provide a formal framework that sets out ORR and Network Rail's roles and responsibilities.
  
11. The update will not result in any substantive changes to the policies underpinning the Investment Framework. Rather, the update is about making the Framework fit for purpose today. Future updates are likely to be necessary in light of rail reform.

## Key Links

12. The current Investment Framework can be found here: [Investment framework consolidated policy & guidelines - October 2010 \(orr.gov.uk\)](#)
13. ORR's webpage on investment can be found here: [Investing in the rail network | Office of Rail and Road \(orr.gov.uk\)](#)

# Responding to our Consultation

## Consultation Questions

14. The questions outlined below are intended to help you frame your consultation response, you do not have to answer every question and can structure your response in a different way.

1.	Who are you responding as (an individual/for an organisation) and what is your role?
2.	Who uses the Investment Framework in your organisation? When and how is it used?
3.	Are there gaps/missing information in the Investment Framework that you think need to be addressed as part of the update?
4.	Is there any content in the Investment Framework that requires further clarification or better definition?
5.	If you are responsible for investing in the rail network, do you find the Investment Framework helpful? Please explain your answer.
6.	What other information from ORR on Third-Party Investment would you find helpful?
7.	How does the proposed update to the Investment Framework impact on your business in terms of familiarisation and any changes to your internal processes?
8.	Any other comments or suggestions on our draft update to the Investment Framework.

## How to respond to this consultation

15. Responses to this consultation should be submitted no later than 29<sup>th</sup> July 2022 when the consultation closes. Responses can be sent by:

- Email to: [Investmentframework@orr.gov.uk](mailto:Investmentframework@orr.gov.uk)
  - Post to: ORR Investment Framework Consultation
    - Office of Rail and Road
    - 25 Cabot Square
    - London E14 4QZ
16. ORR has actively considered the needs of blind and partially sighted people who may be accessing this document in PDF format. The text is available in full on the ORR website, and can be freely downloaded. Individuals and organisations can use free Adobe Reader accessibility features or screen readers to read the content of this document.
17. If you need this document in a different format such as large print, easy read, audio recording or braille, please contact our Customer Correspondence Team via:
- Email Enquiries: [webteam@orr.gov.uk](mailto:webteam@orr.gov.uk)
  - Telephone: 020 7282 2000
  - Postal address: ORR Investment Framework Consultation
    - Office of Rail and Road
    - 25 Cabot Square
    - London E14 4QZ
18. We will consider your request and will endeavour to get back to you with the accessible format within 20 working days.
19. We plan to publish all responses to this consultation on our website. Should you wish for any information that you provide to be treated as confidential, please be aware that this may be subject to publication, or release to other parties or to disclosure, in accordance with the access to information regimes. These regimes are primarily the Freedom of Information Act 2000 (FOIA), the General Data Protection Regulation (GDPR,) the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004.
20. Under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, if you are seeking confidentiality for information you are providing, please explain why. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on ORR.
21. If you are seeking to make a response in confidence, we would also be grateful if you would annex any confidential information, or provide a non-confidential summary, so that we can publish the non-confidential aspects of your response.

## Next Steps

22. Following our consideration of the responses we receive, we will proceed with the update to the Investment Framework.



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