

Comments Template on EIOPA-CP-15-004 Consultation Paper on the Call for Advice from the European Commission on the identification and calibration of infrastructure investment risk categories		Deadline 09.August.2015 23:59 CET
Company name:	BVI Bundesverband Investment und Asset Management e.V.	
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<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in column "Reference". ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below. <ul style="list-style-type: none"> ○ If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies. ○ If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment itself. <p>Please send the completed template to CP-15-004@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).</p> <p>The paragraph numbers below correspond to Consultation Paper No. EIOPA-CP-15-004.</p>		
Reference	Comment	
General comments	BVI represents the interests of the German investment fund and asset management industry. Its 90 members manage assets in excess of EUR 2.6 trillion in UCITS, AIFs and assets outside investment funds. As such, BVI is committed to promoting a level playing field for all investors. BVI members manage, directly or indirectly, the assets of 50 million private clients over 21 million households. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please	

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	<p>visit www.bvi.de/en.</p> <p>Insurance companies are one of the major investor groups in the German institutional funds sector. For several years, we have been experiencing an increasing interest of institutional investors in infrastructure portfolios. As we are of the opinion that infrastructure is a distinct asset class that cannot be easily compared with other equity, bond or loan investments, we welcome the Commission's approach to set up a special treatment for this kind of investments under Solvency II.</p> <p>According to this consultation paper, there will be two preconditions that an investment object has to fulfill to profit from the special treatment. First, it must fit within the definition of infrastructure suggested in this paper. In a second step, it must fulfill all the conditions of a qualifying infrastructure investment as outlined in this paper. Consequently, there will be infrastructure investments per definition that do not profit from a special treatment.</p> <p>Though we consider this two step approach an appropriate way to sort out the assets eligible for special treatment, we think that the conditions for qualifying infrastructure investments in the area of non-rated debt and equity investments are somewhat too restrictive. It seems to us that only an "ideal" infrastructure project would be able to meet these conditions. Practically, even very attractive projects might lack some of the preconditions. To avoid that the scope of application of the special infrastructure treatment becomes too narrow, we suggest to introduce a scoring system when assessing the qualifying conditions. This would mean that an asset or project may qualify even if some condition is not met, provided that the majority of conditions is fulfilled.</p>	
Section 1.1.		
Section 1.2.		
Section 1.3.		
Section 1.4.		
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Section 2.1.		
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Section 2.5.		
Section 2.5.1.		
Section 2.5.2.		
Section 2.5.3.		
Section 3.1.	According to this section, corporate entities which can engage in infrastructure activities as well as in other business shall not be seen as qualifying infrastructure assets. On the other hand, insurers shall have the possibility to pool participations in infrastructure project entities e.g. in a fund. Our understanding is that there may be also used other pooling vehicles, especially holding companies. It should be stated more clearly that any holding vehicle that has the sole purpose of managing a portfolio of qualifying infrastructure assets is eligible for the treatment outlined in this paper, regardless of its legal structure (e.g. corporation) or its regulatory status.	
Section 3.2.		
Section 3.2.1.		
Section 3.2.2.		
Section 3.2.3.		
Section 3.3.	The treatment outlined in this paper is based on the assumption of investment in a well diversified portfolio of infrastructure assets. As minimum investment sums in infrastructure projects are often high, we think many insurers will pool their funds to set up suitable portfolios. In case infrastructure assets are acquired via a fund vehicle, it should be possible to entrust the assessment and documentation of the qualifying criteria outlined in this section to the fund manager. Section 7.3.	

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	indicates this possibility. The fund management company will have direct contact to infrastructure project entities and their sponsors. It is legally responsible for assessing every potential fund asset, having regard to the investment guidelines agreed with its investors.	
Section 3.3.1.	<p>(1) The definition of infrastructure asset suggested here is completely different from the definition of infrastructure investment contained in the Technical Annexes to Draft ITS on Templates for the submission of information to the supervisory authorities, which were sent to the European Commission on 3 July 2015 as part of the 2nd set of draft ITS. There Annex III S.06.02 stipulates a reporting duty on infrastructure investments held by insurance undertakings. When working further on this topic, EIOPA should provide a uniform definition for calibration purposes as well for reporting templates.</p> <p>(2) The criteria of "limited competition" should be deleted from the definition of infrastructure assets. In our view, it is only an element that can influence the predictability of cash flows and therefore better dealt with in section 3.3.2.2. The advice on predictability of cash flows specifies that "the level of output or usage and the price shall be ... sufficiently stable as a result of low demand risk." This is a description of limited competition. However, if the cash flows are predictable for another reason, e.g. because output and price are contractually fixed, then the level of competition is of no importance.</p>	
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Section 3.3.2.3.		
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Section 3.3.4.		
Section 3.3.4.1.		
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Section 3.3.4.4.		
Section 3.3.4.5.	Outsourcing of the operations of an infrastructure asset and transfer of the operation risk to an operating company should not be a qualifying criterion. It seems unusual that an operating company that is distinct from the infrastructure project entity will take over all substantial risks linked to the operation of assets. As far as we know, infrastructure project entities often operate their assets themselves through one of their associates. If they outsource this task, the operating company will take over the entire operating risk only if it is paid an adequate risk premium. From a risk and reward perspective, it may be more advantageous for the project entity to keep part of the operating risk.	
Section 3.3.4.6.		
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