

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:	Legal & General Group Plc	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.	Public
<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	We strongly welcome this consultation from EIOPA, building on both previous consultation and dialogue with market participants. The approach and methodology used, including taking into account principles, as well as qualitative and quantitative data, is very welcome and we would advocate EIOPA and other institutions using this consultation as a template for best practice.	

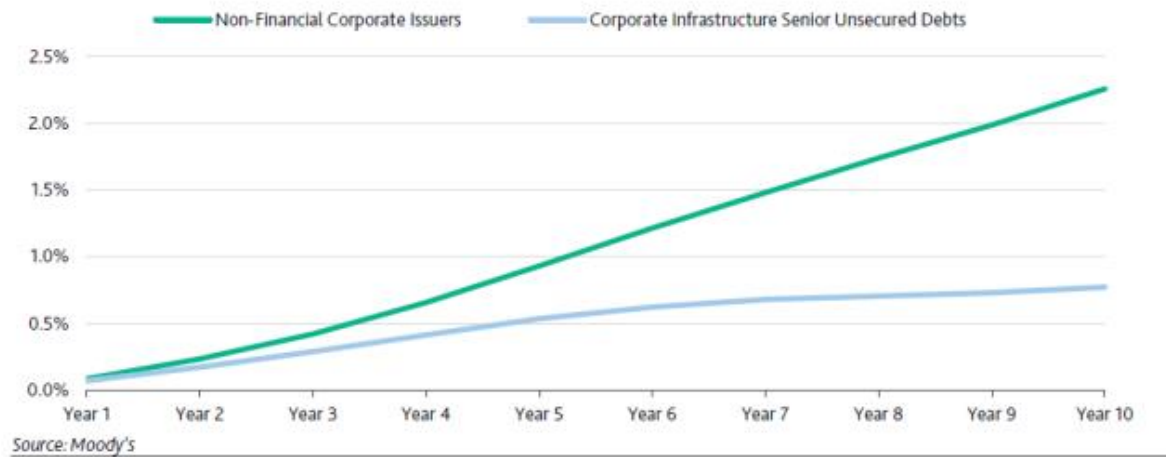
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	<p>We set out below specific points below as requested. In addition our key points are:</p> <p>We believe that there should be a level playing field for long term infrastructure investment between sectors (i.e. banks, insurers and pension funds) as well as within sectors. The creation of a level playing field and the removal of barriers to investment by insurers could greatly assist the level of investment by all insurers in the European infrastructure space. Whilst we recognise this consultation is trying to ensure a more level-playing field between sectors, which is of course welcome, the focus of the consultation is Standard Formula (SF), not the internal model (IM). This has implications for a significant number of insurers which use an Internal Model and therefore there ability to invest in the EU's infrastructure to support growth and jobs without negatively impacting on financial stability.</p> <p>We strongly believe that all insurers should be treated equally in relation to infrastructure investment. This could be achieved through EIOPA's final advice to the Commision setting out that any reduction in the SF stress for infrastructure is directly read across into IM stresses. The final advice to the European Commission should set out the merits of such a proposal and the impact of not allowing IM "users" the same advantages as SF "users" and why such a disparity between the two is deemed desirable.</p>	
Section 1.1.		
Section 1.2.		
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Section 2.5.2.		
Section 2.5.3.		
Section 3.1.		
Section 3.2.		
Section 3.2.1.	<p>With regards to the evidence used to support the proposals made, we wanted to bring to EIOPA's attention analysis by Moody's. As the graph below indicates, unsecured infrastructure debt of Baa has a markedly lower default experience than equivalent rated corporate debt, due in part to more reliable cash flows. We believe that evidence such as this, if not already, should be included as part of the evidence base ahead of you finalising your advice to the Commission.</p>	

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EXHIBIT 19
Baa Credit Loss Rates



Source: Moody's Investors Service, *Infrastructure Default and Recovery Rates, 1983-2014*; March 9th 2015.

Section 3.2.2.

Section 3.2.3.

Section 3.3.

Section 3.3.1.

We support the approach you have taken to defining infrastructure and believe that a broader definition, based on a set of "principles", is the right way forward. We are, however, concerned that the phrase "provide or support essential public services" (in the advice section on page 23 of the consultation) risks unintended consequences. There is a risk that in the future this could be interpreted as not including infrastructure that builds on or adds to existing provision or support. Therefore, the advice could be made even clearer by saying " 'Infrastructure assets' means physical structures, systems and networks that **create**, provide or support essential public services and are

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	<i>subject to limited competition".</i>	
Section 3.3.2.	Stress Analysis: Overall we support the stress analysis approach adopted. We would though add to the advice, as a new section 4, that based on aggregate data, "infrastructure stresses are c80% of bond stresses". This principles based approach would provide a useful additional stress test for infrastructure.	
Section 3.3.2.1.		
Section 3.3.2.2.	Predictability of cash flow: The advice on page 27 states that where the revenues are not funded by payments from a large numbr of users, a permissbale off-taker would be "an entity with an ECAI rating with a CQS of at least 3". There is a risk that if an off-taker were subsequently downgraded this would create a significant risk. We would suggest adding to this that the off-taker is a CQS of at least 3 at the time of investment .	
Section 3.3.2.3.		
Section 3.3.3.		
Section 3.3.4..		
Section 3.3.4.1.	Political risk: Whilst we are sympathetic to EIOPA taking a principles based approach to its advice on political risk, the current wording could mean that no infrastructure project could ever be undertaken. This is because it requires that the "political and legal environment...is stable and predictable". Our concern is that as laws and regulations (whether small and technical or significant) can occur at any time in all areas, not just infrastructure. With this definition even countries such as the UK, Germany or France, three of the most stable countries in the world, could be excluded based on the chosen definition. The market practice is to quantify these risks though a rating called a "country ceiling". Political, legal and macro-economic risks are explicitly addressed by ensuring that the infrastructure rating and the off-taker rating do not pierce the relevant "country ceiling". Therefore there is no need for additional qualitative restrictions around this specific risk.	
Section 3.3.4.2.		
Section 3.3.4.3.		
Section 3.3.4.4.		
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Annex IV		
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