

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:	NATIXIS	
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 consider this consultation paper from EIOPA as a significant step toward an adequate solvency II treatment for Infrastructure debt investment and would like to express our acknowledgement to EIOPA for their work.	

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	<p>In order not to be overly restrictive we consider that there is a need to include some flexibility as the cumulative effect of the list of criterias could potentially led to disqualify many projects and to dangerously increase competition in a very narrow investment universe.</p> <p>Regarding the capital charge determination, if the treatment in the spread risk module is confirmed we recommend to combine the liquidity and the spread risk approach.</p>	
Section 1.1.		
Section 1.2.		
Section 1.3.		
Section 1.4.		
Section 1.5.	<p>We are supportive of a reduction of the capital charge which reflects the peculiarities of Infrastructure Debt credit characteristics (low default rate, high LGD, stable cash flow).</p> <p>In order to limit the over reliance on ECAI rating we are in the opinion that they should not be a separate calibration for rated vs unrated transactions. The level of analysis and due diligence by the insurer should be the same.</p>	
Section 2.1.		
Section 2.2.		
Section 2.3.		
Section 2.3.1.		
Section 2.3.2.		
Section 2.3.3.		
Section 2.4.		
Section 2.4.1.		
Section 2.4.2.		

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Section 2.5.		
Section 2.5.1.		
Section 2.5.2.		
Section 2.5.3.		
Section 3.1.	<p>We agree with the exclusion of “pure” infrastructure corporates as those entities does not comply with Project finance structure definition.</p> <p>It could be clarified that an SPV which bundle multiple projects of the same characteristics (Portfolio of Wind farm or solar plant) and for which the portfolio of projects has characteristics that are consistent with project finance should be eligible.</p>	
Section 3.2.		
Section 3.2.1.		
Section 3.2.2.		
Section 3.2.3.		
Section 3.3.		
Section 3.3.1.	<p>We globally agree with the definition however the reference to public services is too prescriptive in our view and could lead to exclude valuable industrial transactions which relies on private off-takers rather than public ones. As long as the off-taker is solid and the structure is complying with project finance requirements we do not see the rationale for excluding those projects.</p>	
Section 3.3.2.	The list of stress test should be indicative and not mandatory	
Section 3.3.2.1.	On top of historical experience, prescribed stress tests should also take into account mitigants existing in the structure.	
Section 3.3.2.2.	The requirements on predictability of cash flows should remain non-cumulative (merchant infrastructure should not be excluded).	

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	<p>Advice 2 b) iii: a reference to internal rating should be included</p> <p>2 d) this requirement should not exclude refinancing of project where the level of debt is reduced to reflect the reduction in revenues.</p>	
Section 3.3.2.3.	<p>The requirement of the provision that the project shall not issue new debt is too restrictive a reference to limitations on leverage and issuance of new debt is more appropriate as the project company may need to make investment</p> <p>Advice 2. The requirement on perfected security in all assets is not possible (or too costly) in some jurisdictions and not necessary in some others (Brownfield transactions)</p> <p>We don't understand the reference in advice 2. e) to "reserve funds with a longer than average coverage period "</p>	
Section 3.3.3.	<p>Advice 2 a) non EEA and OECD country should be allowed if the political risk is properly mitigated through the involvement of a multilateral (i.e IFC, EBRD, EIB) or through political risk insurance cover.</p>	
Section 3.3.4..		
Section 3.3.4.1.		
Section 3.3.4.2.	<p>The proof of separation of assets and cash flows should distinguish between Greenfield and Brownfield transactions. The following concepts could be used in order to simplify structural requirements for brownfield-type investments:</p> <ul style="list-style-type: none"> - For Greenfield projects, the assets and cash flows of the project company shall be considered as effectively separated from other entities if the project company is a special purpose entity that is not permitted to perform any function other than developing, owning, and operating the infrastructure asset. - For Brownfield projects, the cash-flows generated by the assets owned by the project or operating entity cannot be diverted away from the investors of the project or operating entity 	

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	<p>(both debt and equity holders) .</p> <p>Requirement 4.a in the advice of structural requirements causes concern as it would be hard to support a sponsor's new ventures into a new market. At a minimum the following changes should be made to the wording: <i>"very strong track record and relevant country and sector experience"</i></p>	
Section 3.3.4.3.	<p>There is in our view no need to include a requirement on amortising debt as flexibility on the financial structure is required to better align the financing to the economic profile of the project. As an example brownfield airport are usually financed on 5 to 7 year bullet maturity as this period match with the tariff regulation and investment cycle of the airport.</p>	
Section 3.3.4.4.	<p>The requirement that one turnkey EPC contract is entered into should not be an absolute requirement.</p> <p>In various sectors, one contractor does not "wrap" all construction work in this way (e.g. this is often not the case in off-shore wind transactions).</p>	
Section 3.3.4.5.	<p>Operating risk mitigation is different than construction risk because of the length of the operating period which is much longer than the construction period and makes it difficult to have a long term operating contract which match the operating period. Secondly operating companies can be small companies which do not have a strong balance sheet (ex: facility management). Therefore operating risk criteria's must be adapted to the "complexity" of the operation of the asset. If the asset is simple to operate (i.e facility management) the requirement must be less stringent as the SPV could substitute the operator if the operator is not performing and many companies are able to deliver the services.</p> <p>It is also customary for the project company to keep some risks, as an example in the road sector the SPV is usually keeping the Heavy maintenance risk which is covered through the constitution of Maintenance Reserve Account.</p> <p>This requirement should also be excluded for brownfield transactions where the operation of the asset can still be performed by the project companies (ex: airport, ports, motorway...)</p>	

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Section 3.3.4.6.		
Section 4.1.		
Section 4.2.		
Section 4.2.1.		
Section 4.2.2.		
Section 4.2.3.		
Section 4.2.4.		
Section 4.2.4.1.		
Section 4.2.4.2.		
Section 4.2.4.3.		
Section 4.2.4.4.		
Section 4.2.4.5.		
Section 4.2.5.		
Section 4.2.5.1.		
Section 4.2.5.2.		
Section 4.2.5.3.		
Section 4.2.5.4.		
Section 4.3.		
Section 4.3.1.		
Section 4.3.2.		
Section 5.1.		
Section 5.2.		
Section 5.3.		
Section 6.1.		

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Section 6.2.		
Section 6.2.1.		
Section 6.2.2.		
Section 6.2.3.		
Section 6.3.		
Section 7.1.		
Section 7.2.		
Section 7.3.	Insurance companies should be able to validate themselves the fulfilment of the criteria and not be required to use external independent validation.	
Section 8.		
Annex I		
Annex II		
Annex III Sections:		
Section 1.		
Section 2.		
Section 2.1.		
Section 2.2.		
Section 2.3.		
Section 3.		
Section 3.1.		
Section 3.2.		
Section 3.2.1.		
Section 3.2.2.		
Section 4.		
Section 4.1.		

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Section 4.2.		
Section 4.3.		
Section 4.4.		
Section 4.5.		
Section 5.		
Annex IV		
Annex V		