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:	Assuralia	
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
	Please follow the instructions for filling in the template: ⇨ Do **not** change the numbering in column "Reference". ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph, keep the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below. o 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. o If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment itself. **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).** The paragraph numbers below correspond to Consultation Paper No. EIOPA-CP-15-004.	
Reference	**Comment**	
General comments		
Section 1.1.		
Section 1.2.		
Section 1.3.		

	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
Section 1.4.		
Section 1.5.		
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.		
Section 2.5.		
Section 2.5.1.		
Section 2.5.2.		
Section 2.5.3.		
Section 3.1.		
Section 3.2.		
Section 3.2.1.		
Section 3.2.2.		
Section 3.2.3.		
Section 3.3.		
Section 3.3.1.		
Section 3.3.2.		
Section 3.3.2.1.		
Section 3.3.2.2.		

	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
Section 3.3.2.3.		
Section 3.3.3.		
Section 3.3.4..		
Section 3.3.4.1.		
Section 3.3.4.2.		
Section 3.3.4.3.		
Section 3.3.4.4.		
Section 3.3.4.5.		
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.		

	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
Section 4.3.		
Section 4.3.1.		
Section 4.3.2.		
Section 5.1.		
Section 5.2.		
Section 5.3.		
Section 6.1.		
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.		
Section 8.	EIOPA recognizes under paragraph 1.220 that most institutional investments in infrastructure projects in Belgium benefit from an RGLA guarantee. Such infrastructure projects include, for instance, the development and renewal of schools, healthcare and social housing which generally fall under the authority of regional governments in Belgium, and not under the central government. For many of these projects public-private partnerships have been established which are steered and controlled by a regional or local government. The financing usually occurs through the issuance of bonds (or sometimes bank loans) which benefit from an RGLA guarantee against default. The regional and local governments monitor very strictly the quality of the projects, the financing process and conditions, and the amount of guarantees provided. Through the guarantees provided by regional and local governments private investors benefit from an inherently lower credit risk on the infrastructure projects they invest in. This is recognized by the	

governments when determining the financing conditions. The debt instruments of infrastructure projects are generally issued with low credit spreads due to the RGLA guarantee in case of a default of the project. Belgian insurance companies, as important institutional investors of these projects, have always accepted such financing conditions precisely because of the provided government guarantees and the residual low credit risk. Indeed, Belgian regional governments and local authorities dispose of sufficient revenue raising powers which makes these effectively reliable counterparties to back such projects. For instance, the Flemish government has always received a credit rating at a same level, and sometimes even at a higher level than the credit rating of the central government of Belgium.

From a prudential perspective a different treatment of infrastructure projects guaranteed by a RGLA seems not justified. If EIOPA would consider that exposures to RGLA guarantees should not be treated in the same way as direct exposures to these governments, this would have a serious impact of the future financing of infrastructure projects and the realisation of President Juncker's investment plan in Belgium.

Infrastructure projects guaranteed by RGLA have a lower risk

As discussed in chapter 2.3 of this consultation paper qualifying infrastructure projects exhibit lower loss-given default statistics compared to senior unsecured corporate bonds. Many other studies, such as Moody's (Moody's, March 9 2015, Infrastructure Default and Recovery Rates, 1983-2014) also provide evidence for lower rating volatility of infrastructure projects and lower marginal and cumulative default rates for infrastructure projects compared to non-financial corporates. These studies justify that qualifying infrastructure is charged with lower capital requirements compared to other debt instruments.

Within the scope of infrastructure projects, investments that are guaranteed by a RGLA should benefit from a special prudential treatment. Due to their significantly lower credit risk, infrastructure investments guaranteed by a RGLA should be considered as direct exposures to RGLA, which are equal to direct exposures to central governments. Such treatment would not conflict with the Solvency II directive and related Delegated Acts:

- Guarantees provided by a central government are, in line with sound risk management considerations, treated as exposures to a central government and are assigned a risk factor of 0% for SCR spread risk, concentration risk and counterparty default risk in the Solvency II Delegated Acts.
- From a prudential perspective there should be no difference between a guarantee provided by a central government and a guarantee provided by a RGLA. In most Member States regional governments have comparable fiscal powers as central governments. In some jurisdictions such as Belgium, regional governments even have more fiscal powers then the central government.
- An explicit guarantee ensures repayment by the RGLA in case of a default of the project. Insurance companies are thus first exposed to the credit risk of the project and then to the creditworthiness of the RGLA.
- For the counterparty default risk module, article 199 point 11 of the Solvency II Delegated Acts ensures that RGLA guarantees are treated as central government exposures. Not recognising RGLA guarantees in a same way in the market risk module for infrastructure debt would lead to an inconsistent treatment in comparison to the counterparty default risk module.

Legal analysis

Article 109 of Omnibus II mentions that exposures to regional governments and local authorities can be considered as exposures to central governments because specific revenue-raising powers and institutional arrangements exist, the effect of which is to reduce the risk of default. The ITS lists regional governments and local authorities, exposures to whom are to be considered as exposures to the central government.

➔ For exposures to regional governments and local authorities listed in the ITS risk factors of 0% apply for SCR spread risk, concentration risk and counterparty default risk.

Articles 180 point 2, 187 point 3 and 199 point 11 of the DA specify that exposures that are fully, unconditionally and irrevocably guaranteed by central governments and meet the requirements set out in Article 215, should be considered as exposures to the central government and be assigned a risk factor of 0% for SCR spread risk, concentration risk and counterparty default risk.

➔ For exposures guaranteed by central governments risk factors of 0% apply for SCR spread risk, concentration risk and default risk, provided that article 215 of the DA on guarantees is complied with.

Recital 42 of the DA mentions that direct exposures to regional governments and local authorities can be considered as exposures to a central government.

- ➔ However, this is nowhere mentioned in the Solvency II or Omnibus II directives. As a consequence, there seems to be no legal basis for this recital. Also, if a recital is not in line with an article of a Delegated Act, the article prevails.

Since the directive requires that regional governments and local authorities listed in the ITS should be considered as central governments, articles 180 point 2, 187 point 3 and 199 points 8 and 11 should also be applied for these regional and local government exposures.

- ➔ However, this is nowhere clearly mentioned in the Delegated Acts. This could be made explicit for infrastructure investments guaranteed by the regional governments and local authorities.
- ➔ For infrastructure investments guaranteed by regional governments and local authorities listed in the ITS risk factors of 0% would apply for SCR spread risk, concentration risk and default risk.

Conclusion

The lower credit risk provided through RGLA guarantees should be correctly recognised within the prudential rules under Solvency II. In particular for infrastructure investments, guarantees provided by RGLA should be considered as direct exposures to RGLA. This means that both indirect and direct exposures to RGLA should be treated as direct exposures to the central government. For these exposures risk factors of 0% apply for SCR spread risk, concentration risk and counterparty default risk, provided that the qualifying criteria for infrastructure investments and the requirements on guarantees are complied with.

Such a consistent treatment would reflect and foster good risk management practices. In this way, the Solvency II rules would not hinder the important role insurance companies take up as institutional investors in regional and local infrastructure projects.

	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
	Proposed amendment to the Solvency II Delegated Acts Within the asset class of qualifying infrastructure, it is proposed to add the following paragraph in the Solvency II Delegated Acts: *Exposures which are fully, unconditionally and irrevocably guaranteed by counterparties listed in the implementing act adopted pursuant to point (a) of Article 109a(2) of Directive 2009/138/EC shall be treated as exposures to the central government.*	
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.		
Section 4.2.		
Section 4.3.		
Section 4.4.		
Section 4.5.		

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
Section 5.		
Annex IV		
Annex V		