	Comments Template on the Consultation Paper on Call for evidence concerning the request to EIOPA for further technical advice on the identification and calibration of other infrastructure investment risk categories i.e. infrastructure corporates	**Deadline** **10 12 2015** **23:59 CET**
Name of Company:	German Insurance Association – Gesamtverband der Deutschen Versicherungswirtschaft e. V. (GDV)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
	Please follow the following instructions for filling in the template: ⇨ Do **not** change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇨ Leave the last column empty. ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph or a cell, keep the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. **Please send the completed template, in Word Format, to CP-15-009@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.** The numbering refers to the Consultation Paper on the Call for evidence concerning the request to EIOPA for further technical advice on the identification and calibration of other infrastructure investment risk categories i.e. infrastructure corporates.	
Reference	**Comment**	
General comments	GDV welcomes EIOPA's thoughts on the identification of infrastructure corporates and potential qualifying criteria. Both special purpose vehicles/limited purposes entities and coporate-like entities can exhibit the same infrastructure risks and hence meet criteria of qualifying infrastructure.	

	In general, the substance should therefore prevail over the legal form in qualifying eligible infrastructure. However, the distinction is difficutl to make. The inclusion of infrastructure corporates in the privileged treatment of qualified infrastructure assets under Solvency II should therefore be very carefully considered. Corporate entities often exhibit corporate risk and hence entail other risks than infrastructure assets. For example, while infrastructure assets generally have a static behaviour (with little or no change over time), corporates often aim to grow and therefore bet on new developments and take on bord multiple and sometimes higher risks. On the other hand, some infrastructure corporates could qualify as an infrastructure asset under certain circumstances and following a careful risk analysis (e.g. corporates predominantly providing infrastructure services and corporates operating an energy grid): underlying infrastructure assets must comply with the criteria for qualifying infrastructure, investors should have privileged access to underlying cash flows of the infrastructure assets. Moreover, the distinction between such infrastructure corporates and project finance in the narrower sense should be assessed on a case by case basis and require an adequate internal risk assessment approach for such non-routine investments.	
Question 1	The reasons for choosing a corporate instead of a project structure for infrastructure investments can vary and encompass for example business or capital efficiency considerations. Reasons can often be found in the history of the respective infrastructure investment. In many cases, the project structure is chosen for new infrastructure, while the corporate structure is used for existing infrastructure in operation (e.g. regulated assets, airports, seaports).	

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	Another reason could be the bundling of multiple infrastructure assets and the operation of large infrastructure in a corporate structure.	
Question 2	A general statement regarding the risk profiles of infrastructure corporates cannot be made and a single definition of infrastructure corporates is difficult to achieve due to the diversity of infrastructure projects. For the identification of infrastructure corporates with lower risk the focus should be more on the corporate purpose and respective characterisitics and risk profiles and less on the concrete corporate structure or legal form. In terms of lifetime the purpose of the infrastructure corporate could be limited due to the limited economic lifetime of the underlying infrastructure asset. Management risks could be limited, i.e. not depending on strategic decisions by management. For example, as far as a corporate structure is only used for bundling or the actual operation of the infrastructure, the risks of the infrastructure corporate are different from a normal corporate risk. In these cases an equal treatment with qualifying infrastructure assets would be more reasonable than the current regulatory treatment. Some of the general qualifying criteria for low-risk debt and equity investments by corporates with and without an ECAI rating are: • regulated as well as predominantly predictable revenue components such as feed-in tariffs, etc and cash flows; • mature technologies; • high level of experience and reputation of the project partners and service providers; • conservative capital structure.	
Question 3	Infrastructure can be found in all OECD countries and legal forms depend on	

	the local jurisdictions' legal frameworks as well as on other factors such as business or capital efficiency considerations. Most infrastructure debt does not carry a traditional external rating.	
Question 4		
Question 5	GDV supports the amendments to the delegated regulation adopted by the European Commission and welcomes the proposed criteria for infrastructure investments. These criteria could be used as a starting point for potential qualifying criteria for infrastructure corporates. A number of criteria such as *the use of convenants* may not satisfy listed corporates.	
Question 6		
Question 7		
Question 8	In order to reduce the risks for investors in infrastructure coporates there would have to be a strong covenant package in place adressing for example predictability and robustness of cash flows from the primary infrastructure activities.	
Question 9	For assessing the protection of the investor a case by case analysis would have to be conducted according to the criteria for qualifying infrastructure.	
Question 10		
Question 11	This would have to be demonstrated on a case by case basis with the regulator. There are no set components for such adequate risk assessment approaches. Very strong internal risk assessment and modelling capacities can generally be assumed for insurers using internal models.	
Question 12	We believe it is very difficult to find empirical evidence that infrastructure corporates overall have a lower risk profile than suggested by their current standard formula treatment. A Moody's study on infrastructure corporates could be a starting point.	
Question 13		

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Question 14	For the identification of infrastructure corporates with lower risk the focus should be on characterisitics and risk profiles and less on the concrete corporate structure or legal form. For example, if a corporate structure is only used for bundling or the actual operation of the infrastructure, the risks of such an infrastructure corporate are different from the risks of another corporation with various business lines that is constantly trying to grow and expand in new markets and which is therefore subject to for example management and competitive risks. In the case of using a corporate legal form simply for bundling or the actual operation of the infrastructure an equal treatment with qualifying infrastructure assets would be more reasonable than the current regulatory treatment.	
Question 15		
Question 16		
Question 17		