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Germany in Focus

Infrastructure Investments: Regulatory Developments and Strategic Opportunities for Institutional Investors

Germany Breaks Fiscal Tradition with €500 Billion Infrastructure Agenda

Germany is embarking on a historic policy shift, marked by a break from fiscal restraint and the creation of a €500 billion infrastructure fund to be deployed over the next 10-12 years. This coincides with a constitutional amendment passed in March 2025 that exempts defence spending above 1% of GDP from the so-called *Schuldenbremse* (“debt brake”).

Of the €500 billion, €400 billion is earmarked for federal projects and €100 billion for state and municipal infrastructure. The 2026 draft budget foresees record investments of €126.7 billion and total borrowing of €174.3 billion – more than triple the 2024 figure.

Investment priorities include transport, digital and energy infrastructure, climate-related projects, and public services. Notably, €100 billion will be channelled through the Climate and Economic Transformation Fund (KTF) to support decarbonisation, hydrogen, and electrification.

The shift reflects both domestic and geopolitical pressures and aligns with new EU fiscal flexibility measures. Germany has invoked a national escape clause to exceed the EU’s 3% deficit limit, subject to formal EU review by spring 2026.

Despite the ambition, execution risks persist. Success will depend on clear strategic direction and targeted use of funds. For investors, this opens attractive prospects in sectors such as green energy, healthcare, digitalisation, and mobility, particularly through PPPs, co-investments, and UCIs aligned with public objectives.

Germany – Recent Amendments to the Investment Ordinance (Anlageverordnung)

As of 7 February 2025, the German government has amended the Investment Ordinance (*Anlageverordnung, AnlV*), introducing a new regulatory allocation quota for infrastructure investments aimed at pension funds, small insurers, and other regulated institutional investors. Under the revised framework, up to 5% of the restricted assets *(Sicherungsvermögen*) may now be allocated specifically to infrastructure investments – without being offset against existing asset category limits.

This infrastructure quota applies to both equity and debt instruments and includes direct and indirect investments (e.g., infrastructure project companies, infrastructure-focused AIFs, debt funds).

Importantly, investors may continue to allocate these exposures to other existing quota categories (such as private equity or loans) but are no longer required to do so exclusively. This creates additional flexibility with respect to structuring portfolios and managing quota headroom.

In parallel, the general risk asset quota has been raised from 35% to 40%, offering more capacity for alternative investments.

Furthermore, the AnlV expands the scope of permissible deviations from diversification limits, potentially allowing up to 10% of the portfolio in unlisted or non-traditional assets with BaFin approval.

While the AnlV does not provide a legal definition of “infrastructure”, it is generally understood to include investments serving essential public functions, such as transport, energy, digital, social, and environmental assets.

EU – Infrastructure Investments Under Solvency II

Large insurance companies domiciled in European Union countries, including Germany, are regulated by the Solvency II regime, while in parallel globally active groups of insurers, are subject to the IAIS ICS.

Under both Solvency II (as amended by Directive (EU) 2025/2 and its implementing regulations) and the recently introduced IAIS international capital standards (ICS Level 1 & Level 2) updates, qualifying infrastructure equity and debt investments benefit from preferential capital treatment if they meet strict eligibility criteria.

Both regimes define "infrastructure assets" as physical assets providing essential public services, such as transportation networks, energy generation/distribution, water supply, digital networks, social facilities and "infrastructure entities" as corporates or project vehicles whose primary business is owning/operating such assets.

To Qualify for Beneficial Treatment:

- The entity/project must generate stable cash flows underpinned by long-term contracts or regulation.
- There must be robust contractual frameworks limiting risk.
- The investor must demonstrate ability/intent to hold exposures over extended periods.
- Additional requirements apply regarding credit quality and diversification of market exposure.

Recent Solvency II Amendments

The Solvency II Directive amendments introduce a harmonised regime for "long-term equity investments", including those made directly or via eligible UCIs, benefiting from a further reduced stress factor of 22% plus the symmetric adjustment. The recent amendments introduce a symmetric adjustment of ± 13%, replacing the current ± 10%. The amended regime will take effect and be fully implemented from January 2027 onwards.

Key Features

- Portfolios must be clearly identified/separated.
- Only equities listed in EEA/OECD countries or unlisted equities of companies headquartered there are eligible.
- Written policies must commit to average holding periods exceeding 5 years.
- Ongoing ability to avoid forced sales – even under stress – must be demonstrated.
- Compliance can be assessed at fund level for certain UCIs. Any equity meeting these criteria qualifies for reduced capital charges; there is no special carve-out solely for infrastructure equities within this regime.

EU – Infrastructure Investments Under CRR

Under the Capital Requirements Regulation (CRR), credit institutions benefit from preferential capital treatment for infrastructure debt investments which may be treated as "specialised lending exposures" when meeting strict criteria, including project finance instruments for the development or acquisition of large, complex and expensive installations that generate predictable cash flows backed by robust contractual arrangements.

The CRR distinguishes between:

- **Object Finance:** Exposures financing physical assets, such as ships, aircraft and railcars; subject to lower risk weighting if qualifying conditions are met.

- **Project Finance:** Broader category including greenfield and brownfield projects; whereby only those meeting specific requirements around cash flow predictability/security packages receive beneficial treatment.

To a certain extent, the CRR's definitions closely align with those under Solvency II/ICS but require careful legal review, structuring and documentation for each transaction.

Additional Regulatory Privilege for Equity Exposures in Public Support Programmes:

The CRR provides a favourable treatment for certain equity exposures arising from legislative programmes that promote specific sectors of the economy. Where such exposures involve significant subsidies and are subject to government oversight, they may qualify for a preferential risk weight of 100%. This treatment is conditional, without limitation, on the prior permission of the competent authorities and an aggregate amount of such exposures not exceeding 10% of the institution's own funds. The provision recognises that public support programmes can materially reduce the risk associated with these equity investments and thus justify more favourable prudential treatment compared to standard equity exposures.

Takeaways for Institutional Investors and Investment Fund Managers

Germany's new fiscal paradigm – combined with regulatory reforms at both national (AnlV) and European/international levels – creates opportunities for institutional investors seeking exposure to real assets with stable long-term returns:

- **Portfolio Structuring:** The new AnlV quota allows for greater flexibility in allocating capital across direct/indirect infrastructure exposures without breaching legacy asset class limits.

- **Regulatory Capital Efficiency:** Preferential regimes under Solvency II/ICS/CRR reward careful asset classification and documentation – especially where long-term holding intent can be demonstrated credibly.

- **Due Diligence:** Look-through transparency remains critical when investing via UCIs as to benefit from regulatory quotas/capital relief, at least under the Solvency II and CRR regimes. The portfolios qualifying as investing in long-term equity, pursuant to the Solvency II regulations, would allow classification on the level of the fund vehicle, without full look-through.

In Summary: The German market offers compelling opportunities across industry sectors and institutional investors groups. However, the transactional success will depend on rigorous assessment of asset classification under relevant prudential regimes and proactive engagement with evolving regulatory requirements.

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