BAI Newsletter III/2024 – June 2024

Editorial article from Frank Dornseifer, Managing Director, BAI e.V.

Dear Ladies and Gentlemen, dear members,

Real assets for the energy transition

The Federal Ministry of Finance's recent consultation draft on the promotion of investments by investment funds in renewable energies and infrastructure (InfrastrukturFörderG) addresses important issues that the BAI has been emphasising for some time. We have repeatedly pointed out that, on the one hand, the sustainable transformation and the energy transition cannot be financed without the fund industry and the institutional and private investors behind it and, on the other hand, that this requires a targeted and systematic revision of fund supervisory law, investment tax law and investor supervisory law.[1]

After last year's Future Financing Act only provided for selective changes to the KAGB for investments in renewable energies, but no accompanying tax law changes to the InvStG, and in the end this complex was completely removed from the law, the Infrastructure Promotion Act now finally pursues a comprehensive approach, and the subject matter is not only investments in renewable energies, but in the infrastructure sector as a whole. And this is precisely what we had emphatically argued for.

In any case, the financing requirements for the energy transition are enormous. In its Climate Barometer 2023[2], KfW puts the funding required to achieve the legally enshrined goal of climate neutrality in Germany by 2045 at around five trillion euros, which corresponds to an average annual investment requirement of a good 190 billion euros - around five per cent of Germany's gross domestic product. KfW also states that a large proportion of this investment - around 60 per cent - cannot be borne by the public sector. The financial room for manoeuvre at federal, state and municipal level is massively restricted - and not only due to the debt brake. The participation of institutional investors, i.e. primarily insurance companies, pension funds and pension schemes, but also private investors, is therefore obvious and logical. In turn, (alternative) investment funds and specialised asset managers in the infrastructure, real estate and renewable energy sectors act as intermediaries and trustees for both groups of investors.

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1 https://www.bvai.de/fileadmin/Veroeffentlichungen/Presse/Der_BAI_in_den_Medien/Fondsbranche_ist_gefragt.pdf; https://www.bvai.de/fileadmin/Veroeffentlichungen/Presse/Der_BAI_in_den_Medien/BAI_Gastbeitrag.pdf; https://background.tagesspiegel.de/sustainable-finance/neue-finanzierungsmodelle-fuer-energiewende

2 https://www.kfw.de/PDF/Download-Center/Konzernthemen/Research/PDF-Dokumente-KfW-Klimabarometer/KfW-Klimabarometer-2023.pdf

In our statement on the ZuFinG[3] at the time, we had already strongly advocated that the regulatory and tax regimes, both for funds and for the investors behind them, urgently need to be adapted and synchronised, precisely so that corresponding future-proof investments - not only in the infrastructure sector - are made to the necessary and desired extent. Our petitions were therefore explicitly aimed at further amendments to the German Investment Code (KAGB) beyond those envisaged in the draft at the time, as well as corresponding regulations in investment tax law (InvStG) and the Ordinance on the Investment of Security Assets of Pension Funds, Mortality Funds and Small Insurance Companies (AnlV).

The changes now proposed by the discussion draft, particularly in the InvStG, will lead to significantly improved synchronisation with supervisory law, so that the existing investment opportunities under the KAGB will now also be taken into account in the InvStG for special investment funds. This is a basic requirement to ensure that considerable capital resources from the fund industry can be utilised to a greater extent for infrastructure investments. And this is precisely the declared aim of the draft. Various proposed changes in supervisory and tax law are based on BAI petitions, such as the adaptation of the investment catalogue in the InvStG for special investment funds to the KAGB regulations, the authorisation of investments in commercial infrastructure project companies (also in the form of partnerships), etc., without affecting their status. Overall, the draft is an important signal for Germany as a fund centre, even if various details such as the planned partial taxation of income at fund level (in relation to income from the generation of renewable energies) still require further discussion. For our assessment of the draft together with supplementary proposals, please refer to our statement[4].

We also pointed out there that the question of whether German or foreign investors will make corresponding investments in infrastructure or renewable energies in Germany in the future also depends to a large extent on other factors that policymakers need to address.[5]

- **Infrastructure project pipeline:** In the BAI Investor Survey 2023, in which over 100 institutional investors, who together manage around EUR 2.4 trillion AuM, took part, one of the criticisms was that there are currently too few - investable - infrastructure projects in Germany.[6] In other words, corresponding infrastructure projects that are to be financed by funds or the investors behind them must first be developed, bundled and made "financeable" at municipal, state and federal level. For example, a corresponding infrastructure project company is required in which, on the one hand, state infrastructure projects are also incorporated and bundled so that standardisation and, above all, scalability are achieved; at the same time, the public sector and private investors can invest together via this project company. The Sustainable Finance Advisory Board itself proposed[7] such a cooperative financing model at the beginning of the

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[3] https://www.bvai.de/fileadmin/Recht/Stellungnahmen/BAI_Stellungnahme_Ref-E-ZuFinG.pdf
[4] https://www.bvai.de/fileadmin/Recht/Stellungnahmen/BAI_Stellungnahme_Disk-E_InfraFoerderG_BMF.pdf
[5] „Die Rolle von Infrastruktur für deutsche institutionelle Investoren und Deutschland als Infrastrukturstandort" wird auch im gleichnamigen Artikel des BAI in diesem Newsletter zur aktuellen Markstudie „Infrastructure 2024 - Focus on Germany" diskutiert.
[6] BAI_Investor_Survey_23.pdf (bvai.de), S. 16.
[7] SFB_Nachhaltige-Infrastruktur_Transformationsfinanzierung.pdf (sustainable-finance-beirat.de)

year, as have bdew and VKU with the so-called Energiewende Fund[8]. This topic should now also be vigorously promoted and supported politically.

- **Adaptation of the regulatory investment framework for investors:** In addition to the changes in fund supervisory law (KAGB) and fund taxation (InvStG), investor supervisory law, primarily the Investment Ordinance (AnlV), should also be adapted in a timely manner in order to achieve synchronisation here as well. To date, the infrastructure asset class has not been recognised separately in the AnlV, which in turn leads to questions and problems for investors in practice. On the one hand, the so-called risk capital quota of the AnlV is largely exhausted for many investors, meaning that additional funds cannot be invested in the infrastructure/renewable energy sector without further ado. The BAI has therefore repeatedly proposed that a separate infrastructure quota be implemented in the AnlV, which would either be set up outside the risk capital quota and thus permit dedicated investments, or would be managed as part of the risk capital quota in future, in which case it would have to be increased accordingly. We consider a separate infrastructure quota of 7.5% to be appropriate, which could also be set up outside the risk capital quota in view of the risk profile of infrastructure investments. According to the coalition agreement, an amendment to the AnlV is being considered anyway, so that this aspect should also be included in the authorisation of high-yield investment opportunities.

- **Return benchmarking:** Finally, it should be noted that investors always (have to) pursue specific return targets for their investors, policyholders, pension recipients, etc. The strategic and tactical asset allocation is aligned with this at portfolio and individual fund level. The strategic and tactical asset allocation is aligned accordingly at portfolio and individual fund level. This naturally also applies to fund/asset class selection. It is not without reason that the proportion of alternative investments in the portfolios of German institutional investors now averages around 25%, as can also be read in the BAI Investor Survey 2023. So if, for example, a Luxembourg fund that invests primarily outside Germany offers the prospect of a higher return, precisely because the overall tax burden there is lower than in Germany, among other things, this fund with these target markets may be favoured over a German fund with an investment focus on Germany, which generates or offers the prospect of a lower return. The aforementioned joint position paper "Capital for the energy transition - The EWF option" by bdew, VKU and Deloitte explicitly states: "The basic problem, however, is that many of the German energy transition projects do not have a sufficiently attractive risk-return profile from the perspective of private investors" and goes on to say that "competing investments therefore often [promise] better returns with lower risks".[9] It continues: "Renewable energies and energy infrastructures in Germany tend to be highly regulated, highly bureaucratic and in some cases less profitable - and therefore not always attractive for investors"[10].

  These very clear statements in the position paper should give cause to examine whether measures can be taken to make German infrastructure at least as attractive to investors as

[8] Konzeptpapier: BDEW, VKU und Deloitte stellen Energiewende-Fonds vor: VKU
[9] Ebenda S. 14.
[10] Konzeptpapier: BDEW, VKU und Deloitte stellen Energiewende-Fonds vor: VKU S. 9.

infrastructure projects in other countries, so that competitive returns can also be achieved. From the perspective of the energy industry, the concept paper addresses not only regulatory aspects (keyword: feed-in tariff) but also tax aspects (keyword: corporate tax burden). As a result of various factors, a Luxembourg infrastructure fund that invests in renewable energies across Europe or worldwide may, for example, incur no or reduced income tax, giving it a yield advantage over a German fund. Foreign investors will also make this comparison of returns when deciding whether to invest in a German fund on the one hand and in German infrastructure on the other.

It is therefore clear that even in the face of a thoroughly successful draft law, which of course first has to be passed by the legislator, more needs to be done in order to manage the energy transition. In particular, these are the competition and location aspects outlined above with regard to German infrastructure projects and corresponding fund vehicles, which could make investments more attractive for investors. Only if these investments are made on a large scale will Germany establish itself as a leading sustainable finance location, as the German government is aiming for. And at the heart of these investment activities relating to the energy transition are real assets, which are the focus of this newsletter.

BAI events after the summer break

As this is the last newsletter before the summer break, I would like to briefly draw your attention to important BAI events after the summer break. Firstly, the **BAI InnovationsDay** on 19 September 2024 at the Frankfurt School of Finance and Management. In addition to specialist presentations from member companies and panel discussions, you can expect keynote speeches from Burkhard Balz, Member of the Executive Board of Deutsche Bundesbank, Prof. Dr Philipp Maume, TU Munich and Prof. Dr Isabell Welpe, also from TU Munich.

In addition, the **Real Assets Symposium** will take place on 1 October 2024 at the Westin Grand Hotel Frankfurt. Gianluca Minella, formerly of the Abu Dhabi Investment Authority (ADIA), will present how a sovereign wealth fund views the infrastructure asset class. In addition, Philippe Jost, PhD from Capital Dynamics will organise a workshop on benchmarking private market investments against listed investments.

Our last event this year is the **Sustainable Finance & EGS workshop** on 28 November 2024, again at the Frankfurt School of Finance and Management. Further information on this and the other two events can be found on our website.

BAI Investor Survey - Request for participation

We recently launched the annual BAI Investor Survey. To accompany this, we will shortly also be sending out our Member Survey, so I would like to take this opportunity to urge you to participate. Last year we had very good participation in both surveys, so that we were once again able to present important and representative figures for the industry relating to institutional capital investment in the alternative investments sector.

About the articles in this newsletter

As always, I would like to conclude by thanking all the authors and sponsors who have contributed to this newsletter and who have once again contributed very readable specialist articles on the subject of real assets.

I also wish you - as always, I hope - an informative and entertaining read of the BAI Newsletter and a wonderful summer, which I hope will also be a football summer fairytale in Germany.

Frank Dornseifer