CRR
Article 501a Adjustment to capital requirements for credit risk for exposures to entities that operate or finance physical structures or facilities, systems and networks that provide or support essential public services

1. Capital requirements for credit risk calculated in accordance with Title II, Part III 269 shall be multiplied by a factor of 0.75 provided the exposure complies with all the following criteria:
(a) the exposure is included either in the corporate asset class or in the specialised lending exposures class, with the exclusion of exposures in default;
(b) the exposure is to an entity which was created specifically to finance or operate physical structures or facilities, systems and networks that provide or support essential public services;
(c) the primary source of repayment of the obligation is the income generated by the assets being financed, rather than the independent capacity of a broader commercial enterprise;
(d) the obligor can meet its financial obligations even under severely stressed conditions that are relevant for the risk of the project;
(e) the cash flows that the obligor generates are predictable and cover all future loan repayments during the duration of the loan;
(f) the re-financing risk of the exposure is low or adequately mitigated;
(g) the contractual arrangements provide lenders with a high degree of protection including the following:
(i) where the revenues of the obligor are not funded by payments from a large number of users, the contractual arrangements shall include provisions that effectively protect lenders against losses resulting from the termination of the project by the party which agrees to purchase the goods or services provided by the obligor;
(ii) the obligor has sufficient reserve funds fully funded in cash or other financial arrangements with highly rated guarantors to cover the contingency funding and working capital requirements over lifetime of the assets referred to in point b) of this paragraph;
(iii) the lenders have a substantial degree of control over the assets and the income generated by the obligor;
(iv) the lenders have the benefit of security to the extent permitted by applicable law in assets and contracts critical to the infrastructure business or have alternative mechanisms to secure their position;
(v) equity is pledged to lenders such that they are able to take control of the entity upon default;
(vi) the use of net operating cash flows after mandatory payments from the project for purposes other than servicing debt obligations is restricted;
(vii) there are contractual restrictions on the ability of the obligor to perform activities that may be detrimental to lenders, including the restriction that new debt cannot be issued without the consent of existing debt
providers;
(h) the obligation is senior to all other claims other than statutory claims and claims from derivatives counterparties;
(i) where the obligor is in the construction phase the following criteria shall be fulfilled by the equity investor, or where there is more than one equity investor, the following criteria shall be fulfilled by a group of equity investors as a whole:
(i) the equity investors have a history of successfully overseeing infrastructure projects, the financial strength and the relevant expertise,
(ii) the equity investors have a low risk of default, or there is a low risk of material losses for the obligor as a result of the their default,
(iii) there are adequate mechanisms in place to align the interest of the equity investors with the interests of lenders;
(j) the obligor has adequate safeguards to ensure completion of the project according to the agreed specification, budget or completion date; including strong completion guarantees;
(k) where operating risks are material, they are properly managed;

(l) the obligor uses tested technology and design;
(m) all necessary permits and authorizations have been obtained;
(n) the obligor uses derivatives only for risk-mitigation purposes.
2. For the purposes of paragraph 1(e), the cash flows generated shall not be considered predictable unless a substantial part of the revenues satisfies the following conditions:
(a) one of the following criteria is met:
(i) the revenues are availability-based;
(ii) the revenues are subject to a rate-of-return regulation;
(iii) the revenues are subject to a take-or-pay contract;
(iv) the level of output or the usage and the price shall independently meet one of the following criteria:
– it is regulated,
– it is contractually fixed,
– it is sufficiently predictable as a result of low demand risk;
(b) where the revenues of the obligor are not funded by payments from a large number of users, the party which agrees to purchase the goods or services provided by the obligor shall be one of the following:
(i) a central government, regional government or local authority;
(ii) a PSE with an ECAI rating with a credit quality step of at least 3;
(iii) a corporate entity with an ECAI rating with a credit quality step of at least 3;
(iv) an entity that is replaceable without a significant change in the level and timing of revenues.
3. Institutions shall report to competent authorities every 6 months on the total amount of exposures to infrastructure project entities calculated in accordance with this Article.
4. The Commission shall, by [three years after the entry into force] report on the impact of the own funds requirements laid down in this Regulation on lending to infrastructure project entities and shall submit that report to the European Parliament and to the Council, together with a legislative proposal, if appropriate.
5. For the purpose of paragraph 4, EBA shall report on the following to the Commission:
(a) an analysis of the evolution of the trends and conditions in markets for infrastructure lending and project finance over the period referred to in paragraph 4;
(b) an analysis of the effective riskiness of entities referred to in paragraph 1 (b) of paragraph 1 over a full economic cycle;
(c) the consistency of own funds requirements laid down in this Regulation with the outcomes of the analysis under points (a) and (b).