



**Proposed changes to open-ended real estate funds
put forward by the
German Investment and Asset Management Association (BVI)**

A. Liquidity management

I. Notification requirement

After the new rules come into force, an investor acquiring units in an open-ended real estate fund to the value of 1 million euros or more must inform the investment management company immediately. Failure to do so can result in a fine. The investment management company is required to forward notifications to BaFin in anonymised form.

II. Notice period for redemptions

When redeeming units acquired after the new rules come into force, a notice period of 12 months applies for amounts of 1 million euros or more. The same applies to redemptions that represent 1% or more of fund assets (based on fund assets stated in the last report). This requirement shall not apply if the amounts were paid into the fund by the investment management company itself or its parent companies for the purposes of ensuring liquidity and after prior notification of BaFin. The investor or entity executing the order is required to specify the date the units were acquired when redeeming them.

III. Minimum liquidity

As part of an industry-wide voluntary agreement, investment companies will double the liquidity reserve for their retail funds from 5% to 10%.

IV. Maximum liquidity

If the liquidity of a property fund for retail investors reaches or exceeds 40%, management companies are required to suspend active unit sales and report this fact to BaFin. This does not apply during the startup period.

V. Acquisition of REIT shares and shares in listed property companies

Open-ended real estate funds should be allowed to invest part of their assets in REIT shares or shares issued by listed property companies. The permitted extent of such investment should be at least 20%. Such investment will be deemed to be an investment in property.

VI. Transactions between funds

Investment management companies will be allowed to sell properties held by a retail fund to a special or retail fund managed by the same investment company at market value. The same rules apply as for transactions with third parties.

VII. Exchange trading

To cover the eventuality that redemption of units is temporarily suspended, the necessary conditions will be created for all open-ended real estate funds to trade their units at market prices on a regulated exchange. Listing on the exchange commences when redemption is suspended and ceases when redemption of unit certificates resumes.

B. Property valuation

I. Appointment of experts

BaFin or another neutral body shall appoint the members of the expert committees of the investment management companies based on a pool of experts and a procedure that is independent of both the management companies and the experts. Admission to the pool requires the approval of BaFin. Valuation companies may also join the pool if their staff have the necessary qualifications and there is no scope for conflicts of interest.

II. Period of service

Experts may not act for an investment management company for a continuous period of more than 5 years.

III. Property rotation

The principal and assistant appraisers for a specific property must change at least every two years; they must be selected solely by the expert committee and in accordance with its rules of procedure.

IV. Valuation frequency

Properties must be valued at least once a year. In the case of retail funds, the valuation must be reviewed by the expert committee after six months. Re-valuation takes place subject to need.

V. Method

A mandatory valuation method and documentation requirements will be laid down (*Valuation Regulations*). In the case of properties in other countries, the appraiser is required to commission a report from a recognized, adequately qualified local expert and to take this report into account during valuation. Experts are to be paid according to a standard set of charges to which all investment management companies must adhere. The cost of a “subordinate report” from another country will also be included in this set of charges.

VI. Transaction costs associated with a purchase

For the avoidance of doubt: Transaction costs associated with purchasing a property do not form part of the market value of the property. They should be disclosed separately in accordance with IAS 40 and written down over the usage period, but not exceeding 10 years.

C. Transparency

I. Valuation transparency

The market value of the individual properties will be published in the annual reports of retail open-ended real estate funds.

II. Investor structure

The investor structure by size of holding will be published in the annual reports of retail open-ended real estate funds.

III. Borrowing

If the borrowings of a retail real estate fund exceed 40% of assets, the company will make a public announcement to this effect.

IV. Risk information

Information on typical risks must be included in prospectuses, based on appropriate criteria, such as level of borrowings, volatility, scope of development projects and investment in foreign currencies.

D. Provision for possible capital gains tax

A standard level of provision for tax liability which may arise from subsequent capital gains is to be laid down in binding regulations. The regulations will include procedures for the transitional period.

Frankfurt am Main, 24 January 2006