

**Consultation Paper  
on  
the proposal for  
Implementing Technical  
Standards  
on special purpose vehicles**

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# 1. Responding to this paper

EIOPA welcomes comments on the proposal for Implementing Technical Standards on Special Purpose Vehicles.

The consultation package includes:

- The Consultation Paper
- Template for comments

Please send your comments to EIOPA in the provided Template for Comments, by email [cp14-008@eiopa.europa.eu](mailto:cp14-008@eiopa.europa.eu), by 30 June 2014.

Contributions not provided in the template for comments, or sent to a different email address, or after the deadline will not be processed.

EIOPA invites comments on any aspect of this paper and in particular on the specific questions summarised in Annex II. Comments are most helpful if they:

- respond to the question stated;
- contain a clear rationale; and
- describe any alternatives EIOPA should consider.

## **Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with EIOPA's rules on public access to documents<sup>1</sup>. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by EIOPA's Board of Appeal and the European Ombudsman.

## **Data protection**

Information on data protection can be found at [www.eiopa.europa.eu](http://www.eiopa.europa.eu) under the heading 'Legal notice'.

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<sup>1</sup> [Public access to documents](#)

## **2.Consultation Paper Overview & Next Steps**

EIOPA carries out consultations in the case of drafting Technical Standards in accordance to Articles 10 and 15 of the EIOPA Regulation.

This Consultation Paper, and the provisions herein, describes the procedures to be followed for granting and withdrawing supervisory approval to establish special purpose vehicles and for maintaining the authorisation of special purpose vehicles as well as for cooperation and exchange of information between the supervisory authority of the Member State in which the special purpose vehicle is established and the supervisory authority of the Member State in which the insurance or reinsurance undertaking transferring risk is established. The maintenance of authorisation is complemented by the annual reporting of accounting, prudential and statistical information by the special purpose vehicles.

This Consultation Paper presents the draft Implementing Technical Standard, including 3 technical annexes and explanatory text.

The analysis of the expected impact from the proposed policy is covered under the Annex 1 (Impact Assessment).

Specific questions to the technical standard, the explanatory text and/or technical annex are being asked for the purpose of the consultation and should be answered by using the template for comments provided by EIOPA.

Annex II comprises the overview of all questions asked.

### **Next steps**

EIOPA will consider the feedback received and expects to publish a final report on the consultation and to submit the Implementing Technical Standards on Special Purpose Vehicles for endorsement by the European Commission by 31<sup>st</sup> October 2014.

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### 3.Draft Technical Standard



EUROPEAN COMMISSION

Brussels, **XXX**  
[...](2012) **XXX** draft

**COMMISSION IMPLEMENTING REGULATION (EU) No .../..**

**of XXX**

[...]

**COMMISSION IMPLEMENTING REGULATION (EU) No .../... laying down  
implementing technical standards with regard to the procedures for supervisory approval to  
establish special purpose vehicles, for the cooperation and exchange of information between  
supervisory authorities regarding special purpose vehicles as well as to set out formats and  
templates for information to be reported by special purpose vehicles according to Directive  
2009/138/EC of the European Parliament and of the Council**

of **XXX**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/138/EC of 25 November 2009 of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)<sup>2</sup> and in particular Articles 211 (2)(a) and (2)(b) thereof.

Whereas:

- (1) Special purpose vehicles require supervisory approval to be established prior to assuming risks from insurance or reinsurance undertakings. The conditions and procedures to be followed for granting this approval, including documentation requirements, are set out in this Regulation.
- (2) This Regulation further mirrors the procedures for a special purpose vehicle's authorisation to be withdrawn when it no longer fulfils the conditions of its authorisation or fails in its obligations according to the authorisation requirements to which it is subject.
- (3) Where a special purpose vehicle assumes risks from more than one insurance or reinsurance undertaking, this Regulation clarifies that the special purpose vehicle should maintain assets equal to or exceeding its aggregate maximum risk exposure taking into account each individual contractual obligation. When granting supervisory approval, the supervisory authority should assess whether this obligation is being met and consider each individual contractual arrangement and risk transfer.
- (4) This Regulation sets out the procedures to be followed for the cooperation and exchange of information between supervisory authorities, where the special purpose vehicle is established in a Member State which is not the Member State where the insurance or reinsurance undertaking, from which it assumes risk, is established. The cooperation and exchange of information between those supervisory authorities is particularly important during the process for the supervisory approval of the special purpose vehicle. Also, if there are material changes that potentially affect the special purpose vehicle's compliance with the requirements of Article 211 of Directive 2009/138/EC and when the authorisation is withdrawn or lapses, the cooperation and exchange of information between those supervisory authorities is necessary to ensure effective and efficient supervision.
- (5) The supervisory reporting requirements, which are set out in [Article 318 SPV10], should enable the supervisory authorities of the special purpose vehicles to assess continued

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<sup>2</sup> OJ L 335, 17.12.2009, p.1.

compliance with the relevant requirements. These requirements are complemented by the templates and formats specified in this Regulation and are detailed in Annex II and III.

- (6) The provisions in this Regulation are closely linked to each other, since they deal with the supervisory authorisation and treatment of special purpose vehicles assuming risks from insurance or reinsurance undertakings as well as the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations, including investors that are non-Union residents, it is desirable to include all the implementing technical standards required by Article 211 (2a) and (2b) of Directive 2009/138/EC in a single Regulation.
- (7) This Regulation is based on the draft implementing technical standards submitted by the European Insurance and Occupational Pensions Authority to the Commission.
- (8) The European Insurance and Occupational Pensions Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Insurance and Reinsurance Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010.

HAS ADOPTED THIS REGULATION:

## **SECTION 1**

### **SUBJECT MATTER AND DEFINITIONS**

#### *Article 1- Subject Matter*

- (1) This Regulation sets out:
  - (1) the procedures to be followed for granting and withdrawing supervisory approval to establish special purpose vehicles;
  - (2) the procedures to be followed for cooperation and exchange of information between the supervisory authority of the Member State in which the special purpose vehicle is established and the supervisory authority of the Member State in which the insurance or reinsurance undertaking transferring risk is established;
  - (3) the formats and templates to be used for the annual reporting of information by the special purpose vehicle.

## *Article 2- Definitions*

- (1) For the purposes of this Regulation the following definition shall apply:

‘Multi-arrangement special purpose vehicle’ means a special purpose vehicle which assumes risks under more than one separate contractual arrangement from one or more insurance or reinsurance undertakings.

## **SECTION 2**

### **PROCEDURES FOR GRANTING SUPERVISORY APPROVAL TO ESTABLISH SPECIAL PURPOSE VEHICLES AND WITHDRAWAL OF AUTHORISATION**

#### *Article 3 - Addressee of the application*

- (1) The special purpose vehicle shall seek authorisation from the supervisory authority of the Member State in which the special purpose vehicle is establishing its head office within the territory of that Member State.

#### *Article 4 - Decision*

- (1) The supervisory authority of the Member State in which the special purpose vehicle is established or is to be established shall decide on an application for authorisation within six months of the date of its receipt.
- (2) In its decision to grant supervisory approval the supervisory authority shall state the activities for which the special purpose vehicle is authorised and, where relevant, any terms and conditions relating to those activities.
- (3) Any decision to refuse an authorisation shall state full reasons and shall be communicated to the special purpose vehicle by that supervisory authority.

#### *Article 5 - Demonstration and documentation requirements*

- (1) When applying for supervisory approval to be established, the special purpose vehicle shall demonstrate by providing documentary evidence that the requirements set out in [Articles SPV2 to SPV9 and SPV 11] are met and that the special purpose vehicle is capable of meeting the requirements of [Article SPV 10]. When submitting an application for authorisation, the special purpose vehicle shall submit, at least, the supporting documentation as set out in Annex I. The documentation shall cover the structure of the special purpose vehicle, the risk to be assumed and the funding of the special purpose vehicle.

#### *Article 6 - Non-compliance*

- (1) In addition to the requirement to inform the supervisory authority immediately of any changes that could affect the special purpose vehicle’s compliance with [Articles SPV2 to SPV9 and Article SPV 11] according to Article [SPV 10, paragraph 5], the special purpose vehicle shall immediately inform its supervisory authority if it is no longer compliant with the requirement to be fully funded or if there is a risk of non-compliance within the following three months.

- (2) If the special purpose vehicle is no longer compliant with the requirement to be fully funded, the special purpose vehicle shall immediately report to its supervisory authority the amount of non-compliance, together with an explanation of its origin and consequences, including any remedial measure taken.
- (3) Within one month of non-compliance with the requirement to be fully funded, special purpose vehicles shall submit, for approval by the supervisory authority of the Member State where it is established, a realistic finance scheme to restore compliance with the requirement to be fully funded within three months of that observation.

#### *Article 7 - Withdrawal of authorisation*

- (1) The supervisory authority granting supervisory approval to establish the special purpose vehicle may withdraw the authorisation of that special purpose vehicle in the following cases:
  - (a) the special purpose vehicle does not make use of the authorisation within twelve months;
  - (b) the special purpose vehicle expressly renounces its authorisation or ceases to pursue business for more than six months, unless the terms and conditions envisage that the authorisation can lapse in such cases;
  - (c) the special purpose vehicle no longer fulfils the original conditions under which the approval to establish that special purpose vehicle was granted; or
  - (d) the special purpose vehicle fails seriously in its obligations under the regulations to which it is subject.
- (2) In the case specified in paragraph d) above, the supervisory authority shall withdraw the authorisation granted to a special purpose vehicle in the event that the special purpose vehicle does not comply with the requirement to be fully funded and the supervisory authority considers that the finance scheme submitted is inadequate, or the special purpose vehicle fails to comply with the approved finance scheme within three months from the observation of non-compliance with the requirement to be fully funded.
- (3) Any decision to withdraw authorisation shall state the full reasons and shall be communicated to the special purpose vehicle without delay.

#### *Article 8 - Supervisory approval to establish multi-arrangement special purpose vehicles*

- (1) When applying for the supervisory approval for the establishment of a special purpose vehicle assuming more than one contractual arrangement relating to the transfer of risk from insurance or reinsurance undertakings, that multi-arrangement special purpose vehicle shall demonstrate to the satisfaction of its supervisory authority that its solvency cannot be adversely affected by the winding-up proceedings of any one of those insurance or reinsurance undertakings and that the multi-arrangement special purpose vehicle can maintain the solvency requirement at all times.
- (2) When demonstrating that the multi-arrangement special purpose vehicle's solvency cannot be adversely affected by the winding-up proceedings of any one of the insurance or reinsurance undertakings transferring risk, the multi-arrangement special purpose vehicle shall provide sufficient supporting evidence to allow its supervisory authority to assess the multi-arrangement special purpose vehicle's overall aggregate maximum risk exposure and the aggregate maximum risk exposure of each individual contractual arrangement relating to the transfer of risk from an insurance or reinsurance undertaking.

- (3) When applying for the supervisory approval for the establishment of a special purpose vehicle assuming more than one contractual arrangement relating to the transfer of risk from insurance or reinsurance undertakings, the special purpose vehicle shall provide sufficient supporting evidence that it satisfies the conditions set out in [Articles 311 SPV3 to 313 SPV5 and 319 SPV11] taking into account each individual contractual arrangement in order to determine whether the multi-arrangement special purpose vehicle complies with the solvency requirements.
- (4) Where the special purpose vehicle is not able to provide sufficient supporting evidence in line with the provisions of paragraphs (1) to (3), the supervisory authority shall refuse the establishment of the multi-arrangement special purpose vehicle.

### **SECTION 3**

#### **PROCEDURES FOR THE COOPERATION AND EXCHANGE OF INFORMATION BETWEEN THE SUPERVISORY AUTHORITIES OF THE SPECIAL PURPOSE VEHICLE AND OF THE INSURANCE OR REINSURANCE UNDERTAKING TRANSFERRING RISK**

##### *Article 9 - On-going cooperation between supervisory authorities*

- (1) Where the special purpose vehicle which assumes risk from an insurance or reinsurance undertaking is established in a Member State which is not the Member State in which the insurance or reinsurance undertaking is authorised, those supervisory authorities shall cooperate on an on-going basis. Those supervisory authorities shall exchange information relevant to the exercise of supervisory responsibilities, including information on any planned supervisory actions against the special purpose vehicle or the insurance and reinsurance undertakings transferring risk where this may affect the supervision of that special purpose vehicle or the insurance and reinsurance undertakings transferring risk. In such circumstances, the supervisory authorities of Member States shall communicate without delay.

##### *Article 10 - Prior consultation before granting an authorisation*

- (1) Prior to granting authorisation, the supervisory authority from which supervisory approval to establish a special purpose vehicle is sought shall consult with the supervisory authorities of the Member States in which the insurance or reinsurance undertakings transferring risks are established.

##### *Article 11 - Communication of changes*

- (1) The special purpose vehicle's supervisory authority shall communicate without delay any relevant information received from a special purpose vehicle according to [Article 318 SPV10 (5)] relating to any changes that could affect the special purpose vehicle's compliance with the requirements set out in [Articles SPV2 to SPV9 and Article SPV11] to the supervisory authority of the insurance or reinsurance undertaking transferring risk to that special purpose vehicle. The supervisory authority shall communicate without delay the special purpose vehicle's breach of solvency requirements after its authorisation.

*Article 12 - Communication of withdrawal or lapse of authorisation*

- (1) In the event of withdrawal or lapse of a special purpose vehicle's authorisation, the special purpose vehicle's supervisory authority shall notify accordingly the supervisory authority of the insurance or reinsurance undertaking transferring risk to that special purpose vehicle without delay.

*Article 13 - Communication of the annual report*

- (1) The special purpose vehicle's supervisory authority shall share the annual report of the special purpose vehicle with the supervisory authority of the insurance or reinsurance undertaking transferring risk to that special purpose vehicle without delay. In case of multi-arrangement special purpose vehicles, the special purpose vehicle's supervisory authority may only share the special purpose vehicle's report related to insurance and reinsurance undertakings established in the Member State of that supervisory authority.

## SECTION 4

### FORMATS AND TEMPLATES FOR INFORMATION TO BE REPORTED BY SPECIAL PURPOSE VEHICLES

*Article 14 - Applicability and quantitative content of the annual report*

- (1) In line with [Article 318 SPV10], the special purpose vehicle shall submit annually to its supervisory authority quantitative information following the formats and templates, as set out in Annex II and in accordance with the instructions in Annex III, and comprising:
  - (a) content of submission, as specified in template SPV.01.01 of Annex II, according to the instructions in Annex III under the reference Instructions on SPV.01.01;
  - (b) basic information on the special purpose vehicle, as specified in template SPV.01.02 of Annex II, according to the instructions in Annex III under the reference Instructions on SPV.01.02;
  - (c) balance sheet data of the special purpose vehicle, distinguishing the material classes of assets, liabilities and equity items, including debt or other financing mechanism issued, as specified in template SPV.02.01 of Annex II, according to the instructions in Annex III under the reference Instructions on SPV.02.01;
  - (d) off-balance sheet data of the special purpose vehicle, as specified in template SPV.02.02 of Annex II, according to the instructions in Annex III under the reference Instructions on SPV.02.02;
  - (e) risks assumed regarding each individual contractual arrangement relating to the transfer of risk from an insurance or reinsurance undertaking, as specified in template SPV.03.01 of Annex II, according to the instructions in Annex III under the reference Instructions on SPV.03.01;
  - (f) list of debt securities or other financing mechanism issued regarding each individual contractual arrangement relating to the transfer of risk from an insurance or reinsurance undertaking, as specified in template SPV.03.02 of Annex II, according to the instructions in Annex III under the reference Instructions on SPV.03.02.

*Article 15 - Qualitative content of the annual report*

- (1) In line with [Article 318 SPV10], the special purpose vehicle shall submit annually to its supervisory authority qualitative information covering:
- (a) an adequate description of the basis, methods and assumptions used for the valuation of the assets;
  - (b) an adequate description of the basis, methods and assumptions used for the determination of the aggregate maximum risk exposure;
  - (c) details of any conflicts of interest between the special purpose vehicle, the insurance or reinsurance undertakings and the providers of debt or finance;
  - (d) details of any significant transactions entered into by the special purpose vehicle during the last reporting period;
  - (e) information to demonstrate that the special purpose vehicle continues to be fully funded, including:
    - i. a description of the risks assumed by the special purpose vehicle; and
    - ii. information on the debt instruments issued or other financing mechanism entered into.
  - (f) if the special purpose vehicle has not continuously complied with the requirement to be fully funded during the reporting period, the special purpose vehicle shall report any relevant information on that non-compliance and its rectification according to [Article 319 SPV11] during the reporting period;
  - (g) qualitative information on any changes that could affect the special purpose vehicle's compliance with the requirements set out in [Articles 310 SPV2 to 317 SPV 9 and Article 319 SPV 11].

*Article 16 - Description of the risks assumed by the special purpose vehicle*

- (1) When describing the risks assumed, as required by Article 15, in the annual report, the special purpose vehicle shall provide information on:
- (a) whether the risks assumed are mainly life or non-life type of risks;
  - (b) what types of trigger events apply to those risks;
  - (c) whether a trigger event occurred in the reporting period, triggering a claim against the special purpose vehicle's assets;
  - (d) whether any amounts arising from a claim were paid out in the reporting period, and if that is the case, how much has been paid out to date and whether the trigger event has negatively affected the special purpose vehicle's liquidity;
  - (e) whether the special purpose vehicle entered into any significant contractual arrangements relating to the transfer of risk from an insurance or reinsurance undertaking during the reporting period. If that is the case, the special purpose vehicle shall report whether it has received authorisation for that transactions and shall cite any previous communication with the supervisory authority on that matter;
  - (f) whether the special purpose vehicle's risk profile has changed materially since the previous reporting period or from the original terms and conditions as communicated to its supervisory authority upon authorisation.

*Article 17 - Information on debt instruments issued or other financing mechanism entered into*

- (1) When providing information on debt instruments issued or other financing mechanism entered into, as required by Article 15, the special purpose vehicle shall report on:
  - (a) the proceeds of the debt issuance or other financing mechanism and whether they have been fully paid-in regarding each individual contractual arrangement relating to the transfer of risk from an insurance or reinsurance undertaking;
  - (b) the types of tiers of the financing mechanism, specifying the tranches or tiers, including information on ratings received for issued debt instruments and which credit rating agencies were used;
  - (c) the reasons why the financial arrangements are regarded as sufficiently robust to ensure continued protection of potential claims of insurance or reinsurance undertakings transferring risk to the special purpose vehicle, to maintain its ability to meet amounts it is liable for as they fall due and to ensure the pay-out structure of debt or financing mechanisms;
  - (d) any debt instruments that have been cancelled, bought back or redeemed, partially or in full, since those instruments were issued and separately for the current reporting period.

*Article 18 - Means for reporting*

- (1) Special purpose vehicles shall submit the quantitative content of the report referred to in Article 14 to the supervisory authority electronically and the qualitative content of the report referred to in Article 16 in an electronic readable format.

*Article 19 – Currency and units*

- (1) Special purpose vehicles shall submit all monetary data from the report referred to in Article 14 in the special purpose vehicle's currency of reporting, which requires converting other currencies into the currency of reporting, with the exchange rate at the end of the reporting period.
- (2) Special purpose vehicles shall submit numeric values as facts according to the following formats:
  - (a) data points with the data type 'Monetary' shall be reported using a minimum precision equivalent to units;
  - (b) data points with the data type 'Integer' shall be reported using no decimals and a precision equivalent to units.

## **SECTION 5**

### **FINAL PROVISIONS**

*Article 20- Timeline for decision*

- (1) This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
- (2) This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission  
The President*

*On behalf of the President*

*[Position]*

## ANNEX I

When applying for an authorisation of a special purpose vehicle, the documentation provided shall include at least the following:

1. a transparent presentation and analysis in an organisational chart identifying all the relevant parties involved in the transaction, including the insurance or reinsurance undertakings involved, which are supervised by other Member State's supervisory authorities other than that responsible for granting the special purpose vehicle's authorisation;
2. information about the identity and qualification of the originator or sponsor of the special purpose vehicle, where this party differs from the insurance or reinsurance undertaking transferring risk to the special purpose vehicle;
3. information about the insurance or reinsurance undertaking transferring risk to the special purpose vehicle identified in the relevant special purpose vehicle contract;
4. identification and qualification of the persons who are, or will be, appointed to act as trustees, where applicable, of the special purpose vehicles' assets;
5. information about the identity and qualification of the persons who are, or will be, employees of the special purpose vehicle, including details of directors and management who manage and effectively run the special purpose vehicle;
6. information about the identity and qualification of persons who have, or will be expected to have, qualifying holdings, directly or indirectly, in the special purpose vehicle together with the amounts of those holdings;
7. information about the identity and qualification of the persons who are providing or will provide management and professional services, such as accounting, to the special purpose vehicle.
8. the special purpose vehicles' memorandum and articles of association, or proposed memorandum and articles of association;
9. details from the insurance or reinsurance undertakings' original insurance policy clearly detailing what risks initially assumed by the insurance or reinsurance undertaking will be transferred to the special purpose vehicle, including an assessment and a description of how the transfer of ceded risks and the retention of any residual risks will comply with the requirements of [Article 312 SPV4];
10. details of the proposed contractual arrangement relating to the transfer of risk between the special purpose vehicle and the undertaking including a description of how the contract will meet the requirements of [Articles 311 SPV3, 312 SPV4, 185 SCRRM2 and 186 SCRMM3]. The description shall include:
  - (a) any relevant triggering events or mechanisms under the contract; and
  - (b) the maximum aggregate exposure limits of the contract.
11. an assessment as to whether the legal and governance structures of the special purpose vehicle are deemed to comply with the requirements of [Articles 311 SPV3, 312 SPV4, 185 SCRRM2, 319 SPV11 and 314 SPV6 317 SPV 9]. The review should also give an opinion on whether the legal structure chosen for the special purpose vehicle affords a legally enforceable protection of the assets of the special purpose vehicle, thereby ensuring that the solvency of the special purpose vehicle shall not be adversely affected in line with the

requirements of [Article 310(b) SPV 2 and 313 SPV5]. The assessment should include the following:

- (a) an explanation of how the special purpose vehicle is, or will be, fully funded, including relevant tests, such as stress and scenario tests, to determine if the fully funded requirement has been complied with;
  - (b) information on capital including size, growth, investor concentration, and the management share of the capital base;
  - (c) details of the counterparties to the contractual arrangements relating to the transfer of risk from an insurance or reinsurance undertaking to the special purpose vehicle, including details of all the roles of the special purpose vehicle and the insurance and reinsurance undertakings, as well as the roles and identities of other participants, including, but not limited to, note holders, account managers and account servicing managers, custodians and trusts, asset managers, underwriters and sponsors to the transaction. This shall also include an assessment of consolidation requirements of the special purpose vehicle into a group;
  - (d) information on quantifiable risks of the special purpose vehicle including details of the special purpose vehicle's liquidity risk and liquidity strategy;
  - (e) information on risk implications of the special purpose vehicle's investment strategy;
  - (f) information on the special purpose vehicle's adherence to the solvency requirements according to [Article 314 SPV6];
  - (g) details of the risk transfer, including assessment of material residual risks, including basis risk;
  - (h) details of any intended hedging instruments, such as interest rate swaps or currency contracts;
  - (i) details of any off-balance sheet commitments to support the special purpose vehicle, including guarantees or any other form of credit risk mitigation sold to or otherwise provided to the special purpose vehicle;
  - (j) financial projections over the expected life of the special purpose vehicle;
  - (k) an actuarial review of the insurance risks assumed; and
  - (l) an overall risk management plan including details as to how the special purpose vehicle will continue to be fully funded during the term of the contract.
12. copies of proposed transaction documentation regarding the issue of debt or financial mechanisms, and risk transfer to providers of such debt or financing mechanisms, to ensure compliance with [Article 312 SPV4, 185 SCRMM2, 186 SCRMM3 and 313 SPV5]. This documentation should include:
- (a) Prospectus or Offering Circular or Private Placement Memorandum;
  - (b) rating agency's report prior to the issue of the funding instruments on behalf of the special purpose vehicle;
  - (c) details relating to the potential use of financial guarantors on any of the 'tranches' of notes to be issued;
  - (d) Trustee Agreement, where such an arrangement exists;

- (e) with regards to the debt or financing mechanisms, details the special purpose vehicle's liquidity strategy for the issued financial instruments, including the structure and tiering, types of positions, and note holder withdrawal rules;
  - (f) information on risk implications of the special purpose vehicle's investment strategy;
  - (g) copies of contracts and details of any intended hedging instruments, such as interest rate swaps or currency contracts;
  - (h) other relevant transaction documentation governing parts of the contractual arrangements relating to the transfer of risk from an insurance or reinsurance undertaking to the special purpose vehicle, which may fall under the scope of "connected transaction" as understood by [Articles 312 SPV4 (2) and 185 SCRRM2(3)]. Where applicable this may include contracts with other participants to the transaction, as well as outsourcing and service contracts;
  - (i) a draft plan outlining the special purpose vehicle's supervisory reporting procedures, designed to comply with the requirements of [Articles 318 SPV10, 319 SPV11 and 314 SPV6], including specific reportable matters identified under [Articles 318 SPV10 (2) and 319 SPV11 (1-2)] and with regards to how material changes would be communicated to the supervisor;
13. Where a special purpose vehicle, which was authorised prior to 31 December 2015, commences any new activities after 31 December 2015, the special purpose vehicle should report any relevant information on how the existing activity of the special purpose vehicle may impact on its aggregate risk exposure profile in relation to any new activity.

## ANNEX II

<b>Special Purpose Vehicles reporting templates</b>		
<b>Content of the submission</b>		
<b>SPV.01.01</b>		
<b>Template Code</b>	<b>Template name</b>	
SPV.01.02	Basic Information	A1
SPV.02.01	Balance sheet	A2
SPV.02.02	Off-balance sheet	A3
SPV.03.01	Risks assumed	A4

<b>Special Purpose Vehicles reporting templates</b>	
<b>Basic information</b>	
<b>SPV.01.02</b>	
Name of reporting SPV	A1
Identification code	A2
Type of code	A3
Home-country of the SPV	A4
Reporting date	A5
Reference date	A6
Currency used for reporting	A7
Risks assumed through separate arrangements	A8
Continuous compliance with fully funded requirement throughout the reporting period (Y/N)	A9

<b>Special Purpose Insurance Vehicles reporting templates</b>	
<b>Balance sheet</b>	
<b>SPV.02.01</b>	
<b>Assets</b>	<b>Value</b>
Deposits and loans claims	A1
Securitised loans	A2
Debt securities	A3
Other securitised assets	A4
Equity and collective investment units	A5
Financial derivatives	A6
Non-financial assets (including fixed assets)	A7
(Other material classes of assets)	A8
Ramainning assets	A9
<b>Total assets</b>	A10
<b>Liabilities</b>	<b>Value</b>
Loans and deposits received	L1
Debt securities issued	L2
Financial derivatives	L3
(Other material classes of liabilities)	L4
Remaining liabilities	L5
<b>Total Liabilities</b>	L6
<b>Equity (material items)</b>	<b>Value</b>
L7	L8

...	
<b>Total Equity</b>	L9

<b>Special Purpose Vehicles reporting templates</b>	
<b>Off-Balance sheet</b>	
<b>SPV.02.02</b>	
<b>Off-balance sheet items</b>	<b>Accounting value</b>
Guarantees received by the SPV directly	A1
Collateral held	A2
A3	A4
...	...
<b>Off-balance sheet obligations</b>	<b>Accounting value</b>
Collateral pledged	A5
A6	A7
...	...

<b>Special Purpose Vehicles reporting templates</b>								
<b>Risks assumed</b>								
<b>SPV.03.01</b>								

Authorised arrangement	Authorisation date	Issues / uses commenced prior to implementation of the Solvency II Directive	Name of cedant	Cedant code	Type of code	Total insured amount in relation to arrangement risk (aggregate maximum limit per arrangement)	Assets held for separable risk	Continuous compliance with the fully funded requirement for the arrangement throughout the reporting period (Y/N)
A1	A2	A3	A4	A5	A6	A7	A8	A9
...	...	...	...	...	...	...	...	...
<b>Total</b>						A10	A11	

Special Purpose Vehicles reporting templates		
Debt or other financing mechanism		
SPV.03.02		
Authorised arrangement	Description of the debt or Other Financing mechanism issued for arrangement	Amount of the Debt or Other Financing mechanism issued for arrangement
A1	A2	A3
...		...
<b>Total</b>		A4

### **ANNEX III**

#### **SPV.01.01 - Content of the submission**

<b>Cell</b>	<b>Item</b>	<b>Instructions</b>
A1	Basic Information	Reported
A2	Balance Sheet	One of the options in the following closed list shall be used: - Reported; - Not reported (in this case special justification is needed).
A3	Off-balance sheet	One of the options in the following closed list shall be used: - Reported; - Not reported o/a no off-balance sheet items; - Not reported other reason (in this case special justification is needed).
A4	Risks assumed	One of the options in the following closed list shall be used: - Reported; - Not reported (in this case special justification is needed).

#### **SPV.01.02 - Basic information**

<b>Cell</b>	<b>Item</b>	<b>Instructions</b>
A1	Name of reporting SPV	Name of special purpose vehicle submitting the report to the national supervisory authority
A2	Identification code	One of the options in the following closed list shall be used by this order of priority if existent: - Legal Entity Identifier (LEI); - Interim entity identifier (Pre-LEI); - Identification code used in the local market, attributed by national supervisory authority.
A3	Type of Identification code	Identification of the code used in item "Identification code". One of the options in the following closed list shall be used: - LEI - Pre-LEI

		- Local code
A4	Home-country of the SPV	ISO 3166-1 alpha-2 code of the country where the SPV has been authorised
A5	Reporting date	ISO 8601 (yyyy-mm-dd) code of the date when the report to the supervisory authority is made
A6	Reference date	ISO 8601 (yyyy-mm-dd) code of the date identifying the last day of the reporting period
A7	Currency used for reporting	ISO 4217 alphabetic code of the currency of the monetary amounts used in each report
A8	Risks assumed through separate arrangements	Identify the number of separate risk arrangements that a SPV may have received authorisation to assume under terms and conditions as set by its supervisory authority.
A9	Continuous compliance with fully funded requirement throughout the period (Y/N)	To state whether fully-funded requirement was maintained between two reporting periods. The following closed list should be used: <ul style="list-style-type: none"> <li>- Y: Yes</li> <li>- N: No</li> </ul>

### **SPV.02.01 – Balance sheet**

<b>Cell</b>	<b>Item</b>	<b>Instructions</b>
A1	Deposits and loans claims	Value according to Article 75 of Directive 2009/138/EC of the deposits and loan claims. This item shall include: <ul style="list-style-type: none"> <li>- All deposits</li> <li>- Loans granted by the SPV</li> <li>- Cash</li> </ul>
A2	Securitised loans	Value according to Article 75 of Directive 2009/138/EC of the securitised loans acquired by the SPV.
A3	Debt securities	Value according to Article 75 of Directive 2009/138/EC of holdings of debt securities. It includes subordinated debt in the form of debt securities.
A4	Other securitised assets	Value according to Article 75 of Directive 2009/138/EC of other securitised assets not included in items

		Securitised loans (A2) or Debt securities (A3).
A5	Equity and collective investment units	Value according to Article 75 of Directive 2009/138/EC of equity and collective investment units held.
A6	Financial derivatives	Value according to Article 75 of Directive 2009/138/EC of financial derivatives with positive value.
A7	Non-financial assets (including fixed assets)	Value according to Article 75 of Directive 2009/138/EC of tangible and intangible assets, other than financial assets.
A8	(Other material classes of assets)	Identify as many other material classes as needed to give a clear view of the nature of the material assets of the SPV
A9	Remaining assets	Value according to Article 75 of Directive 2009/138/EC of all the others assets, not covered by the previous items.
A10	Total assets	Total value of the assets of the SPV
L1	Loans and deposits received	Value owed to creditors by the SPV, other than those arising from the issue of negotiable securities.
L2	Debt securities issued	Value according to Article 75 of Directive 2009/138/EC of the securities issued by the SPV, other than equity.
L3	Financial derivatives	Value according to Article 75 of Directive 2009/138/EC of financial derivatives with negative value.
L4	(Other material classes of liabilities)	Identify as many other material classes as needed to give a clear view of the nature of the material liabilities of the SPV.
L5	Remaining liabilities	Value according to Article 75 of Directive 2009/138/EC of all the others liabilities, not covered by the previous items.
L6	Total Liabilities	Total of the liabilities of the SPV
L7	Equity (Material items)	Description of the material equity items. To be decided by each SPV considering the nature of material items held by the reporting special purpose insurance vehicle and to be kept consistent over reporting periods.

L8	Value	Value according to Article 75 of Directive 2009/138/EC of each equity item reported
L9	Total Equity	Total of the equity of the SPV

### **SPV.02.02 –Off- Balance sheet**

Cell	Item	Instructions
A1	Guarantees received by the SPV directly	Accounting value of the Guarantees received by the SPV directly
A2	Collateral held	Accounting value of the Collaterals held
A3	Off-balance sheet items	Description of each other off-balance-sheet item. The SPV should report as many different items as needed.
A4	Off-balance sheet items - Accounting value	Accounting value of each other off-balance-sheet items reported
A5	Collateral pledged	Accounting value of Collaterals pledged
A6	Off-balance sheet obligations	Description of each off-balance sheet obligations. The SPV should report as many different items as needed.
A7	Off-balance sheet obligations - Accounting value	Accounting value of each other off-balance-sheet obligations reported

### **SPV.03.01 – Risks assumed**

A1	Authorised arrangement	<p>Where multi-arrangement special purpose vehicles are involved, information should be provided for each separate arrangement (each separable risk assumed). This item identifies the risk arrangement code.</p> <p>If the supervisory authority attributes a code, that code should be used. If not, SPV should attribute a code that should be kept consistent over the reporting years and should not be re-used.</p> <p>The number of lines reported should be the same as the number identified in SPV.01.02 A8</p>
A2	Authorisation date	ISO 8601 (yyyy-mm-dd) code of the authorisation date

		for each separable risk arrangement
A3	Issues / uses commenced prior to implementation of the Solvency II Directive	Identification if arrangement entered before 31 December 2015. The following closed list should be used: <ul style="list-style-type: none"> <li>- Y: Yes</li> <li>- N: No</li> </ul>
A4	Name of cedant	Name of the insurance or reinsurance undertaking transferring risks to the SPV
A5	Cedant code	<p>One of the options in the following closed list shall be used by this order of priority if existent:</p> <ul style="list-style-type: none"> <li>- Legal Entity Identifier (LEI);</li> <li>- Interim entity identifier (Pre-LEI);</li> <li>- Specific code.</li> </ul> <p>Specific code:</p> <ul style="list-style-type: none"> <li>- For EEA (re) insurance undertakings: identification code used in the local market, attributed by the undertaking's supervisory authority</li> <li>- For non-EEA undertakings and non-regulated undertakings, identification code provided by the SPV. When allocating an identification code to each non-EEA or non-regulated undertaking, it should comply with the following format in a consistent manner:</li> </ul> <p style="padding-left: 40px;">identification code of the undertaking +</p> <p style="padding-left: 40px;">ISO 3166-1 alpha-2 code of the country of the undertaking +</p> <p style="padding-left: 40px;">5 digits</p>
A6	Type of code	<p>Identification of the code used in the item “Cedant code” (A5). One of the options in the following closed list shall be used:</p> <ul style="list-style-type: none"> <li>- LEI</li> <li>- Pre-LEI</li> <li>- Specific code</li> </ul>
A7	Total insured amount in relation to arrangement risk (aggregate max limit per arrangement)	Value per arrangement of the Total insured amount in relation to arrangement risk (aggregate max limit)

A8	Assets held for separable risk	Value of the total assets held per arrangement
A9	Continuous compliance with the fully funded requirement for the arrangement throughout the reporting period (Y/N)	To state whether fully-funded requirement was maintained between two reporting periods. The following closed list should be used: - Y: Yes - N: No
A10	Total - Total insured amount in relation to arrangement risk (aggregate max limit per arrangement)	Total of the SPV aggregate maximum risk exposure assumed A10 = Sum (A7)
A11	Total - Assets held for separable risk	Value of the total assets held SPV.03.01 A11 = Sum (A8) = SPV .02.01 A10

### **SPV.03.02 – Debt or other financing mechanism**

A1	Authorised arrangement	Where multi-arrangement special purpose vehicles are involved, information should be provided for each separate arrangement (each separable risk assumed). This item identifies the risk arrangement code.  If the supervisory authority attributes a code, that code should be used. If not, SPV should attribute a code that should be kept consistent over the reporting years and should not be re-used.  The number of lines reported should be the same as the number identified in SPV.01.02 A8
A2	Description of the Debt or Other Financing mechanism issued for arrangement	Description of the debt or Other Financing mechanism issued for arrangement, including the transaction reference.  It shall be reported as many lines as needed per arrangement to report each debt security issued.
A3	Amount of the Debt or Other Financing mechanism issued for arrangement	Value of each debt issuance or each other financing mechanism
A4	Total - Debt or Other Financing mechanism issued for arrangement	Value of the total debt securities issued SPV.03.02 A4 = Sum (A3) = SPV .02.01 L2

## 4.Explanatory text

### *Article 4- Decision*

- (1) The supervisory authority of the Member State in which the special purpose vehicle is established or is to be established shall decide on an application for authorisation within six months of the date of its receipt.
  - (2) In its decision to grant supervisory approval the supervisory authority shall state the activities for which the special purpose vehicle is authorised and, where relevant, any terms and conditions relating to those activities.
  - (3) Any decision to refuse an authorisation shall state full reasons and shall be communicated to the special purpose vehicle by that supervisory authority.
- 4.1. The required timeline is the same as the one that applies for the authorisation of insurance or reinsurance undertakings. The timeframe set out here applies to both the authorisation and the refusal of authorisation.

### *Article 5- Demonstration and documentation requirements*

When applying for supervisory approval to be established, the special purpose vehicle shall demonstrate by providing documentary evidence that the requirements set out in [Articles SPV2 to SPV9 and SPV 11] are met and that the special purpose vehicle is capable of meeting the requirements of [Article SPV 10]. When submitting an application for authorisation, the special purpose vehicle shall submit, at least, the supporting documentation as set out in Annex I. The documentation shall cover the structure of the special purpose vehicle, the risk to be assumed and the funding of the special purpose vehicle.

- 4.2. The information set out in Annex I is not a closed or definitive set of relevant information. The special purpose vehicle may submit further information to evidence the compliance with the relevant requirements. Where applicable, the supervisory authority responsible for authorising the special purpose vehicle may request additional information for its assessment after the application has been sent.

### *Article 7- Withdrawal of authorisation*

- (1) The supervisory authority granting supervisory approval to establish the special purpose vehicle may withdraw the authorisation of that special purpose vehicle in the following cases:

- (a) the special purpose vehicle does not make use of the authorisation within twelve months;
  - (b) the special purpose vehicle expressly renounces its authorisation or ceases to pursue business for more than six months, unless the terms and conditions envisage that the authorisation can lapse in such cases;
  - (c) the special purpose vehicle no longer fulfils the original conditions under which the approval to establish that special purpose vehicle was granted; or
  - (d) the special purpose vehicle fails seriously in its obligations under the regulations to which it is subject.
- (2) In the case specified in paragraph d) above, the supervisory authority shall withdraw the authorisation granted to a special purpose vehicle in the event that the special purpose vehicle does not comply with the requirement to be fully funded and the supervisory authority considers that the finance scheme submitted is inadequate, or the special purpose vehicle fails to comply with the approved finance scheme within three months from the observation of non-compliance with the requirement to be fully funded.
- (3) Any decision to withdraw authorisation shall state the full reasons and shall be communicated to the special purpose vehicle without delay.
- 4.3. Upon conferring authorisation on the special purpose vehicle, the supervisory authority communicates the specific terms and conditions of that authorisation to the special purpose vehicle. The special purpose vehicle needs to ensure its continuous compliance with those terms and conditions together with the general provisions as set out in Directive 2009/138/EC regarding special purpose vehicles.
- 4.4. The special purpose vehicle needs to immediately notify its supervisory authority of any changes which are likely to affect its continuous compliance with the initial terms and conditions together with the general provisions as set out in Directive 2009/138/EC regarding special purpose vehicles.
- 4.5. In addition the supervisory authority may become aware of instances of non-compliance through its regular supervision of the special purpose vehicle, through communication with other supervisory authorities.
- 4.6. Whether or not an instance of non-compliance constitutes a strong case for withdrawal of authorisation is a matter of supervisory judgement. Where such action is taken, the supervisory authority will need to communicate its reasons for that decision.

*Article 8- Supervisory approval to establish multi-arrangement special purpose vehicles*

- (1) When applying for the supervisory approval for the establishment of a special purpose vehicle assuming more than one contractual arrangement relating to the transfer of risk from insurance or reinsurance undertakings, that multi-arrangement special purpose vehicle shall demonstrate to the satisfaction of its supervisory authority that its solvency cannot be adversely affected by the winding-up proceedings of any one of those insurance or reinsurance undertakings and that the multi-arrangement special purpose vehicle can maintain the solvency requirement at all times.
  - (2) When demonstrating that the multi-arrangement special purpose vehicle's solvency cannot be adversely affected by the winding-up proceedings of any one of the insurance or reinsurance undertakings transferring risk, the multi-arrangement special purpose vehicle shall provide sufficient supporting evidence to allow its supervisory authority to assess the multi-arrangement special purpose vehicle's overall aggregate maximum risk exposure and the aggregate maximum risk exposure of each individual contractual arrangement relating to the transfer of risk from an insurance or reinsurance undertaking.
  - (3) When applying for the supervisory approval for the establishment of a special purpose vehicle assuming more than one contractual arrangement relating to the transfer of risk from insurance or reinsurance undertakings, the special purpose vehicle shall provide sufficient supporting evidence that it satisfies the conditions set out in [Articles 311 SPV3 to 313 SPV5 and 319 SPV11] taking into account each individual contractual arrangement in order to determine whether the multi-arrangement special purpose vehicle complies with the solvency requirements.
  - (4) Where the special purpose vehicle is not able to provide sufficient supporting evidence in line with the provisions of paragraphs (1) to (3), the supervisory authority shall refuse the establishment of the multi-arrangement special purpose vehicle.
- 4.7. The introduction of the possibility for a special purpose vehicle to assume more than one contractual arrangement transferring risk from more than one insurance or reinsurance undertaking to the special purpose vehicle adds complexity to the structure of such special purpose vehicles.
- 4.8. In line with [Article 317 SPV 9] the special purpose vehicle will need to be able to demonstrate a strong system of governance, which becomes particularly important for multi-arrangement special purpose vehicles given their complex structure.
- 4.9. Scenario 1: Article [310 SPV2(a)] allows to assume risks from an insurance or reinsurance undertaking. These risks may or may not constitute separable obligations. When they are separable, the same considerations would apply as when assessing the aggregate maximum risk exposure to determine whether the SPV is underfunded with regards to its separable obligations.

- 4.10. Scenario 2: Article [310 SPV2(b)] allows the special purpose vehicle to assume risks from more than one insurance or reinsurance undertaking. These would naturally constitute separable obligations. Where they are separable, the same considerations would apply as when assessing the aggregate maximum risk exposure to determine whether the special purpose vehicle is underfunded with regards to its separable obligations.
- 4.11. Special purpose vehicles may apply for authorisation to assume risks under more than one arrangement. A multi-arrangement special purpose vehicle is a type of special purpose vehicle assuming risks under separate contractual arrangements potentially from one or more insurance or reinsurance undertakings.
- 4.12. Multi-arrangement special purpose vehicles, as lacking the bankruptcy protection that may be afforded each arrangement by maintaining separate special purpose vehicles, will need to demonstrate that rights and interests of each separate arrangement can be continuously maintained.
- 4.13. For each arrangement that a special purpose vehicle has received authorisation, it will need to ensure that the link between the funding of the special purpose vehicle for that specific arrangement (through debt or other financing mechanism) is sufficiently matched with the related risks assumed from an insurance or reinsurance undertaking, and that such links are clearly defined, so as to avoid potential contagion from one arrangement to another.
- 4.14. In defining its quantifiable risks, the special purpose vehicle has to examine whether there may be any unintended spill over from, or cross contamination between, separate arrangements or any unintended risk concentration resulting from assuming risks under multiple arrangements.
- 4.15. Multi-arrangement special purpose vehicles are required to comply with the fully funded requirement which must be adhered to at the aggregate maximum risk exposure level for the special purpose vehicle as a whole and assessed at the level of each individual arrangement's maximum risk exposure.
- 4.16. The special purpose vehicle will also need to demonstrate to the supervisory authority, as part of its application for authorisation of any new arrangement, how it intends to maintain compliance with the fully-funded requirement at the aggregate maximum risk exposure level assessing each separable arrangement in addition to the assessment of the overall requirement at a total level.

#### *Article 9- On-going cooperation between supervisory authorities*

Where the special purpose vehicle which assumes risk from an insurance or reinsurance undertaking is established in a Member State which is not the Member State in which the insurance or reinsurance undertaking is authorised, those supervisory authorities shall cooperate on an on-going basis. Those supervisory authorities shall exchange information relevant to the exercise of supervisory responsibilities, including information on any planned supervisory actions against the special purpose vehicle or the insurance and reinsurance undertakings transferring risk where this may affect the supervision of that special purpose vehicle or the insurance and reinsurance undertakings transferring risk. In such circumstances, the supervisory authorities of Member States shall communicate without delay.

- 4.17. As part of effective and efficient supervision, supervisory authorities need to exchange information on planned supervisory actions where it is deemed to have a material and potentially adverse effect on a regulated undertaking for which another Member State supervisory authority is responsible.
- 4.18. Exchange of information includes instances where the action planned is likely to lead to actual or potential non-compliance with either statutory minimum capital requirements or fully funded requirements of insurance or reinsurance undertakings and special purpose vehicles, respectively.

#### *Article 11- Communication of changes*

The special purpose vehicle's supervisory authority shall communicate without delay any relevant information received from a special purpose vehicle according to [Article 318 SPV10 (5)] relating to any changes that could affect the special purpose vehicle's compliance with the requirements set out in [Articles SPV2 to SPV9 and Article SPV11] to the supervisory authority of the insurance or reinsurance undertaking transferring risk to that special purpose vehicle. The supervisory authority shall communicate without delay the special purpose vehicle's breach of solvency requirements after its authorisation.

- 4.19. Supervisory authorities may become aware of such material changes through its regular supervision of the special purpose vehicle, through communication with other concerned supervisory authorities or through notification from the special purpose vehicle or an insurance or reinsurance undertaking, respectively.
- 4.20. According to the provisions of [Article 318 SPV10], a special purpose vehicle is required to notify its supervisory authority of any material changes where such changes may affect its continued compliance with the original terms and conditions received at authorisation as well as the Directive or Implementing

Measures. The supervisory authority will need to assess whether such matters may be relevant to other concerned supervisory authorities and inform them without delay where this is the case.

*Article 12- Communication of withdrawal or lapse of authorisation*

In the event of withdrawal or lapse of a special purpose vehicle's authorisation, the special purpose vehicle's supervisory authority shall notify accordingly the supervisory authority of the insurance or reinsurance undertaking transferring risk to that special purpose vehicle without delay.

- 4.21. The supervisory authority responsible for the special purpose vehicle will have to notify other concerned supervisory authorities of instances where special purpose vehicles cease to operate under its supervision. This could be either due to expiry, lapse or withdrawal (both voluntary and compulsory).
- 4.22. The special purpose vehicle would not be eligible to continue assuming risk from insurance or reinsurance undertakings where it does not operate under prior authorisation, where authorisation has ceased or the term of authorisation has expired or lapsed.

# Annex 1: Impact Assessment

In the course of the policy drafting each provision in the ITS, an analysis has been carried out with respect to the expected costs and benefits generated by these texts.

When analysing the impact from proposed policies, the impact assessment methodology envisaged that a baseline scenario is applied as the basis for comparing policy options. This helps to identify the incremental impact of each policy option considered.

## Baseline

The baseline is based on the current situation of EU insurance and reinsurance markets, which is considered to be composed of:

- The progress towards Solvency II that insurance and reinsurance undertakings have already achieved at this stage, considering the average state of art of EU insurance and reinsurance undertakings,
- Progress for the implementation of Solvency II envisaged by elements of its framework other than these guidelines.

In particular the baseline will include:

- The content of Directive 138/2009/EC and any amendment already agreed to it;
- Where there is evidence of its public availability at the date of approval of the consultation of these technical standards by EIOPA, any reliable background on the likely content of the draft of delegated acts and technical standards developing the aforementioned Directive.

## Policy analysis

This analysis presents the EIOPA's considerations on the expected costs and benefits with respect to the key areas of this ITS:

1. procedures for supervisory approval to establish SPVs;
2. cooperation and exchange of information between supervisory authorities regarding SPVs;
3. reporting requirements for special purpose vehicles.

With regard to key areas 1 and 3, the analysis of potential incremental costs and benefits shows that the proposed policies do not generate material incremental costs due to the fact that there is no discretion incorporated in the respective delegated acts. For instance the proposed reporting requirements templates in fact only introduce a structure for the content specified in Article 318 SPV 10 of the draft delegated acts. The templates provided in the annex are intended to facilitate the

presentation of this information, which can reasonably be expected to already exist at SPVs.

EIOPA considers that the proposed policies facilitate the understanding and consistent implementation of the Directive 2009/138/EC and the corresponding delegated acts.

### **Proportionality considerations**

In particular, the proposed policies translate the procedures for the authorisation and withdrawal of authorisation for insurance and reinsurance undertakings in procedures that are fit for the purposes of a SPV, which acts as a reinsurer without writing business. Consequently, the requirements on the procedures are fully in line with the spirit of Directive 2009/138/EC and can ensure a consistent application of the Directive. Further, EIOPA is of the view that the proposed requirements ensure a convergent approach for the approval of multi-arrangement SPVs, which is fully in line with and reflecting the treatment of single-arrangement and single sponsor SPVs. The proposed procedures are intended to ensure also a consistent application of Directive 2009/138/EC and of the corresponding delegated acts.

With respect to key area 2, the policy drafters have proposed procedures for the cooperation and exchange of information between supervisory authorities regarding SPVs in the first place in order to ensure clarity as to the respective stakeholders in the supervisory process. Such clarity is considered of paramount importance as it has been identified that current practice involves divergent practices across EU, which may lead to inconsistencies in supervisory procedures.

As a second step the proposed policies specify the need for the respective supervisors to communicate significant changes that may affect the SPV's solvency and to communicate the withdrawal or lapse of authorisation of the SPV.

There is no strict deadline proposed for these communications, which allows certain discretion for supervisory authorities, however there is a requirement introduced that these communications should happen without delay.

EIOPA believes that the proposed policy intends to ensure a harmonised understanding and application of the procedures for SPVs and the supervision of effective risk transfer across the EU.

## **Annex 2: Overview of Questions for Consultation**

EIOPA expects comments on the specific requirements of the draft implementing technical standards and on all the requirements as a whole. However, EIOPA would also ask the respondents to consider following questions in their comments:

**Q1. Do you have any comments on the easiness of application and the proportionate approach of the requirements?**

**Q2. Do you believe the reporting structure of balance sheet items, which is in line with the special purpose vehicle's reporting to the ECB, is appropriate for the purposes of these implementing technical standards?**