

**Comments Template on the proposal for
implementing technical standards on special purpose vehicles**

**Deadline
30 June 2014
23:59 CET**

Name of Company:	Insurance and Reinsurance Stakeholder Group (IRSG)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-14-008@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering refers to Consultation Paper on the proposal for implementing technical standards on special purpose vehicles.</p>		
Reference	Comment	
General Comment	<ul style="list-style-type: none"> • As Delegated Acts (DA) are still under drafting it is bit unclear whether or not there will become some issues to SPV (Level 2) articles that needs to be taken into account somehow. Also some of the issues that might be needed to clarify on the use of SPV's are not covered in DA and therefore these can't be brought up when commenting on this ITS • The wording should be aligned with the draft Delegated Acts and the Directive. • Because of interconnections the timeline for the internal model needs to give due consideration to the one of SPVs when an application for the SPV is currently being processed. This is to avoid the risk to consider an out-of-date SPV in the approval of the 	

**Comments Template on the proposal for
implementing technical standards on special purpose vehicles**

**Deadline
30 June 2014
23:59 CET**

	<p>internal model.</p> <ul style="list-style-type: none"> As SPV's can be of quite different volumes (balance sheet size) covering several or just one risk group and the investor groups behind SPV's also varies (as some are more closed to all investors) it could be reviewed that this ITS takes into account the proportionality principle in a relevant manner. Grandfathering rules on SPV's? The draft DA text and this ITS proposal doesn't seem to mention anything about grandfathering rules on how these requirements have to be complied by a SPV that has got its approval before Solvency II comes into force. As this might be a critical issue for some of the SPV's it could be clarified in this ITS how this process works for them. 	
Q1		
Q2		
Recital (1)		
Recital (2)		
Recital (3)		
Recital (4)		
Recital (5)		
Recital (6)		
Recital (7)		
Recital (8)		
Article 1		
Article 2		
Article 3		
Article 4		
Article 5		

**Comments Template on the proposal for
implementing technical standards on special purpose vehicles**

**Deadline
30 June 2014
23:59 CET**

Article 6	<ul style="list-style-type: none"> • If the authorization of a SPV is withdrawn (as in art. 6 & 7 specified) it could be clarified what needs to be covered from SPV's perspective towards the investors. The DA draft does cover the rights of the financing providers (in SPV5 article) that has to be covered in the contracts but leaves it bit open how the actual procedure works under winding-up process. • Art 6 '[...] the special purpose vehicle shall immediately inform its supervisory authority [...] if there is a risk of non-compliance within the following three months': this specific wording may be interpreted such that there can be no non-compliance without the supervisory authority having received prior notice. There is, however, a not just theoretical possibility that a newly emerging risk leads to immediate non-compliance. Suggestion to add something along the lines of 'reasonable probability'. 	
Article 7	<ul style="list-style-type: none"> • It could be clarified in art. 7.1(c) that the not-fulfilling condition should be only on <u>material errors</u>. This could be done by clarifying this paragraph or writing a new one (as Art. 7.2 does for 7.1(d)) which clarifies in which conditions SPV is no longer fulfilling the conditions, is there some process with time constraints for SPV to fix the problem, etc. 	
Article 8	<ul style="list-style-type: none"> • In art. 8, with multi-arrangement SPV's does it need to be covered somehow <u>what are the risks if one of the insurers behind the SPV defaults or loses its business volume substantially?</u> This results in lower premiums towards SPV without SPV probably not being able to adjust its year payments (interest) towards investors. Ultimately though, this ends up on investors risk (which probably is as it should) which might make this issue something not so much of EIOPA's concern. • Art 8 (1) '[...] multi-arrangement SPV 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 [...]'. It seems this demand can hardly be met in practice and, as such, it would become impossible to get approval for multi-arrangement SPV's. • Art 8 (2) suggests that SPVs cannot be used to achieve diversification benefits, while diversification is at the core of insurance and reinsurance. Is this really intended? 	
Article 9		

**Comments Template on the proposal for
implementing technical standards on special purpose vehicles**

**Deadline
30 June 2014
23:59 CET**

Article 10		
Article 11		
Article 12		
Article 13		
Article 14		
Article 15		
Article 16		
Article 17		
Article 18		
Article 19		
Article 20		
Annex I	<ul style="list-style-type: none"> Annex I: We acknowledge that the treatment of solo vs. multi-arrangement SPVs evidences proportionality. However, the highly detailed description of required documentation in Annex 1 suggests quite the contrary. In Annex 1.12 it seems like SPV should always have a rating? As there seems not to be such requirements in the draft Delegated Acts and considering the fact that there might be (or become) quite different type of SPV's it could be reviewed whether this requirement could be lowered under some situations. 	
Annex II : SPV.01.01		
Annex II : SPV.01.02		
Annex II : SPV.02.01		
Annex II : SPV.02.02		
Annex II : SPV.03.01		
Annex II : SPV.03.02		
Annex III : SPV.01.01		
Annex III : SPV.01.02		
Annex III : SPV.02.01		

Comments Template on the proposal for implementing technical standards on special purpose vehicles		Deadline 30 June 2014 23:59 CET
Annex III : SPV.02.02		
Annex III : SPV.03.01		
Annex III : SPV.03.02		
Annex 1 : Impact Assessment		
Baseline		
Policy analysis		
Proportionality considerations		