

Liquidation of securitisation special purpose vehicles provided through TSI Services GmbH

Liquidation process

- Special purpose vehicles (SPVs) are companies that are established for a specific business purpose and for a limited period. When the purpose of the company has been fulfilled, i.e. the underlying securitisation transactions mature, its business activities are wound up. TSI Services GmbH is instructed to liquidate the SPV and appoints the liquidators. It generally takes around 18-20 months for an SPV to be liquidated.
- The shares in TSI SPVs are held by three publicly supervised charitable foundations. They are governed by the basic principle that the initial capital may not be touched and is transferred to the foundations when the liquidation has been completed.
- In connection with the maturing of the transaction, the paying agent, auditor or fiduciary agent must provide a written statement, in accordance with the foundation documents, to the effect that all liabilities of the SPV vis-à-vis the investors have been fulfilled.
- The management is responsible for ensuring that the auditor of the company's annual financial statement provides a certified balance sheet covering at least the period of the current business year up to the conclusion of the transaction. Furthermore, the auditor must draw up the final balance sheet and the final tax declaration at the time of liquidating the company.
- Prior to the liquidation decision, the SPV's management must ensure that all outstanding expenses falling due up to the date of the company's liquidation (e.g. cost of corporate administrators, auditors, fiduciary agents, etc) have been included under accruals in the final balance sheet.
- Accruals must also be established for company expenditure occurring during the liquidation period (e.g. Chamber of Industry and Commerce subscriptions, notary and court charges, announcement costs, tax advisory and book-keeping costs). Alternatively, a statement by a third party (e.g. transaction mandator) agreeing to assume the costs must be presented.
- The liquidators' remuneration ("liquidation fee") is settled in the SPV-related Agency Agreement with TSI Services GmbH.
- The decision to liquidate the company can be taken by the shareholders and registered in the Commercial Register only when the aforementioned entry conditions have been fulfilled. The current management is removed from office and the liquidators are appointed.
- The liquidators notify the Commercial Register of the liquidation.

- The liquidation is to be announced by the liquidators in the electronic public gazette. The one-year waiting period before the liquidation is completed pursuant to section 73 of the German Law Pertaining to Companies with Limited Liability (GmbHG) begins with the date on which the announcement is published.
- At the start of the liquidation process, the liquidators draw up an opening liquidation balance sheet and a report explaining that balance sheet. These documents do not need to be certified by an auditor.
- The liquidators must prepare an annual financial statement and an explanatory report for the end of each business year.
- The liquidators handle correspondence with all public offices, such as the Chamber of Industry and Commerce, the Tax Office, the register court and the trade office, and assume the task of deregistering the SPV with the same.
- At the earliest at the end of the one-year waiting period and the completion of the activities required as part of the liquidation process, the liquidators prepare the final liquidation balance sheet and the company's tax statement, which is based thereon and covers the entire liquidation period.
- On receipt of the final tax decision and compliance with it, the company's assets are fully dissolved in accordance with the final liquidation balance sheet and an account thereof presented to the shareholders (final liquidation statement).
- The liquidators report the conclusion of the liquidation so that it can be entered in the Commercial Register. The securitisation special purpose vehicle has been wound up completely when the company is removed from the Commercial Register. The company therefore ceases to exist.

Pursuant to section 74 (2) of the German Law Pertaining to Companies with Limited Liability (GmbHG), when the liquidation has been completed, the company's books and documents must be taken into safekeeping by a shareholder or a third party for a period of ten years. As a general rule, the mandator assumes this safekeeping task without giving rise to third-party costs. Alternatively, this service may be provided by TSI Services GmbH. In that case, a corresponding safekeeping agreement would need to be concluded between the contracting parties (mandator and TSI Services GmbH).