

## Offering Circular



### **BANESTO FINANCIAL PRODUCTS PLC**

*(Incorporated with limited liability in Ireland but with its tax residence in the Kingdom of Spain)*

### **EUR 10,000,000,000 Euro Medium Term Note Programme**

guaranteed by

### **BANCO ESPAÑOL DE CRÉDITO, S.A.**

*(Incorporated with limited liability in the Kingdom of Spain)*

This base prospectus ("**Base Prospectus**") has been approved by the Central Bank of Ireland (the "**Central Bank**"), as competent authority under the Prospectus Directive 2003/71/EC (the "**Prospectus Directive**"). The Central Bank only approves this Base Prospectus as meeting the requirements imposed under Irish and EU law pursuant to the Prospectus Directive. Such approval relates only to the notes (the "**Notes**") which are to be admitted to trading on the regulated market of the Irish Stock Exchange or other regulated markets for the purposes of Directive 2004/39/EC or which are to be offered to the public in any Member State of the European Economic Area.

This Base Prospectus, as approved and published by the Central Bank, in accordance with the requirements of the Prospective Directive, comprises a Base Prospectus for the purposes of the Prospectus Directive and the Prospectus (Directive 2003/71/EC) Regulations 2005, and for the purpose of giving information with regard to the issue of Notes issued under the Euro Medium Term Note Programme (the "**Programme**") described herein, during the period of twelve months after the date hereof.

This document has also been approved as listing particulars (the "**Listing Particulars**") by the Irish Stock Exchange pursuant to its listing and admission to trading rules (the "**Listing Rules**") for the purpose of providing information with regard to the issue of Notes issued under the Programme described herein, to be admitted to trading on the Global Exchange Market ("**GEM**") during the twelve month period following the date hereof.

This Base Prospectus and these Listing Particulars are referred to collectively herein as the "**Offering Circular**".

The payment of all amounts due in respect of the Notes will be unconditionally and irrevocably guaranteed by Banco Español de Crédito, S.A. (the "**Guarantor**" or the "**Bank**" or "**Banesto**"), provided the Bank executes the relevant Pricing Supplement or Final Terms (as applicable) in relation to the relevant Notes. The aggregate principal amount of Notes outstanding and guaranteed will not at any time exceed EUR 10,000,000,000 (or the equivalent in other currencies). Particulars of the dates of, parties to and general nature of each document to which the Issuer is a party (the "**Transaction Documents**") are set out in various sections of this Offering Circular.

Application has been made to the Irish Stock Exchange for the Notes to be admitted to the Official List and trading on (a) the regulated market, or (b) the GEM, as set out in the applicable Final Terms (as defined below) or Pricing Supplement (as defined below) as the case may be. The Programme also permits Notes to be issued on the basis that they will be admitted to listing, trading and/or quotation by such other or further competent authorities, stock exchanges and/or quotation systems as may be agreed with the Issuer.

Prospective investors should note that the Issuer is incorporated in Ireland but tax-resident in Spain. Potential purchasers should note the statements on pages 151 to 158 regarding the tax treatment in Spain of income obtained in respect of the Notes and the disclosure requirements imposed by Law 13/1985, as amended, on the Issuer and the Guarantor relating to the Notes. Holders of Notes must seek their own advice to ensure that they comply with all procedures to ensure correct tax treatment of their Notes.

Investors should be aware that the Issuer is not regulated by the Central Bank and that any investment in the Notes will not have the status of a bank deposit and is therefore not within the scope of the deposit protection scheme operated by the Central Bank.

Series of Notes issued under the Programme may be rated or unrated. A rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, change or withdrawal at any time by the assigning rating agency. Where a series of Notes is rated, the applicable rating(s) of a relevant Series of Notes to be issued under the Programme will be specified in the Final Terms/Drawdown Prospectus or Pricing Supplement/Drawdown Listing Particulars (as applicable). Whether or not each credit rating applied for in relation to relevant Series of Notes will be issued by a credit rating agency established in the European Union and registered under Regulation (EC) No 1060/2009 as amended (the "**CRA Regulation**") will be disclosed in the applicable Final Terms/Drawdown Prospectus or Pricing Supplement/Drawdown Listing Particulars (as applicable). In general, European regulated investors are restricted from using a rating for regulatory purposes if such rating is not issued by a credit rating agency established in the European Union and registered under the CRA Regulation unless the rating is provided by a credit rating agency operating in the European Union before 7 June 2010 which has submitted an application for registration in accordance with the CRA Regulation and such registration has not been refused.

Arranger and Dealer  
BANCO ESPAÑOL DE CRÉDITO, S.A.  
Dealers

BARCLAYS CAPITAL  
BOFA MERRILL LYNCH  
CITIGROUP  
DEUTSCHE BANK  
MORGAN STANLEY

CRÉDIT AGRICOLE CIB  
COMMERZBANK  
GOLDMAN SACHS INTERNATIONAL

SOCIÉTÉ GÉNÉRALE CORPORATE & INVESTMENT  
BANKING

The date of this Offering Circular is 24 February 2012

## IMPORTANT NOTICES

*Each of the Issuer and the Guarantor (together, the "**Responsible Persons**") accepts responsibility for the information contained in this Offering Circular and declares that, having made all reasonable enquiries confirms that having taken all reasonable care to ensure that such is the case, the information contained in this Offering Circular is, to the best of their knowledge, in accordance with the facts and contains no omission likely to affect its import.*

*This Offering Circular should be read and construed together with any amendments or supplements hereto and with any other documents incorporated by reference herein and, in relation to any Tranche (as defined herein) of Notes, should be read and construed together with the relevant Pricing Supplement or Final Terms (as defined herein).*

*The Issuer and the Guarantor have confirmed to the Dealers named under "Plan of Distribution" below that this Offering Circular contains all information which is (in the context of the Programme, the issue, offering and sale of the Notes and the guarantee of the Notes) material; that such information is true and accurate in all material respects and is not misleading in any material respect; that any opinions, predictions or intentions expressed herein are honestly held or made and are not misleading in any material respect; that this Offering Circular does not omit to state any material fact necessary to make such information, opinions, predictions or intentions (in the context of the Programme, the issue, offering and sale of the Notes and the guarantee of the Notes) not misleading in any material respect; and that all proper enquiries have been made to verify the foregoing.*

*No person has been authorised to give any information or to make any representation other than those contained in this Offering Circular in connection with the issue or sale of the Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, the Guarantor or any of the Dealers (as defined in "Plan of Distribution"). Neither the delivery of this Offering Circular nor any sale made in connection herewith shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer or the Guarantor since the date hereof or the date upon which this document has been most recently amended or supplemented or that there has been no adverse change in the financial position of the Issuer or the Guarantor since the date hereof or the date upon which this document has been most recently amended or supplemented or that any other information supplied in connection with the Programme is correct as of any time subsequent to the date on which it is supplied or, if different, the date indicated in the document containing the same.*

*Notice of the aggregate nominal amount of Notes, interest (if any) payable in respect of Notes, the issue price of Notes and any other terms and conditions not contained herein which are applicable to each Tranche (as defined under "Terms and Conditions of the Notes") of Notes will be set out in either (A) in the case of Notes to be admitted to trading on the regulated market, (i) the final terms (the "**Final Terms**"), or (ii) a separate prospectus specific to such Tranche (the "**Drawdown Prospectus**") (as described under "Applicable Transaction Terms and Drawdown Prospectuses or Drawdown Listing Particulars" below), or (B) in the case of Notes to be admitted to trading on the GEM, (i) a pricing supplement (the "**Pricing Supplement**", and together with the Final Terms, the "**Applicable Transaction Terms**"), or*

(ii) *separate listing particulars specific to such Tranche (the "Drawdown Listing Particulars"). In the case of a Tranche of Notes which is the subject of a Drawdown Prospectus or Drawdown Listing Particulars (as applicable), each reference in this Offering Circular to information being specified or identified in the relevant Applicable Transaction Terms shall be read and construed as a reference to such information being specified or identified in the relevant Drawdown Prospectus or Drawdown Listing Particulars (as applicable) unless the context requires otherwise. With respect to Notes to be listed on the regulated market of the Irish Stock Exchange or the GEM, the Applicable Transaction Terms will be delivered to the Central Bank on or before the date of issue of the Notes of such Tranche.*

*The distribution of this Offering Circular and the offering or sale of the Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Offering Circular comes are required by the Issuer, the Guarantor and the Dealers to inform themselves about and to observe any such restriction*

*The Notes have not been and will not be registered under the United States Securities Act of 1933, as amended (the "Securities Act") and include Notes in bearer form that are subject to U.S. tax law requirements. Subject to certain exceptions, Notes may not be offered, sold or delivered within the United States or to U.S. persons. For a description of certain restrictions on offers and sales of Notes and on distribution of this Offering Circular, see "Plan of Distribution".*

*This Offering Circular does not constitute an offer of, or an invitation by or on behalf of the Issuer, the Guarantor or the Dealers to subscribe for, or purchase, any Notes.*

*The Dealers have not separately verified the information contained in this Offering Circular. None of the Dealers makes any representation, express or implied, or accepts any responsibility, with respect to the accuracy or completeness of any of the information in this Offering Circular. Neither this Offering Circular nor any other financial statements are intended to provide the basis of any credit or other evaluation and should not be considered as a recommendation by the Issuer, the Guarantor or the Dealers that any recipient of this Offering Circular or any other financial statements should purchase the Notes. Each potential purchaser of Notes should determine for itself the relevance of the information contained in this Offering Circular and its purchase of Notes should be based upon such investigation as it deems necessary. None of the Dealers undertakes to review the financial condition or affairs of the Issuer or the Guarantor during the life of the arrangements contemplated by this Offering Circular nor to advise any investor or potential investor in the Notes of any information coming to the attention of any of the Dealers.*

*The maximum aggregate principal amount of Notes outstanding at any one time under the Programme will not exceed EUR 10,000,000,000 (and for this purpose, any Notes denominated in another currency shall be translated into euros at the date of the agreement to issue such Notes calculated in accordance with the provisions of the Dealer Agreement). The maximum aggregate principal amount of Notes which may be outstanding at any one time under the Programme may be increased from time to time, subject to compliance with the relevant provisions of the Dealer Agreement, as defined under "Plan of Distribution".*

*In this Offering Circular, unless otherwise specified or the context otherwise requires, references to "EUR", "Euro", "euro" or "€" are to the currency introduced at the start of the third stage of European economic and monetary union, and as defined in Article 2 of Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro, as amended, and to "U.S.\$", "U.S. dollars" and "dollars" are to the lawful currency of the United States of America.*

This Offering Circular has been prepared on the basis that, except to the extent sub-paragraph (ii) below may apply, any offer of Notes in any Member State of the European Economic Area which has implemented the Prospectus Directive (2003/71/EC) (each, a **"Relevant Member State"**) will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of Notes.

Accordingly any person making or intending to make an offer in that Relevant Member State of Notes which are the subject of an offering/placement contemplated in this Offering Circular as completed by Final Terms or a Drawdown Prospectus in relation to the offer of those Notes may only do so (i) in circumstances in which no obligation arises for the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer, or (ii) if a prospectus for such offer has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State and (in either case) published, all in accordance with the Prospectus Directive, provided that any such prospectus has subsequently been completed by Final Terms or is a Drawdown Prospectus which specifies that offers may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State and such offer is made in the period beginning and ending on the dates specified for such purpose in such prospectus or final terms or drawdown prospectus, as applicable.

Except to the extent sub-paragraph (ii) above may apply, neither the Issuer nor any Dealer have authorised, nor do they authorise, the making of any offer of Notes in circumstances in which an obligation arises for the Issuer or any Dealer to publish or supplement a prospectus for such offer. The expression "Prospectus Directive" means Prospectus Directive 2003/71/EC (as amended).

**IN CONNECTION WITH THE ISSUE OF ANY TRANCHE OF NOTES, THE DEALER OR DEALERS (IF ANY) NAMED AS THE STABILISING MANAGER(S) (OR PERSONS ACTING ON BEHALF OF ANY STABILISING MANAGER(S)) IN THE APPLICABLE TRANSACTION TERMS MAY OVER ALLOT NOTES OR EFFECT TRANSACTIONS WITH A VIEW TO SUPPORTING THE PRICE OF THE NOTES AT A LEVEL HIGHER THAN THAT WHICH MIGHT OTHERWISE PREVAIL. HOWEVER, THERE IS NO ASSURANCE THAT THE STABILISING MANAGER(S) (OR PERSONS ACTING ON BEHALF OF A STABILISING MANAGER) WILL UNDERTAKE STABILISATION ACTION. ANY STABILISATION ACTION MAY BEGIN ON OR AT ANY TIME AFTER THE ADEQUATE PUBLIC**

**DISCLOSURE OF THE APPLICABLE TRANSACTION TERMS OF THE OFFER OF THE RELEVANT TRANCHE OF NOTES IS MADE AND, IF BEGUN, MAY BE ENDED AT ANY TIME, BUT IT MUST END NO LATER THAN THE EARLIER OF 30 DAYS AFTER THE ISSUE DATE OF THE RELEVANT TRANCHE OF NOTES AND 60 DAYS AFTER THE DATE OF THE ALLOTMENT OF THE RELEVANT TRANCHE OF NOTES. ANY STABILISATION-ACTION OR OVER-ALLOTMENT SHALL BE CONDUCTED BY THE RELEVANT STABILISING MANAGER(S) (OR PERSON(S) ACTING ON BEHALF OF ANY STABILISING MANAGER(S)) IN ACCORDANCE WITH ALL APPLICABLE LAWS AND RULES.**

This Offering Circular describes certain Spanish tax implications and tax information procedures in connection with an investment in the Notes (see "*Risk Factors – Risks in Relation to the Notes – Risks in Relation to Spanish Taxation*", "*Taxation in Spain*" and "*Taxation and Disclosure of Information in connection with Payments*"). Holders of Notes must seek their own advice to ensure that they comply with all procedures to ensure correct tax treatment of their Notes.

The language of this Offering Circular is English. Any foreign language text that is included with or within this document has been included for convenience purposes only and does not form part of the Offering Circular.

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## ISSUE OF NOTES

Notes will be issued on a continuous basis in series (each a "**Series**") having one or more issue dates and on terms otherwise identical (or identical other than in respect of the first payment of interest), the Notes of each Series being intended to be interchangeable with all other Notes of that Series. Each Series may be issued in tranches (each a "**Tranche**") on different issue dates. The specific terms of each Tranche (which will be supplemented, where necessary, with supplemental terms and conditions and, save in respect of the issue date, issue price, first payment of interest and principal amount of the Tranche, will be identical to the terms of other Tranches of the same Series) will be set forth in Applicable Transaction Terms to this Offering Circular (the form of which is set out in "*Pro Forma Final Terms or Pricing Supplement*" below) or, as the case may be, in a Drawdown Prospectus or Drawdown Listing Particulars (as applicable).



## DOCUMENTS INCORPORATED BY REFERENCE

The following documents shall be deemed to be incorporated in, and to form part of, the Offering Circular:

- (1) the English language translations of the audited consolidated financial statements of the Guarantor for the years ended 31 December 2011 and 31 December 2010, together with the auditor's reports thereon;
- (2) the audited financial statements of the Issuer for the years ended 31 December 2010 and 31 December 2009 together with the auditor's report thereon;
- (3) the unaudited interim financial statements of the Issuer for the period from 1 January 2011 to 30 June 2011; and
- (4) the terms and conditions of the Notes set out on pages 41 to 76 of the base prospectus dated 24 February 2011 (the "**2011 Conditions**"), on 39 to 73 of the base prospectus dated 18 February 2010 (the "**2010 Conditions**"), on pages 36 to 70 of the base prospectus dated 11 February 2009 (the "**2009 Conditions**"), on pages 33 to 67 of the base prospectus dated 26 June 2008 (the "**2008 Conditions**"), on pages 27 to 62 of the base prospectus dated 14 September 2007 (the "**2007 Conditions**") and on pages 25 to 60 of the base prospectus dated 14 September 2006 (the "**2006 Conditions**"), relating to the Programme.

Copies of the documents specified above as containing information incorporated by reference in this Offering Circular may be inspected, free of charge, at the specified offices (which are set out below) of the Issuer, of the Guarantor, of the Fiscal Agent and of the Transparency Directive agent. Any information contained in any of the documents specified above which is not incorporated by reference in this Offering Circular is either not relevant to investors or is covered elsewhere in this Offering Circular.

## SUMMARY

This summary must be read as an introduction to this Offering Circular and any decision to invest in the Notes should be based on a consideration of this Offering Circular as a whole and the Applicable Transaction Terms, including the documents incorporated by reference. Following the implementation of the relevant provisions of the Prospectus Directive 2003/71/EC in each member state of the European Economic Area (each, a "Member State") no civil liability attaches to the Responsible Persons in any such Member State solely on the basis of this summary, including any translation thereof, unless it is misleading, inaccurate or inconsistent when read together with the other parts of this Offering Circular. Where a claim relating to information contained in this Offering Circular is brought before a court in a Member State of the European Economic Area, the plaintiff may, under the national legislation of the Member State where the claim is brought, be required to bear the costs of translating the Offering Circular before the legal proceedings are initiated.

### *Information relating to the Issuer*

The Issuer:

Banesto Financial Products plc.

Banesto Financial Products plc was registered and incorporated on 25 June 2004 under the Irish Companies Acts 1963 - 2009, registration number 387937 for an indefinite period. The Registered Office of the Issuer is at 4th Floor, Hanover Building, Windmill Lane, Dublin 2.

Business:

The principal objects of the Issuer are set forth in Clause 3 of its Memorandum of Association and are the issuance of *participaciones preferentes* (preferred securities) and other financial instruments.

So long as any of the Notes of the Issuer remain outstanding, the Issuer will be subject to certain restrictions on entering into any business, as more fully described in Condition 5 (*Negative Pledge*) of the Terms and Conditions of the Notes.

Directors:

The Directors of the Issuer are as follows:

Name	Principal Occupation
Adrian Masterson	Director
Jokin Cantera Bengoechea	Director
Fermín Cifuentes Muntadas	Director
Jaime Ybarra Loring	Director

### *Information Relating to the Guarantor*

The Bank and the Group

Banco Español de Crédito, S.A. was incorporated

on 1 May 1902 for an indefinite term and it commenced its operations on 1 July 1902. Historically, the Bank has concentrated on its current core business of commercial banking in Spain.

The Bank's registered office is at Gran Vía de Hortaleza 3, Madrid, Spain.

At 31 December 2011, Banco Santander, S.A. owned 89.95 per cent. of the Bank's capital stock.

Business:

The Bank is principally a domestic retail-banking group. At 31 December 2011, the Bank's retail banking activities were carried out through the Group's 1,714 branches located throughout Spain in almost 1,100 municipalities and one branch located abroad. The Bank also provides short, medium and long term financing, bill-discounting, foreign trade financing, electronic banking and payment management services to large Spanish companies principally through dedicated corporate branches in Madrid and Barcelona. The Bank also conducts activity in the treasury and capital markets.

Directors and Employees

The members of the Board of Directors of the Bank as of the date of this Offering Circular are as follows:

Antonio Basagoti García Tuñón

José Luis López Combarros

José García Cantera

Juan Delibes Liniers

José Corral Lope

José María Fuster Van Bendegem

Matías Rodríguez Inciarte

Juan Guitard Marin

Carlos Pérez de Bricio y Olariaga

Belén Romana García

Rafael del Pino y Calvo-Sotelo

Alfonso Libano Daurella

Carlos Sabanza Teruel

Rosa María García García

Mónica López-Monis Gallego

The Executive Officers of the Bank as of the date of this Offering Circular are as follows:

Antonio Basagoiti García Tuñón

José Luis López Combarros

José García Cantera

Juan Delibes Liniers

José Corral Lope

Carlos Sabanza Teruel

Mónica López-Monis Gallego

At 31 December 2011, Banesto employed 8,613 people.

*Description of the Programme*

Description:

Guaranteed Euro Medium Term Note Programme (the "**Programme**").

Arranger:

Banco Español de Crédito, S.A.

Dealers:

Banco Español de Crédito, S.A., Barclays Bank PLC, Crédit Agricole Corporate and Investment Bank, Citigroup Global Markets Limited, Commerzbank Aktiengesellschaft, Deutsche Bank AG, London Branch, Goldman Sachs International, Merrill Lynch International, Morgan Stanley & Co. International plc and Société Générale.

The Issuer may from time to time terminate the appointment of any Dealers under the Programme or appoint additional dealers either in respect of a single Tranche or in respect of the Programme.

Fiscal Agent:

The Bank of New York Mellon, acting through its London Branch

Registrar:

The Bank of New York Mellon (Luxembourg) S.A.

Listing:

The Offering Circular has been approved by the Central Bank, as competent authority under the Prospectus Directive. The Central Bank only approves this Offering Circular as meeting the requirements imposed under Irish and EU law pursuant to the Prospectus Directive 2003/71/EC. Application has been made to the Irish Stock Exchange Limited (the "**Irish Stock Exchange**") for the Notes to be admitted to its Official List and trading on its regulated market of the Irish Stock Exchange, as specified in the relevant Applicable Transaction Terms. This Offering Circular has also been approved as Listing Particulars by the Irish Stock Exchange pursuant to the Listing Rules. Application has also been made to the Irish Stock Exchange for the Notes to be admitted to its Official

	<p>List and trading on the GEM. Notes may be admitted to listing, trading and/or quotation by any other competent authority, stock exchange and/or quotation system, as may be agreed between the Issuer and the relevant Dealer and as specified in the relevant Applicable Transaction Terms.</p>
Size:	<p>Up to EUR 10,000,000,000 (or the equivalent in other currencies at the date of issue) aggregate principal amount of Notes outstanding at any one time.</p>
Currencies:	<p>Notes may be denominated in Euro or U.S. dollars or in any other currency or currencies, subject to compliance with all applicable legal and/or regulatory and/or central bank requirements. Payments in respect of Notes may, subject to such compliance, be made in and/or linked to, any currency or currencies other than the currency in which such Notes are denominated.</p>
Maturities:	<p>Any maturity, subject to compliance with all relevant laws, regulations, central bank requirements and directives. Subordinated Notes will have a maturity of not less than five years or (in the case of Short Term Subordinated Notes) two years, or as otherwise permitted by applicable Spanish law or by <i>Banco de España</i>.</p> <p>Any Notes issued with an original legal maturity of less than one year must comply with the Central Bank's notice by the Central Bank of Ireland of exemptions granted under section 8(2) of the Central Bank Act, 1971 as amended (BSD C01/02) and, <i>inter alia</i>, (a) have a minimum Specified Denomination of Euro 125,000 and (b) be rated at least investment grade by an internationally recognised rating agency. In addition such Notes must bear the following legend:</p> <p>"An investment in the Notes does not have the status of a bank deposit and does not have the protection of the deposit protection scheme operated by the Central Bank of Ireland. The Issuer is not regulated by the Central Bank of Ireland by virtue of the issue of the Notes."</p> <p>Where Notes have a maturity of less than one year and either (a) the issue proceeds are received by the</p>

Issuer in the United Kingdom or (b) the activity of issuing the Notes is carried on from an establishment maintained by the Issuer in the United Kingdom, such Notes must: (i) have a minimum redemption value of £100,000 (or its equivalent in other currencies) and be issued only to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses, or (ii) be issued in other circumstances which do not constitute a contravention of section 19 of the Financial Services and Markets Act 2000 by the Issuer.

Denomination:

Notes may only be issued which have a minimum denomination equal to or above the amount set out at Article 3(2)(d) of Prospectus Directive 2003/71/EC, as the same may be amended from time to time, including as amended by the 2010 PD Amending Directive. Subject thereto, Notes will be issued in such denominations as may be specified in the relevant Applicable Transaction Terms, subject to compliance with all applicable legal and/or regulatory and/or central bank requirements.

Final Terms/Drawdown Prospectus or Pricing Supplement/Drawdown Listing Particulars:

Notes issued under the Programme may be issued either (1) pursuant to this Offering Circular and associated Applicable Transaction Terms, or (2) pursuant to a Drawdown Prospectus or Drawdown Listing Particulars (as applicable). The terms and conditions applicable to any particular Tranche of Notes will be the Terms and Conditions of the Notes as supplemented, amended and/or replaced to the extent described in the relevant Applicable Transaction Terms or, as the case may be, the relevant Drawdown Prospectus or Drawdown Listing Particulars (as applicable).

Method of Issue:

The Notes will be issued on a syndicated or non-syndicated basis. The Notes will be issued in one or more Series (which may be issued on the same date or which may be issued in more than one Tranche on different dates). The Notes may be issued in

Tranches on a continuous basis with no minimum issue size, subject to compliance with all applicable laws, regulations and directives. Further Notes may be issued as part of an existing Series.

Form of Notes:

Notes may be issued in registered form, without interest coupons ("**Registered Notes**"), or in bearer form, with or without interest coupons ("**Bearer Notes**").

In the case of Registered Notes, the Issuer will deliver (i) an Unrestricted U.S. or International Global Note Certificate (as defined below) and/or (ii) a Restricted U.S. or International Global Note Certificate (as defined below), as specified in the relevant Applicable Transaction Terms.

Notes initially sold to qualified institutional buyers ("**QIBs**") in reliance on Rule 144A will, unless otherwise specified in the Applicable Transaction Terms, be available only in book-entry form, and will be represented by a restricted global note certificate (a "**Restricted Global Note Certificate**") registered in the name of a nominee for, and deposited with or on behalf of, (i) DTC, or (ii) a common depository or, as the case may be, a common safekeeper for Euroclear Bank S.A./N.V. ("**Euroclear**") or Clearstream Banking, société anonyme, ("**Clearstream, Luxembourg**") (and together with Euroclear, the "**ICSDs**").

Registered Notes sold outside the United States to non-U.S. persons in reliance on Regulation S will, unless otherwise specified in the Applicable Transaction Terms, be available only in book-entry form and will be represented by an unrestricted global note certificate (an "**Unrestricted Global Note Certificate**").

Notes represented by an Unrestricted Global Note Certificate may be either (a) registered in the name of a nominee for DTC and deposited on or about the relevant issue date with the custodian for DTC, or (b) (in the case of a Certificate that is not to be held under the new safekeeping structure ("**New Safekeeping Structure**" or "**NSS**")) registered in the name of a common depository (or its nominee) for Euroclear and/or Clearstream, Luxembourg and

deposited on or about the relevant issue date with such common depositary, or (c) (in the case of a Certificate that is to be held under the New Safekeeping Structure) registered in the name of a common safekeeper (or its nominee) for Euroclear and/or Clearstream, Luxembourg and deposited on or about the relevant issue date with such common safekeeper, in each case for credit to the respective accounts of beneficial owners of the Notes represented thereby.

On or prior to the 40th day after the later of the commencement of the offering and the date of delivery of the Notes of each Series, beneficial interests in an Unrestricted Global Note Certificate representing Notes of such Series may be held only through Euroclear or Clearstream, Luxembourg.

Beneficial interests in Notes evidenced by a Restricted Global Note Certificate or an Unrestricted Global Note Certificate will be shown on, and transfers thereof will be effected only through, records maintained by DTC and its direct or indirect participants (including Euroclear and Clearstream, Luxembourg).

Except as described herein, Individual Note Certificates (as defined herein) will not be issued in exchange for beneficial interests in Registered Global Note Certificates. See "*Form of Notes - Registered Global Note Certificates*".

Bearer Notes will, unless otherwise specified, only be sold outside the United States to non-U.S. persons in reliance on Regulation S and will, unless otherwise specified in the Applicable Transaction Terms, initially be represented by a Temporary Global Note without interest coupons attached, deposited:

(a) in the case of a global note which is not intended to be issued in new global note form (a "**Classic Global Note**" or "**CGN**"), as specified in the relevant Applicable Transaction Terms, with or on behalf of a common depositary located outside the United States for Euroclear and Clearstream, Luxembourg;



or (b) in the case of a global note which is intended to be issued in new global note form (a "**New Global Note**" or "**NGN**"), as specified in the relevant Applicable Transaction Terms, with a common safekeeper for Euroclear and/or Clearstream, Luxembourg. Interests in a Temporary Global Note will be exchangeable (i) for interests in a permanent global Note in bearer form, without coupons (a "**Permanent Global Note**"), (ii) in whole but not in part for definitive Notes in bearer form (each, a "**Definitive Bearer Note**") or (iii) directly for interests in a Registered Global Note Certificate, following certification of non-U.S. beneficial ownership as required by U.S. Treasury regulations. Bearer Notes may be exchangeable for Registered Global Note Certificates. Registered Notes will not be exchangeable for Bearer Notes.

**Issue Price:**

Notes may be issued at their principal amount or at a premium to their principal amount. Partly-paid Notes may also be issued, the Issue Price of which will be payable in two or more instalments. The Issue Price and amount of Notes to be issued under the Programme will be determined by the Issuer, the Guarantor and the relevant Dealer(s) at the time of issue in accordance with prevailing market conditions.

**Fixed Interest Rate Notes:**

Fixed interest will be payable in arrear on the date or dates in each year specified in the relevant Applicable Transaction Terms.

**Floating Rate Notes:**

Floating Rate Notes will bear interest set separately for each Series by reference to EURIBOR, LIBOR, LIBID or LIMEAN (or such other benchmark as may be specified in the relevant Applicable Transaction Terms) as adjusted for any applicable margin. Interest periods will be specified in the relevant Applicable Transaction Terms.

**Variable Coupon Amount Notes:**

The Applicable Transaction Terms issued in respect of each issue of variable coupon amount Notes will specify the basis for calculating the amounts of interest payable, which may be by reference to equity, an index, a fund or a formula or as otherwise provided in the relevant Applicable Transaction Terms.

Interest Periods and Interest Rates:	The length of the interest periods for the Notes and the applicable interest rate or its method of calculation may differ from time to time or be constant for any Series. Notes may have a maximum interest rate, a minimum interest rate, or both. All such information will be set out in the relevant Applicable Transaction Terms.
Variable Redemption Amount Notes:	The Applicable Transaction Terms issued in respect of each issue of variable redemption amount Notes will specify the basis for calculating the redemption amounts payable, which may be by reference to equity, an index, a fund or a formula or as otherwise provided in the relevant Applicable Transaction Terms.
Redemption by Instalments:	The Applicable Transaction Terms issued in respect of each issue of Notes which are redeemable in two or more instalments will set out the date on which, and the amounts in which, such Notes may be redeemed.
Other Notes:	Terms applicable to high interest Notes, low interest Notes, step-up Notes, step-down Notes, dual currency Notes, reverse dual currency Notes, optional dual currency Notes, partly-paid Notes and any other type of Note which the relevant Issuer, and any Dealer or Dealers may agree to issue under the Programme will be set out in the relevant Applicable Transaction Terms or in a Drawdown Prospectus or Drawdown Listing Particulars (as applicable).
Optional Redemption:	The Applicable Transaction Terms issued in respect of each issue of Notes will state whether such Notes may be redeemed prior to their stated maturity at the option of the relevant Issuer (either in whole or in part) and/or the Noteholders, and if so the terms applicable to such redemption. Subordinated Notes (other than Short Term Subordinated Notes) (i) may not be redeemed until five years after the issue date (or otherwise as permitted by applicable law) and such redemption is subject to the prior consent of <i>Banco de España</i> , and (ii) may not be redeemed prior to their stated maturity at the option of the Noteholder. Short Term Subordinated Notes (i) may not be redeemed until two years after the issue date

(or otherwise as permitted by applicable law) and such redemption is subject to the prior consent of *Banco de España*, and (ii) may not be redeemed prior to their stated maturity at the option of the Noteholder.

Status of the Notes and the Guarantee: Senior Notes and the guarantee in respect of them will constitute unsubordinated and unsecured obligations of the Issuer and the Guarantor, respectively, and Subordinated Notes and the guarantee in respect of them will constitute subordinated obligations of the Issuer and the Guarantor, respectively, all as described in "*Terms and Conditions of the Notes—Guarantee and Status*".

Negative Pledge: The Senior Notes will contain a negative pledge as more fully set out in "*Terms and Conditions of the Notes—Negative Pledge*".

Cross Default: The Notes will contain a cross default in respect of Indebtedness for Borrowed Money of the relevant Issuer and the Guarantor as defined, and more fully set out in "*Terms and Conditions of the Notes—Events of Default*".

Early Redemption: Except as provided in "*Optional Redemption*" above, Notes will be redeemable at the option of the Issuer prior to maturity only for tax reasons.

Withholding Tax:

**Spain**

Payments in respect of Notes will be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of the Kingdom of Spain or any political subdivision thereof or any authority or agency therein or thereof having power to tax, unless the withholding or deduction of such taxes, duties, assessments or governmental charges is required by law. In that event, the Issuer or, as the case may be, the Guarantor will (subject to certain exceptions described below) pay such additional amounts as will result in the Noteholders or Couponholders receiving such amounts as they would have received in respect of such Notes or Coupons had no such withholding or deduction been required.

In addition to certain customary exceptions, no such additional amounts shall be payable in certain circumstances - see Condition 9 ("*Terms and Conditions of the Notes - Taxation*") of the relevant Notes and "*Taxation and Disclosure of Information in Connection with Payments*").

#### **Ireland**

In general, tax at the standard rate of income tax (currently 20 per cent.), is required to be withheld from payments of Irish source interest which could include interest paid on the Notes. However, certain exemptions from withholding on interest payments exist. See Condition 9 ("*Terms and Conditions of the Notes - Taxation*") of the relevant Notes and "*Taxation and Disclosure of Information in Connection with Payments - Ireland - Withholding.*"

Information requirements under Spanish Law:	Under Spanish Law 13/1985 and Royal Decree 1065/2007 as amended, the Issuer, and Guarantor are required to provide to the Spanish tax authorities certain information relating to the Notes.
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If the Fiscal Agent fails to provide the Issuer with the required information described under "*Taxation and Disclosure of Information in Connection with Payments*"—"Taxation in Spain" in respect of the Notes, the Issuer may be required to withhold tax and may pay income in respect of such principal amount net of the Spanish withholding tax applicable to such payments (currently at the rate of 21 per cent.).

None of the Issuer, the Guarantor, the Arranger, the Dealers, or the ICSDs assumes any responsibility therefore.

Governing Law:	The Notes, the Deed of Covenant, the Deed of Guarantee and all non-contractual obligations arising out of or in connection with them are governed by, and construed in accordance with, English law, save for the status of the guarantee and the subordination provisions, which are governed by Spanish law.
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Rule 144A:	Offers and sales in accordance with Rule 144A under the Securities Act will be permitted if
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specified in the relevant Applicable Transaction Terms, subject to compliance with all relevant legal and regulatory requirements of the United States of America.

Selling Restrictions:

United States, United Kingdom, Ireland, Spain, Japan and the European Economic Area. See "*Plan of Distribution*".

In connection with the offering and sale of a particular Tranche of Notes, additional selling restrictions may be imposed which will be set out in the relevant Applicable Transaction Terms.

Risk Factors:

Prospective investors should understand the risks of investing in any type of Note before they make their investment decision. They should make their own independent decision to invest in any type of Note and as to whether an investment in such Note is appropriate or proper for them based upon their own judgment and upon advice from such advisors as they consider necessary.

For a description of certain risks involved in investing in the Notes, see "*Risk Factors*".

Risk factors are designed both to protect investors from investments from which they are not suitable and to set out the financial risks associated with an investment in a particular type of Note.

Representation of Noteholders:

The Fiscal Agency Agreement contains provisions for convening meetings of Noteholders to consider any matter affecting their interests.

## **RISK FACTORS**

Prospective investors should read the entire Offering Circular. Certain capitalised terms used in this section are defined in the Conditions and/or will be defined in the Applicable Transaction Terms. Investing in the Notes involves certain risks, as more fully set out below in the sections entitled "*Risk Factors Relating to the Notes*" and "*Risk Factors Relating to Structured Notes*". Prospective investors should consider, among other things, the following:

*Notes may be issued under the Programme which are credit linked notes, index linked notes, equity linked notes, fund linked notes or other structured notes, and in each case the relevant terms of such notes will be specified in the relevant Applicable Transaction Terms ("Structured Notes") or in a Drawdown Prospectus or Drawdown Listing Particulars (as applicable). An investment in such Structured Notes may involve a number of risks, some of which are referred to below (see "Risk Factors Relating to Structured Notes") and which are not associated with investment in a conventional debt security. Further specific risk factors may be set out in the Applicable Transaction Terms for a particular Series of Structured Notes. The amount paid by the Issuer on redemption of the Structured Notes may be less than the principal amount of the Structured Notes and may in certain circumstances be zero. Potential investors should ensure that they fully understand all of the risks prior to making any investment decision. Potential investors should seek independent financial advice prior to investing in Structured Notes.*

### **Risk Factors Relating to the Notes**

#### ***There is no active trading market for the Notes***

Notes issued under the Programme will be new securities which may not be widely distributed and for which there is currently no active trading market (unless in the case of any particular Tranche, such Tranche is to be consolidated with and form a single series with a Tranche of Notes which is already issued). If the Notes are traded after their initial issuance, they may trade at a discount to their initial offering price, depending upon prevailing interest rates, the market for similar securities, general economic conditions and the financial condition of the Issuer and the Guarantor. Although application has been made to the Irish Stock Exchange for the Notes to be admitted to its Official List and trading on its regulated market or on the GEM, there is no assurance that such application will be accepted, that any particular Tranche of Notes will be so admitted or that an active trading market will develop.

Accordingly, there is no assurance as to the development or liquidity of any trading market for any particular Tranche of Notes.

#### ***The Issue Price may be greater than the market value of the Notes.***

The Issue Price specified in the relevant Applicable Transaction Terms may be more than the market value of the Notes as at the Issue Date, and the price, if any, at which a Dealer or any other person is willing to purchase the Notes in secondary market transactions is likely to be lower than the Issue Price. In particular, the Issue Price may take into account amounts with respect to commissions relating to the issue and sale of the Notes as well as amounts relating to the hedging of the Issuer's obligations under the Notes, and secondary market prices are

likely to exclude such amounts. In addition, whilst the proprietary pricing models of Dealers are often based on well recognised financial principles, other market participants' pricing models may differ or produce a different result.

***The Notes may be redeemed by the Issuer prior to maturity***

Unless in the case of any particular Tranche of Notes the relevant Applicable Transaction Terms specify otherwise, in the event that the Issuer or the Guarantor would be obliged to increase the amounts payable in respect of any Notes due to any withholding or deduction for or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Spain or any political subdivision thereof or any authority therein or thereof having power to tax, the Issuer may redeem all outstanding Notes in accordance with the Conditions.

In addition, if in the case of any particular Tranche of Notes the relevant Applicable Transaction Terms specifies that the Notes are redeemable at the Issuer's option in certain other circumstances the Issuer may choose to redeem the Notes at times when prevailing interest rates may be relatively low. In such circumstances an investor may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as that of the equivalent Notes.

***The Notes may be redeemed below par***

The redemption amount of the Structured Notes may be less than the principal amount of the Structured Notes and may in certain circumstances be zero.

***Subordinated Notes may not be redeemed prior to maturity at the option of Noteholders, including in the event of non-payment of principal or interest***

Pursuant to Bank of Spain Circular 3/2008, of 22 May (*Circular 3/2008, de 22 de mayo, del Banco de España*) ("**Circular 3/2008**"), the Issuer is prohibited from including in the terms and conditions of any Subordinated Notes terms that would oblige it to redeem such Subordinated Notes prior to their stated maturity at the option or request of holders of the Subordinated Notes. As a result, the terms and conditions of the Subordinated Notes do not include provisions allowing for the early redemption of Subordinated Notes at the option of Noteholders. Furthermore, holders of Subordinated Notes will not have any rights under the terms and conditions of the Subordinated Notes to request the early redemption of such Subordinated Notes in the event of any failure by the Issuer to pay principal or interest in respect of such Subordinated Notes.

***In the case of Global Notes held by or on behalf of Euroclear and Clearstream, Luxembourg, investors will have to rely on their procedures for transfer, payment and communications with the Issuer and/or the Guarantor***

Notes issued under the Programme may be represented by one or more Global Notes. Such Global Notes, unless otherwise specified in the relevant Applicable Transaction Terms, will be (in the case of Bearer Notes) deposited with a common depositary or, as the case may be, common safekeeper for Euroclear and/or Clearstream, Luxembourg, or (in the case of

Registered Notes) registered in the name of a common depositary or, as the case may be, common safekeeper (or its nominee) for DTC, Euroclear and/or Clearstream, Luxembourg. Except in the circumstances described in the relevant Global Note, investors will not be entitled to receive definitive Notes.

Euroclear and Clearstream, Luxembourg, as well as any other clearing specified in the relevant Applicable Transaction Terms, will maintain records of the beneficial interests in the Global Notes. While the Notes are represented by one or more Global Notes, investors will be able to trade their beneficial interests only through Euroclear and Clearstream, Luxembourg and/or any other clearing system on whose behalf such Global Notes are held.

While the Notes are represented by one or more Global Notes the Issuer and the Guarantor will discharge their payment obligations under the Notes by making payments to the common depositary (in the case of Classic Global Notes) or, as the case may be common service provider (in the case of New Global Notes) for Euroclear and/or Clearstream, Luxembourg and/or any other clearing system for distribution to their account holders. A holder of a beneficial interest in a Global Note must rely on the procedures of Euroclear and/or Clearstream, Luxembourg and/or any other clearing system to receive payments under the relevant Notes. The Issuer and the Guarantor have no responsibility or liability for the records relating to, or payments made in respect of, beneficial interests in the Global Notes.

Holders of beneficial interests in the Global Notes will not have a direct right to vote in respect of the relevant Notes. Instead, such holders will be permitted to act only to the extent that they are enabled by Euroclear and Clearstream, Luxembourg to appoint appropriate proxies. Similarly, holders of beneficial interests in the Global Notes will not have a direct right under the Global Notes to take enforcement action against the Issuer or the Guarantor in the event of a default under the relevant Notes but will have to rely upon their rights under the Deed of Covenant.

***Some Notes may be subordinated to most of the Issuer's liabilities***

If in the case of any particular Tranche of Notes the relevant Applicable Transaction Terms specify that the Notes are subordinated obligations of the Issuer and the Issuer is declared insolvent and a winding up is initiated, it will be required to pay the holders of senior debt and meet its obligations to all its unsubordinated creditors in full before it can make any payments on the relevant Notes. Depending on the status of a particular Tranche of subordinated Notes, the Issuer may also be required to pay the holders of other subordinated debt instruments in full before it can make any payments on the relevant Notes. If this occurs, the Issuer may not have enough assets remaining after these payments to pay amounts due under the relevant Notes.

***Payments of principal and interest in respect of short term subordinated Notes may be suspended in certain circumstances***

In the event that there is a shortage in the consolidated own funds of the Guarantor as defined in Chapter 3 of Circular 3/2008 the Issuer will be obliged to suspend payments of principal and interest in respect of subordinated Notes that have been issued pursuant to the



requirements of Circular 3/2008 for subordinated Notes having a maturity of not less than two years ("**Short Term Subordinated Notes**"). There can be no assurances that any such suspension of payments will not affect the then prevailing market price and/or trading market of any such Short Term Subordinated Notes or that investors in such Short Term Subordinated Notes will recover the value of their investment in such Short Term Subordinated Notes, even in the event that the Issuer resumes payment.

***Minimum Specified Denomination and higher integral multiples***

In relation to any issue of Notes which have a denomination consisting of the minimum Specified Denomination plus a higher integral multiple of another smaller amount, it is possible that the Notes may be traded in amounts in excess of the minimum Specified Denomination that are not integral multiples of the minimum Specified Denomination. In such a case a Noteholder who, as a result of trading such amounts, holds a principal amount of less than the minimum Specified Denomination may not receive a definitive Note in respect of such holding (should definitive Notes be printed) and would need to purchase a principal amount of Notes such that its holding amounts to a Specified Denomination.

***In certain circumstances a portion of payments made on or with respect to the securities may be subject to US reporting obligations which, if not satisfied, may require US tax to be withheld.***

The United States has passed legislation (commonly referred to as "**FATCA**") which will impose new information reporting requirements with respect to certain holders of "financial accounts," as such term is defined in the FATCA rules. Under FATCA, non-US financial institutions generally will be required to enter into agreements with the US Internal Revenue Service (the "**IRS**") to identify financial accounts held by US persons or entities with substantial US ownership, as well as accounts of other "financial institutions" that are not themselves participating in (or otherwise exempt from) the FATCA reporting regime. For these purposes, the term financial institution includes, among others, banks, insurance companies and funds that are engaged primarily in the business of investing, reinvesting or trading in securities, commodities or partnership interests. If a participating financial institution makes a relevant payment to an accountholder that has not provided information requested to establish the accountholder is exempt from reporting under the rules, or if the recipient of the payment is a non-participating financial institution (that is not otherwise exempt), the payor may be required to withhold 30 per cent. on a portion of the payment. The United States and several other countries, including Spain, have announced an intention to adopt legislation that would permit the sharing of information about these types of accounts between the participating governments. Recent guidance issued by the IRS also indicates an intention to promulgate regulations that would treat, for example, interest and principal paid by a participating financial institution as being subject to 30 per cent. withholding, but only in proportion to the value of the financial institution's direct and indirect US assets as compared to its total assets. Under proposed regulations, FATCA does not apply to Notes issued before 1 January 2013. An investor that is not a financial institution may be required to provide information to establish whether it is a US person or substantially owned by US persons in order to establish it is exempt from any withholding obligation pursuant to the FATCA rules.

The withholding obligation in respect of a non-participating financial institution applies whether the financial institution is receiving payments for its own account or on behalf of another person. An investor that is able to claim the benefits of an income tax treaty between its own jurisdiction and the United States may be entitled to a refund of amounts withheld pursuant to the FATCA rules, though the investor would have to file a US tax return to claim this refund and would not be entitled to interest from the IRS for the period prior to the refund. It is not entirely clear how this rule applies to any withholding on payments of principal or disposition proceeds.

Significant aspects of FATCA are not yet defined and investors should consult their own advisors about the application of FATCA, in particular if they may be classified as financial institutions under the FATCA rules.

***Reforms to Spanish banking legislation that result from the Basel III proposals could lead to Subordinated Notes being used to absorb losses of the Issuer or the Guarantor in certain circumstances.***

The Basel Committee on Banking Supervision (the “**Basel Committee**”) has proposed a number of fundamental reforms to the regulatory capital framework for internationally active banks, the principal elements of which are set out in its papers released on 16 December 2010 and on 13 January 2011 (the “**January 2011 Press Release**”). The January 2011 Press Release states that the terms and conditions of all Additional Tier 1 and Tier 2 instruments must have a provision that requires such instruments, at the option of the relevant authority, to either be written off or converted into ordinary shares upon the occurrence of a specified trigger event (a “**Non-Viability Event**”). The Non-Viability Event will be the earlier of (a) a decision that a write-off, without which the firm would become non-viable, is necessary; and (b) the decision to make a public sector injection of capital, without which the financial institution would become non-viable, as determined by the relevant authority. However, the January 2011 Press Release also states that it is not necessary to include a Non-Viability Event in the contractual terms of the instruments if (a) the governing jurisdiction of the bank has in place laws that (i) require such instruments to be written off upon the occurrence of such trigger event, or (ii) otherwise require such instruments to fully absorb losses before tax payers are exposed to loss; (b) a peer group review confirms that the jurisdiction so conforms; and (c) it is disclosed by the relevant regulator and by the issuing bank, in issuance documents going forward, that such instruments are subject to such loss.

It is possible that there could be amendments to existing Spanish legislation or new legislation passed giving the authorities powers that could result in Notes issued under the Programme (including Subordinated Notes) either being written off upon the occurrence of a Non-Viability Event or otherwise being required fully to absorb losses before taxpayers are exposed to loss. The application of any such legislation may have an adverse effect on the position of holders of Subordinated Notes.

Furthermore, there can be no assurance that, prior to its implementation in 2013, the Basel Committee will not amend the package of reforms described above. Further, the European Union and/or authorities in Spain may implement the package of reforms, including the terms

which capital securities are required to have, in a manner that is different from that which is currently envisaged or may impose more onerous requirements on Spanish banks.

### ***Risk Factors Relating to Structured Notes***

#### ***General Considerations***

The Structured Notes involve a degree of risk, which may include interest rate, corporate, market, foreign exchange, time value and/or political risks as well as other risks and general risks applicable to the stock market (or markets) and capital markets which may be specified in the applicable supplement.

In order to realise a return upon an investment in the Structured Notes, an investor must have correctly anticipated the timing and magnitude of an anticipated increase or the absence of a decrease in the value of the Structured Notes relative to the Issue Price and must also be correct about when any change will occur. If the value of the Structured Notes does not increase, or decrease, as the case may be, before such Structured Notes are redeemed, part of the investor's investment in such Structured Notes may be lost on such redemption. Other than in respect of Structured Notes which are redeemable prior to the Maturity Date at the option of the Noteholder, the only means by which a Noteholder can realise value from its Structured Notes prior to their Maturity Date is to sell such Structured Notes at their then market price in the secondary market (if available) (see "*Possible Illiquidity of the Secondary Market*" below).

The Issuer may issue Structured Notes under the Programme and as such potential investors should be aware that fluctuations in the value of the relevant index or basket of indices (including the prices of securities included in an index or basket of indices) will affect the value of single index notes and basket of indices notes. Fluctuations in the price of the relevant equity security or value of the basket of equity securities will affect the value of single currency notes, single currency basket notes and multiple currency basket notes. In both these cases and in the case of currency linked notes, fluctuations in the value of the currency or currencies in or to which the Structured Notes or the underlying securities or index are denominated or linked will also affect the value of such Structured Notes. Also, due to the character of the particular markets on which most equity securities are traded, the absence of last sale information and the limited availability of quotations for such equity securities may make it difficult for many investors to obtain timely, accurate data for the price or yield of such equity securities.

The occurrence of certain events or circumstances, in each case as specified in the Applicable Transaction Terms, will affect the value of credit linked notes and the Issuer's obligation to pay principal may be replaced by an obligation to pay other amounts calculated by reference to the value of the reference obligation(s) and/or to deliver the reference obligation(s). The Issuer's obligations in respect of credit linked Notes are not dependent on the existence of credit exposure of the relevant Issuer to a reference entity and the relevant Issuer need not itself suffer any loss nor provide evidence of any loss as a result of the occurrence of a credit event.

*Fluctuations in the value of the relevant commodity will affect the value of commodity linked Notes*

The terms and conditions of the Structured Notes generally may include adjustment and early redemption provisions and other terms which along with general market conditions and the financial condition of the underlying reference entity may affect the amounts due and payable under such Structured Notes and/or their Maturity Date. In these cases the Structured Notes may be affected and may, in some cases, result in the Structured Notes being redeemed early. Investors are advised to consider carefully the information set forth in the relevant Applicable Transaction Terms regarding such features.

Investors should note that, in exercising its duties in relation to Structured Notes, the Calculation Agent may have considerable discretion in relation to certain matters which may affect amounts due and payable under the Structured Notes and/or their Maturity Date including (without limitation) the replacement of an underlying index, share or other asset, modification of amounts otherwise payable on redemption or determining the closing price and/or potential early redemption of the Structured Notes.

Prospective investors in Structured Notes should understand the risks of transactions involving the relevant Notes and should reach an investment decision only after careful consideration of the suitability of such Structured Notes in the light of their particular financial circumstances, the information set forth herein and any other available information regarding the relevant Structured Notes. Where the Issuer is required to redeem the Structured Notes prior to the Maturity Date at the option of the Noteholders an investor should understand the consequences of liquidating any investment in the Notes by redeeming such investment as opposed to selling it. This includes knowing when the Structured Notes are redeemable and how to redeem them.

*Certain Factors Affecting the Value and Trading Price of Structured Notes*

Generally, Structured Notes offer investment diversification opportunities, but also pose some additional risks with regard to interim value. The interim value of the Structured Notes varies with the price and is affected by a number of other factors, including but not limited to:

- (i) market interest rates;
- (ii) fluctuations in currency exchange rates;
- (iii) fluctuations in commodities prices;
- (iv) the liquidity of the Structured Notes or any reference item(s) in the secondary market;
- (v) the time remaining to any redemption date or the maturity date; and
- (vi) economic, financial and political events in one or more jurisdictions, including factors affecting capital markets generally and the stock exchange(s) on which the Structured Notes may be traded.

There can be no assurance that a Noteholder will be able to sell any Structured Notes prior to maturity at a price equal to or greater than the market value of the Structured Notes on the Issue Date and such Holder may only be able to sell Structured Notes at a discount, which may be substantial.

#### *Fund Linked Notes*

Payments in respect of Fund Linked Notes will be calculated by reference to units, interests or shares in a single fund or basket of funds on such terms as set out in the Applicable Transaction Terms. Fund Linked Notes may be subject to cancellation or early redemption or adjustment (including as to valuation and fund substitutions) if certain corporate events (such as insolvency (or analogous event) occurring with respect to a fund; litigation against, or regulatory events occurring with respect to a fund; suspensions of fund subscriptions or redemptions; certain changes in net asset value of a fund; or modifications to the investment objectives or changes in the nature or administration of a fund) occur, if certain valuation or settlement disruption events occur with respect to a fund, or if certain events (such as illegality, disruptions or cost increases).

#### *Certain Considerations Associated with Fund Linked Notes*

An investment in Fund Linked Notes will entail significant risks not associated with an investment in a conventional debt security. On redemption or exercise, as the case may be, of Fund Linked Notes, Holders will receive an amount (if any) determined by reference to the value of the fund shares. Accordingly, an investment in Fund Linked Notes may bear similar market risks to a direct fund investment, and investors should take advice accordingly. Fund Linked Notes with interest pay interest calculated by reference to the value of the underlying fund shares or units. The price of units or shares in a fund may be affected by the performance of the fund service providers, and in particular the investment adviser.

No fund service provider will have participated in the preparation of the relevant Applicable Transaction Terms or in establishing the terms of the Fund Linked Notes, and none of the Issuer, the Guarantor or any Dealer will make any investigation or enquiry in connection with such offering with respect to any information concerning any such issuer of fund shares or units contained in such Applicable Transaction Terms or in the documents from which such information was extracted. Consequently, there can be no assurance that all events occurring prior to the relevant issue date (including events that would affect the accuracy or completeness of the publicly available information described in any relevant Applicable Transaction Terms) that would affect the trading price of the fund shares or units will have been publicly disclosed. Subsequent disclosure of any such events or the disclosure of or failure to disclose material future events concerning such an issuer of fund shares or units could affect the trading price of the fund shares or units and therefore the trading price of the Fund Linked Notes. Fund Linked Notes do not provide Holders with any participation rights in the underlying fund(s) and do not entitle holders of Fund Linked Notes to any ownership interest or rights in such fund(s). Except as may be otherwise provided in the Conditions and/or the relevant Applicable Transaction Terms, Holders will not have voting rights or rights to receive dividends or distributions or any other rights with respect to the relevant fund shares or units to which such Notes relate.

Where the Issuer issues Fund Linked Notes linked to one or more funds, including hedge funds, mutual funds or private equity funds, the relevant Fund Linked Notes reflect the performance of such fund(s).

Funds may trade and invest in a broad range of investments and financial instruments using sophisticated investment techniques for hedging and non-hedging purposes such as debt and equity securities, commodities and foreign exchange and may enter into derivative transactions, including, without limitation, futures, swaps and options. Such financial instruments and investment techniques may also include, but are not limited to, the use of leverage, short sales of securities, transactions that involve the lending of securities to financial institutions, the entry into repurchase and reverse repurchase agreements for securities and the investment in foreign securities and foreign currencies. While these investment strategies and financial instruments provide the investment manager and/or adviser of a fund the flexibility to implement a range of strategies in an attempt to generate positive returns for the fund, they also create the risk of significant losses that may adversely affect the value of the fund and therefore the return on the Fund Linked Notes. Potential investors should be aware that none of the Issuer, the Guarantor, and Dealer or the Calculation Agent have any control over investments made by a fund and therefore in no way guarantee the performance of a fund and therefore the amount due to Holders on cancellation or redemption, as applicable, of any Fund Linked Notes. Funds may often be illiquid and may only be traded on a monthly, quarterly or even less frequent basis. The trading strategies of funds are often opaque. Funds, as well as the markets and instruments in which they invest, are often not subject to review by governmental authorities, self-regulatory organisations or other supervisory authorities.

The amount payable on Fund Linked Notes will be dependent on the performance of the relevant fund(s) underlying the Fund Linked Notes, which may be linked to the NAV per Fund Share and/or the actual redemption proceeds the Hedge Provider or a hypothetical investor in the relevant fund(s) would receive. The amount payable on the Fund Linked Notes may be less than the amount payable from a direct investment in the relevant fund(s). In certain circumstances, a fund may continue reporting a NAV per Fund Share (or Aggregate Fund Shares NAV, as the case may be), but the Hedge Provider or a hypothetical investor may not be able to realise their investment in the relevant fund(s) at such reported NAV per Fund Share (or the corresponding NAV per Fund Share as calculated by the Calculation Agent). In such a case, the return on the Fund Linked Notes may be less and in certain circumstances may be significantly less than the reported performance of the relevant fund(s) and may be zero.

A fund may be established as part of a master-feeder fund structure. Generally, a master-feeder fund structure involves the incorporation of a "master" fund company into which separate and distinct "feeder" funds invest. Active management of any investment strategy is, generally, performed at the master fund level. In instances where the fund(s) underlying the relevant Fund Linked Notes are "feeder" funds, the Extraordinary Fund Events (as defined below) extend to include the "master" fund and its service providers. In conducting their own due diligence of the relevant Fund(s), prospective investors should pay particular attention to whether the relevant Fund(s) are established as part of a master-feeder fund structure.

In hedging the Issuer's obligations under the Fund Linked Notes, the Hedge Provider is not restricted to any particular hedging practice. Accordingly, the Hedge Provider may hedge its exposure using any method it, in its sole discretion, deems appropriate, including, but not limited to, investing in the relevant fund(s), replicating the performance of the relevant fund(s) or holding any of the assets underlying the relevant fund(s). The Hedge Provider may perform any number of different hedging practices with respect to Fund Linked Notes.

For all the above reasons, investing directly or indirectly in funds is generally considered to be risky. If the underlying fund does not perform sufficiently well, the value of the Fund Linked Notes will fall, and may in certain circumstances be zero.

#### *Other Events relating to Fund Linked Notes*

In the case of Fund Linked Notes, if certain events ("**Extraordinary Fund Events**") including events in the determination of the Calculation Agent occur, the Issuer or, as the case may be, the Guarantor may, in its sole and absolute discretion, take no action, adjust the terms of the Fund Linked Notes to reflect such event, substitute the relevant Fund Shares or redeem the Fund Linked Notes.

Consequently the occurrence of an Extraordinary Fund Event may have an adverse effect on the value or liquidity of the Fund Linked Notes. In addition, in the event that redemption proceeds in respect of the underlying Fund Shares are not received by the Hedge Provider on or prior to the scheduled date for settlement, such settlement date may be postponed for such period as may be specified in the Applicable Transaction Terms and no additional amount shall be payable as a result of such delay.

The Issuer will exercise its rights under the Fund Linked Note Conditions, including in particular the action it takes on the occurrence of an Extraordinary Fund Event, in its sole and absolute discretion. Subject to all regulatory obligations, none of the Issuer, the Guarantor, any Dealer or the Calculation Agent owes any duty or responsibility to any of the Holders of the Fund Linked Notes. The exercise of such rights in such manner may result in an increased loss in performance of the Fund Linked Notes than if the Issuer had taken different action.

#### *Hedging*

In connection with the offering of the Structured Notes, the Issuer, the Guarantor and/or any of its affiliates may enter into one or more hedging transactions with respect to any potential reference item(s) or related derivatives. In connection with such hedging activities or with respect to proprietary or other trading activities by the Issuer and/or any of its affiliates, the Issuer, the Guarantor and/or any of its affiliates may enter into transactions in the reference item(s) or related derivatives which may, but are not intended to, affect the market price, liquidity or value of the Structured Notes and which could be deemed to be adverse to the interest of the relevant Noteholders.

#### *Possible Illiquidity of the Secondary Market*

There can be no assurance as to how Structured Notes will trade in the secondary market or whether such market will be liquid or illiquid. The number of Structured Notes of any Series

may be relatively small, further adversely affecting the liquidity of such Structured Notes. The relevant issuer may list Structured Notes on the GEM or the regulated market of the Irish Stock Exchange or may issue Structured Notes which are not listed on any exchange. However, no assurance can be given that any secondary trading market will develop for the Structured Notes. If Structured Notes are not listed or traded on any exchange, pricing information for such Structured Notes may be more difficult to obtain and the liquidity of such Structured Notes may be adversely affected.

#### *Potential Conflicts of Interest*

The relevant Issuer, the Guarantor and its affiliates may engage in trading and market-making activities and may potentially hold long or short positions in the relevant reference item(s) and other instruments or derivative products based on or related to the relevant reference item(s) for their proprietary accounts or for other accounts under their management. The Issuer, the Guarantor and their respective affiliates may also issue Structured Notes in respect of the relevant reference item(s) which are securities, or issue derivative instruments in respect thereof. To the extent that the Issuer or the Guarantor directly or through its affiliates, serves as issuer, agent, manager or underwriter of such securities or other instruments, its interests with respect to such products may be adverse to those of the Noteholders. The Issuer, the Guarantor or their affiliates may also act as underwriter in connection with future offerings of securities which comprise the reference items or may act as financial advisors to certain underlying companies or reference entities. Such activities could present certain conflicts of interest, could influence the prices of such reference items and could adversely affect the value of the Structured Notes.

#### *Taxation*

Potential purchasers of Structured Notes should be aware that stamp duty and other taxes and/or charges may be levied in accordance with the laws and practices in the countries where the Structured Notes are transferred and/or where any potential reference items are delivered.

The summaries set out under the heading "Taxation" in this document do not consider the tax treatment of payments in respect of Structured Notes. Potential purchasers of Structured Notes should note that the tax treatment of payments in respect of Structured Notes may be different (and in some cases significantly different) from that set out in those summaries.

Potential purchasers of Structured Notes who are in any doubt as to their tax position should consult their own independent tax advisers. In addition, potential purchasers should be aware that tax regulations and their application by the relevant taxation authorities change from time to time. Accordingly, it is not possible to predict the precise tax treatment which will apply at any given time.

#### **Risks in Relation to Spanish Taxation**

Under Spanish Law 13/1985 and Royal Decree 1065/2007, as amended, income payments in respect of the Notes will be made without withholding tax in Spain. The Issuer is required pursuant to Spanish law to provide certain information regarding the Notes to the Spanish tax authorities. The Issuer, Guarantor and the Fiscal Agent have arranged certain procedures to



facilitate the collection of information concerning the Notes. The Issuer or the Guarantor (as the case may be) will withhold Spanish withholding tax from any payment in respect of any outstanding principal amount of the Notes (as applicable) as to which the required information has not been provided and will not gross up payments in respect of any such withholding tax. The Fiscal Agency Agreement provides that the Fiscal Agent will, to the extent applicable, comply with the relevant procedures to facilitate the collection of information concerning the Notes. The procedures may be modified, amended or supplemented, to, among other reasons, reflect a change in applicable Spanish law, regulation, ruling or interpretation thereof or to reflect a change in applicable clearing system rules or procedures or to add procedures for one or more new clearing systems. See "*Taxation and Disclosure of Information in Connection with Payments — Taxation in Spain*". None of the Issuer, the Guarantor, the Dealers or the Fiscal Agent assume any responsibility therefore.

### **Risks Relating to the Insolvency Law**

Law 22/2003 (*Ley Concursal*) dated 9 July 2003 ("Law 22/2003" or the "Insolvency Law") provides, among other things, that: (i) any claim may become subordinated if it is not included in a company's accounts or otherwise reported to the insolvency administrators within one month from the last official publication of the court order declaring the insolvency, (ii) provisions in a contract granting one party the right to terminate on the other's insolvency may not be enforceable, and (iii) interest (other than any interest accruing under secured liabilities up to an amount equal to the value of the security) shall cease to accrue as from the date of the declaration of insolvency and any amount of interest accrued up to such date (other than any interest accruing under secured liabilities up to an amount equal to the value of the security) shall become subordinated. As such, certain provisions of the Insolvency Law could affect claims relating to the Notes on the insolvency of the Guarantor.

### **Risks in relation to the Issuer**

#### ***Risk That Funds Lent by the Issuer to Group Companies Are Not Repaid***

The Issuer is a finance vehicle established by the Guarantor for the purpose of issuing debt securities, *participaciones preferentes* (preferred securities) and other financial instruments and on-lending the proceeds to the Guarantor and its consolidated subsidiaries (the "**Group**"). The Issuer is therefore dependent upon other members of the Group paying interest on and repaying their loans in a timely fashion. Should any Group member fail to pay interest on or repay any loan in a timely fashion this could have a material adverse effect on the ability of the Issuer to fulfil its obligations under Notes issued under the Programme.

The Issuer is incorporated in Ireland under the Irish Companies Acts 1963-2009 and as such may be wound up pursuant to the Irish Companies Acts 1963-2009 and/or be subject to examination, a court procedure which is available under the Irish Companies (Amendment) Act 1990, as amended (the "**1990 Act**") to facilitate the survival of Irish companies in financial difficulties.

#### ***Certain Creditors of the Issuer will rank in priority above Noteholders***

Under Irish law, the claims of a limited category of preferential creditors will take priority over the claims of unsecured creditors and holders of floating security in the event of the appointment of a liquidator or a receiver to an Irish company such as the Issuer. These preferred claims include taxes, such as income tax and corporation tax payable before the date of appointment of the liquidator or receiver and arrear of value added tax, together with accrued interest thereon and claims of employees.

### ***Risks in connection with Examination***

Examination is a court procedure available under the 1990 Act to facilitate the survival of Irish companies in financial difficulties.

The examiner, once appointed, has the power to set aside contracts and arrangements entered into by the company after his appointment and, in certain circumstances, can avoid a negative pledge given by the company prior to his appointment. Furthermore, he may sell assets which are the subject of a fixed charge. However, if such power is exercised he must account to the holders of the fixed charge for the amount realised and discharge the amount due to them out of the proceeds of sale.

During the period of protection, the examiner will compile proposals for a compromise or scheme of arrangement to assist the survival of the company or the whole or any part of its undertaking as a going concern. A scheme of arrangement may be approved by the High Court when at least one class of creditors has voted in favour of the proposals and the High Court is satisfied that such proposals are fair and equitable in relation to any class of members or creditors who have not accepted the proposals and whose interests would be impaired by implementation of the scheme of arrangement.

In considering proposals by the examiner, it is likely that secured and unsecured creditors would form separate classes of creditors. In the case of the Issuer, if the Agent represented the majority in number and value of claims within the secured creditor class (which would be likely given the restrictions agreed to by the Issuer in the Transaction Documents), the Agent would be in a position to vote against any proposal not in favour of the Noteholders. The Agent would also be entitled to argue at the High Court hearing at which the proposed scheme of arrangement is considered that the proposals are unfair and inequitable in relation to the Noteholders, especially if such proposals included a writing down to the value of amounts due by the Issuer to the Noteholders.

The primary risks to the Noteholders if any examiner were to be appointed with respect to the Issuer are as follows:

1. the potential for a scheme of arrangement being approved involving the writing down of the debt due by the Issuer to the Noteholders;
2. the potential for the examiner to seek to set aside any negative pledge in the Notes or the Transaction Documents prohibiting the creation of security or the incurring of borrowings by the Issuer to enable the examiner to borrow to fund the Issuer during the protection period; and

3. in the event that a scheme of arrangement is not approved and the Issuer subsequently goes into liquidation, the examiner's remuneration and expenses (including certain borrowings incurred by the examiner on behalf of the Issuer and approved by the Irish High Court) will take priority over the amounts secured or unsecured owing to the Noteholders.

#### **Risks in relation to the Guarantor**

***Since the Group's loan portfolio is highly concentrated in Spain, adverse changes affecting the Spanish economy could adversely affect the Group's financial condition***

The Guarantor has historically developed its lending business in Spain, which continues to be its main place of business. Any adverse changes affecting the Spanish economy are likely to have a significant adverse impact on its loan portfolio and, as a result, on its financial condition, cash flows and results of operations.

***Some of the Group's business is cyclical and the Group's income may decrease when demand for certain products or services is in a down cycle***

The level of income the Group derives from certain products and services depends on the strength of the economies in the regions where the Group operates and certain market trends prevailing in those areas. While the Group attempts to diversify its businesses, negative cycles may adversely affect the Group's income in the future.

***Since the Group's principal source of funds is short term deposits, a sudden shortage of these funds could increase the Group's cost of funding.***

Historically, the Group's principal source of funds has been customer deposits (demand, time and notice deposits). Large-denomination time deposits may be a less stable source of deposits than other type of deposits. In addition, since the Group relies on short-term deposits for its funding, there can be no assurance that the Group will be able to maintain its levels of funding without incurring higher funding costs or liquidating certain assets.

***The financial problems faced by its customers could adversely affect the Group.***

Market turmoil and economic recession in Spain could materially and adversely affect the liquidity, businesses and/or financial conditions of the Group's borrowers, which could in turn further increase the Group's non-performing loan ratios, impair the Group's loan and other financial assets and result in decreased demand for borrowings in general. In the context of continued market turmoil, economic recession and increasing unemployment coupled with declining consumer spending, the value of assets collateralising the Group's secured loans, including homes and other real estate, could decline significantly, which could result in the impairment of the value of the Group's loan assets. Moreover, in 2011 and 2010 the Group experienced an increase in its non-performing ratios, a deterioration in asset quality and a slowdown in business volumes, as compared to 2009. In addition, the Group's customers may further significantly decrease their risk tolerance to non-deposit investments such as stocks, bonds and mutual funds, which would adversely affect the Group's fee and commission

income. Any of the conditions described above could have a material adverse effect on the Group's business, financial condition and results of operations.

***Exposure to the real estate market makes the Group vulnerable to market fluctuations in the price of real estate.***

As mortgage loans are one of the Group's principal assets, comprising 50% of its loan portfolio at 30 December 2010, the Group is currently highly exposed to developments in real estate markets, especially in Spain. In addition, the Group currently has substantial exposure to certain real estate developers in Spain. From 2002 to 2007, demand for housing and mortgage financing in Spain increased significantly driven by, among other things, economic growth, declining unemployment rates, demographic and social trends, the desirability of Spain as a vacation destination and historically low interest rates in the Euro zone. During late 2007, the housing market began to adjust in Spain as a result of excess supply and higher interest rates. From 2008 to 2011, as economic growth came to a halt in Spain, housing oversupply persisted, unemployment continued to increase and demand continued to decrease, home prices declined while mortgage delinquencies increased. As a result, the delinquency rate of the Group increased from, 0.95% at 31 December 2007 to 4.94% at 31 December 2011. These trends, especially higher interest and unemployment rates coupled with declining real estate prices, could continue to have a significant adverse impact on the Group's mortgage payment delinquency rates, which in turn could have a negative impact on the Group's business.

If prices of real estate in Spain were to further depreciate in the near future, the value of the properties collateralising the Group's mortgage loan portfolio would also decrease, and the Group may receive significantly less value for the properties in its mortgage loan portfolio in the event the Group forecloses.

In addition to risks involved in other types of investments, e.g., market price risks, there are special real estate risks inherent in this investment category, including vacancy, structural and environmental risks. If any of these risks are realised, they could negatively affect the Group's real estate activities and the value of the Group's investment portfolio and could materially adversely affect the Group's business, financial condition and results of operations.

***The Group may generate lower revenues from brokerage and other commission and feebased businesses***

Although this revenue is very diversified at the Group, market downturns are likely to lead to a decline in the volume of transactions that the Group executes for its customers and, therefore, to a decline in its non-interest revenues. In addition, because the fees that the Group charges for managing its clients' portfolios are in many cases based on the value or performance of those portfolios, a market downturn that reduces the value of its clients' portfolios or increases the amount of withdrawals would reduce the revenues the Group receives from its asset management and private banking and custody businesses.

Even in the absence of a market downturn, below-market performance by the Group's mutual funds may result in increased withdrawals and reduced inflows, which would reduce the revenue the Group receives from its asset management business.

***The Group is vulnerable to the current disruptions and volatility in the global financial markets as well as to government action intended to alleviate the effects of the recent financial crisis.***

The global financial markets deteriorated sharply beginning in the second half of 2007, resulting in a prolonged credit and liquidity crisis and disruptions leading to less liquidity, greater volatility, general widening of spreads and, in some cases, lack of price transparency on interbank lending rates. A number of major financial institutions, including some of the largest global commercial banks, investment banks, mortgage lenders, mortgage guarantors and insurance companies, experienced significant difficulties. In particular, banks in many markets globally faced decreased liquidity or a complete lack of liquidity, rapid deterioration of financial assets in their balance sheets and resulting decreases in their capital ratios that severely constricted their ability to engage in further lending activity. The Group routinely transacts with such institutions as counterparties in the financial services industry, as well as brokers and dealers, commercial banks, investment banks, mutual and hedge funds, and other institutional customers. While the severity of the credit and liquidity crisis has eased, the financial industry continues to recover from the effects of the crisis. If significant financial counterparties experience ongoing liquidity problems or the financial services industry in general is unable to recover from the effects of the crisis, it could have a material adverse effect on the Group's business, financial condition and results of operations. In addition, the financial condition of the Group's borrowers has, in some instances, been adversely affected by the financial and economic crisis, which has in turn increased the Group's non-performing loans, impaired its loans and other financial assets and resulted in decreased demand for borrowings in general. If the Group's customers fail to perform their obligations under their contracts with the Group where the customers are counterparty (for instance, derivatives contracts), the failure or inability of the Group's customers to perform their payment obligations under those contracts could have a material adverse effect on us.

In an attempt to prevent the failure of the financial system, the U.S. and European governments intervened on an unprecedented scale. In Spain, the government increased consumer deposit guarantees, announced a programme to guarantee the debt of certain financial institutions, proposed a programme of direct lending to certain financial institutions against collateral and announced plans to purchase assets from financial institutions in order to alleviate the current financial crisis. European financial regulators increased the capital requirements on financial institutions considered systemic. Central banks around the world coordinated efforts to increase liquidity in the financial markets by taking measures such as increasing the amounts they lend directly to financial institutions, lowering interest rates and significantly increasing temporary reciprocal currency arrangements (or swap lines).

Despite the extensive government and central bank intervention to prevent the failure of the global financial system, the final impacts of such intervention are unknown. Global investor confidence continues to be low and additional disruption and volatility in the global financial markets could have further negative effects on the financial and economic environment. In addition, a prolonged economic downturn would result in a general reduction in business activity and a consequent loss of income. Any such ongoing disruption or reduction in

business activity could have an adverse effect on the Group's business, financial condition and results of operations.

***Risks relating to general economic conditions are inherent in the Group's business***

Following a severe recession in mid-2009, the world economy began a period of moderate recovery in 2010. That recovery began to slow in 2011 and remains fragile with widespread volatility in the global markets. The sustainability of a moderate recovery is dependent on a number of factors that are not within the Group's control, such as a return to private sector job growth and investment, strengthening of housing sales and construction, continuation of the economic recovery globally, and the timing of the exit from government credit easing policies. The Group continues to face risks resulting from the aftermath of the severe recession generally and the fragile nature of the moderate recovery that began in 2011. Further slowing or failure of the economic recovery could bring a return to some or all of the adverse effects of the earlier recessionary conditions.

Since the middle of 2007, there has been disruption and turmoil in financial markets around the world. In particular, in Spain there has been a dramatic decline in the housing market, with falling home prices and increasing foreclosures, high levels of unemployment and underemployment, and reduced earnings, or in some cases losses, for businesses across many industries, with reduced investments in growth.

This overall environment resulted in significant stress for the financial services industry, and led to distress in credit markets, reduced liquidity for many types of financial assets, including loans and securities, and concerns regarding the financial strength and adequacy of the capitalisation of financial institutions. Some financial institutions around the world and in Spain in particular have failed, some have needed significant additional capital, and others have been forced to seek acquisition partners.

Reflecting concern about the stability of the financial markets generally and the strength of counterparties, as well as concern about their own capital and liquidity positions, many lenders and institutional investors reduced or ceased providing funding to borrowers. The resulting economic pressure on consumers and businesses and the lack of confidence in the financial markets exacerbated the state of economic distress and hampered, and to some extent continues to hamper, efforts to bring about and sustain an economic recovery.

These economic conditions have had an adverse effect on the Group's business and financial performance. The management of the Guarantor expects these conditions to continue to have an ongoing negative impact on it and the rest of the Group. A slowing or failure of any economic recovery would likely aggravate the adverse effects of these difficult economic and market conditions on the Group and on others in the financial services industry.

In an attempt to prevent the failure of the financial system, Spain, the United States and other European governments have intervened on an unprecedented scale. In Spain, measures adopted by the government included increased consumer deposit guarantees, a program to guarantee the debt of certain financial institutions and a fund to purchase assets from financial institutions. Additionally, in 2009 the Spanish government created the Orderly Banking

Restructuring Fund ("**FROB**") to manage the restructuring processes of credit institutions and reinforce the equity of institutions undergoing integration. In the United States, the federal government took equity stakes in several financial institutions, implemented a program to guarantee the short-term and certain medium-term debt of financial institutions, increased consumer deposit guarantees, and brokered the acquisitions of certain struggling financial institutions, among other measures. In the United Kingdom, the government effectively nationalized some of the country's largest banks, provided a preferred equity program open to all financial institutions and a program to guarantee short-term and certain medium-term debt of financial institutions, among other measures.

Despite the extent of the aforementioned intervention, global investor confidence remains cautious. The world's largest developed economies, including the United States and United Kingdom, grew during 2010, although in most cases still at a slow pace. In addition, recent downgrades of the sovereign debt of Greece, Portugal, Spain, France and Italy (amongst others) have caused further volatility in the capital markets. Continued or worsening disruption and volatility in the global financial markets could have a material adverse effect on the Group's ability to access capital and liquidity on financial terms acceptable to the Group, if at all. If capital markets financing ceases to become available, or becomes excessively expensive, the Group may be forced to raise the rates it pays on deposits to attract more customers. Any such increase in capital markets funding costs or deposit rates would entail a repricing of loans, which would result in a reduction of volume, and may also have an adverse effect on the Group's interest margins.

*Volatility in interest rates may negatively affect the Group's net interest revenue and increase its non-performing loan portfolio.*

Changes in market interest rates could affect the interest rates charged on the Group's interest-earning assets differently than the interest rates the Group pays on its interest-bearing liabilities. This difference could result in an increase in interest expense relative to interest income, which would reduce the Group's net interest revenue. Income from treasury operations is particularly vulnerable to interest rate volatility. Since the majority of the Group's loan portfolio reprices in less than one year, rising interest rates may also bring about an increase in the Group's non-performing loan portfolio if customers cannot refinance in a higher interest rate environment. Interest rates are highly sensitive to many factors beyond the Group's control, including monetary policies, domestic and international economic and political conditions and other factors. Although the Group has taken measures to hedge its exposure to fluctuations in interest rates, a portion of its exposure remains unhedged, and moreover, there is no guarantee that the Group's hedging arrangements afford the Group adequate protections against fluctuations in interest rates. A significant fall in the Group's average interest rates charged on loans to customers that is not fully matched by a decrease in interest rates on the Group's funding sources, or a significant rise in interest rates on the Group's funding sources that is not fully matched by a rise in the Group's interest rates charged, to the extent such exposures are not hedged, would have a material adverse effect on the Group's business, financial condition and results of operations. Moreover, increasing interest rates can result in an increase in defaults in loans to customers. If the Group is unable

to hedge its exposure to fluctuations in interest rates effectively, this would adversely affect its business, financial condition and results of operations.

***Exposure to fluctuations in exchange rates***

The Group is exposed to the effects of future fluctuations in exchange rates. However, due to the Group's strategic approach, its foreign exchange positions are relatively immaterial and the Group's policy is to hedge structural foreign exchange positions.

***Operational risks are inherent to the Group's business***

The Group's business is dependent on the ability to process a large number of transactions efficiently and accurately on a daily basis. The Group is exposed to a variety of operational risks including those resulting from process error, system failure, human and technological errors, inadequate customer services, natural disasters or the failure of external systems including clerical or record keeping errors, or errors resulting from faulty computer, telecommunications or information systems. A failure or delay in recording or processing transactions, or any other material breakdown in internal controls, could subject the Group to claims for losses and regulatory fines and penalties. Consequently, the Group could suffer reputational or financial harm, which could have a material adverse affect on its business, financial condition and results of operations. Given the Group's high volume of transactions, errors may be repeated or compounded before they are discovered and rectified, and there can be no assurance that risk assessments made in advance will adequately estimate the costs of these errors. Any failure or interruption or breach in security of communications and information systems could result in failures or interruptions in the Group's customer relationship management, general ledger, deposit, servicing and/or loan organisation systems. If, for example, its information systems failed, even for a short period of time, the Group would be unable to serve some customers' needs and could thus lose their business. Likewise, a temporary shutdown of its information systems, even though the Group has back-up recovery systems and contingency plans that it considers to be state-of-the-art, could result in considerable costs that are required for information retrieval and verification. There can be no assurances that such failures or interruptions will not occur or, if they do occur, that they will be adequately addressed by the Group. Moreover, the secure transmission of confidential information is a critical element of the Group's operations. There is no guarantee that existing security measures will prevent security breaches, including break-ins, computer viruses or other disruptions. Persons that circumvent the security measures could wrongfully use the Group's confidential information or that of its clients, which could expose the Group to a risk of loss, adverse regulatory consequences or litigation.

***Despite its risk management policies, procedures and methods, the Group may nonetheless be exposed to unidentified or unanticipated risks***

The Group has devoted significant resources to developing its risk management policies, procedures and assessment methods and intends to continue to do so in the future. Nonetheless, the Group's risk management techniques and strategies may not be fully effective in mitigating its risk exposure in all economic market environments or against all types of risk, including risks that the Group fails to identify or anticipate.



Some of the Group's qualitative tools and metrics for managing risk are based upon its use of observed historical market behaviour. The Group applies statistical and other tools to these observations to arrive at quantifications of its risk exposures. These tools and metrics may fail to predict future risk exposures. These risk exposures could, for example, arise from factors the Group did not anticipate or correctly evaluate in its statistical models. This would limit the Group's ability to manage its risks. The Group's losses therefore could be significantly greater than indicated by the historical measures. In addition, the Group's quantified modelling does not take all risks into account. The Group's more qualitative approach to managing those risks could prove insufficient, exposing it to material unanticipated losses. If existing or potential customers believe the Group's risk management is inadequate, they could take their business elsewhere. This could harm the Group's reputation as well as its revenues and profits.

***The Group is exposed to risks faced by other financial institutions***

The Group routinely transacts with counter parties in the financial services industry, including brokers and dealers, commercial banks, investment banks, mutual and hedge funds, and other institutional clients. Defaults by, and even rumours or questions about the solvency of, certain financial institutions and the financial services industry generally have led to market-wide liquidity problems and could lead to losses or defaults by other institutions. These liquidity concerns have had, and may continue to have, a chilling effect on inter-institutional financial transactions in general. Many of the routine transactions the Group enters into expose it to significant credit risk in the event of default by one of its significant counter parties. Despite the risk control measures the Group have in place, a default by a significant financial counter party, or liquidity problems in the financial services industry in general, could have a material adverse effect on the Group's business, financial condition and results of operations.

***Changes in the regulatory framework including an increased regulation of the financial services industry in the jurisdictions where the Group operates could adversely affect its business***

As a result of the financial crisis and government intervention which ensued, there has been an increase in government regulation of the financial services industry, including the imposition of higher capital requirements, heightened disclosure standards and restrictions on certain types of transaction structures, and in addition, proposals for new regulatory initiatives abound in the current environment. If enacted, new regulations could require the Group to inject further capital into its business as well as in businesses the Group acquires, restrict the type or volume of transactions it enters into, or set limits on or require the modification of rates or fees that the Group charges on certain loan or other products, any of which could lower the return on its investments, assets and equity. The Group may also face increased compliance costs and limitations on its ability to pursue certain business opportunities. Changes in regulations, which are beyond the Group's control, may have a material effect on the Group's business and operations. Recent regulations introduced in Spain include, on 4 February 2012, Royal Decree-Law 2/2012, of 3 February, on the restructuring of the financial sector ("**RDL 2/2012**"). RDL 2/2012 requires the increase of provisions for certain real estate assets in the balance sheets of credit institutions as at 31 December 2011. In particular, the specific provisions for assets that are classified as substandard or doubtful has

been increased above the thresholds established in Circular 4/2004 of the Bank of Spain; a new one-off 7% provision has been created to be applied to the outstanding balance of real estate financings classified as normal, and specific provisions for problematic credit assets and asset foreclosures are supplemented with additional principal capital requirements. Banesto has estimated that these new measures will require them to create new provisions of about EUR 1,200 million, of which EUR 200 million corresponds to a general provision and EUR 1,000 million to the aforementioned specific provisions. Likewise, the total amount of additional capital required is estimated at EUR 600 million. As some of the banking laws and regulations, such as RD 2/2012, have been recently adopted, the manner in which those laws and related regulations are applied to the operations of financial institutions is still evolving. Moreover, no assurance can be given generally that laws or regulations will be adopted, enforced or interpreted in a manner that will not have an adverse effect on the Group's business.

In Spain, the financial sector is going through a consolidation phase, which is reducing the number of institutions. In this process, the government may introduce regulatory changes which, together with the modifications in the landscape of the sector, may affect the Group's business and results of operations.

***Credit, market and liquidity risk may have an adverse effect on the Group's credit ratings. Any reduction in the Group's credit rating could increase its cost of funding and adversely affect the Group's interest margins***

Credit ratings affect the cost and other terms upon which the Group is able to obtain funding. Rating agencies regularly evaluate the Group and their rating of its long-term debt are based on a number of factors, including the Group's financial strength as well as conditions affecting the financial services industry generally.

Any downgrade in the Group's ratings could increase its borrowing costs, limit its access to capital markets and adversely affect the ability of the Group's business to sell or market its products, engage in business transactions – particularly longer-term and derivatives transactions – and retain its customers. This, in turn, could reduce the Group's liquidity and have an adverse effect on its operating results and financial condition.

In light of the difficulties in the financial services industry and the financial markets, there can be no assurance that the rating agencies will maintain the Group's current ratings or outlooks. The Group's failure to maintain those ratings and outlooks could increase the cost of its funding and adversely affect the Group's interest margins.

## **APPLICABLE TRANSACTION TERMS AND DRAWDOWN PROSPECTUSES OR DRAWDOWN LISTING PARTICULARS**

In this section the expression "necessary information" means, in relation to any Tranche of Notes, the information necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Issuer and the Guarantor and of the rights attaching to the Notes. In relation to the different types of Notes which may be issued under the Programme the Issuer and the Guarantor have endeavoured to include in this Offering Circular all of the necessary information except for information relating to the Notes which is not known at the date of this Offering Circular and which can only be determined at the time of an individual issue of a Tranche of Notes.

Any information relating to the Notes which is not included in this Offering Circular and which is required in order to complete the necessary information in relation to a Tranche of Notes will be contained either in the relevant Applicable Transaction Terms or in a Drawdown Prospectus or Drawdown Listing Particulars (as applicable). Such information will be contained in the relevant Applicable Transaction Terms unless any of such information constitutes a significant new factor relating to the information contained in this Offering Circular in which case such information, together with all of the other necessary information in relation to the relevant series of Notes, may be contained in a Drawdown Prospectus or Drawdown Listing Particulars (as applicable).

For a Tranche of Notes which is the subject of Applicable Transaction Terms, those Applicable Transaction Terms will, for the purposes of that Tranche only, supplement this Offering Circular and must be read in conjunction with this Offering Circular. The terms and conditions applicable to any particular Tranche of Notes which is the subject of Applicable Transaction Terms are the Conditions as supplemented, amended and/or replaced to the extent described in the relevant Applicable Transaction Terms.

The terms and conditions applicable to any particular Tranche of Notes which is the subject of a Drawdown Prospectus or, as the case may be, Drawdown Listing Particulars, will be the Conditions as supplemented, amended and/or replaced to the extent described in the relevant Drawdown Prospectus or Drawdown Listing Particulars. In the case of a Tranche of Notes which is the subject of a Drawdown Prospectus or, as the case may be, Drawdown Listing Particulars, each reference in this Offering Circular to information being specified or identified in the relevant Applicable Transaction Terms shall be read and construed as a reference to such information being specified or identified in the relevant Drawdown Prospectus or Drawdown Listing Particulars (as applicable) unless the context requires otherwise.

Each Drawdown Prospectus will be constituted either (1) by a single document containing the necessary information relating to the Issuer and the Guarantor and the relevant Notes or (2) by a registration document (the "**Registration Document**") containing the necessary information relating to the Issuer and the Guarantor, a securities note (the "**Securities Note**") containing the necessary information relating to the relevant Notes and, if necessary, a summary note. In addition, if the Drawdown Prospectus is constituted by a Registration Document and a Securities Note, any significant new factor, material mistake or inaccuracy relating to the

information included in the Registration Document which arises or is noted between the date of the Registration Document and the date of the Securities Note which is capable of affecting the assessment of the relevant Notes will be included in the Securities Note.

## TERMS AND CONDITIONS OF THE NOTES

*The following is the text of the terms and conditions which will include the additional terms and conditions contained in Annex 1 in the case of Fund Linked Notes, and which, subject to completion and amendment and as supplemented or varied in accordance with the provisions of the relevant Applicable Transaction Terms, will be applicable to the Notes in definitive form (if any) issued in exchange for the Global Note(s) representing each Series and, subject further to simplification by deletion of non-applicable provisions, will be endorsed on such Bearer Notes or on the Certificates relating to such Registered Notes, details of the relevant Series being shown on the relevant Notes or Certificates and in the relevant Applicable Transaction Terms. References in the Conditions to "Notes" are to the Notes of one Series only, not to all Notes which may be issued under the Programme.*

The Notes are issued pursuant to an amended and restated fiscal agency agreement dated 24 February 2012 (the "**Fiscal Agency Agreement**") between Banesto Financial Products plc as issuer (the "**Issuer**"), Banco Español de Crédito, S.A. (the "**Guarantor**"), The Bank of New York Mellon, acting through its London Branch as fiscal agent (the "**Fiscal Agent**"), paying agent (together with the Fiscal Agent and any additional or other paying agents in respect of the Notes from time to time appointed, the "**Paying Agents**"), transfer agent (together with any additional or other transfer agents in respect of the Notes from time to time appointed, the "**Transfer Agents**"), calculation agent and transparency directive agent, The Bank of New York Mellon as U.S. paying and transfer agent, The Bank of New York Mellon (Luxembourg) S.A. as registrar (the "**Registrar**"), and with the benefit of a Deed of Covenant dated 24 February 2012 (the "**Deed of Covenant**") executed by the Issuer in relation to the Notes. The Guarantor has, for the benefit of the Noteholders from time to time, executed and delivered a deed of guarantee dated 24 February 2012 (the "**Deed of Guarantee**") under which it has guaranteed the due and punctual payment of all amounts due by the Issuer under the Notes and the Deed of Covenant as and when the same shall become due and payable. The initial Calculation Agent(s) (if any) is specified on the Notes. The holders of the Notes (the "**Noteholders**" or "**Holders**"), the holders of the interest coupons (the "**Coupons**") appertaining to interest bearing Notes in bearer form and, where applicable in the case of such Notes, talons for further Coupons (the "**Talons**") (the "**Couponholders**") and the holders of the instalment receipts (the "**Receipts**") appertaining to the payment of principal by instalments are deemed to have notice of all of the provisions of the Fiscal Agency Agreement applicable to them.

Copies of the Fiscal Agency Agreement, the Deed of Covenant and the Deed of Guarantee are available for inspection at the specified offices of each of the Paying Agents.

Notes issued under the Programme are issued in series (each a "**Series**") and each Series may comprise one or more tranches (each a "**Tranche**") of Notes. Each Tranche is the subject of a Applicable Transaction Terms (the "**Applicable Transaction Terms**") which supplements these terms and conditions (the "**Conditions**"). The terms and conditions applicable to any particular Tranche of Notes are these Conditions as supplemented, amended and/or replaced by the relevant Applicable Transaction Terms. In the event of any inconsistency between these

Conditions and the relevant Applicable Transaction Terms, the relevant Applicable Transaction Terms shall prevail.

## 1. Definitions

In these Conditions, unless the context otherwise requires, the following defined terms shall have the meanings set out below:

**"Additional Business Centre(s)"** means the city or cities specified as such in the relevant Applicable Transaction Terms;

**"Additional Financial Centre(s)"** means the city or cities specified as such in the relevant Applicable Transaction Terms;

**"Business Day"** means:

- (a) in relation to any sum payable in euro, a TARGET Settlement Day and a day on which commercial banks and foreign exchange markets settle payments generally in each (if any) Additional Business Centre; and
- (b) in relation to any sum payable in a currency other than euro, a day on which commercial banks and foreign exchange markets settle payments generally in London, in the Principal Financial Centre of the Relevant Currency and in each (if any) Additional Business Centre;

**"Business Day Convention"**, in relation to any particular date, has the meaning given in the relevant Applicable Transaction Terms and, if so specified in the relevant Applicable Transaction Terms, may have different meanings in relation to different dates and, in this context, the following expressions shall have the following meanings:

- (a) **"Following Business Day Convention"** means that the relevant date shall be postponed to the first following day that is a Relevant Business Day;
- (b) **"Modified Following Business Day Convention"** or **"Modified Business Day Convention"** means that the relevant date shall be postponed to the first following day that is a Relevant Business Day unless that day falls in the next calendar month in which case that date will be the first preceding day that is a Relevant Business Day;
- (c) **"Preceding Business Day Convention"** means that the relevant date shall be brought forward to the first preceding day that is a Relevant Business Day;
- (d) **"FRN Convention"**, **"Floating Rate Convention"** or **"Eurodollar Convention"** means that each relevant date shall be the date which numerically corresponds to the preceding such date in the calendar month which is the number of months specified in the relevant Applicable Transaction Terms as the Specified Period after the calendar month in which the preceding such date occurred provided, however, that:

- (i) if there is no such numerically corresponding day in the calendar month in which any such date should occur, then such date will be the last day which is a Relevant Business Day in that calendar month;
  - (ii) if any such date would otherwise fall on a day which is not a Relevant Business Day, then such date will be the first following day which is a Relevant Business Day unless that day falls in the next calendar month, in which case it will be the first preceding day which is a Relevant Business Day; and
  - (iii) if the preceding such date occurred on the last day in a calendar month which was a Relevant Business Day, then all subsequent such dates will be the last day which is a Relevant Business Day in the calendar month which is the specified number of months after the calendar month in which the preceding such date occurred; and
- (e) **"No Adjustment"** means that the relevant date shall not be adjusted in accordance with any Business Day Convention;

**"Calculation Agent"** means the Fiscal Agent or such other Person specified in the relevant Applicable Transaction Terms as the party responsible for calculating the Rate(s) of Interest and Interest Amount(s) and/or such other amount(s) as may be specified in the relevant Final Terms;

**"Calculation Amount"** has the meaning given in the relevant Applicable Transaction Terms;

**"Coupon Sheet"** means, in respect of a Note, a coupon sheet relating to the Note;

**"Day Count Fraction"** means, in respect of the calculation of an amount of interest on any Note for any period of time not comprising a complete year (whether or not constituting an Interest Period, the **"Calculation Period"**) such day count fraction as may be specified in these conditions or the relevant Applicable Transaction Terms and:

- (a) if **"Actual/Actual (ICMA)"** is so specified, means:
  - (i) where the Calculation Period is equal to or shorter than the Regular Period during which it falls, the actual number of days in the Calculation Period divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year; and
  - (ii) where the Calculation Period is longer than one Regular Period, the sum of:
    - (A) the actual number of days in such Calculation Period falling in the Regular Period in which it begins divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year; and
    - (B) the actual number of days in such Calculation Period falling in the next Regular Period divided by the product of (1) the actual number of days

in such Regular Period and (2) the number of Regular Periods in any year;

- (b) if "**Actual/Actual (ISDA)**" is so specified, means the actual number of days in the Calculation Period divided by 365 (or, if any portion of the Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);
- (c) if "**Actual/365 (Fixed)**" is so specified, means the actual number of days in the Calculation Period divided by 365;
- (d) if "**Actual/360**" is so specified, means the actual number of days in the Calculation Period divided by 360;
- (e) if "**30/360**" is so specified, means the number of days in the Calculation Period divided by 360 calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

"Y<sub>1</sub>" is the year, expressed as a number, in which the first day of the Calculation Period falls;

"Y<sub>2</sub>" is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"M<sub>1</sub>" is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

"M<sub>2</sub>" is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"D<sub>1</sub>" is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case D<sub>1</sub> will be 30; and

"D<sub>2</sub>" is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31 and D<sub>1</sub> is greater than 29, in which case D<sub>2</sub> will be 30;

- (f) if "**30E/360**" or "**Eurobond Basis**" is so specified, means the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

"Y<sub>1</sub>" is the year, expressed as a number, in which the first day of the Calculation Period falls;



"Y<sub>2</sub>" is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"M<sub>1</sub>" is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

"M<sub>2</sub>" is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"D<sub>1</sub>" is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case D<sub>1</sub> will be 30; and

"D<sub>2</sub>" is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31, in which case D<sub>2</sub> will be 30; and

(g) if "30E/360 (ISDA)" is so specified, means the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

"Y<sub>1</sub>" is the year, expressed as a number, in which the first day of the Calculation Period falls;

"Y<sub>2</sub>" is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"M<sub>1</sub>" is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

"M<sub>2</sub>" is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"D<sub>1</sub>" is the first calendar day, expressed as a number, of the Calculation Period, unless (i) that day is the last day of February or (ii) such number would be 31, in which case D<sub>1</sub> will be 30; and

"D<sub>2</sub>" is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless (i) that day is the last day of February but not the Maturity Date or (ii) such number would be 31, in which case D<sub>2</sub> will be 30,

*provided, however, that* in each such case the number of days in the Calculation Period is calculated from and including the first day of the Calculation Period to but excluding the last day of the Calculation Period;

**"Early Redemption Amount (Tax)"** means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the relevant Applicable Transaction Terms;

**"Early Termination Amount"** means, in respect of any Note except Fund Linked Notes, its principal amount or such other amount as may be specified in, or determined in accordance with, these Conditions or the relevant Applicable Transaction Terms, and in the case of Fund Linked Notes means the Termination Amount (as defined in Annex 1 (*Additional Terms and Conditions for Fund Linked Notes*));

**"Euro-zone"** means the member states of the European Union that are participating in the third stage of European Monetary Union;

**"Extraordinary Resolution"** has the meaning given in the Fiscal Agency Agreement;

**"Final Redemption Amount"** means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the relevant Applicable Transaction Terms;

**"First Interest Payment Date"** means the date specified in the relevant Applicable Transaction Terms;

**"Fixed Coupon Amount"** has the meaning given in the relevant Applicable Transaction Terms;

**"Fund Linked Notes"** means Notes linked to a specified fund share or unit or basket of fund shares or units (as specified in the relevant Applicable Transaction Terms);

**"Instalment Amount"** has the meaning given in the relevant Applicable Transaction Terms;

**"Interest Amount"** means, in relation to a Note and an Interest Period, the amount of interest payable in respect of that Note for that Interest Period;

**"Interest Commencement Date"** means the date of issue of the Notes (the **"Issue Date"**) or such other date as may be specified as the Interest Commencement Date in the relevant Applicable Transaction Terms;

**"Interest Determination Date"** means, with respect to an Interest Rate and Interest Period, the date specified in the relevant Final Terms or, if none is so specified, (i) the first day of such Interest Period if the Relevant Currency is sterling (ii) or the day falling two Relevant Business Days in London prior to the first day of such Interest Period if the Relevant Currency is not sterling, or (iii) the day falling two TARGET Settlement Days prior to the first day of such Interest Period if the Relevant Currency is Euro;

**"Interest Payment Date"** means the First Interest Payment Date and any other date or dates specified as such in, or determined in accordance with the provisions of, the relevant Applicable Transaction Terms and, if a Business Day Convention is specified in the relevant Applicable Transaction Terms:

- (a) as the same may be adjusted in accordance with the relevant Business Day Convention;
- or

- (b) if the Business Day Convention is the FRN Convention, Floating Rate Convention or Eurodollar Convention and an interval of a number of calendar months is specified in the relevant Applicable Transaction Terms as being the Specified Period, each of such dates as may occur in accordance with the FRN Convention, Floating Rate Convention or Eurodollar Convention at such Specified Period of calendar months following the Interest Commencement Date (in the case of the first Interest Payment Date) or the previous Interest Payment Date (in any other case);

**"Interest Period"** means the period beginning on (and including) the Interest Commencement Date and ending on (but excluding) the first Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date;

**"Interest Rate"** means the rate or rates (expressed as a percentage per annum) of interest payable in respect of the Notes specified in the relevant Final Terms or calculated or determined in accordance with the provisions of these Conditions and/or the relevant Final Terms;

**"ISDA Definitions"** means the 2006 ISDA Definitions (as amended and updated as at the date of issue of the first Tranche of the Notes of the relevant Series (as specified in the relevant Applicable Transaction Terms) as published by the International Swaps and Derivatives Association, Inc.);

**"Issue Date"** has the meaning given in the relevant Applicable Transaction Terms;

**"Margin"** has the meaning given in the relevant Applicable Transaction Terms;

**"Maturity Date"** has the meaning given in the relevant Applicable Transaction Terms;

**"Maximum Redemption Amount"** has the meaning given in the relevant Applicable Transaction Terms;

**"Minimum Redemption Amount"** has the meaning given in the relevant Applicable Transaction Terms;

**"Optional Redemption Amount (Call)"** means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the relevant Applicable Transaction Terms;

**"Optional Redemption Amount (Put)"** means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the relevant Final Terms;

**"Optional Redemption Date (Call)"** has the meaning given in the relevant Applicable Transaction Terms;

**"Optional Redemption Date (Put)"** has the meaning given in the relevant Applicable Transaction Terms;

**"Person"** means any individual, company, corporation, firm, partnership, joint venture, association, organisation, state or agency of a state or other entity, whether or not having separate legal personality;

**"Principal Financial Centre"** means, in relation to any currency, the principal financial centre for that currency provided, however, that:

- (a) in relation to euro, it means the principal financial centre of such Member State of the European Union as is selected (in the case of a payment) by the payee or (in the case of a calculation) by the Calculation Agent; and
- (b) in relation to Australian dollars, it means either Sydney or Melbourne and, in relation to New Zealand dollars, it means either Wellington or Auckland; in each case as is selected (in the case of a payment) by the payee or (in the case of a calculation) by the Calculation Agent;

**"Redemption Amount"** means, as appropriate, the Final Redemption Amount, the Early Redemption Amount (Tax), the Optional Redemption Amount (Call), the Optional Redemption Amount (Put), the Early Termination Amount or such other amount in the nature of a redemption amount as may be specified in, or determined in accordance with the provisions of, the relevant Applicable Transaction Terms;

**"Reference Banks"** has the meaning given in the relevant Applicable Transaction Terms or, if none, four (or if the Principal Financial Centre is Helsinki, five) major banks selected by the Calculation Agent in the market that is most closely connected with the Reference Rate;

**"Reference Rate"** has the meaning given in the relevant Applicable Transaction Terms;

**"Regular Period"** means:

- (a) in the case of Notes where interest is scheduled to be paid only by means of regular payments, each period from and including the Interest Commencement Date to but excluding the first Interest Payment Date and each successive period from and including one Interest Payment Date to but excluding the next Interest Payment Date;
- (b) in the case of Notes where, apart from the first Interest Period, interest is scheduled to be paid only by means of regular payments, each period from and including a Regular Date falling in any year to but excluding the next Regular Date, where "Regular Date" means the day and month (but not the year) on which any Interest Payment Date falls; and
- (c) in the case of Notes where, apart from one Interest Period other than the first Interest Period, interest is scheduled to be paid only by means of regular payments, each period from and including a Regular Date falling in any year to but excluding the next Regular Date, where "Regular Date" means the day and month (but not the year) on which any Interest Payment Date falls other than the Interest Payment Date falling at the end of the irregular Interest Period;

**"Relevant Business Day"** means:

- (a) if the currency of payment is euro, any day which is:
  - (i) a day on which banks in the relevant place of presentation are open for presentation and payment of bearer debt securities and for dealings in foreign currencies; and
  - (ii) in the case of payment by transfer to an account, a TARGET Settlement Day and a day on which dealings in foreign currencies may be carried on in each (if any) Additional Financial Centre (as may be specified in the relevant Applicable Transaction Terms); or
- (b) if the currency of payment is not euro, any day which is:
  - (i) a day on which banks in the relevant place of presentation are open for presentation and payment of bearer debt securities and for dealings in foreign currencies; and
  - (ii) in the case of payment by transfer to an account, a day on which dealings in foreign currencies may be carried on in the Principal Financial Centre of the currency of payment and in each (if any) Additional Financial Centre (as may be specified in the relevant Applicable Transaction Terms);

**"Relevant Currency"** means the currency specified as such in the relevant Applicable Transaction Terms or, if none is specified, the currency in which the Notes are denominated;

**"Relevant Date"** means, in relation to any payment, whichever is the later of (a) the date on which the payment in question first becomes due and (b) if the full amount payable has not been received by the Fiscal Agent on or prior to such due date, the date on which (the full amount having been so received) notice to that effect has been given to the Noteholders;

**"Relevant Financial Centre"** has the meaning given in the relevant Applicable Transaction Terms;

**"Relevant Screen Page"** means the page, section or other part of a particular information service (including, without limitation, Reuters) specified as the Relevant Screen Page in the relevant Applicable Transaction Terms, or such other page, section or other part as may replace it on that information service or such other information service, in each case, as may be nominated by the Person providing or sponsoring the information appearing there for the purpose of displaying rates or prices comparable to the Reference Rate;

**"Relevant Time"** has the meaning given in the relevant Applicable Transaction Terms;

**"Short Term Subordinated Notes"** means any Notes that have been issued pursuant to the requirements of Bank of Spain Circular 3/2008, of 22 May (*Circular 3/2008, de 22 de mayo, del Banco de España*) for subordinated Notes having a maturity of not less than two years;

**"Specified Currency"** has the meaning given in the relevant Applicable Transaction Terms;

"**Specified Denomination(s)**" has the meaning given in the relevant Applicable Transaction Terms;

"**Specified Duration**" means, with respect to any Floating Rate to be determined on an Interest Determination Date, the duration specified hereon or, if none is specified, a period of time equal to the relative interest accrual period, ignoring any adjustment pursuant to a Business Day Convention;

"**Specified Office**" has the meaning given in the Fiscal Agency Agreement;

"**Specified Period**" has the meaning given in the relevant Applicable Transaction Terms;

"**Subordinated Issuer**" means such issuer as may accede to the Programme as issuer of Subordinated Notes;

"**TARGET2**" means the Trans-European Automated Real-Time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007; and

"**TARGET Settlement Day**" means any day on which TARGET2 is open.

## 2. **Form, Denomination and Title**

The Notes are issued in bearer form ("**Bearer Notes**", which expression includes Notes which are specified to be Exchangeable Bearer Notes), in registered form ("**Registered Notes**") or in bearer form exchangeable for Registered Notes ("**Exchangeable Bearer Notes**") in each case in the Specified Denomination(s) shown thereon.

*All Registered Notes shall have the same denomination. Where Exchangeable Bearer Notes are issued, the Registered Notes for which they are exchangeable shall have the same denomination as the lowest denomination of the Exchangeable Bearer Notes.*

Bearer Notes are issued with Coupons (and, where appropriate, a Talon) attached, save in the case of Notes which do not bear interest in which case references to interest (other than in relation to interest due after the Maturity Date), Coupon and Talons in these Conditions are not applicable. Any Bearer Note the principal amount of which is redeemable in instalments is issued with one or more Receipts attached.

Registered Notes are represented by registered certificates ("**Certificates**"), each Certificate representing a holding of one or more Registered Notes by the same holder.

Title to the Bearer Notes and the Receipts, Coupons and Talons shall pass by delivery. Title to the Registered Notes shall pass by registration in the register which the Issuer shall procure to be kept by the Registrar in accordance with the provisions of the Fiscal Agency Agreement. Except as ordered by a court of competent jurisdiction or as required by law, the holder of any Note, Receipt, Coupon or Talon shall be deemed to be and may be treated as the absolute owner of such Note, Receipt, Coupon or Talon, as the case may be, for the purpose of receiving payment thereof or on account thereof and for all other purposes, whether or not

such Note, Receipt, Coupon or Talon shall be overdue and notwithstanding any notice of ownership, theft or loss thereof or any writing thereon made by anyone.

In these Conditions, "holder" (in relation to a Note, Receipt, Coupon or Talon) means the bearer of any Bearer Note, Receipt, Coupon or Talon or the person in whose name a Registered Note is registered (as the case may be) and capitalised terms have the meanings given to them herein, the absence of any such meaning indicating that such term is not applicable to the Notes.

All capitalised terms which are not defined in these conditions will have the meanings given to them in the relevant Applicable Transaction Terms. Those definitions will be endorsed on the Definitive Notes.

### **3. Exchanges of Exchangeable Bearer Notes and Transfers of Registered Notes**

#### **(a) *Exchange of Exchangeable Bearer Notes***

Subject as provided in Condition 3(f) (*Closed Periods*), Exchangeable Bearer Notes may be exchanged for the same aggregate principal amount of Registered Notes at the request in writing of the relevant holder of a Note and upon surrender of each Exchangeable Bearer Note to be exchanged, together with all unmatured Receipts, Coupons and Talons relating to it, at the specified office of the Fiscal Agent, the Registrar or any Transfer Agent: provided, however, that where an Exchangeable Bearer Note is surrendered for exchange after the Record Date (as defined in Condition 8(b) (*Payments and Talons - Registered Notes*)) for any payment of interest or Instalment Amount, the Coupon in respect of that payment of interest or Receipt in respect of that Instalment Amount need not be surrendered with it. Registered Notes may not be exchanged for Bearer Notes. In the case of a Series of Bearer Notes with more than one Specified Denomination, Bearer Notes of one Specified Denomination will not be exchangeable for Bearer Notes of another Specified Denomination. Bearer Notes which are not Exchangeable Bearer Notes may not be exchanged for Registered Notes.

#### **(b) *Transfer of Registered Notes***

One or more Registered Notes may be transferred upon the surrender of the Certificate representing such Registered Notes to be transferred, together with the form of transfer endorsed on such Certificate duly completed and executed, at the specified office of the Registrar or any Transfer Agent. In the case of a transfer of part only of a holding of Registered Notes represented by one Certificate, a new Certificate in respect of the balance not transferred will be issued to the transferor. In the case of a transfer of Registered Notes to a person who is already a holder of Registered Notes, a new Certificate representing the enlarged holding shall only be issued against surrender of the Certificate representing the existing holding.

#### **(c) *Exercise of Options or Partial Redemption in Respect of Registered Notes***

In the case of an exercise of an option by an Issuer or a holder of Notes in respect of, or a partial redemption of, a holding of Registered Notes represented by a single Certificate, a new Certificate shall be issued to the holder to reflect the exercise of such option or in respect of the balance of the holding not redeemed. In the case of a partial exercise of an option resulting in Registered Notes of the same holding having different terms, separate Certificates shall be issued in respect of those Notes of that holding that have the same terms. New Certificates shall only be issued against surrender of the existing Certificates to the Registrar or any Transfer Agent. In the case of a transfer of Registered Notes to a person who is already a holder of Registered Notes, a new Certificate representing the enlarged holding shall only be issued against surrender of the Certificate representing the existing holding.

(d) *Delivery of new Certificates*

Each new Certificate to be issued pursuant to Conditions 3(a) (*Exchange of Exchangeable Bearer Notes*), (b) (*Transfer of Registered Notes*) or (c) (*Exercise of Options or Partial Redemption in Respect of Registered Notes*) will, within three business days (being a day, other than a Saturday or Sunday, on which banks are open for business in the place of the specified office of the Transfer Agent or the Registrar to whom such request for exchange or form of transfer shall have been delivered) of receipt of such request for exchange or form of transfer, be available for delivery at the specified office of the Transfer Agent or of the Registrar (as the case may be) to whom such delivery shall have been made or, at the option of the holder making such delivery as aforesaid and as specified in the relevant request for exchange or form of transfer, be mailed at the risk of the holder entitled to the new Certificate to such address as may be specified in such request for exchange or form of transfer.

(e) *Exchange free of charge*

Exchange and transfer of Notes on registration, transfer, partial redemption or exercise of an option will be effected without charge by or on behalf of the Issuer, the Registrar or the Transfer Agents, but upon payment (or the giving of such indemnity as the Registrar or the relevant Transfer Agent may require in respect thereof) of any tax or other governmental charges which may be imposed in relation to it.

(f) *Closed periods*

No holder of a Note may require the transfer of a Registered Note to be registered or an Exchangeable Bearer Note to be exchanged for a Registered Note (i) during the period of 15 days ending on the due date for redemption of that Note, (ii) during the period of 15 days prior to any date on which Notes may be redeemed by the Issuer at its option pursuant to Condition 7(d) (*Redemption, Purchase and Options - Redemption at the Option of the Issuer*



*and Exercise of Issuer's Options*) or (iii) after any such Note has been drawn for redemption in whole or in part. An Exchangeable Bearer Note called for redemption may, however, be exchanged for a Registered Note in respect of which the Certificate is simultaneously surrendered not later than the relevant Record Date.

(g) *Restricted Securities*

For so long as any Registered Note is outstanding and is a "restricted security" (as defined in Rule 144 (a)(3) under the United States Securities Act of 1933 (as amended) (the "**Securities Act**")) and during any period in relation thereto during which it is neither subject to Sections 13 or 15(d) of the United States Exchange Act of 1934 (as amended) (the "**Exchange Act**") nor exempt from reporting pursuant to Rule 12g3-2(b) of the Exchange Act, the Issuer and the Guarantor will make available on request to each holder of such Note in connection with any resale thereof and to any prospective purchaser of such Note from such holder, in each case upon request, the information specified in and meeting the requirements of Rule 144A(d)(4) under the Securities Act.

4. **Guarantee and Status**

(a) *Status of Senior Notes*

If this Condition 4(a) is specified in the Applicable Transaction Terms as being applicable, the Notes shall be "Senior Notes". The Senior Notes and the Receipts and Coupons relating thereto constitute direct, unconditional, unsubordinated and (without prejudice to the provisions of Condition 5 (*Negative Pledge*)) unsecured obligations of the Issuer and rank *pari passu* and rateably without any preference among the obligations of the Issuer in respect of other Senior Notes of the same Series of the Issuer and (subject to any applicable statutory exceptions and without prejudice as aforesaid) at least *pari passu* with all other unsecured and unsubordinated indebtedness and monetary obligations of the Issuer, present and future.

(b) *Senior Guarantee*

This Condition 4(b) is applicable to Senior Notes only. The Guarantor has unconditionally and irrevocably guaranteed the due payment of all sums expressed to be payable by the Issuer under the Senior Notes, Receipts and Coupons on an unsubordinated basis. The obligations of the Guarantor in respect of Senior Notes constitute direct, unconditional, unsubordinated and (without prejudice to Condition 5 (*Negative Pledge*)) unsecured obligations of the Guarantor and rank *pari passu* without any preference in respect of other Notes of the same Series and in the event of the insolvency (*concurso*) of the Guarantor will rank *pari passu* with all other present and future unsecured and unsubordinated obligations of the Guarantor, except for such payment obligations that are preferred by law under Articles 84.2, 90 and 91 or, as the

case may be, that are qualified as subordinated debt by law under Article 92, of Spanish Law 22/2003 (*Ley Concursal*) dated 9 July 2003 ("**Law 22/2003**") or equivalent legal provisions which replace them in the future. Its obligations in that respect (the "**Senior Guarantee**") are contained in the Deed of Guarantee.

(c) *Status of Subordinated Notes*

If this Condition 4(c) is specified in the Applicable Transaction Terms as being applicable, the Notes shall be "Subordinated Notes". The Subordinated Notes and the Receipts and Coupons relating thereto constitute direct, subordinated and unsecured obligations of the Issuer and rank *pari passu* without any preference among the obligations of the Issuer in respect of other Subordinated Notes of the Issuer together with all other subordinated obligations of the Issuer other than subordinated obligations which are expressed to rank junior to the Subordinated Notes. In the event of the bankruptcy, dissolution or winding up of the Issuer, the payment obligations of the Issuer under the Subordinated Notes, and the Receipts and the Coupons relating to them will rank in right of payment after unsubordinated unsecured creditors of the Issuer but at least *pari passu* with all other subordinated obligations of the Issuer which are not expressed by their terms to rank junior to the Subordinated Notes and in priority to the claims of shareholders of the Issuer.

(d) *Subordinated Guarantee*

This Condition 4(d) is applicable to Subordinated Notes only. The obligations of the Guarantor under the Guarantee in respect of Subordinated Notes constitute direct, unconditional, subordinated and unsecured obligations of the Guarantor and rank *pari passu* without any preference in respect of other Notes of the same Series and, in the event of insolvency (*concurso*) of the Guarantor, rank *pari passu* with all other present and future subordinated obligations of the Guarantor except for those subordinated obligations pursuant to Articles 92.3 to 92.7 of Law 22/2003 or equivalent legal provisions which replace them in the future, other subordinated obligations of the Guarantor prescribed by law and subordinated obligations which are expressed to rank junior to the Guarantor's obligations under the Guarantee in respect of the Notes.

In the event of insolvency (*concurso*) of the Guarantor, under Law 22/2003, claims under the Guarantee in respect of Subordinated Notes will fall within the category of "subordinated debts" (as defined in Law 22/2003).

After payment in full of unsubordinated debts but before distributions to shareholders and creditors of the Guarantor which are characterised as holders of equity (*Otros Acreedores a Título Asimilable al de Aportación de Capital*), under article 92 of Law 22/2003, the Guarantor will meet such subordinated

debts in the following order and pro rata within each class: (i) claims lodged belatedly or inaccurately in the context of insolvency proceedings; (ii) contractually subordinated debt (such as claims under the Guarantee in respect of Subordinated Notes); (iii) interest; (iv) fines; (v) claims of creditors which are related to the Guarantor; and (vi) debt arising from transactions set aside by Spanish courts in the context of insolvency proceedings (*rescisión concursal*) and in respect of which the court has determined that the relevant creditor has acted in bad faith; and (vii) credits arising from agreements with reciprocal obligations, as referred to in articles 61, 62, 68 and 69 of Law 22/2003, whenever the court rules, following the administrators' report of insolvency (*administración concursal*), that the creditor has, on a repetitive basis, impeded the performance of the agreement to the detriment of the insolvency proceedings.

*The Guarantor may apply to Banco de España for the subscription amount of the Subordinated Notes to qualify as capital for capital adequacy purposes in compliance with the provisions of Royal Decree 216/2008 of 15 February, on own funds of financial entities, Bank of Spain Circular 3/2008, of 22 May, and subsidiary regulations.*

As used in these Conditions, "Relevant Indebtedness" means any indebtedness of the Guarantor arising on or after 3 February 2005, any indebtedness of the Issuer or any other person or entity in the form of, or represented by, bonds, notes, debentures, loan stock or other securities which are or are capable of being quoted, listed or ordinarily dealt in on any stock exchange, over the counter market or other securities market (for which purpose any such bonds, notes, debentures, loan stock or other securities shall be deemed not to be capable of being so quoted, listed or ordinarily dealt in if the terms of the issue thereof expressly so provide) and where more than 50 per cent. thereof in aggregate principal amount are initially offered, sold or distributed outside Spain; provided, however, that Relevant Indebtedness shall not include any indebtedness which is secured upon, or has a preferential right to, a specified pool of assets or revenues present or future, including, without limitation, *cédulas hipotecarias* issued in accordance with *Ley 2/1981 de regulación del mercado hipotecario* and *Real Decreto 716/2009* of 24 April, as amended or superseded from time to time ("**Cédulas Hipotecarias**") or *Cédulas Territoriales*.

## **5. Negative Pledge**

So long as any Senior Note remains outstanding (as defined in the Fiscal Agency Agreement) or any amount remains payable under the Deed of Guarantee neither the Issuer nor the Guarantor will create or permit to subsist any mortgage, charge, pledge or lien on or over any part of its present or future assets, undertakings or revenues as security for any Relevant Indebtedness or any guarantee of or indemnity in respect of any Relevant Indebtedness unless, at the same time or prior thereto, the Issuer's obligations under such Senior Notes or, as the case may be, the Guarantor's obligations under the Deed of Guarantee (i) are secured equally and rateably therewith or (ii) have the benefit of such other security, guarantee, indemnity or other arrangement as shall be approved by an Extraordinary Resolution (as defined in the

Fiscal Agency Agreement) of the Noteholders; provided, however, that the Guarantor may accord any preference or priority in relation to any charge created or arising either in the carrying on of part of its banking business or in respect of its obligations with the *Banco de España* (or its successor) if, in the case of part of its banking business, an expert (which expression shall for this purpose include an officer of the Guarantor nominated in good faith for such purpose by the Guarantor) certifies to the Fiscal Agent that such matter is part of, or permitted to be part of the Guarantor's banking business.

Nothing contained in these Conditions shall prevent the Issuer or the Guarantor from issuing Cédulas Hipotecarias (as defined above) or Cédulas Territoriales.

## **6. Interest Provisions**

### **(a) Fixed Rate Note Provisions**

- (i) *Application:* This Condition 6(a) is applicable to the Notes only if the Fixed Rate Note Provisions are specified in the relevant Applicable Transaction Terms as being applicable.
- (ii) *Accrual of interest:* The Notes bear interest from the Interest Commencement Date at the Rate of Interest payable in arrear on each Interest Payment Date, subject as provided in Condition 8 (*Payments and Talons*). Each Note will cease to bear interest from the due date for final redemption unless, upon due presentation, payment of the Redemption Amount is improperly withheld or refused, in which case it will continue to bear interest in accordance with this Condition 6(a) (as well after as before judgment) until whichever is the earlier of (A) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder and (B) the day which is seven days after the Fiscal Agent or Registrar (as the case may be) has notified the Noteholders that it has received all sums due in respect of the Notes up to such seventh day (except to the extent that there is any subsequent default in payment).
- (iii) *Fixed Coupon Amount:* The amount of interest payable in respect of each Note for any Interest Period shall be the relevant Fixed Coupon Amount and, if the Notes are in more than one Specified Denomination, shall be the relevant Fixed Coupon Amount in respect of the relevant Specified Denomination.
- (iv) *Calculation of interest amount:* The amount of interest payable in respect of each Note for any period for which a Fixed Coupon Amount is not specified shall be calculated by applying the Rate of Interest to the Calculation Amount, multiplying the product by the relevant Day Count Fraction and rounding the resulting figure to the nearest sub-unit of the Specified Currency (half a sub-unit being rounded upwards) and multiplying such rounded figure by a fraction equal to the Specified

Denomination of such Note divided by the Calculation Amount. For this purpose a "sub-unit" means, in the case of any currency other than euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, in the case of euro, means one cent.

(b) *Floating Rate Note and Index-Linked Interest Note Provisions*

- (i) *Application:* This Condition 6(b) (*Floating Rate Note and Index-Linked Interest Note Provisions*) is applicable to the Notes only if the Floating Rate Note Provisions or the Index-Linked Interest Note Provisions are specified in the relevant Applicable Transaction Terms as being applicable.
- (ii) *Accrual of interest:* The Notes bear interest from the Interest Commencement Date at the Rate of Interest payable in arrear on each Interest Payment Date, subject as provided in Condition 8 (*Payments and Talons*). Each Note will cease to bear interest from the due date for final redemption unless, upon due presentation, payment of the Redemption Amount is improperly withheld or refused, in which case it will continue to bear interest in accordance with this Condition (as well after as before judgment) until whichever is the earlier of (A) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder and (B) the day which is seven days after the Fiscal Agent or Registrar (as the case may be) has notified the Noteholders that it has received all sums due in respect of the Notes up to such seventh day (except to the extent that there is any subsequent default in payment).
- (iii) *Screen Rate Determination:* If Screen Rate Determination is specified in the relevant Applicable Transaction Terms as the manner in which the Rate(s) of Interest is/are to be determined, the Rate of Interest applicable to the Notes for each Interest Period will be determined by the Calculation Agent on the following basis:
  - (A) if the Reference Rate is a composite quotation or customarily supplied by one entity, the Calculation Agent will determine the Reference Rate which appears on the Relevant Screen Page as of the Relevant Time on the relevant Interest Determination Date;
  - (B) in any other case, the Calculation Agent will determine the arithmetic mean of the Reference Rates which appear on the Relevant Screen Page as of the Relevant Time on the relevant Interest Determination Date;
  - (C) if, in the case of (i) above, such rate does not appear on that page or, in the case of (ii) above, fewer than two such rates

appear on that page or if, in either case, the Relevant Screen Page is unavailable, the Calculation Agent will:

- (1) request the principal Relevant Financial Centre office of each the Reference Banks to provide a quotation of the Reference Rate at approximately the Relevant Time on the Interest Determination Date to prime banks in the Relevant Financial Centre interbank market in an amount that is representative for a single transaction in that market at that time; and
  - (2) determine the arithmetic mean of such quotations; and
- (D) if fewer than two such quotations are provided as requested, the Calculation Agent will determine the arithmetic mean of the rates (being the nearest to the Reference Rate, as determined by the Calculation Agent) quoted by major banks in the Principal Financial Centre of the Specified Currency, selected by the Calculation Agent, at approximately 11.00 a.m. (local time in the Principal Financial Centre of the Specified Currency) on the first day of the relevant Interest Period for loans in the Specified Currency to leading European banks for a period equal to the relevant Interest Period and in an amount that is representative for a single transaction in that market at that time,

and the Rate of Interest for such Interest Period shall be the sum of the Margin and the rate or (as the case may be) the arithmetic mean so determined; *provided, however, that* if the Calculation Agent is unable to determine a rate or (as the case may be) an arithmetic mean in accordance with the above provisions in relation to any Interest Period, the Rate of Interest applicable to the Notes during such Interest Period will be the sum of the Margin and the rate or (as the case may be) the arithmetic mean last determined in relation to the Notes in respect of a preceding Interest Period.

- (iv) *ISDA Determination:* If ISDA Determination is specified in the relevant Applicable Transaction Terms as the manner in which the Rate(s) of Interest is/are to be determined, the Rate of Interest applicable to the Notes for each Interest Period will be the sum of the Margin and the relevant ISDA Rate where "ISDA Rate" in relation to any Interest Period means a rate equal to the Floating Rate (as defined in the ISDA Definitions) that would be determined by the Calculation Agent under an interest rate swap transaction if the Calculation Agent were acting as Calculation Agent for that interest rate swap transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

- (A) the Floating Rate Option (as defined in the ISDA Definitions) is as specified in the relevant Applicable Transaction Terms;
  - (B) the Designated Maturity (as defined in the ISDA Definitions) is a period specified in the relevant Applicable Transaction Terms; and
  - (C) the relevant Reset Date (as defined in the ISDA Definitions) is either (X) if the relevant Floating Rate Option is based on the London inter-bank offered rate (LIBOR) for a currency, the first day of that Interest Period or (Y) in any other case, as specified in the relevant Applicable Transaction Terms.
- (v) *Index-Linked Interest:* If the Index-Linked Interest Note Provisions are specified in the relevant Applicable Transaction Terms as being applicable, the Rate(s) of Interest applicable to the Notes for each Interest Period will be determined in the manner specified in the relevant Final Terms.
  - (vi) *Fund Linked Notes:* If the Fund Linked Note provisions are specified in the relevant Final Terms as being applicable, the additional terms and conditions for Applicable Transaction Linked Notes set out in Annex 1 will be applicable to the extent so specified in the applicable Final Terms.
  - (vii) *Maximum or Minimum Rate of Interest:* If any Maximum Rate of Interest or Minimum Rate of Interest is specified in the relevant Applicable Transaction Terms, then the Rate of Interest shall in no event be greater than the maximum or be less than the minimum so specified.
  - (viii) *Calculation of Interest Amount:* The Calculation Agent will, as soon as practicable after the time at which the Rate of Interest is to be determined in relation to each Interest Period, calculate the Interest Amount payable in respect of each Note for such Interest Period. The Interest Amount will be calculated by applying the Rate of Interest for such Interest Period to the Calculation Amount, multiplying the product by the relevant Day Count Fraction, rounding the resulting figure to the nearest sub-unit of the Specified Currency (half a sub-unit being rounded upwards) and multiplying such rounded figure by a fraction equal to the Specified Denomination of the relevant Note divided by the Calculation Amount. For this purpose a "sub-unit" means, in the case of any currency other than euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, in the case of euro, means one cent.
  - (ix) *Calculation of other amounts:* If the relevant Applicable Transaction Terms specifies that any other amount is to be calculated by the

Calculation Agent, the Calculation Agent will, as soon as practicable after the time or times at which any such amount is to be determined, calculate the relevant amount. The relevant amount will be calculated by the Calculation Agent in the manner specified in the relevant Applicable Transaction Terms.

(x) *Publication:* The Calculation Agent will cause each Rate of Interest and Interest Amount determined by it, together with the relevant Interest Payment Date, and any other amount(s) required to be determined by it together with any relevant payment date(s) to be notified to the Paying Agents and each competent authority, stock exchange and/or quotation system (if any) by which the Notes have then been admitted to listing, trading and/or quotation as soon as practicable after such determination but (in the case of each Rate of Interest, Interest Amount and Interest Payment Date) in any event not later than the first day of the relevant Interest Period. Notice thereof shall also promptly be given to the Noteholders. The Calculation Agent will be entitled to recalculate any Interest Amount (on the basis of the foregoing provisions) without notice in the event of an extension or shortening of the relevant Interest Period. If the Calculation Amount is less than the minimum Specified Denomination the Calculation Agent shall not be obliged to publish each Interest Amount but instead may publish only the Calculation Amount and the Interest Amount in respect of a Note having the minimum Specified Denomination.

(xi) *Notifications etc:* All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this Condition by the Calculation Agent will (in the absence of manifest error) be binding on the Issuer, the Guarantor, the Paying Agents, the Noteholders and the Couponholders and (subject as aforesaid) no liability to any such Person will attach to the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions for such purposes.

(c) *Dual Currency Note Provisions*

(i) *Application:* This Condition 6(c) is applicable to the Notes only if the Dual Currency Note Provisions are specified in the relevant Applicable Transaction Terms as being applicable.

(ii) *Rate of Interest:* If the rate or amount of interest falls to be determined by reference to an exchange rate, the rate or amount of interest payable shall be determined in the manner specified in the relevant Applicable Transaction Terms.



## 7. **Redemption, Purchase and Options**

*Subordinated Notes (other than Short Term Subordinated Notes) may not be redeemed until five years after the issue date (or otherwise as permitted by applicable law) and such redemption is subject to the prior consent of Banco de España.*

### (a) *Final Redemption*

Unless previously redeemed, purchased and cancelled as provided below, each Note will be redeemed at its Redemption Amount (which, unless otherwise provided, is its principal amount) on the Maturity Date.

### (b) *Redemption for taxation reasons*

The Notes may (subject in the case of Subordinated Notes to the prior consent of Banco de España) be redeemed at the option of the Issuer in whole, but not in part, on any Interest Payment Date or, if so specified hereon, at any time, on giving not less than 30 nor more than 60 days' notice to the Noteholders (which notice shall be irrevocable), at their Early Redemption Amount (Tax), (together with interest accrued to the date fixed for redemption), if (i) the Issuer (or, if the Senior Guarantee or the Subordinated Guarantee were called, the Guarantor) has or will become obliged to pay additional amounts as provided or referred to in Condition 9 (*Taxation*) as a result of any change in, or amendment to, the laws or regulations of Ireland or the Kingdom of Spain or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the Issue Date, and (ii) such obligations cannot be avoided by the Issuer (or the Guarantor, as the case may be) taking reasonable measures available to it, provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer (or the Guarantor, as the case may be) would be obliged to pay such additional amounts if a payment in respect of the Notes (or either Guarantee, as the case may be) were then due. Prior to the publication of any notice of redemption pursuant to this paragraph, the Issuer shall deliver to the Fiscal Agent a certificate signed by a director of the Issuer (or the Guarantor, as the case may be) stating that the Issuer (or the Guarantor, as the case may be) is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer (or the Guarantor, as the case may be) so to redeem have occurred, and an opinion of independent legal advisers of recognised standing to the effect that the Issuer (or the Guarantor, as the case may be) has or will become obliged to pay such additional amounts as a result of such change or amendment.

In the case of Subordinated Notes, redemption for tax reasons will be subject to the prior consent of *Banco de España* and may not take place within a

period of five years of their date of issue (unless otherwise permitted by Spanish law or *Banco de España*).

(c) *Purchases*

The Issuer, the Guarantor and any of the Guarantor's Subsidiaries may at any time purchase Senior (provided that all unmatured Receipts and Coupons and unexchanged Talons appertaining thereto are attached or surrendered therewith) in the open market or otherwise at any price.

In the case of Subordinated Notes qualifying as regulatory capital (*recursos propios*) the purchase of Notes by the Issuer or any of its subsidiaries shall take place in accordance with the requirements of Spanish law and the *Banco de España*.

(d) *Redemption at the Option of the Issuer and Exercise of Issuer's Options*

- (i) Subject to paragraph (v) below, if so provided hereon, the Issuer may on giving irrevocable notice to the Noteholders of not less than 30 days nor more than 60 days, redeem, or exercise any Issuer's option in relation to, all or, if so provided, some of the Notes in the principal amount or integral multiples thereof and on the date or dates so provided. Any such redemption of Notes shall be at their Optional Redemption Amount (Call) together with interest accrued to the date fixed for redemption.
- (ii) All Notes in respect of which any such notice is given shall be redeemed, or the Issuer's option shall be exercised, on the date specified in such notice in accordance with this Condition.
- (iii) In the case of a partial redemption or a partial exercise of an Issuer's option the notice to Noteholders shall also contain the serial numbers of the Notes to be redeemed, which shall have been drawn in such place as the Fiscal Agent may approve and in such manner as it deems appropriate, subject to compliance with any applicable laws and competent authority, stock exchange and/or quotation system requirements.
- (iv) Notes to be redeemed, which shall have been drawn in such place as the Fiscal Agent may approve and in such manner as it deems appropriate, subject to compliance with any applicable laws and competent authority, stock exchange and/or quotation system requirements.
- (v) In the case of Subordinated Notes, redemption at the option of the Issuer is subject to the prior consent of *Banco de España* and may not take place within a period of five years (or, in the case of Short Term Subordinated Notes, two years) from their date of issue (or as otherwise permitted under applicable law or by *Banco de España*).

(e) *Redemption at the Option of Noteholders and holders' Exercise of Noteholders Options*

- (i) Subject to paragraph (iii) below, the Issuer shall, at the option of the holder of any such Note, redeem such Note on the date or dates so provided at its Optional Redemption Amount (Put) together with interest accrued to the date fixed for redemption.
- (ii) To exercise such option or any other option of a holder of Notes which may be set out hereon the holder must deposit such Note with any Paying Agent (in the case of Bearer Notes) or the Certificate representing such Note(s) with the Registrar or any Transfer Agent (in the case of Registered Notes) at its specified office, together with a duly completed option exercise notice ("**Exercise Notice**") in the form obtainable from any Paying Agent, the Registrar or any Transfer Agent (as applicable) not less than 30 and not more than 60 days prior to the relevant date fixed for redemption. No Note or Certificate so deposited and option exercised may be withdrawn (except as provided in the Fiscal Agency Agreement) without the prior consent of the Issuer.
- (iii) This Condition 7(e) shall not apply in the case of Subordinated Notes and holders of Subordinated Notes may not redeem such Subordinated Notes prior to the Maturity Date.

(f) *Redemption by Instalments*

Unless previously redeemed, purchased and cancelled as provided in this Condition 7, each Note which provides for Instalment Dates and Instalment Amounts will be partially redeemed on each Instalment Date at the Instalment Amount specified on it, whereupon the outstanding principal amount of such Note shall be reduced by the Instalment Amount for all purposes.

(g) *Cancellation*

All Notes purchased by or on behalf of the Issuer, the Guarantor or any of the Guarantor's subsidiaries may be surrendered for cancellation, in the case of Bearer Notes, by surrendering each such Note together with all unmatured Receipts and Coupons and all unexchanged Talons to the Fiscal Agent and, in the case of Registered Notes, by surrendering the Certificate representing such Notes to the Registrar and, in each case, if so surrendered, will, together with all Notes redeemed by the Issuer, be cancelled forthwith (together with all unmatured Receipts and Coupons and unexchanged Talons attached thereto or surrendered therewith). Any Notes so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer and the Guarantor in respect of any such Notes shall be discharged.

## 8. Payments and Talons

### (a) *Bearer Notes*

Payments of principal and interest in respect of Bearer Notes will, subject as mentioned below, be made against presentation and surrender of the relevant Receipts (in the case of payments of Instalment Amounts other than on the due date for redemption and provided that the Receipts are presented for payment together with its relative Note), Notes (in the case of all other payments of principal and, in the case of interest, as specified in Condition 8(f)(vi) (*Unmatured Coupons and Receipts and unexchanged Talons*)) or Coupons (in the case of interest, save as specified in Condition 8(f)(ii) (*Unmatured Coupons and Receipts and unexchanged Talons*)), as the case may be, at the specified office of any Paying Agent outside the United States by a cheque payable in the currency in which such payment is due drawn on, or, at the option of the holder, by transfer to an account denominated in that currency with, a bank in the principal financial centre of that currency; and in the case of Euro, by cheque drawn on, or by transfer to, a Euro account to which Euro may be credited or transferred as specified by the payee.

### (b) *Registered Notes*

- (i) Payments of principal (which for the purposes of this Condition 8(b) shall include final Instalment Amounts but not other Instalment Amounts) in respect of Registered Notes will be made against presentation and surrender of the relevant Certificates at the specified office of any of the Transfer Agents or of the Registrar and in the manner provided in paragraph (ii) below.
- (ii) Interest (which for the purpose of this Condition 8(b) shall include all Instalment Amounts other than final Instalment Amounts) on Registered Notes will be paid to the person shown on the Register at the close of business (in the relevant clearing system) on the Clearing System Business Day before the due date for payment thereof (the "**Record Date**") where "Clearing System Business Day" means a day on which each clearing system for which the Registered Note is being held is open for business. Payments of interest on each Registered Note will be made in the currency in which such payments are due by cheque drawn on a bank in the principal financial centre of the country of the currency concerned or, if the currency is euro, in such financial centre or centres in the Euro-zone as designated by the Registrar and mailed to the holder (or to the first named of joint holders) of such Note at its address appearing in the Register maintained by the Registrar. Upon application by the holder to the specified office of the Registrar or any Transfer Agent before the Record Date and subject as provided in paragraph (a) above, such payment of interest may be made by transfer to an account in the Relevant Currency designated by the holder with a bank in the

principal financial centre of the country of that currency or, if the currency is euro, in such financial centre in the Euro-zone notified to the Registrar by such holder.

(c) *Payments in the United States*

Notwithstanding the foregoing, if any Bearer Notes are denominated in U.S. dollars, payments in respect thereof may be made at the specified office of any Paying Agent in New York City in the same manner as aforesaid if (i) the Issuer shall have appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment of the amounts on the Notes in the manner provided above when due, (ii) payment in full of such amounts at all such offices is illegal or effectively precluded by exchange controls or other similar restrictions on payment or receipt of such amounts and (iii) such payment is then permitted by United States law, without involving, in the opinion of the Issuer, any adverse tax consequence to the Issuer.

(d) *Payments Subject to Laws, Regulations and Directives*

All payments are subject in all cases to any applicable fiscal or other laws, regulations and directives, but without prejudice to the provisions of Condition 8. No commission or expenses shall be charged to the Noteholders or Couponholders in respect of such payments.

(e) *Appointment of Agents*

The Fiscal Agent, the Paying Agents, the Registrar, Transfer Agents and the Calculation Agent initially appointed by the Issuer and their respective specified offices are listed below. The Fiscal Agent, the Paying Agents, the Registrar, Transfer Agents and the Calculation Agent act solely as agents of the Issuer and the Guarantor and do not assume any obligation or relationship of agency or trust for or with any holder. The Issuer and the Guarantor reserve the right at any time to vary or terminate the appointment of the Fiscal Agent, any other Paying Agent, the Calculation Agent, the Registrar or any Transfer Agent and to appoint additional or other agents provided that the Issuer will at all times maintain (i) a Fiscal Agent, (ii) a Registrar in relation to Registered Notes, (iii) a Transfer Agent in relation to Registered Notes, (iv) a Calculation Agent where the Conditions so require one, (v) Paying Agents having a specified office in at least two major European cities (including Dublin so long as the Notes are listed on the GEM or the regulated market of the Irish Stock Exchange and the rules of such exchange so require), (vi) a Paying Agent in an EU Member State that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of ECOFIN Council meeting of 26-27 November 2000 and (vii) if and for so long as the Notes are admitted to listing, trading and/or quotation by any competent authority, stock exchange

and/or quotation system, such other agents as are required by such competent authority, stock exchange and/or quotation system.

In addition, the Issuer shall forthwith appoint a Paying Agent in New York in respect of any Notes denominated in U.S. dollars in the circumstances described in paragraph (c) above.

Notice of any such change or any change of any specified office will promptly be given to the Noteholders in accordance with Condition 15 (*Notices*).

(f) *Unmatured Coupons and Receipts and unexchanged Talons*

- (i) Unless the Notes provide that the relative Coupons are to become void upon the due date for redemption of those Notes, Bearer Notes should be surrendered for payment together with all unmaturing Coupons (if any) appertaining thereto, failing which an amount equal to the face value of each missing unmaturing Coupon (or, in the case of payment not being made in full, that proportion of the amount of such missing unmaturing Coupon which the sum of principal so paid bears to the total principal due) will be deducted from the Redemption Amount due for payment. Any amount so deducted will be paid in the manner mentioned above against surrender of such missing Coupon within a period of 10 years from the Relevant Date for the payment of such principal (whether or not such Coupon has become void pursuant to Condition 10 (*Prescription*)).
- (ii) If the relevant Notes so provide, upon the due date for redemption of any Bearer Note, unmaturing Coupons relating to such Note (whether or not attached) shall become void and no payment shall be made in respect of them.
- (iii) Upon the due date for redemption of any Bearer Note, any unexchanged Talon relating to such Note (whether or not attached) shall become void and no Coupon shall be delivered in respect of such Talon.
- (iv) Upon the due date for redemption of any Bearer Note which is redeemable in instalments, all Receipts relating to such Note having an Instalment Date falling on or after such due date (whether or not attached) shall become void and no payment shall be made in respect of them.
- (v) Where any Bearer Note which provides that the relative Coupons are to become void upon the due date for redemption of those Notes is presented for redemption without all unmaturing Coupons and any unexchanged Talon relating to it, and where any Bearer Note is presented for redemption without any unexchanged Talon relating to it, redemption shall be made only against the provisions of such indemnity as the Issuer may require.

- (vi) If the due date for redemption of any Note is not a due date for payment of interest, interest accrued from the preceding due date for payment of interest or the Interest Commencement Date, as the case may be, shall only be payable against presentation (and surrender if appropriate) of the relevant Bearer Note or Certificate representing it, as the case may be. Interest accrued on a Note which only bears interest after its Maturity Date shall be payable on redemption of such Note against presentation of the relevant Note or Certificate representing it, as the case may be.

(g) *Talons*

On or after the Interest Payment Date for the final Coupon forming part of a Coupon Sheet issued in respect of any Bearer Note, the Talon forming part of such Coupon Sheet may be surrendered at the specified office of the Fiscal Agent in exchange for a further Coupon Sheet (and if necessary another Talon for a further Coupon Sheet) (but excluding any Coupons which may have become void pursuant to Condition 10 (*Prescription*)).

(h) *Non-Business Days*

If any date for payment in respect of any Note, Receipt or Coupon is not a business day, the holder shall not be entitled to payment until the next following business day nor to any interest or other sum in respect of such postponed payment. In this paragraph, "business day" means a day (other than a Saturday or a Sunday) on which banks are open for general business in the relevant place of presentation for payment of debt securities and for dealings in foreign currencies, in such jurisdictions as shall be specified as "Business Day Jurisdictions" hereon and:

- (i) (in the case of a payment in a currency other than euro) where payment is to be made by transfer to an account maintained with a bank in the Relevant Currency, on which dealings in foreign currencies may be carried on in the Relevant Currency in the principal financial centre of the country of such currency; or
- (ii) (in the case of a payment in euro) where payment is to be made by transfer to an account on a day on which TARGET2 is operating.

## 9. **Taxation**

All payments of principal and interest in respect of the Notes, the Receipts and the Coupons by the Issuer or (as the case may be) the Guarantor under the Deed of Guarantee will be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of Ireland or any authority therein or thereof having power to tax or the Kingdom of Spain or any authority therein or thereof having power to tax unless the withholding or deduction of such taxes, duties, assessments or governmental charges is required by law. In that event, the Issuer or, as the case may be, the Guarantor will pay such additional amounts as may be

necessary in order that the net amounts received by the holders and the Couponholders after such withholding or deduction shall equal the respective amounts of principal and interest which would have been received in respect of the Notes, Receipts or (as the case may be) Coupons, in the absence of such withholding or deduction; except that no additional amounts shall be payable with respect to any payment in respect of any Note, Receipt or Coupon or (as the case may be) under the Deed of Guarantee to, or to a third party on behalf of, individuals resident for tax purposes in the Kingdom of Spain, if the Spanish Tax Authorities determine that payments made to such individuals are not exempt from withholding tax and require a withholding to be made; or

- (a) presented for payment more than 30 days after the Relevant Date except to the extent that the holder thereof would have been entitled to such additional amount on presenting the same for payment on the thirtieth such day;
- (b) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive;
- (c) by or on behalf of a holder who would have been able to avoid such withholding or deduction by presenting the relevant Note or Coupon to another Paying Agent in a Member State of the European Union;
- (d) to, or to a third party on behalf of, Spanish resident corporate entities subject to Spanish Corporate Income Tax, if the Spanish Tax Authorities determine that the Notes do not comply with applicable exemption requirements, including those specified in the Reply to the Consultation of the Directorate General for Taxation (*Dirección General de Tributos*) dated 27 July 2004 and require a withholding to be made.

Notwithstanding any other provision in these Terms and Conditions, the Issuer or, as the case may be, the Guarantor shall be permitted to withhold or deduct any amounts required by the rules of US Internal Revenue Code Sections 1471 through 1474 (or any amended or successor provisions), pursuant to any inter-governmental agreement or implementing legislation adopted by another jurisdiction in connection with these provisions, or pursuant to any agreement with the US Internal Revenue Service ("**FATCA withholding**") as a result of a holder, beneficial owner or an intermediary that is not an agent of the Issuer or the Guarantor not being entitled to receive payments free of FATCA withholding. The Issuer or, as the case may be, the Guarantor will have no obligation to pay additional amounts or otherwise indemnify a Holder for any such FATCA withholding deducted or withheld by the Issuer, the Guarantor, any Paying Agent or any other party.



#### 10. **Prescription**

Claims against the Issuer and the Guarantor for payment in respect of the Notes, Receipts and Coupons (which, for this purpose shall not include Talons) shall be prescribed and become void unless made within ten years (in the case of principal) or five years (in the case of interest) from the appropriate Relevant Date in respect thereof.

#### 11. **Events of Default**

If any of the following events (each an "**Event of Default**") occurs and is continuing, the holder of a Note of any Series may give written notice to the Fiscal Agent at its specified office that such Note is immediately repayable, whereupon the Redemption Amount of such Note together with accrued interest to the date of payment shall become immediately due and payable (provided however, that paragraphs (a) and (c) below shall not constitute an Event of Default in relation to Subordinated Notes):

- (a) if default is made in the payment of any interest or principal due in respect of the Notes or any of them and such default continues for a period of seven days;
- (b) if the Issuer or the Guarantor fails to perform or observe any of its other obligations under or in respect of the Notes, the Deed of Guarantee or the Fiscal Agency Agreement and (except in the case where such failure is incapable of remedy when no such continuation or notice as is hereinafter mentioned will be required) the failure continues for the period of 30 days next following the service by a holder of a Note on the Issuer of notice requiring the same to be remedied; or
- (c) if any Indebtedness for Borrowed Money (as defined below) of the Issuer or the Guarantor becomes due and repayable prematurely by reason of an event of default (however described) or the Issuer or the Guarantor fails to make any payment in respect of any Indebtedness for Borrowed Money on the due date for such payment or within any originally applicable grace period or any security given by the Issuer or the Guarantor for any Indebtedness for Borrowed Money becomes enforceable and steps are taken to enforce the same or if default is made by the Issuer or the Guarantor in making any payment when due (or within any applicable grace period in respect thereof) under any guarantee and/or indemnity given by it in relation to any Indebtedness for Borrowed Money of any other person, provided that no such event as aforesaid shall constitute an Event of Default unless the Indebtedness for Borrowed Money or other liability relative thereto either alone or when aggregated with other Indebtedness for Borrowed Money and/or other liabilities relative to all (if any) other such events which shall have occurred shall amount to at least U.S.\$20,000,000 (or its equivalent in any other currency); or

- (d) a distress, attachment, execution or other legal process is levied, enforced or sued out on or against any part of the property, assets or revenues of the Issuer or the Guarantor and is not discharged or stayed within 90 days; or
- (e) any mortgage, charge, pledge, lien or other encumbrance, present or future, created or assumed by the Issuer or the Guarantor becomes enforceable and any step is taken to enforce it (including the taking of possession or the appointment of a receiver, administrative receiver, manager or other similar person); or
- (f) if any order is made by any competent court or resolution passed for the winding up, examination or dissolution of the Issuer or the Guarantor save for the purposes of a reorganisation on terms approved by an Extraordinary Resolution of the Noteholders; or
- (g) if the Issuer or the Guarantor ceases or threatens to cease to carry on the whole or a substantial part of its business, save for the purposes of a reorganisation on terms approved by an Extraordinary Resolution of the Noteholders, or the Issuer or the Guarantor stops, suspends or threatens to stop or suspend payment of, or is unable to, or admits inability to, pay all or a material part of its debts (or any class thereof) as they fall due, or proposes or makes a general assignment or an arrangement or composition with or for the benefit of the relevant creditors in respect of any of such debts or a moratorium is agreed or declared in respect of or affecting all or any part of (or any class of) the debts of the Issuer or the Guarantor, or is deemed unable to pay its debts pursuant to or for the purposes of any applicable law, or is (or could be deemed by law or a court to be) adjudicated or found bankrupt or insolvent; or
- (h) if (i) proceedings are initiated against the Issuer or the Guarantor under any applicable liquidation, insolvency, examination, composition, reorganisation or other similar laws, or an application is made for the appointment of an administrative or other receiver, examiner, manager, administrator or other similar official, or an administrative or other receiver, manager, administrator or other similar official is appointed, in relation to the Issuer or the Guarantor or in relation to the whole or a part of the undertaking or assets of either of them, or an encumbrancer takes possession of the whole or a part of the undertaking or assets of either of them, or a distress, execution, attachment, sequestration or other process is levied, enforced upon, sued out or put in force against the whole or a part of the undertaking or assets of any of them and (ii) in any case is not discharged within 14 days; or
- (i) if the Issuer or the Guarantor initiates or consents to judicial proceedings relating to itself under any applicable liquidation, examination, insolvency, composition, reorganisation or other similar laws or makes a conveyance or assignment for the benefit of, or enters into any composition or other arrangement with, its creditors generally (or any class of its creditors); or

- (j) the Issuer ceases to be wholly-owned and controlled by the Guarantor; or
- (k) any action, condition or thing (including the obtaining or effecting of any necessary consent, approval, authorisation, exemption, filing, licence, order, recording or registration) at any time required to be taken, fulfilled or done in order (i) to enable the Issuer and the Guarantor lawfully to enter into, exercise their respective rights and perform and comply with their respective obligations under the Notes and the Deed of Guarantee, (ii) to ensure that those obligations are legally binding and enforceable and (iii) to make the Notes and the Deed of Guarantee admissible in evidence in the courts of Ireland or the Kingdom of Spain is not taken, fulfilled or done; or
- (l) if the Deed of Guarantee ceases to be a valid and binding obligation of the Guarantor or it becomes unlawful for the Guarantor to perform its obligations under the Deed of Guarantee or the Deed of Guarantee is claimed by the Issuer or the Guarantor not to be in full force and effect; or
- (m) any event occurs which under the laws of any relevant jurisdiction has an analogous effect to any of the events referred to in any of the foregoing paragraphs including, but not limited to, *suspensión de pagos* or *quiebra*.

As used herein "Indebtedness for Borrowed Money" means (a) money borrowed and premiums and accrued interest in respect thereof, (b) liabilities under or in respect of any acceptance or acceptance credit or (c) the principal and premium (if any) and accrued interest in respect of any bonds, notes, debentures, debenture stock, loan stock, certificates of deposit or other securities whether issued for cash or in whole or in part of a consideration other than cash.

## 12. Meetings of Noteholders and Modifications

### (a) *Meetings of Noteholders*

The Fiscal Agency Agreement contains provisions for convening meetings of Noteholders to consider any matter affecting their interest, including modification by Extraordinary Resolution (or, as the case may be, written resolution which shall take effect as if it were an Extraordinary Resolution) of the Notes (including these Conditions insofar as the same may apply to such Notes). An Extraordinary Resolution duly passed at any such meeting shall be binding on all the Noteholders, whether present or not and on all relevant Couponholders, except that any Extraordinary Resolution proposed, inter alia, (i) to amend the dates of maturity or redemption of the Notes, any Instalment Date or any date for payment of interest thereon, (ii) to reduce or cancel the principal amount of any Instalment Amount of, or any premium payable on redemption of, the Notes, (iii) to reduce the rate or rates of interest in respect of the Notes or to vary the method or basis of calculating the rate or rates or amount of interest or the basis for calculating the Interest Amount in respect thereof, (iv) if a Minimum and/or a Maximum Interest Rate, Instalment

Amount or Redemption Amount is shown hereon, to reduce any such Minimum and/or Maximum, (v) to change any method of calculating the Redemption Amount, (vi) to change the currency or currencies of payment or denomination of the Notes, (vii) to take any steps which as specified hereon may only be taken following approval by an Extraordinary Resolution to which the special quorum provisions apply or (viii) to modify the provisions concerning the quorum required at any meeting of Noteholders or the majority required to pass the Extraordinary Resolution, will only be binding if passed at a meeting of the Noteholders (or at any adjournment thereof) at which a special quorum (provided for in the Fiscal Agency Agreement) is present.

*These Conditions may be amended, modified, or varied in relation to any Series of Notes by the terms of the relevant Applicable Transaction Terms in relation to such Series.*

(b) *Modification of Fiscal Agency Agreement*

The Issuer and the Guarantor shall only permit any modification of, or any waiver or authorisation of any breach or proposed breach of or any failure to comply with, the Fiscal Agency Agreement, if to do so could not reasonably be expected to be prejudicial to the interests of the Noteholders.

**13. Replacement of Notes, Certificates, Receipts, Coupons and Talons**

If a Note, Certificate, Receipt, Coupon or Talon is lost, stolen, mutilated, defaced or destroyed, it may be replaced, subject to applicable laws and competent authority, stock exchange and/or quotation system requirements, at the specified office of the Fiscal Agent (in the case of the Bearer Notes, Receipts, Coupons or Talons) and the Registrar (in the case of Certificates) or such other Paying Agent or Transfer Agent, as the case may be, as may from time to time be designated by the Issuer for the purpose and notice of whose designation is given to Noteholders in accordance with Condition 15 (*Notices*), in each case on payment by the claimant of the fees and costs incurred in connection therewith and on such terms as to evidence, security and indemnity (which may provide, *inter alia*, that if the allegedly lost, stolen or destroyed Note, Certificate, Receipt, Coupon or Talon is subsequently presented for payment or, as the case may be, for exchange for further Coupons, there will be paid to the Issuer on demand the amount payable by the Issuer in respect of such Notes, Certificates, Receipts, Coupons or further Coupons) and otherwise as the Issuer may require. Mutilated or defaced Notes, Certificates, Receipts, Coupons or Talons must be surrendered before replacements will be issued.

**14. Further Issues**

The Issuer may from time to time without the consent of the Noteholders or Couponholders create and issue further notes having the same terms and conditions as the Notes and so that the same shall be consolidated and form a single series with such Notes, and references in these Conditions to "Notes" shall be construed accordingly.

## 15. Notices

Notices to the Holders of Registered Notes will be mailed to them at their respective addresses in the Register and deemed to have been given on the fourth weekday (being a day other than a Saturday or a Sunday) after the date of mailing.

Notices to the Holders of Bearer Notes will be valid if published in a daily newspaper of general circulation in London (which is expected to be the *Financial Times*). If any such publication is not practicable, notice will be validly given if published in another leading daily English language newspaper of general circulation in Europe. Any such notice shall be deemed to have been given on the date of such publication or, if published more than once or on different dates, on the date of the first publication as provided above.

Couponholders shall be deemed for all purposes to have notice of the contents of any notice to the Holders of Bearer Notes in accordance with this Condition.

## 16. Substitution of the Issuer

- (a) The Issuer and the Guarantor may at any time, without the consent of the Noteholders or the Couponholders (but, in the case of Subordinated Notes, subject to the prior consent of Banco de España), substitute for such Issuer any company (the "**Substitute**") upon notice to the Holders by such Issuer, the Guarantor and the Substitute to be given in accordance with Condition 15 (*Notices*), provided that:
  - (i) no payment in respect of the Notes, the Receipts or the Coupons or the Deed of Guarantee (as the case may be) is at the relevant time overdue;
  - (ii) the Substitute shall, by means of a deed poll in the form scheduled to the Fiscal Agency Agreement as Schedule 4 (the "**Deed Poll**"), agree to indemnify each holder and Couponholder against any tax, duty, assessment or governmental charge which is imposed on it by (or by any authority in or of) the jurisdiction of the country of the Substitute's residence for tax purposes and, if different, of its incorporation with respect to any Note, Receipt, Coupon, Talon or the Deed of Covenant and which would not have been so imposed had the substitution not been made, as well as against any tax, duty, assessment or governmental charge, and any cost or expense, relating to the substitution;
  - (iii) where the Substitute is not the Guarantor, the obligations of the Substitute under the Deed Poll, the Notes, Receipts, Coupons, Talons and Deed of Covenant shall be unconditionally and irrevocably guaranteed by the Guarantor by means of the Deed Poll;
  - (iv) all action, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) to ensure that the Deed Poll, the Notes, Receipts, Coupons, Talons and Deed of Covenant represent valid, legally binding and enforceable obligations of the

Substitute and in the case of the Deed Poll of the Guarantor have been taken, fulfilled and done and are in full force and effect;

- (v) the Substitute shall have become party to the Fiscal Agency Agreement, with any appropriate consequential amendments, as if it had been an original party to it;
  - (vi) legal opinions shall have been delivered to the Fiscal Agent from lawyers of recognised standing in each jurisdiction referred to in (ii) above, in Spain and in England as to the fulfilment of the requirements of this Condition 16 and the other matters specified in the Deed Poll and that the Notes, Receipts, Coupons and Talons are legal, valid and binding obligations of the Substitute.
  - (vii) each competent authority, stock exchange and/or quotation system by which the Notes are admitted to listing, trading and/or quotation shall have confirmed that, following the proposed substitution of the Substitute, the Notes will continue to be admitted to listing, trading and/or quotation by such competent authority, stock exchange and/or quotation system;
  - (viii) Standard & Poor's and/or Moody's as the case may be, shall have confirmed that following the proposed substitution of the Substitute, the credit rating of the Notes will not be adversely affected; and
  - (ix) if applicable, the Substitute has appointed a process agent as its agent in England to receive service of process on its behalf in relation to any legal proceedings arising out of or in connection with the Notes.
- (b) Upon the execution of the Deed Poll and the delivery of the legal opinions, the Substitute shall succeed to, and be substituted for, and may exercise every right and power, of the Issuer under the Notes and the Fiscal Agency Agreement with the same effect as if the Substitute had been named as the Issuer herein, and the Issuer shall be released from its obligations under the Notes and under the Fiscal Agency Agreement.
- (c) After a substitution pursuant to Condition 16(a), the Substitute may, without the consent of any holder, effect a further substitution. All the provisions specified in Condition 16(a) and 16(b) shall apply *mutatis mutandis*, and references in these Conditions to the Issuer shall, where the context so requires, be deemed to be or include references to any such further Substitute.
- (d) After a substitution pursuant to Condition 16(a) or 16(c) any Substitute may, without the consent of any holder, reverse the substitution, *mutatis mutandis*.
- (e) The Deed Poll and all documents relating to the substitution shall be delivered to, and kept by, the Fiscal Agent. Copies of such documents will be available free of charge at the specified office of each of the Paying Agents.

## 17. **Currency Indemnity**

Any amount received or recovered in a currency other than the currency in which payment under the relevant Note, Coupon or Receipt is due (whether as a result of, or of the enforcement of, a judgement or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer or the Guarantor or otherwise) by any holder of Notes or Couponholder in respect of any sum expressed to be due to it from the Issuer or the Guarantor shall only constitute a discharge to the Issuer or the Guarantor, as the case may be, to the extent of the amount in the currency of payment under the relevant Note, Coupon or Receipt which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If the amount received or recovered is less than the amount expressed to be due to the recipient under any Note, Coupon or Receipt, the Issuer, failing whom the Guarantor, shall indemnify it against any loss sustained by it as a result. In any event, the Issuer, failing whom the Guarantor, shall indemnify the recipient against the cost of making any such purchase. For the purposes of this Condition, it will be sufficient for the holder of Notes or Couponholder, as the case may be, to demonstrate that it would have suffered a loss had an actual purchase been made. These indemnities constitute a separate and independent obligation from the Issuer's and the Guarantor's other obligations, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any holder of Notes or Couponholder and shall continue in full force and effect despite any other judgment, order, claim or proof for a liquidated amount in respect of any sum due under any Note, Coupon or Receipt of any other judgment or order.

## 18. **Governing Law and Jurisdiction**

### (a) *Governing law*

The Notes, Receipts, Coupons and Talons and all non-contractual obligations arising out of or in connection with the Notes, Receipts, Coupons and Talons are governed by, and construed in accordance with, English law English, save for the status of the guarantee and the subordination provisions, which are governed by Spanish law.

### (b) *English courts*

The courts of England have exclusive jurisdiction to settle any dispute arising from or connected with the Notes, Receipts, Coupons and/or Talons (including a dispute relating to the existence, validity or termination of the Notes, Receipts, Coupons and/or Talons or any non-contractual obligation arising out of or in connection with the Notes, Receipts, Coupons and/or Talons) or the consequences of their nullity (a "**Dispute**").

(c) *Appropriate forum*

Each of the Issuer and the Guarantor agrees that the courts of England are the most appropriate and convenient courts to settle any Dispute and, accordingly, that it will not argue to the contrary.

(d) *Rights of the Noteholders to take proceedings outside England*

Condition 18(b) (*English courts*) is for the benefit of the holders of the Notes, Receipts, Coupons and/or Talons only. As a result, nothing in this Condition 18 prevents any holder of a Note, Receipt, Coupon or Talon from taking proceedings relating to a Dispute ("**Proceedings**") in any other courts with jurisdiction. To the extent allowed by law, holders of Notes, Coupons, Receipts and/or Talons may take concurrent Proceedings in any number of jurisdictions.

(e) *Process agent*

Each of the Issuer and the Guarantor agrees that the documents which start any Proceedings and any other documents required to be served in relation to those Proceedings may be served on it by being delivered to Banco Santander, S.A., London branch, Attn.: Operations department / Jim Inches, 2 Triton Square, Regent's Place, London NW1 3AN or, if different, its registered office for the time being or at any address of the Issuer or Guarantor, as the case may be, in Great Britain at which process may be served on it. If such person is not or ceases to be effectively appointed to accept service of process on behalf of the Issuers or the Guarantor, as the case may be, the Issuer and the Guarantor (acting together) shall, on the written demand of any holder of Notes addressed and delivered to the Issuer and the Guarantor or to the Specified Office of the Fiscal Agent appoint a further person in England to accept service of process on its behalf and, failing such appointment within 15 days, any holder of Notes shall be entitled to appoint such a person by written notice addressed to the Issuer and Guarantor and delivered to the Issuer and Guarantor or to the Specified Office of the Fiscal Agent. Nothing in this paragraph shall affect the right of any holder of Notes to serve process in any other manner permitted by law. This Condition applies to Proceedings in England and to Proceedings elsewhere.

19. **Rights of Third Parties**

No person shall have any right to enforce any term or condition of any Note under the Contracts (Rights of Third Parties) Act 1999.



## ANNEX 1

### ADDITIONAL TERMS AND CONDITIONS FOR FUND LINKED NOTES

The terms and conditions applicable to Fund Linked Notes shall comprise the Terms and Conditions of the Notes (the "**Conditions**") and the additional Terms and Conditions set out below (the "**Fund Linked Note Conditions**"), in each case subject to completion and/or amendment in the Applicable Transaction Terms. In the event of any inconsistency between the Conditions and the Fund Linked Note Conditions, the Fund Linked Note Conditions shall prevail. In the event of any inconsistency between (i) the General Conditions and/or the Fund Linked Note Conditions and (ii) the Applicable Transaction Terms, the Applicable Transaction Terms shall prevail.

#### 1. Definitions

"**Additional Extraordinary Fund Event**" means any event specified as such in the applicable Applicable Transaction Terms;

"**AUM**" means, assets under management;

"**AUM Level**" has the meaning given to it in the applicable Applicable Transaction Terms, or if not so specified, with respect to (i) a Mutual Fund, EUR 50,000,000, or (ii) a Hedge Fund, EUR 50,000,000, or the equivalent in any other currency;

"**Basket Trigger Event**" means that an Extraordinary Fund Event (as defined below) occurs in respect of one or more Funds comprising the Fund Basket which has or, in the event that an Extraordinary Fund Event has occurred in respect of more than one Fund, together have, a weighting (as may be specified in the Applicable Transaction Terms) in the Fund Basket equal to or greater than the Basket Trigger Level;

"**Basket Trigger Level**" has the meaning given to it in the Applicable Transaction Terms or if not so specified, 50 per cent.;

"**Calculation Date**" means each day specified in the applicable Applicable Transaction Terms, or if not so specified, each day which is a Fund Business Day;

"**Extraordinary Fund Event Effective Date**" means, in respect of an Extraordinary Fund Event, the date on which such Extraordinary Fund Event occurs, or has occurred, as determined by the Calculation Agent in its sole and absolute discretion;

"**Fee**" has the meaning given to it in the Applicable Transaction Terms;

"**Final Calculation Date**" means the date specified as such in the Applicable Transaction Terms;

"**Floating Rate Payer**" has the meaning given in the ISDA Definitions;

"**Fund**" means each Mutual Fund, Hedge Fund or Private Equity Fund;

"**Fund Basket**" means, where the Fund Linked Notes are linked to the performance of Fund Shares of more than one Fund, a basket comprising such Fund Shares;

**"Fund Business Day"** means either (i) with respect to single Fund, Fund Business Day (Single Fund Share Basis), or (ii) in respect of a Fund Basket, either Fund Business Day (All Fund Shares Basis) or Fund Business Day (Per Fund Share Basis) as specified in the Applicable Transaction Terms, provided that, if no such specification is made in the Applicable Transaction Terms, Fund Business Day (Per Fund Share Basis) shall apply;

**"Fund Business Day (All Fund Shares Basis)"** means, with respect to a Fund Basket, a date (i) that is a Fund Valuation Date for all Fund Shares comprised in the Fund Basket, (ii) for which there has been a corresponding Fund Reporting Date in respect of each such Fund and (iii) on which the Hedge Provider has, or could have, a subscription or redemption order for each such Fund Share executed at the NAV per Fund Share as published on the relevant Fund Reporting Date or as calculated by the Calculation Agent, as the case may be;

**"Fund Business Day (Per Fund Share Basis)"** means, with respect to a Fund Share, a date (i) that is a Fund Valuation Date in respect of such Fund Share, (ii) for which there has been a corresponding Fund Reporting Date and (iii) on which the Hedge Provider has, or could have, a subscription or redemption order for the Fund Shares executed at the NAV per Fund Share as published on the relevant Fund Reporting Date or as calculated by the Calculation Agent, as the case may be;

**"Fund Business Day (Single Fund Share Basis)"** means with respect to a Fund Share, a date (i) that is a Fund Valuation Date, (ii) for which there has been a corresponding Fund Reporting Date and (iii) on which the Hedge Provider has, or could have, a subscription or redemption order for the Fund Shares executed at the NAV per Fund Share published on the relevant Fund Reporting Date;

**"Fund Documents"** means, unless specified otherwise in the Applicable Transaction Terms, with respect to any Fund Share, the offering document of the relevant Fund in effect on the Hedging Date specifying, among other matters, the terms and conditions relating to such Fund Share and, for the avoidance of doubt, any other documents or agreements in respect of the Fund, as further described in any Fund Document;

**"Fund Reporting Date"** means, subject to the occurrence of an Extraordinary Fund Event, in respect of any Fund Share and a Fund Valuation Date, the date on which, in accordance with the Fund Documents, the relevant NAV per Fund Share or Aggregate Fund Shares NAV, as the case may be, is reported or published in respect of such Fund Valuation Date;

**"Fund Service Provider"** means, in respect of any Fund, any person who is appointed to provide services, directly or indirectly, in respect of such Fund, whether or not specified in the Fund Documents, including any advisor, manager, administrator, operator, management company, depository, custodian, sub-custodian, prime broker, administrator, trustee, registrar and transfer agent, domiciliary agent, sponsor or general partner and any other person specified as such in the Applicable Transaction Terms;

**"Fund Share(s)"** means an ownership interest issued to or held by an investor in a Fund or any other interest specified as such in the Applicable Transaction Terms;

**"Fund Valuation Date"** means any date as of which, in accordance with the Fund Documents, the Fund (or the Fund Service Provider that generally determines such value) is or but for the occurrence of an Extraordinary Fund Event would have been scheduled to determine the NAV per Fund Share or Aggregate Fund Shares NAV, as the case may be;

**"Hedge Fund"** means the hedge fund(s) specified as such in the Applicable Transaction Terms;

**"Hedge Provider"** means the party (being, *inter alios*, the Issuer, the Guarantor, the Calculation Agent, an affiliate or any third party) from time to time who hedges the Issuer's obligations in respect of the Fund Linked Notes or where no such party actually hedges such obligations, a Hypothetical Investor, who shall be deemed to enter into transactions as if hedging such obligations. The Hedge Provider will hold or be deemed to hold such number of Fund Shares, or enter or be deemed to enter into any agreement to purchase or deliver, or pay an amount linked to the performance of, such number of Fund Shares as it (or in the case of a Hypothetical Investor, the Calculation Agent) considers would be held by a prudent issuer as a hedge for its exposure under the relevant Notes;

**"Hedging Date"** has the meaning given to it in the Applicable Transaction Terms;

**"Hypothetical Investor"** means a hypothetical or actual investor (as determined by the Calculation Agent in the context of the relevant situation) in a Fund Share which is deemed to have the benefits and obligations, as provided in the relevant Fund Documents, of an investor holding a Fund Share at the relevant time. The Hypothetical Investor may be deemed by the Calculation Agent to be resident or organised in any jurisdiction, and to be, without limitation, the Issuer, the Guarantor, the Calculation Agent or any of their affiliates (as determined by the Calculation Agent in the context of the relevant situation);

**"Implied Embedded Option Value"** means an amount which may never be less than zero equal to the present value as at the Implied Embedded Option Value Determination Date of any future payments under the Fund Linked Notes determined by the Calculation Agent in its sole and absolute discretion taking into account, without limitation, such factors as interest rates, the net proceeds achievable from the sale of any Fund Shares by the Hedge Provider, the volatility of the Fund Shares and transaction costs;

**"Implied Embedded Option Value Determination Date"** means the date determined by the Calculation Agent to be the first date on which it is possible to determine the Implied Embedded Option Value following the occurrence of an Extraordinary Fund Event for which the Issuer or, as the case may be, the Guarantor determines the relevant action is to be Termination (as defined below);

**"Initial Calculation Date"** means the date specified as such in the Applicable Transaction Terms, or if not so specified, the Hedging Date;

**"Merger Event"** means, in respect of any relevant Shares and Entity (as defined below), any (i) reclassification or change of such Shares that results in a transfer of or an irrevocable commitment to transfer all of such Shares outstanding to another entity or person, (ii) consolidation, amalgamation, merger or binding share/unit/interest exchange of an Entity with or into another entity or person (other than a consolidation, amalgamation, merger or binding share/unit/interest exchange in which such Entity, is the continuing entity and which does not result in a reclassification or change of all of such Shares outstanding), (iii) takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person to purchase or otherwise obtain 100 per cent. of the outstanding Shares of an Entity that results in a transfer of or an irrevocable commitment to transfer all such Shares (other than such Shares owned or controlled by such other entity or person), or (iv) consolidation, amalgamation, merger or binding share/unit/interest exchange of an Entity or its subsidiaries with or into another entity in which the Entity is the continuing entity and which does not result in a reclassification or change of all such Shares outstanding but results in the outstanding Shares (other than Shares owned or controlled by such other entity) immediately prior to such event collectively representing less than 50 per cent. of the outstanding Shares immediately following such event, in each case if the Extraordinary Fund Event Effective Date, as determined by the Calculation Agent, is on or before the Final Calculation Date. For the purposes of this definition **"Merger Event"** only, **"Shares"** shall mean the applicable Fund Shares or the shares of any applicable Fund Service Provider, as the context may require, and **"Entity"** shall mean the applicable Fund or any applicable Fund Service Provider, as the context may require;

**"Mutual Fund"** means the mutual fund(s) specified as such in the Applicable Transaction Terms;

**"NAV per Fund Share"** means, with respect to the relevant Fund Shares and the Fund Reporting Date relating to such Fund Shares, (i) the net asset value per Fund Share as of the relevant Fund Valuation Date, as reported on such Fund Reporting Date by the Fund Service Provider that generally publishes or reports such value on behalf of the Fund to its investors or a publishing service, or (ii) if the Fund Service Provider of the Fund publishes or reports only the aggregate net asset value of the Fund Shares (the **"Aggregate Fund Shares NAV"**), the net asset value per Fund Share calculated by the Calculation Agent on the basis of such aggregate net asset value of the Fund Shares divided by the number of Fund Shares issued and outstanding as of the relevant Fund Valuation Date;

**"NAV Trigger Event"** means, in respect of the Fund Shares, that (i) the NAV per Fund Share has decreased by an amount equal to, or greater than, the NAV Trigger Percentage(s) at any time during the related NAV Trigger Period, or (ii) the Fund has violated any leverage restriction that is applicable to, or affecting, such Fund or its assets by operation of any law, any order or judgement of any court or other agency of

government applicable to it or any of its assets, the Fund Documents or any other contractual restriction binding on or affecting the Fund or any of its assets;

**"NAV Trigger Percentage"** means the percentage specified in the Applicable Transaction Terms or, if not so specified, with respect to (i) a Mutual Fund, 50 per cent., or (ii) a Hedge Fund, 50 per cent.;

**"NAV Trigger Period"** means the period specified in the Applicable Transaction Terms, or if not so specified the period from and including the Initial Calculation Date to and including the Final Calculation Date;

**"Non-Principal Protected Termination Amount"** means an amount per Security determined by the sum of:

- (i) the Implied Embedded Option Value; and
- (ii) if delayed redemption on Occurrence of an Extraordinary Fund Event is specified as being applicable in the applicable Applicable Transaction Terms, the Simple Interest;

**"Number of NAV Publication Days"** means the number of calendar days specified in the applicable Applicable Transaction Terms or if not so specified, with respect to (i) a Mutual Fund, 5 calendar days, or (ii) a Hedge Fund, 10 calendar days;

**"Principal Protected Termination Amount"** means an amount per Fund Linked Note determined as the sum of:

- (i) the Protected Amount;
- (ii) the Implied Embedded Option Value; and
- (iii) if delayed redemption on Occurrence of an Extraordinary Fund Event is specified as being applicable in the applicable Applicable Transaction Terms, the Simple Interest;

**"Protected Amount"** means the amount specified as such in the Applicable Transaction Terms;

**"Private Equity Fund"** means the private equity fund(s) specified as such in the Applicable Transaction Terms;

**"Simple Interest"** means an amount calculated by the Calculation Agent equal to the amount of interest that would accrue on the Implied Embedded Option Value during the period from (and including) the Implied Embedded Option Value Determination Date to (and including) the Final Calculation Date calculated on the basis that such interest were payable by the Floating Rate Payer under an interest rate swap transaction incorporating the 2006 ISDA Definitions under which:

- (A) the "Effective Date" is the Implied Embedded Option Value Determination Date;

- (B) the "Termination Date" is the Termination Date;
- (C) the "Floating Rate Payer Payment Date" is the Termination Date;
- (D) the "Floating Rate Option" is EUR-EURIBOR-Reuters (if the Settlement Currency is EUR) or USD-LIBOR-BBA (if the Settlement Currency is USD);
- (E) the "Designated Maturity" is 3 months;
- (F) the "Simple Interest Spread" is as specified in the Applicable Transaction Terms, or if not so specified minus 0.125 per cent.;
- (G) the "Floating Rate Day Count Fraction" is Actual/360;
- (H) the "Reset Date" is the Implied Embedded Option Value Determination Date and each date falling three calendar months after the previous Reset Date; and
- (I) "Compounding" is "Inapplicable";

**"Tender Offer"** means a takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person that results in such entity or person purchasing, or otherwise obtaining or having the right to obtain, by conversion or other means, greater than 50 per cent. and less than 100 per cent. of the outstanding voting shares, units or interests of the Fund or Fund Service Provider, as determined by the Calculation Agent, based upon the making of filings with governmental or selfregulatory agencies or such other information as the Calculation Agent deems relevant;

**"Termination Amount"** means the amount specified in the Applicable Transaction Terms or if not so specified, (x) the Principal Protected Termination Amount, or (y) the Non-Principal Protected Termination Amount, as specified in the Applicable Transaction Terms;

**"Termination Date"** means (i) the date specified in the applicable Final Terms, or (ii) if Delayed Redemption on the occurrence of an Extraordinary Fund Event is specified as being applicable in the relevant Applicable Transaction Terms, such delayed date as will be specified by the Issuer in a notice to Holders in accordance with Condition 15 (*Notices*), hereof; and

**"Trade Date"** has the meaning given to it in the Applicable Transaction Terms.

## 2. **Extraordinary Fund Events**

Subject to the provisions of Fund Linked Note Condition 3 (*Determination of Extraordinary Fund Events*), **"Extraordinary Fund Event"** means the occurrence or continuance at any time on or after the Trade Date of any of the following events as determined by the Calculation Agent:

### **Global Events:**

2.1 the Fund or any Fund Service Provider:

- (i) ceases trading and/or, in the case of a Fund Service Provider, ceases administration, portfolio management, investment services, custodian, prime brokerage, or any other relevant business (as applicable);
- (ii) is dissolved or has a resolution passed for its dissolution, winding-up, official liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (iii) makes a general assignment or arrangement with or for the benefit of its creditors;
- (iv) (1) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official, or (2) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in sub-clause (iv) (1) above and either (x) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (y) is not dismissed, discharged, stayed or restrained, in each case within fifteen days of the institution or presentation thereof;
- (v) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (vi) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not immediately dismissed, discharged, stayed or restrained; or
- (vii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an effect analogous to any of the events specified in sub-clauses (i) to (vi) above; or

2.2 the occurrence of a Merger Event or Tender Offer;

**Litigation/Fraudulent Activity Events:**

2.3 there exists any litigation against the Fund or a Fund Service Provider which in the sole and absolute discretion of the Calculation Agent could materially affect the value of the Fund Shares or the rights or remedies of any investor in such Fund Shares; or

2.4

- (i) an allegation of criminal or fraudulent activity is made in respect of the Fund, or any Fund Service Provider, or any employee of any such entity, or the Calculation Agent reasonably determines that any such criminal or fraudulent activity has occurred, or
- (ii) any investigative, judicial, administrative or other civil or criminal proceedings is commenced or is threatened against the Fund, any Fund Service Provider or any key personnel of such entities if such allegation, determination, suspicion or proceedings could, in the sole and absolute discretion of the Calculation Agent, materially affect the value of the Fund Shares or the rights or remedies of any investor in such Fund Shares;

**Fund Service Provider/Key Person Events:**

2.5

- (i) a Fund Service Provider ceases to act in such capacity in relation to the Fund and is not immediately replaced in such capacity by a successor acceptable to the Calculation Agent and/or
- (ii) any event occurs which causes, or will with the passage of time (in the opinion of the Calculation Agent) cause, the failure of the Fund and/or any Fund Service Provider to meet or maintain any obligation or undertaking under the Fund Documents which failure is reasonably likely to have an adverse impact on the value of the Fund Shares or on the rights or remedies of any investor in such Fund Shares; or

2.6 one or more of the key individuals involved with, or having supervision over, the Fund or a Fund Service Provider ceases to act in such capacity, and the relevant Fund Service Provider fails to appoint a replacement having similar qualifications to those of the key individual or individuals ceasing to act;

**Modification Events:**

2.7 a material modification of or deviation from any of the investment objectives, investment restrictions, investment process or investment guidelines of the Fund (howsoever described, including the underlying type of assets in which the Fund invests), from those set out in the Fund Documents, or any announcement



regarding a potential modification or deviation, except where such modification or deviation is of a formal, minor or technical nature;

- 2.8 a material modification, cancellation or disappearance (howsoever described), or any announcement regarding a potential future material modification, cancellation or disappearance (howsoever described), of the type of assets (i) in which the Fund invests, or (ii) the Fund purports to track;
- 2.9 a material modification, or any announcement regarding a potential future material modification, of the Fund (including but not limited to a material modification of the Fund Documents or to the Fund's liquidity terms) other than a modification or event which does not affect the Fund Shares or the Fund or any portfolio of assets to which the Fund Share relates (either alone or in common with other Fund Shares issued by the Fund);
- 2.10 the creation by the Fund of any illiquid share class or unit howsoever described;
- 2.11 the currency denomination of the Fund Shares is amended from that set out in the Fund Documents so that the NAV per Fund Share is no longer calculated in the same currency as it was as at the Trade Date;
- 2.12 if applicable, the Fund ceases to be an undertaking for collective investments under the legislation of its relevant jurisdiction; or
- 2.13 following the issue or creation of a new class or series (howsoever described in the Fund Documents) of shares or units by the Fund, the Calculation Agent determines taking into consideration the potential cross-liability between classes of shares or units (howsoever described in the Fund Documents) that such new class or series has or may have an adverse effect on the hedging activities of the Hedge Provider in relation to the Notes;

**NAV per Fund Share/AUM Level Events:**

- 2.14 a material modification of the method of calculating the NAV per Fund Share or, as the case may be, the Aggregate Fund Shares NAV;
- 2.15 any change in the periodicity of the calculation or the publication of the NAV per Fund Share or, as the case may be, the Aggregate Fund Shares NAV;
- 2.16 any suspension of the calculation or publication of the NAV per Fund Share or, as the case may be, the Aggregate Fund Shares NAV;
- 2.17 the occurrence of any event affecting a Fund Share that, in the sole and absolute discretion of the Calculation Agent, would make it impossible or impracticable for the Calculation Agent to determine the NAV per Fund Share;
- 2.18 any of the Fund, any Fund Service Provider or any other party acting on behalf of the Fund fails for any reason to calculate and publish the NAV per Fund Share or, as the case may be, the Aggregate Fund Shares NAV within the

Number of NAV Publication Days following any date scheduled for the determination of the valuation of the Fund Shares unless the cause of such failure to publish is of a technical nature and outside the immediate and direct control of the entity responsible for such publication;

- 2.19 any Fund Service Provider uses asset prices provided by the investment manager (howsoever described in the Fund Documents) to calculate the NAV per Fund Share or, as the case may be, the Aggregate Fund Shares NAV when such asset prices could have been obtained from independent sources and the asset prices from independent sources materially diverge from the asset prices provided by the investment manager (howsoever described in the Fund Documents);
- 2.20 the assets under management of the Fund falls below the AUM Level;
- 2.21 the Calculation Agent determines, at any time, that the NAV per Fund Share or, as the case may be, the Aggregate Fund Shares NAV is inaccurate, or (ii) the reported net asset value of the Fund Shares misrepresents the net asset value of the Fund Shares;
- 2.22 a NAV Trigger Event occurs; or
- 2.23 in the case of a Hedge Fund only, the audited net asset value of the Fund and/or the NAV per Fund Share or, as the case may be, the Aggregate Fund Shares NAV is different from the audited net asset value of the Fund and/or the NAV per Fund Share or, as the case may be, the Aggregate Fund Shares NAV communicated by the relevant Fund Service Provider in respect of the same date, (ii) the auditors of the Fund qualify any audit report, or refuse to provide an unqualified audit report, in respect of the Fund, and/or (iii) the Calculation Agent, in its sole and absolute discretion, does not deem the audited net asset value of the Fund and/or the NAV per Fund Share or, as the case may be, the Aggregate Fund Shares NAV to be representative of the actual net asset value of the Fund and/or the NAV per Fund Share or, as the case may be, the Aggregate Fund Shares NAV;

**Reporting Events:**

- 2.24 any failure of the Fund, or its authorised representative, to deliver or publish, or cause to be delivered or published, (i) information that the Fund has agreed to deliver or publish, or agreed to cause to be delivered or published, to the Calculation Agent or Hedge Provider, or (ii) information that has been previously delivered to the Hedge Provider or the Calculation Agent, as applicable, in accordance with the Fund's, or its authorised representative's, normal practice and that the Hedge Provider deems necessary for it or the Calculation Agent, as applicable, to monitor such Fund's compliance with any investment guidelines, asset allocation methodologies or any other similar policies relating to the Fund Share; or

- 2.25 any Fund Service Provider fails to provide the Calculation Agent, within a reasonable time, with any information that the Calculation Agent has reasonably requested regarding the investment portfolio or other activities or undertakings of the Fund;

**Tax/Law/Accounting/Regulatory Events:**

- 2.26 there is a change in or in the official interpretation or administration of any laws or regulations relating to taxation that has or is likely to have a material adverse effect on any hedging arrangements entered into by any Hedge Provider in respect of the Notes (a "**Tax Event**") and, subject as provided below, the Hedge Provider has, for a period of one calendar month following the day the relevant Tax Event became known to it, used reasonable efforts to mitigate the material adverse effect of the Tax Event by seeking to transfer such hedging arrangements to an affiliated company, provided that the Hedge Provider shall not under any circumstances be obliged to take any steps which would result in sustaining a loss or expense of any kind and the period set out above for such mitigation shall be deemed satisfied on any date it is or becomes apparent at any time that there is no practicable means of mitigating the Tax Event; or

2.27

- (i) any relevant activities of or in relation to the Fund or a Fund Service Provider are or become unlawful, illegal or otherwise prohibited in whole or in part as a result of compliance with any present or future law, regulation, judgment, order or directive of any governmental, administrative, legislative or judicial authority or power, or in the interpretation thereof, in any applicable jurisdiction (including, but not limited to, any cancellation, suspension or revocation of the registration or approval of the Fund by any governmental, legal or regulatory entity with authority over the Fund);
- (ii) a relevant authorisation or licence is revoked, lapses or is under review by a competent authority in respect of the Fund or a Fund Service Provider or new conditions are imposed, or existing conditions varied, with respect to any such authorisation or licence;
- (iii) the Fund is required by a competent authority to redeem any Fund Shares;
- (iv) the Hedge Provider is required by a competent authority or any other relevant entity to dispose of or compulsorily redeem any Fund Shares held in connection with any hedging arrangements relating to the Notes; and/or

- (v) any change in the legal, tax, accounting or regulatory treatment of the Fund or any Fund Service Provider that is reasonably likely to have an adverse impact on the value of the Fund Shares or other activities or undertakings of the Fund or on the rights or remedies of any investor in such Fund Shares, including any Hedge Provider;

**Hedging/Impracticality/Increased Costs Events:**

- 2.28 in connection with any hedging activities in relation to the Fund Linked Notes, as a result of any adoption of, or any change in, any law, order, regulation, decree or notice, howsoever described, after the Trade Date, or issuance of any directive or promulgation of, or any change in the interpretation, whether formal or informal, by any court, tribunal, regulatory authority or similar administrative or judicial body of any law, order, regulation, decree or notice, howsoever described, after such date or as a result of any other relevant event (each a "**Relevant Event**") (i) it would become unlawful or impractical for the Hedge Provider to hold (including, without limitation, circumstances requiring the Hedge Provider to modify any reserve, special deposit, or similar requirement or that would adversely affect the amount of regulatory capital that would have to be maintained in respect of any holding of Fund Shares or that would subject a holder of the Fund Shares or the Hedge Provider to any loss), purchase or sell the relevant Fund Shares or any underlying assets of or related to the Fund or for the Hedge Provider to maintain such hedging arrangements and, subject as provided below, the Hedge Provider has, for a period of one calendar week following the day the Relevant Event became known to it, used reasonable efforts to mitigate the effect of the Relevant Event by seeking to transfer such hedging arrangements to an affiliated company, provided that the Hedge Provider shall not under any circumstances be obliged to take any steps which would result in sustaining a loss or expense of any kind and the period of one calendar week set out above shall be deemed satisfied on any date it is or becomes at any time apparent that there is no practicable means of mitigating the Relevant Event;
- 2.29 in connection with the hedging activities in relation to the Fund Linked Notes, if the cost to the Hedge Provider in relation to the Fund Linked Notes and the related hedging arrangements (including, but not limited to, new or increased taxes, duties, expenses or fees) would be materially increased or the Hedge Provider would be subject to a material loss relating to the Fund Linked Notes and the related hedging arrangements;
- 2.30 in connection with the hedging activities in relation to the Fund Linked Notes, the Hedge Provider is unable or it becomes impractical for the Hedge Provider, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction or asset it deems necessary or appropriate to hedge the Issuer's obligations under the Notes; or (ii) to realise, recover or remit the proceeds of any such transaction or asset, including, without limitation, where such inability

or impracticability has arisen by reason of (A) any restrictions or increase in charges or fees imposed by the Fund on any investor's ability to redeem a Fund Share, in whole or in part, or any existing or new investor's ability to make new or additional investments in such Fund Share, or (B) any mandatory redemption, in whole or in part, of such Fund Share; or

- 2.31 at any time on or after the Trade Date, the Issuer or, as the case may be, the Guarantor would incur an increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, capital and/or funding costs, expense or fee (other than brokerage commissions) to maintain the Fund Linked Notes;

**Dealing Events:**

2.32

- (i) the non-execution or partial-execution by the Fund for any reason of a subscription or redemption order in respect of any Fund Shares (including, for the avoidance of any doubt, any non-execution by the Fund pending completion of its fiscal audit);
- (ii) the Fund suspends or refuses transfers of any of its Fund Shares (including, without limitation, if the Fund applies any gating, deferral, suspension or other similar provisions permitting the Fund to delay or refuse redemption or transfer of Fund Shares);
- (iii) the Fund imposes in whole or in part any restriction (including, without limitation, any redemption in specie), charge or fee in respect of a redemption or subscription of its Fund Shares by the Hedge Provider or exercises its right to claw back the proceeds already paid on redeemed Fund Shares, if in any case it could in the sole and absolute determination of the Calculation Agent have an adverse impact on the Hedge Provider's rights or obligations in relation to its hedging activities in relation to the Notes; or
- (iv) a mandatory redemption, in whole or in part, of the Fund Shares is imposed by the Fund on any one or more holders of Fund Shares at any time for any reason;

**Miscellaneous Events:**

- 2.33 the occurrence of any Additional Extraordinary Fund Event;
- 2.34 in the case of Fund Linked Notes linked to a Fund Basket, a Basket Trigger Event occurs;
- 2.35 the Fund or any Fund Service Provider defaults under, materially modifies, or terminates any rebate agreements in place with the Issuer, the Guarantor, the Hedge Provider or any of its affiliates;

- 2.36 if the Fund is part of an umbrella structure with more than one sub-fund, a crosscontamination or other failure to segregate the portfolio of assets held by the Fund occurs between different series, classes and/or sub-funds;
- 2.37 any security granted by the Fund or any Fund Service Provider over any of its assets is enforced or becomes capable of being enforced or any arrangement which in the determination of the Calculation Agent is comparable to security over any such assets (including without limitation any repo or prime brokerage arrangement) becomes enforceable or capable of early termination or any derivatives, repo, securities lending or other trading or dealing arrangement relating to the assets of the Fund becomes enforceable or terminable early by reason of any event of default (howsoever described) relating to the Fund or the relevant Fund Service Provider; or
- 2.38 the long-term unsecured, unsubordinated and unguaranteed debt rating assigned to any Fund Service Provider or any parent company (howsoever described) of the Fund, by Moody's Investors Service Inc., or any successor to the ratings business thereof ("**Moody's**"), and/or Standard and Poor's Rating Group (a division of McGraw-Hill, Inc.), or any successor to the ratings business thereof ("**S&P**"), is downgraded below A (S&P) or A2 (Moody's) and/or the short-term unsecured, unsubordinated and unguaranteed debt rating assigned to any Fund Service Provider by Moody's or S&P is downgraded below A-1 (S&P) or P-1 (Moody's).

References solely in this Fund Security Condition 2 (*Extraordinary Fund Events*) to:

- (i) "**Fund**" shall include the Fund and any funds in which it invests any of its investible assets from time to time;
- (ii) "**Fund Shares**" shall include the Fund Shares and the shares or units in any Fund (as defined in paragraph (i) above); and
- (iii) in the case of a Private Equity Fund only, "**Extraordinary Fund Event**" shall have the meaning given to it in the Applicable Transaction Terms.

### 3. **Determination of Extraordinary Fund Events**

The Calculation Agent will determine if an Extraordinary Fund Event has occurred acting in good faith and in a commercially reasonable manner. Where the occurrence of an event or set of circumstances is capable of triggering more than one Extraordinary Fund Event, the Issuer or, as the case may be, the Guarantor may determine which Extraordinary Fund Event is to be triggered, in its sole and absolute discretion.

In considering whether the occurrence of an event or set of circumstances triggers an Extraordinary Fund Event, the Calculation Agent may have regard to the combined

effect, from the Trade Date, of any event or set of circumstances, as the case may be, if such event or set of circumstances occurs more than once.

#### 4. **Consequences of an Extraordinary Fund Event**

- 4.1 If the Calculation Agent determines that an Extraordinary Fund Event has occurred, the Issuer or, as the case may be, the Guarantor shall, as soon as reasonably practicable after having been notified of such determination by the Calculation Agent, give notice ("**Extraordinary Fund Event Notice**") to the Holders in accordance with Condition 15 (*Notices*) (which notice shall be irrevocable), of the occurrence of such Extraordinary Fund Event (the date on which an Extraordinary Fund Event Notice is given, an "**Extraordinary Fund Event Notification Date**") and set out, if determined at that time, the action that it has determined to take in respect of the Extraordinary Fund Event pursuant to Fund Linked Note Condition 4.2 below. Where the action that the Issuer or, as the case may be, the Guarantor has determined to take is not, for whatever reason, set out in the Extraordinary Fund Event Notice, the action that the Issuer or, as the case may be, the Guarantor has determined to take shall be set out in a subsequent notice given to Holders in accordance with Condition 15 (*Notices*) as soon as reasonably practicable after the Extraordinary Fund Event Notification Date.

For such purposes, an Extraordinary Fund Event shall be considered to be "continuing" if it has not been remedied to the reasonable satisfaction of the Issuer or, as the case may be, the Guarantor.

The Issuer or, as the case may be, the Guarantor shall provide Holders with an Extraordinary Fund Event Notice as soon as reasonably practicable following the determination of an Extraordinary Fund Event. However, neither the Issuer, the Guarantor nor the Calculation Agent shall be responsible for any loss, underperformance or opportunity cost suffered or incurred by any Holder or any other person in connection with the Notes as a result of any delay, howsoever arising. If the Issuer or, as the case may be, the Guarantor gives an Extraordinary Fund Event Notice, it shall have no obligation to make any payment or delivery in respect of the Fund Linked Notes until it has determined the action that it has determined to take pursuant to Fund Linked Note Condition 4.2 below.

- 4.2 Following the occurrence of an Extraordinary Fund Event, the Issuer or, as the case may be, the Guarantor in its sole and absolute discretion, may take the action described below in (a), (b), (c) or (d).

(a) **No Action**

If the Issuer, or as the case may be, the Guarantor in its sole and absolute discretion, determines that the action to be taken in respect of the Extraordinary Fund Event is to be "**No Action**", then the Fund Linked Notes shall continue and there shall be no amendment to the Terms and Conditions and/or the Applicable Transaction Terms.

(b) **Adjustment**

If the Issuer, or as the case may be, the Guarantor in its sole and absolute discretion, determines that the action to be taken in respect of the Extraordinary Fund Event is to be "**Adjustment**", then the Calculation Agent acting on instructions from the Issuer (or, as the case may be, the Guarantor) may determine, in its sole and absolute discretion, the appropriate adjustment(s), if any, to be made to any of the terms of these Terms and Conditions and/or the Applicable Transaction Terms (including adjusting any Fee) to take account of the economic effect of the Extraordinary Fund Event and determine the effective date of such adjustment.

(c) Substitution

If the Issuer, or as the case may be, the Guarantor in its sole and absolute discretion, determines that the action in respect of the Extraordinary Fund Event is to be "**Substitution**", the Calculation Agent shall:

- (i) determine the weighted average price at which a Hypothetical Investor can redeem the Fund Shares in the relevant Fund in such number as determined by the Calculation Agent in its sole and absolute discretion as soon as it is reasonably practicable following the Extraordinary Fund Event;
- (ii) for a period of not longer than 14 calendar days following the date on which a Hypothetical Investor would have received proceeds from a redemption order in full submitted by the Hedge Provider as soon as practicable following the occurrence of an Extraordinary Fund Event, use reasonable efforts to substitute the Fund Shares with shares, units or other similar interests in an alternative fund which, in the sole and absolute determination of the Calculation Agent, has similar characteristics to the relevant Fund, including but not limited to, comparable investment objectives, investment restrictions and investment processes and has service providers acceptable to the Calculation Agent;
- (iii) if no alternative fund can be determined pursuant to the preceding sub-paragraph (ii) above, use reasonable efforts to substitute the Fund with an index (or a fund tracking such index) selected by the Calculation Agent in its sole and absolute discretion; and
- (iv) following any substitution in accordance with sub-paragraph (ii) or (iii) above, the Issuer or, as the case may be, the Guarantor may, in its sole and absolute discretion, require the Calculation Agent make such determinations and/or adjustments to these Terms and Conditions and/or the Applicable Transaction Terms as it determines to be appropriate to take account of such Substitution.



(d) Termination

If the Issuer or, as the case may be, the Guarantor determines that the action to be taken in respect of the Extraordinary Fund Event is to be "**Termination**", on giving notice to Holders in accordance with Condition 15 (*Notices*) (which such notice may be included in the Extraordinary Fund Event Notice in respect of the relevant Extraordinary Fund Event) the outstanding Fund Linked Notes shall be redeemed by payment of the Termination Amount on the Termination Date. Payments will be made in such manner as shall be notified to the Holders in accordance with Condition 15 (*Notices*).

(e) General

In determining to take a particular action as a result of an Extraordinary Fund Event, neither the Issuer nor the Guarantor is under any duty to consider the interests of Holders or any other person. In making any determination as to which action to take following the occurrence of an Extraordinary Fund Event, neither the Issuer, the Guarantor nor the Calculation Agent shall be responsible for any loss (including any liability in respect of interest), underperformance or opportunity cost suffered or incurred by Holders or any other person in connection with the Fund Linked Notes as a result of any such determination, howsoever such loss may arise including as a result of any delay in making any payment or delivery in respect of the Fund Linked Notes.

5. **Maturity Date/Termination Date Extension**

If on the date falling two Business Days prior to the originally designated Maturity Date or Termination Date, as the case may be, the Hedge Provider has not, after having placed one or more redemption orders in respect of its holding of Fund Shares in accordance with the terms of the relevant Fund Documents, received redemption proceeds in full in respect of such Fund Shares (the "**Redemption Proceeds**"), the Calculation Agent may postpone the Maturity Date or Termination Date, as the case may be, and notify the Holders thereof in accordance with Condition 15 (*Notices*).

As soon as practicable following receipt by the Hedge Provider of the Redemption Proceeds the Calculation Agent shall give notice to Holders in accordance with Condition 15 (*Notices*) (such notice the "**Delayed Payment Notice**") and each Fund Linked Note shall be redeemed on the date specified in the Delayed Payment Notice (such date, the "**Postponed Settlement Date**") at its Redemption Amount.

## PRO FORMA FINAL TERMS OR PRICING SUPPLEMENT

*The [Pricing Supplement/Final Terms] in respect of each Tranche of Notes will be substantially in the following form, duly supplemented (if necessary), amended (if necessary) and completed to reflect the particular terms of the relevant Notes and their issue. Text in this section appearing in italics does not form part of the form of the [Pricing Supplement/Final Terms] but denotes directions for completing the [Pricing Supplement/Final Terms].*

[Pricing Supplement/Final Terms] dated [ ]

**[Banesto Financial Products plc/Name of Subordinated Issuer]**

Issue of [Aggregate Nominal Amount of Tranche] [Title of Notes]

Guaranteed by

**BANCO ESPAÑOL DE CRÉDITO, S.A.**

under the

**EUR 10,000,000,000 Euro Medium Term Note Programme**

### **PART A - CONTRACTUAL TERMS**

Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Offering Circular dated 24 February 2012 [and the supplemental Base Prospectus dated [ ] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive 2003/71/EC (the "**Prospectus Directive**")]/[and the supplement to the Listing Particulars dated [ ] which [together] constitute[s] listing particulars for the purposes of the listing and admission to trading rules of the Irish Stock Exchange]. This document constitutes the [Pricing Supplement/Final Terms] of the Notes described herein for the purposes of [Article 5.4 of the Prospectus Directive/the Listing Rules]. [This Pricing Supplement/These Final Terms] contain the [pricing supplement/final terms] of the Notes and must be read in conjunction with such [Base Prospectus/Listing Particulars] [as so supplemented]. **Prospective investors should note that investing in the Notes entails certain risks including (without limitation) the risk that the Issue Price may be greater than the market value of the Notes [and the risk that the Calculation Agent may exercise its discretion in such a way as to affect amounts due and payable under the Notes and/or their Maturity Date]. For a more detailed description of certain of the risks involved, see "Risk Factors" on pages 22 to 42 of the Offering Circular.**

Full information on the Issuer, the Guarantor and the offer of the Notes described herein is only available on the basis of the combination of [this Pricing Supplement/these Final Terms] and the [Base Prospectus/Listing Particulars] [as so supplemented]. The [Base Prospectus/Listing Particulars] [and the supplemental Base Prospectus/Listing Particulars] [is] [are] available for viewing at [website] [and] during normal business hours at [address] [and copies may be obtained from [address]].

*The following alternative language applies if the first tranche of an issue which is being increased was issued under an Offering Circular with an earlier date and the relevant terms and conditions from that offering circular with an earlier date were incorporated by reference in this Offering Circular.*

Terms used herein shall be deemed to be defined as such for the purposes of the [date] Conditions incorporated by reference in the Offering Circular dated 24 February 2012. [This Pricing Supplement/These Final Terms] contain the applicable terms of the Notes and must be read in conjunction with the Base Prospectus dated 24 February 2012 [and the supplemental Base Prospectus dated [ ] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive 2003/71/EC (the "**Prospectus Directive**")]/[and the supplement to the Listing Particulars dated [ ] which [together] constitute[s] listing particulars for the purposes of the listing and admission to trading rules of the Irish Stock Exchange, save in respect of the conditions which are set forth in the [offering circular/base prospectus dated [original date] and are incorporated by reference in the Offering Circular. This document constitutes the [Final Terms/Pricing Supplement] of the Notes described herein for the purposes of [Article 5.4 of the Prospectus Directive/the Listing Rules].

Full information on the Issuer, the Guarantor and the offer of the Notes is only available on the basis of the combination of these [Final Terms/Pricing Supplement] and the [Base Prospectuses/Offering Circular] dated [original date] and the Offering Circular dated 24 February 2012 [and the supplemental Base Prospectuses dated [ ] and [ ] /and the supplement to the Listing Particulars dated [ ]. The [Base Prospectuses/Offering Circular] [and the supplemental Base Prospectuses/Listing Particulars] are available for viewing [at [website]] [and] during normal business hours at [address] [and copies may be obtained from [address].]

*[Include whichever of the following apply or specify as "Not applicable" (N/A). Note that the numbering should remain as set out below, even if "Not applicable" is indicated for individual paragraphs or sub-paragraphs. Italics denote guidance for completing the [Pricing Supplement/Final Terms.]*

*[When completing any [pricing supplement/final terms], or adding any other final terms or information, consideration should be given as to whether such terms or information constitute "significant new factors" and consequently trigger the need for a supplement to the Offering Circular under Article 16 of the Prospectus Directive/Listing Particulars.]*

1. (i) Issuer: Banesto Financial Products plc
- (ii) Guarantor: Banco Español de Crédito, S.A.
2. (i) [Series Number:] [ ]
- (ii) [Tranche Number:] [ ]

*(If fungible with an existing Series, details of that Series, including the date on which the Notes become*

*fungible).*]

3. Specified Currency or Currencies: [ ]
4. Aggregate Nominal Amount of Notes:
- (i) [Series:] [ ]
- (ii) [Tranche:] [ ]]
5. Issue Price: [ ] per cent. of the Aggregate Nominal Amount [plus accrued interest from *[insert date]*(*in the case of fungible issues only, if applicable*)]
6. (i) Specified Denominations: [ ]

*Notes may only be issued which have a minimum denomination equal to or above the amount set out at Article 3(2)(d) of Prospectus Directive 2003/71/EC, as the same may be amended from time to time, including as amended by the 2010 PD Amending Directive.*

*[Note - where multiple denominations are being used and Notes are not being issued in registered form, the following sample wording should be followed: [EUR 100,000] and integral multiples of [EUR 1,000] in excess thereof up to and including [EUR 199,000]. No Notes in definitive form will be issued with a denomination above [EUR 199,000].*

So long as the Notes are represented by a Temporary Global Note or a Permanent Global Note and the relevant clearing systems so permit, the Notes will be tradable only in the minimum authorised denomination of [EUR 100,000] and higher integral multiples of [EUR 1,000], notwithstanding that no definitive notes will be issued with a denomination above [EUR 199,000].]

- (ii) Calculation Amount: *[the Specified Denomination]*

*[If there are several Specified Denominations, insert the highest common factor of those Specified Denominations (note: there must be a common factor of two or more Specified Denominations).]*

7. (i) Issue Date: [ ]
- (ii) Interest Commencement Date (if different from the Issue Date): *[Specify/Issue Date/Not applicable]*
8. Maturity Date: *[Specify date or (for Floating Rate Notes) Interest Payment Date falling in or nearest to the relevant month and year]*
- [If the Maturity Date is less than one year from the Issue Date and either (a) the issue proceeds are received by the Issuer in the United Kingdom, or (b) the activity of issuing the Notes is carried on from an establishment maintained by the Issuer in the United Kingdom, (i) the Notes must have a minimum redemption value of £100,000 (or its equivalent in other currencies) and be sold only to "professional investors" or (ii) another applicable exemption from section 19 of the FSMA must be available.]*
- [If the Maturity Date is less than one year from the Issue Date the Notes must comply with the Central Bank's notice by the Central Bank of Ireland of exemptions granted under section 8(2) of the Central Bank Act, 1971 as amended (BSD C01/02) and, inter alia, (a) have a minimum Specified Denomination of Euro 125,000 and (b) be rated at least investment grade by an internationally recognised rating agency. In addition such Notes must bear the following legend:*
- "An investment in the Notes does not have the status of a bank deposit and does not have the protection of the deposit protection scheme operated by the Central Bank of Ireland. The Issuer is not regulated by the Central Bank of Ireland by virtue of the issue of the Notes."*
9. Interest Basis: [ [ ] per cent. Fixed Rate]
- [ [Specify reference rate] +/- [ ] per cent. Floating Rate]
- [Index/Equity/Fund Linked Interest]
- [Variable Coupon Amount]
- [Other (Specify)]
- (further particulars specified below)

10. Redemption/Payment basis: [Redemption at par]  
[Index / Equity / Fund Linked Redemption]  
[Dual Currency]  
[Partly Paid]  
[Instalment]  
[Other (*specify*)]
11. Change of Interest or Redemption/Payment Basis: [*Specify details of any provision for convertibility of Notes into another interest or redemption/ payment basis*]
12. Put/Call Options: [Investor Put]<sup>1</sup>  
[Issuer Call]  
[(further particulars specified below)]
13. (i) [Status of the Notes:] [Senior/Subordinated]. Condition [4(a)/4(c)] applies.  
(ii) [Status of the Guarantee:] [Senior/Subordinated]  
(iii) [Date [Board] approval for issuance of Notes [and Guarantee] [respectively]] [ ] [and [ ]], respectively  
(*N.B. Only relevant where Board (or similar) authorisation is required for the particular tranche of the Notes or related Guarantee*)
14. Method of distribution: [Syndicated/Non-syndicated]

#### **PROVISIONS RELATING TO INTEREST (IF ANY) PAYABLE**

15. **Fixed Rate Note Provisions** [Applicable/Not applicable]  
(*if not applicable, delete the remaining sub-paragraphs of this paragraph*)
- (i) Rate[(s)] of Interest: [ ] per cent. per annum [payable [annually/semi-annually/quarterly/monthly/other/(*specify*)] in arrear]
- (ii) Interest Payment Date(s): [ ] in each year [adjusted in accordance with [*specify Business Day Convention and any applicable Business Day Jurisdictions for Condition 8 (h)*]]/ [not adjusted]
- (iii) Fixed Coupon Amount[(s)]: [ ] per Calculation Amount
- (iv) Broken Amount(s): [ ] per Calculation Amount, payable on the Interest Payment Date falling [in/on] [ ].
- (v) Day Count Fraction: [30/360]/[Actual/Actual (ICMA/ISDA)]/ other]

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<sup>1</sup> Not applicable in the case of Subordinated Notes.

- (vi) Other terms relating to the method of calculating interest for Fixed Rate Notes: [Not applicable/*give details*]
16. **Floating Rate Note Provisions** [Applicable/Not applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Interest Period(s): [ ]
- (ii) Specified Period: [ ]  
*(Specified Period and Specified Interest Payment Dates are alternatives. A Specified Period, rather than Specified Interest Payment Dates, will only be relevant if the Business Day Convention is the FRN Convention, Floating Rate Convention or Eurodollar Convention. Otherwise, insert "Not applicable")*
- (iii) Specified Interest Payment Dates: [ ]  
*(Specified Period and Specified Interest Payment Dates are alternatives. If the Business Day Convention is the FRN Convention, Floating Rate Convention or Eurodollar Convention, insert "Not applicable")*
- (iv) [First Interest Payment Date:] [ ]
- (v) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/ Preceding Business Day Convention/ other (*give details*)]
- (vi) Additional Business Centre(s): [Not applicable/*give details*]
- (vii) Manner in which the Rate(s) of Interest is/are to be determined: [Screen Rate Determination/ISDA Determination/ other (*give details*)]
- (viii) Party responsible for calculating the Rate(s) of Interest and/or Interest Amount(s) (if not the [Fiscal Agent]): *[[Name] shall be the Calculation Agent (no need to specify if the Fiscal Agent is to perform this function)]*
- (ix) Screen Rate Determination:

- Reference Rate: [For example, *LIBOR or EURIBOR*]
  - Interest Determination Date(s): [ ]
  - Relevant Screen Page: [For example, *Reuters LIBOR 01/ EURIBOR 01*]
  - Relevant Time: [For example, *11.00 a.m. London time/Brussels time*]
  - Relevant Financial Centre: [For example, *London/Euro-zone (where Euro-zone means the region comprised of the countries whose lawful currency is the euro)*]
- (x) ISDA Determination:
- Floating Rate Option: [ ]
  - Designated Maturity: [ ]
  - Reset Date: [ ]
- (xi) Margin(s): [ +/– ][ ] per cent., per annum
- (xii) Minimum Rate of Interest: [ ] per cent. per annum
- (xiii) Maximum Rate of Interest: [ ] per cent. per annum
- (xiv) Day Count Fraction: [ ]
- (xv) Fall back provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest on Floating Rate Notes, if different from those set out in the Conditions: [ ]
17. **Fund Linked Note Provisions** [Applicable/Not applicable]
- (i) Fund/Fund Basket: [specify]  
[The [ ] Fund is a Mutual Fund]  
[The [ ] Fund is a Hedge Fund]  
[The [ ] Fund is a Private Equity Fund]
- (ii) Listing of the Fund: [specify]
- (iii) Authorisation of the Fund: [specify where the Fund is authorised]
- (iv) Fund Share(s): [specify]



(v)	Fund Documents:	[As per Conditions]/[specify]
(vi)	Fund Business Day:	[All Fund Share Basis/Per Fund Share Basis/Single Fund Share Basis]
(vii)	Trade date:	[ ]
(viii)	Fund Service Provider:	[As per Conditions]/[specify]
(ix)	Calculation Date(s):	[As per Conditions]/[specify]
(x)	Initial Calculation Date:	[specify]/[Not applicable]
(xi)	Final Calculation Date:	[specify]/[Not applicable]
(xii)	Hedging Date:	[specify]/[Not applicable]
(xiii)	AUM Level:	[specify]/[Not applicable]
(xiv)	NAV Trigger Percentage:	[As per Conditions]/[specify]
(xv)	NAV Trigger Period:	[specify]
(xvi)	Number of NAV Publication Days:	[specify]
(xvii)	Basket Trigger Level:	[As per Conditions]/[specify]
(xviii)	Extraordinary Fund Event (in the case of a Private Equity Fund only):	[specify]
(xix)	Optional Additional Disruption Event(s):	[specify]
(xx)	Additional Extraordinary Fund Event(s):	[specify]
(xxi)	Fee:	[specify]/[Not applicable]
(xxii)	Termination Amount:	[Principal Protected Termination Amount]/[Non-Principal Protected Termination Amount]/[As per Conditions]/[specify]
(xxiii)	Simple Interest Spread:	[As per Conditions]/[specify]
(xxiv)	Termination Date:	[specify]
(xxv)	Delayed Redemption on the Occurrence of an Extraordinary Fund Event:	[Applicable/Not applicable]
(xxvi)	Delayed Payment Cut-Off	[specify]

Date:

- |          |  |  |
|----------|--|--|
| (xxvii)  | [Weighting:  | The weighting to be applied to each Fund Share comprising the Fund Basket is <i>[specify]</i> ]  |
| (xxviii) | Protected Amount:  | <i>[specify]</i>   |
| (xxix)   | Calculation Agent:   | [ ]  |
| (xxx)    | Other terms or special conditions:   | [Not applicable]/ <i>[specify]</i>   |
| 18.      | <b>Index-Linked Interest Note/<br/>other variable-linked interest<br/>Note Provisions</b>  | [Applicable/Not applicable]<br><i>(If not applicable, delete the remaining sub-paragraphs of this paragraph)</i>   |
| (i)      | Equity/ Index / Formula/<br>other variable:  | <i>[give or annex details]</i>   |
| (ii)     | Calculation Agent<br>responsible for calculating<br>the interest due:  | [ ]  |
| (iii)    | Provisions for determining<br>Coupon where calculation<br>by reference to Equity<br>and/or Index and/or<br>Formula and/or other<br>variable:   | [ ]  |
| (iv)     | Interest Determination<br>Date(s):   | [ ]  |
| (v)      | Provisions for determining<br>Coupon where calculation<br>by reference to Equity<br>and/or Index and/or<br>Formula and/or other<br>variable is impossible or<br>impracticable or otherwise<br>disrupted: | [ ]  |
| (vi)     | Interest or calculation<br>period(s):  | [ ]  |
| (vii)    | Specified Period:  | [ ]<br><i>(Specified Period and Specified Interest Payment<br/>Dates are alternatives. A Specified Period, rather<br/>than Specified Interest Payment Dates, will only be<br/>relevant if the Business Day Convention is the FRN</i> |

*Convention, Floating Rate Convention or Eurodollar Convention. Otherwise, insert "Not applicable")*

- (viii) Specified Interest Payment Dates: ☐ *(Specified Period and Specified Interest Payment Dates are alternatives. If the Business Day Convention is the FRN Convention, Floating Rate Convention or Eurodollar Convention, insert "Not applicable")*
- (ix) Business Day Convention: ☐ [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other *(give details)*]
- (x) Additional Business Centre(s): ☐ [ ]
- (xi) Minimum Rate/Amount of Interest: ☐ [ ] per cent. per annum
- (xii) Maximum Rate Amount of Interest: ☐ [ ] per cent. per annum
- (xiii) Day Count Fraction ☐ [ ]
- 19. **Dual Currency Note Provisions** ☐ [Applicable/Not applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
  - (i) Rate of Exchange/method of calculating Rate of Exchange: ☐ [give details]
  - (ii) Calculation Agent, if any, responsible for calculating the principal and/or interest due: ☐ [ ]
  - (iii) Provisions applicable where calculation by reference to Rate of Exchange impossible or impracticable: ☐ [ ]
  - (iv) Person at whose option Specified Currency(ies) is/are payable: ☐ [ ]

## PROVISIONS RELATING TO REDEMPTION

20. **Call Option** [Applicable/Not applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption [ ]  
Date(s) (Call):
- (ii) Optional Redemption [ ] per Calculation Amount  
Amount(s) of each Note and  
method, if any, of  
calculation of such  
amount(s):
- (iii) If redeemable in part:
- (a) Minimum [ ] per Calculation Amount  
Redemption  
Amount:
- (b) Maximum [ ] per Calculation Amount  
Redemption  
Amount:
- (iv) Notice period [ ]
21. **Put Option** [Applicable/Not applicable]<sup>2</sup>  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption [ ]  
Date(s) (Put):
- (ii) Optional Redemption [ ] per Calculation Amount  
Amount(s) of each Note and  
method, if any, of  
calculation of such  
amount(s):
- (iii) Notice period: [ ]
22. **Final Redemption Amount of each Note** [[ ] per Calculation Amount]
- In cases where the Final  
Redemption Amount is Index-

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<sup>2</sup> Not applicable in the case of Subordinated Notes.

Linked, Fund Linked or other variable-linked:

- (i) Equity/Index/Formula/  
Fund/other variable: [give or annex details]
- (ii) Calculation Agent responsible for calculating the Final Redemption Amount: [ ]
- (iii) Provisions for determining Final Redemption Amount where calculated by reference to Index and/or Formula and/or other Fund and/or other variable: [ ]
- (iv) Date for determining Final Redemption Amount where calculation by reference to Index and/or Formula and/or Fund and/or other variable: [ ]
- (v) Provisions for determining Final Redemption Amount where calculation by reference to Index and/or Formula and/or other Fund and/or other variable is impossible or impracticable or otherwise disrupted: [ ]
- (vi) [Payment Date:] [ ]
- (vii) Minimum Final Redemption Amount: [ ] per Calculation Amount
- (viii) Maximum Final Redemption Amount: [ ] per Calculation Amount

**23. Early Redemption Amount**

Early Redemption Amount(s) per Calculation Amount payable on redemption for taxation reasons or on event of default or on occurrence of an Extraordinary Fund Event and/or the method of

[Not applicable (if both the Early Redemption Amount (Tax) and the Early Termination Amount are the principal amount of the Notes/specify the Early Redemption Amount (Tax) and/or the Early Termination Amount if different from the principal amount of the Notes)]

calculating the same (if required or if different from that set out in the Conditions):

## GENERAL PROVISIONS APPLICABLE TO THE NOTES

- |     |   |   |
|-----|---|---|
| 24. | Form of Notes:  | Bearer Notes:<br><br>[Temporary Global Note exchangeable for a Permanent Global Note which is exchangeable for Definitive Notes in the limited circumstances specified in the Permanent Global Note.]<br><br>[Temporary Global Note exchangeable for Definitive Notes on [ ] days' notice.] [Permanent Global Note exchangeable for Definitive Notes on [ ] days' notice/at any time/ in the limited circumstances specified in the Permanent Global Note.] <sup>3</sup><br><br>[Registered Notes: [Restricted [U.S.] [International] Global Note Certificate registered in the name of a nominee for [DTC]] [Unrestricted [U.S.] [International] Global Note Certificate registered in the name of a nominee for [DTC/a common depositary for Euroclear and Clearstream, Luxembourg/a common safekeeper for Euroclear and Clearstream, Luxembourg (that is, held under the New Safekeeping Structure (NSS))]]. |
| 25. | Business Day Jurisdictions for Condition 8(h) or other special provisions relating to Payment Dates:              | [Not applicable/give details. Note that this item relates to the date and place of payment, and not interest period end dates, to which items 15(ii), 16(ii) and 19(vii) relate]  |
| 26. | New Global Note Form:   | [Yes] [No]  |
| 27. | Talons for future Coupons or Receipts to be attached to Definitive Notes (and dates on which such Talons mature): | [Yes/No. If yes, give details]  |
| 28. | Details relating to Partly Paid Notes: amount of each payment comprising the Issue Price and date                 | [Not applicable/give details]   |

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<sup>3</sup> The exchange upon notice/at any time options should not be expressed to be applicable if the Specified Denomination of the Notes in Paragraph 6 above includes language substantially to the following effect: "[€100,000] and integral multiples of [€1,000] in excess thereof up to and including [€199,000]."

on which each payment is to be made and consequences (if any) of failure to pay, including any right of the Issuer to forfeit the Notes and interest due on late payment:

- |     |  |   |
|-----|--|---|
| 29. | Details relating to Instalment Notes: amount of each instalment (" <b>Instalment Amount</b> "), date on which each payment is to be made (" <b>Instalment Date</b> "): | [Not applicable/ <i>give details</i> ]  |
| 30. | Consolidation provisions:  | [Not applicable/The provisions [in Condition 14 ( <i>Further Issues</i> )] [annexed to these Final Terms] apply]  |
| 31. | Other final terms:   | <p>[Not applicable/<i>give details</i>]</p> <p><i>[(When adding any other final terms consideration should be given as to whether such terms constitute "significant new factors" and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive.)]</i></p> |

## DISTRIBUTION

- |     |   |   |
|-----|---|---|
| 32. | <p>(i) If syndicated, names [and addresses] of Managers [and underwriting commitments]:</p> <p>(ii) Stabilising Manager(s) (if any):</p> <p>(iii) [Date of [Subscription] Agreement:]</p> | <p>[Not applicable/<i>give names, [addresses and underwriting commitments]</i>]</p> <p><i>[(Include names and addresses of entities agreeing to underwrite the issue on a firm commitment basis and names and addresses of the entities agreeing to place the issue without a firm commitment or on a "best efforts" basis if such entities are not the same as the Managers)]</i></p> <p>[Not applicable/<i>give names</i>]</p> <p>[ ]</p> |
| 33. | If non-syndicated, name [and address] of Dealer:  | [Not applicable/ <i>give name and address</i> ]   |
| 34. | Total commission and concession:  | [[ ] per cent. of the Aggregate Nominal Amount]   |
| 35. | US Selling Restrictions:  | [Reg. S Compliance Category; TEFRA C/TEFRA D/ TEFRA not applicable]   |
| 36. | Additional selling restrictions:  | [Not applicable/ <i>give details</i> ]  |

## **[PURPOSE OF FINAL TERMS**

[These Final Terms/this Pricing Supplement] comprise the [final terms/pricing supplement] required for issue and admission to trading on [*specify relevant market*] of the Notes described herein] pursuant to the EUR 10,000,000,000 Euro Medium Term Note Programme of Banesto Financial Products plc.]

## **RESPONSIBILITY**

The Issuer and the Guarantor accept responsibility for the information contained in [these Final Terms/this Pricing Supplement]. [(*Relevant third party information*) has been extracted from (*specify source*). Each of the Issuer and the Guarantor confirms that such information has been accurately reproduced and that, so far as it is aware, and is able to ascertain from information published by (*specify source*), no facts have been omitted which would render the reproduced information inaccurate or misleading.]

Signed on behalf of the Issuer:

Signed on behalf of the Guarantor:

By: \_\_\_\_\_

By: \_\_\_\_\_

Duly authorised

Duly authorised



## PART B - OTHER INFORMATION

### 1. LISTING

- (i) Listing [(specify)/None]
- (ii) Admission to trading [Application has been made by the Issuer (or on its behalf) for the Notes to be admitted to trading on [specify relevant regulated market]] with effect from [ ].] [Application is expected to be made by the Issuer (or on its behalf) for the Notes to be admitted to trading on [specify relevant regulated market/other] with effect from [ ].] [Not applicable.]

*(Where documenting a fungible issue need to indicate that original Notes are already admitted to trading.)*

### 2. RATINGS

Ratings: The Notes to be issued have been rated:

[S & P: [ ]]

[Moody's: [ ]]

[[Other]: [ ]]

*[Insert full name of legal entity that has given the rating]* is established in the European Union and has applied for registration under Regulation (EC) No 1060/2009 (as amended), although notification of the corresponding registration decision has not yet been provided by the relevant competent authority.]

*[Insert full name of legal entity that has given the rating]* is established in the European Union and registered under Regulation (EC) No 1060/2009 (as amended).]

*[Insert full name of legal entity that has given the rating]* is a third country rating agency that is endorsed by an EU registered agency and [has/has not] applied for registration under Regulation (EC) No 1060/2009 (as amended) but is certified in accordance with such regulation.]

*[Insert full name of legal entity that has given the rating]* is not established in the European Union and has not applied for registration under Regulation

(EC) No 1060/2009 (as amended).]

In general, European regulated investors are restricted from using a rating for regulatory purposes if such rating is not issued by a credit rating agency established in the European Union and registered under the Regulation (EC) No 1060/2009 (as amended) ("**CRA Regulation**") unless the rating is provided by a credit rating agency operating in the European Union before 7 June 2010 which has submitted an application for registration in accordance with the CRA Regulation and such registration is not refused.

*[Need to include a brief explanation of the meaning of the ratings if this has previously been published by the rating provider.]*

*(The above disclosure should reflect the rating allocated to Notes of the type being issued under the Programme generally or, where the issue has been specifically rated, that rating.)*

**3. [INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE ISSUE/OFFER]**

Need to include a description of any interest, including conflicting ones, that is material to the issue/offer, detailing the persons involved and the nature of the interest. May be satisfied by the inclusion of the following statement:

"Save as discussed in ["Plan of Distribution"] and "General Information", so far as the Issuer is aware, no person involved in the offer of the Notes has an interest material to the offer."

*[(When adding any other description, consideration should be given as to whether such matters described constitute "significant new factors" and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive.)]*

**4. REASONS FOR THE OFFER, ESTIMATED NET PROCEEDS AND TOTAL EXPENSES**

- (i) [Reasons for the [ ] offer:

*(See ["Use of Proceeds"] wording in Offering Circular – if reasons for offer different from making profit and/or hedging certain risks will need to include those reasons here.)]*

- (ii) [Estimated net [ ]

proceeds:]

*(If proceeds are intended for more than one use will need to split out and present in order of priority. If proceeds insufficient to fund all proposed uses state amount and sources of other funding.)*

(iii) [Estimated total [ ] [Indicate the amount of any expenses and taxes expenses:] specifically charged to the investor.]

*[(If the Notes are derivative securities to which Annex XII of the Commission Regulation (EC) No. 809/2004 applies it is only] Only necessary to include disclosure of net proceeds and total expenses at (ii) and (iii) above where disclosure is included at (i) above.)*

**5. [Fixed Rate Notes only – YIELD**

Indication of yield: [ ].

Calculated as *[include details of method of calculation in summary form]* on the Issue Date.

As set out above, the yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.]

**6. [Floating Rate Notes Only - HISTORIC INTEREST RATES**

Details of historic [LIBOR/EURIBOR/other] rates can be obtained from [Reuters ].]

**7. [Index-Linked, Fund Linked or Other Variable-Linked Notes only – PERFORMANCE OF INDEX/FORMULA/FUND/OTHER VARIABLE, EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS AND OTHER INFORMATION CONCERNING THE UNDERLYING**

*Need to include details of where past and future performance and volatility of the equity/index/formula/fund/other variable can be obtained [and a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident]. [Where the underlying is an index need to include the name of the index and a description if composed by the Issuer and if the index is not composed by the Issuer need to include details of where the information about the index can be obtained. Where the underlying is not an index need to include equivalent information including, in the case of Fund Linked Notes, pricing information. Include other information concerning the underlying required by Paragraph 4.2 of Annex XII of the Commission Regulation (EC) No. 809/2004 or Rule 2D 4.2 of the Listing and Admission to Trading Rules of the Global Exchange Market.] ]*

*[(When completing this paragraph, consideration should be given as to whether such matters described constitute "significant new factors" and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive.)]*

*The Issuer [intends to provide post-issuance information [specify what information will be reported and where it can be obtained]] [does not intend to provide post-issuance information].*

**8. [Dual Currency Notes only – PERFORMANCE OF RATE[S] OF EXCHANGE AND EXPLANATION OF EFFECT ON VALUE OF INVESTMENT**

*[Need to include details of where past and future performance and volatility of the relevant rate[s] can be obtained and a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

*[(When completing this paragraph, consideration should be given as to whether such matters described constitute "significant new factors" and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive.)]*

**9. OPERATIONAL INFORMATION**

ISIN Code: [ ]

Common Code: [ ]

CUSIP Code: [ ]

Any clearing system(s) other than Euroclear Bank S.A./N.V. and Clearstream Banking société anonyme and the relevant identification number(s): [Not applicable/give name(s) and number(s)]

Delivery: Delivery [against/free of] payment

Names and addresses of initial Paying Agent(s) (if any): [ ]

Names and addresses of additional Paying Agent(s) (if any): [ ]

Intended to be held in a manner which would allow Eurosystem eligibility: [Not applicable/Yes/No]  
[Note that the designation "yes" simply means that the Notes are intended upon issue to be deposited with one of the ICSDs as common safekeeper [, and

registered in the name of a nominee of one of the ICSDs acting as common safekeeper,] *[include this text for registered notes held under the NSS]* and does not necessarily mean that the Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon the ECB being satisfied that Eurosystem eligibility criteria have been met.] *[include this text if "yes" selected in which case the bearer Global Notes must be issued in NGN form/the registered Global Note Certificates must be held under the NSS]*

## FORM OF NOTES

### General

Unless otherwise specified in the Applicable Transaction Terms, the Notes shall be represented initially by one or more global Notes (collectively, the "**Global Notes**"). Registered Notes shall be represented initially by one or more Global Notes in registered form, without Coupons (each, a "**Global Note Certificate**"), which, in the case of U.S. Global Notes (as defined below), shall be registered in the name of DTC, as depositary, or a successor or nominee thereof, and which shall be deposited on behalf of the purchasers thereof with a custodian for DTC. Beneficial interests in the Restricted Global Note Certificates and Unrestricted Global Note Certificates as such terms are defined below shall be represented through book-entry accounts of financial institutions acting on behalf of beneficial owners as direct and indirect participants in DTC. Purchasers of Notes may elect to hold interests in Restricted Global Note Certificates or, as the case may be, Unrestricted Global Note Certificates through any of DTC (in the United States), Clearstream, Luxembourg or Euroclear if they are participants in such systems or indirectly through organisations which are participants in such systems.

If so specified in the Applicable Transaction, Registered Notes may be represented, in whole or in part, by a Global Note Certificate that is deposited with or on behalf of a common depositary or, in the case of a Global Note Certificate to be held under the New Safekeeping Structure (as defined below), a common safekeeper, for Euroclear and Clearstream, Luxembourg, or a nominee thereof for credit to the respective accounts of beneficial owners of the Notes represented thereby (an "**International Global Note Certificate**"). Beneficial interests in the Restricted International Global Note Certificates and Unrestricted International Global Note Certificates as such terms are defined below shall be represented through book-entry accounts of financial institutions acting on behalf of beneficial owners as direct and indirect participants in Euroclear and/or Clearstream, Luxembourg. Purchasers of Notes may elect to hold interests in Restricted International Global Note Certificates or, as the case may be, Unrestricted International Global Note Certificates through any of Euroclear or Clearstream, Luxembourg if they are participants in such systems or indirectly through organisations which are participants in such systems. International Global Note Certificates will be subject to the restrictions and procedures referred to under "International Global Note Certificates" below.

Bearer Notes shall be represented initially by a temporary Global Note in bearer form, without Coupons (a "**Temporary Global Note**"), which shall be deposited with (a) in the case of a global note which is not intended to be issued in new global note form (a "**Classic Global Note**" or "**CGN**"), as specified in the relevant Applicable Transaction Terms, with or on behalf of a common depositary located outside the United States for Euroclear and Clearstream, Luxembourg; or (b) in the case of a global note which is intended to be issued in new global note form (a "**New Global Note**" or "**NGN**"), as specified in the relevant Applicable Transaction Terms, with a common safekeeper for Euroclear and/or Clearstream, Luxembourg. Beneficial interests in such Temporary Global Note shall be exchangeable for beneficial interests in a Permanent Global Note, in an equal aggregate principal amount, not earlier than the 40th day after the applicable closing date upon certification of non-U.S. ownership, as set forth in the Programme Manual. Such exchange will be

made upon certification to the effect that the holder is (i) a person that is not a United States person, (ii) a United States person that is (A) a foreign branch of a United States financial institution (as defined in United States Treasury Regulations Section 1.165-12(c)(1)(iv)) subscribing for or purchasing for its own account or for resale or (B) a United States person who acquired Notes through a foreign branch of a United States financial institution and who holds the Notes through such financial institution on the date of such certification (and in each case (A) or (B), that the financial institution agrees to comply with the requirements of section 163(j)(3)(A), (B) or (C) of the United States Internal Revenue Code and the United States Treasury Regulations thereunder) or (iii) a financial institution that acquired Notes for purposes of resale during the restricted period (as defined in United States Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and such financial institution certifies that it has not acquired the Notes for purposes of resale directly or indirectly within the United States or its possessions or to a United States person. A financial institution, whether or not described in (i) or (ii) above, that purchases Notes for purposes of resale during the restricted period, may only give the certification described in (iii) above. Except in the limited circumstances described below or as otherwise set forth in the Applicable Transaction Terms, owners of beneficial interests in the Global Notes shall not be entitled to receive Notes in definitive form. For details of how Notes may be transferred see "Terms and Conditions of the Notes—Condition 2 (*Form, Denomination and Title*)".

In the United States securities market, the presumption is that settlement of all trades of Notes will occur on the basis of the trade date plus three days.

Registered Notes may be evidenced by one or more Global Note Certificates in an aggregate principal amount equal to the principal amount of the Notes of such Series, which shall be exchangeable in the limited circumstances described below for individual Notes, each evidenced by an individual note certificate (collectively, the "**Individual Note Certificates**").

Bearer Notes will initially be issued in the form of a Temporary Global Note, without Coupons, in an initial aggregate principal amount equal to the principal amount of the Notes of such Series not initially sold to U.S. persons, which shall be exchangeable as described below.

On 13 June 2006 the European Central Bank (the "**ECB**") announced that Notes in NGN form are in compliance with the "Standards for the use of EU securities settlement systems in ESCB credit operations" of the central banking system for the euro (the "**Eurosystem**"), provided that certain other criteria are fulfilled. At the same time the ECB also announced that arrangements for Notes in NGN form will be offered by Euroclear and Clearstream, Luxembourg as of 30 June 2006 and that debt securities in global bearer form issued through Euroclear and Clearstream, Luxembourg after 31 December 2006 will only be eligible as collateral for Eurosystem operations if the NGN form is used.

In a press release dated 22 October 2008, "*Evolution of the custody arrangement for international debt securities and their eligibility in Eurosystem credit operations*", the ECB announced that it has assessed the new holding structure and custody arrangements for registered notes which the ICSDs had designed in cooperation with market participants and that Notes to be held under the new structure (the "**New Safekeeping Structure**" or "**NSS**") would be in compliance with the "*Standards for the use of EU securities settlement systems in ESCB credit operations*" of the central

banking system for the euro (the "**Eurosystem**"), subject to the conclusion of the necessary legal and contractual arrangements. The press release also stated that the new arrangements for Notes to be held in NSS form will be offered by Euroclear and Clearstream, Luxembourg as of 30 June 2010 and that registered debt securities in global registered form held through Euroclear and Clearstream, Luxembourg after 30 September 2010 will only be eligible as collateral in Eurosystem operations if the New Safekeeping Structure is used.

## **Registered Global Note Certificates**

### *General*

Unless otherwise specified in the applicable Applicable Transaction Terms, Registered Notes of the same Series will be represented, in whole or in part, by either (i) a Restricted U.S. Global Note Certificate and/or an Unrestricted U.S. Global Note Certificate that is registered in the name of a nominee for DTC and deposited on or about the relevant issue date with the custodian for DTC, for credit to the respective accounts of beneficial owners of the Notes represented thereby (a "**U.S. Global Note**") or (ii) a Restricted International Global Note Certificate and/or an Unrestricted International Global Note Certificate that is either (a) registered in the name of a common depositary (or its nominee) for Euroclear and/or Clearstream, Luxembourg and deposited on or about the relevant issue date with such common depositary (in the case of a Certificate that is not to be held under the New Safekeeping Structure), or (b) registered in the name of a common safekeeper (or its nominee) for Euroclear and/or Clearstream, Luxembourg and deposited on or about the relevant issue date with such common safekeeper (in the case of a Certificate that is to be held under the New Safekeeping Structure), in each case for credit to the respective accounts of beneficial owners of the Notes represented thereby (an "**International Registered Global Note**").

U.S. Global Notes and International Registered Global Notes will be sold in reliance on specific registration exemptions of the Securities Act. U.S. Global Notes will be subject to special restrictions and procedures referred to under "U.S. Global Notes" below, and International Registered Global Notes will be subject to special restrictions and procedures referred to under "International Registered Global Notes" below.

### *U.S. Global Notes*

Notes that are sold in reliance on Rule 144A will be represented by a restricted Global Note Certificate (a "**Restricted U.S. Global Note Certificate**"), unless otherwise specified in the Applicable Transaction Terms. A Restricted U.S. Global Note Certificate in the form provided in the Programme Manual (and any Notes issued in exchange therefor) will be subject to certain restrictions on transfer set forth therein and will bear the legend regarding such restrictions described under "*Transfer Restrictions*". Notwithstanding Condition 15 (*Notices*), so long as the Restricted U.S. Global Note Certificate is held on behalf of DTC, notices to Noteholders represented by the Restricted U.S. Global Note Certificate may be given by delivery of the relevant notice to DTC.

Registered Notes that are sold outside the United States in reliance on Regulation S will be represented by an Unrestricted U.S. Global Note Certificate (an "**Unrestricted U.S. Global Note**").



**Certificate**"), unless otherwise specified in the Applicable Transaction Terms. On or prior to the 40th day after the later of the commencement of the offering and the date of delivery of the Notes represented by an Unrestricted U.S. Global Note Certificate, a beneficial interest therein may be transferred to a person who takes delivery in the form of an interest in a Restricted U.S. Global Note Certificate of the same Series, but only upon receipt by the Registrar of a written certification from the transferor (in the form provided in the Programme Manual) to the effect that such transfer is being made to a person who the transferor reasonably believes is purchasing for its own account or accounts as to which it exercises sole investment discretion and that such person and each such account is a QIB within the meaning of Rule 144A, in each case in a transaction meeting the requirements of Rule 144A and in accordance with any applicable securities laws of any state of the United States or any other jurisdiction. After such 40th day, such certification requirement will no longer apply to such transfers.

Beneficial interests in a Restricted U.S. Global Note Certificate may be transferred to a person who takes delivery in the form(s) of an interest in an Unrestricted U.S. Global Note Certificate of the same Series, whether before, on or after such 40th day, but only upon receipt by the Registrar of a written certification from the transferor (in the form provided in the Programme Manual) to the effect that such transfer is being made in accordance with Rule 903 or Rule 904 of Regulation S or Rule 144 and that, if such transfer occurs on or prior to such 40th day, the interest transferred will be held immediately thereafter through Euroclear or Clearstream, Luxembourg. Any beneficial interest in a U.S. Global Note that is transferred to a person who takes delivery in the form of an interest in another U.S. Global Note of the same Series will, upon transfer, cease to be an interest in the former U.S. Global Note, will become an interest in the latter U.S. Global Note and, accordingly, will thereafter be subject to all transfer restrictions and other procedures applicable to beneficial interests in the latter U.S. Global Note for as long as it remains such an interest.

Notwithstanding Condition 15 (*Notices*), so long as the Unrestricted U.S. Global Note Certificate is held on behalf of DTC, notices to Noteholders represented by the Unrestricted U.S. Global Note Certificate may be given by delivery of the relevant notice to DTC.

#### *Book-Entry System*

Upon the issuance of a U.S. Global Note, DTC or its custodian will credit, on its internal system, the respective principal amount of the individual beneficial interests represented by such U.S. Global Note to the accounts of persons who have accounts with DTC. Ownership of beneficial interests in a U.S. Global Note will be limited to persons who have accounts with DTC (including Euroclear and Clearstream, Luxembourg), or persons who hold interests through participants. Ownership of beneficial interests in the U.S. Global Notes will be shown on, and the transfer of that ownership will be effected only through, records maintained by DTC or its nominee (with respect to interests of participants) and the records of participants (with respect to interests of persons other than participants), which may include Euroclear and Clearstream, Luxembourg, as described below.

So long as DTC, or its nominee, is the registered holder of a U.S. Global Note, DTC or such nominee, as the case may be, will be considered the sole owner and holder of the Notes represented by such U.S. Global Note for all purposes under the Fiscal Agency Agreement and the Notes. Unless DTC notifies the Issuer that it is unwilling or unable to continue as depository for such Note,

or ceases to be a "Clearing Agency" registered under the Exchange Act, or an Event of Default has occurred and is continuing with respect to such Note, owners of beneficial interests in such U.S. Global Note will not be entitled to have any portions of such U.S. Global Note registered in their names, will not receive or be entitled to receive physical delivery of Notes in definitive form and will not be considered the owners or holders of such U.S. Global Note (or any Notes represented thereby) under the Fiscal Agency Agreement or the Notes. If DTC is at any time unwilling or unable to continue as a depositary and a successor depositary is not appointed by the Issuer within 90 days, the Issuer will (i) issue Restricted Individual Note Certificates in exchange for the relevant Restricted U.S. Global Note Certificate and/or (ii) issue an International Global Note Certificate in exchange for the relevant Unrestricted U.S. Global Note Certificates. In the case of Restricted Individual Note Certificates issued in exchange for Restricted U.S. Global Note Certificates, such Restricted Individual Note Certificates will bear, and be subject to, the legend described under "Transfer Restrictions". Except in the limited circumstances described in this paragraph, owners of beneficial interests in a U.S. Global Note will not be entitled to receive physical delivery of Individual Note Certificates. In addition, no beneficial owner of an interest in a U.S. Global Note will be able to transfer that interest except in accordance with DTC's applicable procedures (in addition to those under the Fiscal Agency Agreement and, if applicable, those of Euroclear and Clearstream, Luxembourg).

Investors may hold their interests in an Unrestricted U.S. Global Note Certificate through Euroclear or Clearstream, Luxembourg, if they are participants in such systems, or indirectly through organisations which are participants in such systems. Beginning 40 days after the later of the commencement of the offering and the date of delivery of the Notes represented by such Unrestricted U.S. Global Note Certificate (but not earlier), investors may also hold such interests through organisations other than Euroclear and Clearstream, Luxembourg that are participants in the DTC system. Euroclear and Clearstream, Luxembourg will hold interests in an Unrestricted U.S. Global Note Certificate on behalf of their participants through customers' securities accounts in their respective names on the books of their respective depositaries, which in turn will hold such interests in customers' securities accounts in the depositaries' names on the books of DTC.

Investors may hold their interests in a Restricted U.S. Global Note Certificate directly through DTC, if they are participants in such system, or indirectly through organisations which are participants in such system.

Payments of the principal of and any premium, interest, and other amounts on any U.S. Global Note will be made to DTC or its nominee, as the registered owner thereof. Neither the Issuer, the Guarantor, the Registrar, the Transfer Agent nor any Paying Agent will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in a U.S. Global Note or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

The Issuer expects that DTC or its nominee, upon receipt of any payment in respect of a U.S. Global Note held by it or its nominee, will immediately credit participants' accounts with payments in amounts proportionate to their respective beneficial interests in the principal amount of such U.S. Global Note as shown on the records of DTC or its nominee. The Issuer also expects that payments

by participants to owners of beneficial interests in a U.S. Global Note held through such participants will be governed by standing instructions and customary practices, as is now the case with securities held for the accounts of customers registered in the names of nominees for such customers. Such payments will be the responsibility of such participants.

Transfers between participants in DTC will be effected in accordance with DTC's procedures and will be settled in same-day funds. The laws of some states of the United States require that certain persons take physical delivery of securities in definitive form. Consequently, the ability to transfer beneficial interests in a U.S. Global Note to such persons may be limited. Because DTC can only act on behalf of participants, who in turn act on behalf of indirect participants and certain banks, the ability of a person having a beneficial interest in a U.S. Global Note to pledge such interest to persons or entities that do not participate in the DTC system, or otherwise take actions in respect of such interest, may be affected by the lack of a physical certificate of such interest. Transfers between participants in Euroclear and Clearstream, Luxembourg will be effected in the ordinary way in accordance with their respective rules and operating procedures.

Subject to compliance with the transfer restrictions applicable to the Notes described above, cross-market transfers between DTC, on the one hand, and directly or indirectly through Euroclear or Clearstream, Luxembourg participants, on the other hand, will be effected in DTC in accordance with DTC rules on behalf of Euroclear or Clearstream, Luxembourg, as the case may be, by its respective depository; however, such crossmarket transactions will require delivery of instructions to Euroclear or Clearstream, Luxembourg, as the case may be, by the counterparty in such system in accordance with its rules and procedures and within its established deadlines. Euroclear or Clearstream, Luxembourg, as the case may be, will, if the transaction meets its settlement requirements, deliver instructions to its respective depository to take action to effect final settlement on its behalf by delivering or receiving interests in any U.S. Global Note in DTC, and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Euroclear participants and Clearstream, Luxembourg participants may not deliver instructions directly to the depositories for Euroclear or Clearstream, Luxembourg.

Because of time zone differences, the securities account of a Euroclear or Clearstream, Luxembourg participant purchasing an interest in a U.S. Global Note from a DTC participant will be credited during the securities settlement processing day (which must be a business day for Euroclear or Clearstream, Luxembourg, as the case may be) immediately following the DTC settlement date and such credit of any transactions in interests in a U.S. Global Note settled during such processing day will be reported to the relevant Euroclear or Clearstream, Luxembourg participant on such day. Cash received in Euroclear or Clearstream, Luxembourg as a result of sales of interests in a U.S. Global Note by or through a Euroclear or Clearstream, Luxembourg participant will be received for value on the DTC settlement date but will be available in the relevant Euroclear or Clearstream, Luxembourg cash account only as of the business day following settlement in DTC.

DTC has advised the Issuer that it will take any action permitted to be taken by a holder of a U.S. Global Note (including the presentation of Notes for exchange as described below) only at the direction of one or more participants to whose account with DTC interests in such U.S. Global Note

are credited and only in respect of such portion of the aggregate principal amount of such U.S. Global Note as to which such participant or participants has or have given such direction. However, if there is an Event of Default under a U.S. Global Note, DTC will exchange such U.S. Global Note for legended Notes in definitive form, which it will distribute to its participants.

DTC has advised the Issuer as follows: DTC is a limited purpose trust company organised under the laws of the State of New York, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the Uniform Commercial Code and a "Clearing Agency" registered pursuant to the provisions of Section 17A of the Exchange Act. DTC was created to hold securities for its participants and facilitate the clearance and settlement of securities transactions between participants through electronic book-entry changes in accounts of its participants, thereby eliminating the need for physical movement of certificates. Participants include securities brokers and dealers, banks, trust companies and clearing corporations and may include certain other organisations. Indirect access to the DTC system is available to others such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a participant, either directly or indirectly.

Although DTC, Clearstream, Luxembourg and Euroclear have agreed to the foregoing procedures in order to facilitate transfers of interests in the U.S. Global Notes among participants of DTC, Clearstream, Luxembourg and Euroclear, they are under no obligation to perform or continue to perform such procedures, and such procedures may be discontinued at any time. Neither the Issuer nor the Guarantor will have any responsibility for the performance by DTC, Clearstream, Luxembourg or Euroclear or their respective participants or indirect participants of their respective obligations under the rules and procedures governing their operations.

#### *International Registered Global Notes*

If so specified in the Applicable Transaction Terms, Registered Notes sold to qualified institutional buyers in reliance on Rule 144A under the Securities Act ("**Rule 144A Registered Notes**") will initially be represented, in whole or in part, by a global note in registered form without interest coupons attached (the "**Restricted International Global Note Certificate**"). If so specified in the Applicable Transaction Terms, Registered Notes sold to non-U.S. persons outside the United States in reliance on Regulation S ("**Regulation S Registered Notes**") will be represented, in whole or in part, by a global note in registered form without interest coupons attached (an "**Unrestricted International Global Note Certificate**", and together with the Restricted International Global Note Certificate, an "**International Global Note Certificate**"). International Registered Global Note Certificates will be either (i) registered in the name of a common depository (or its nominee) for Euroclear and/or Clearstream, Luxembourg and deposited on or about the relevant issue date with such common depository (in the case of a Certificate that is not to be held under the New Safekeeping Structure), or (ii) registered in the name of a common safekeeper (or its nominee) for Euroclear and/or Clearstream, Luxembourg and deposited on or about the relevant issue date with such common safekeeper (in the case of a Certificate that is to be held under the New Safekeeping Structure), in each case for credit to the respective accounts of beneficial owners of the Notes represented thereby.

Investors may hold their interests in an International Registered Global Note through Euroclear or Clearstream, Luxembourg, if they are participants in such systems, or indirectly through organisations that are participants in such systems. Euroclear and Clearstream, Luxembourg will hold interests in an International Registered Global Note on behalf of their participants through customers' securities accounts in their respective names on the books of their respective depositaries or safekeepers, as applicable.

So long as the common depositary, or, in the case of a Certificate to be held under the New Safekeeping Structure, the common safekeeper, or the relevant nominee, is the registered holder of an International Registered Global Note, the common depositary, common safekeeper or such nominee, as the case may be, will be considered the sole owner and holder of the Notes represented by the relevant International Global Note Certificate for all purposes under the Fiscal Agency Agreement and such Notes. Holders of beneficial interests in an International Registered Global Note will not be entitled to have any portion of such International Registered Global Note registered in their names, will not receive or be entitled to receive delivery of Individual Note Certificates in exchange for their interests in an International Global Note Certificate and will not be considered the owners or holders of such International Global Note Certificate (or any Notes represented thereby) under the Fiscal Agency Agreement or the Notes. In addition, no beneficial owner of an interest in an International Registered Global Note will be able to transfer that interest except in accordance with applicable procedures of Euroclear and Clearstream, Luxembourg (in addition to those under the Fiscal Agency Agreement referred to herein).

Payments of the principal of and any premium, interest and other amounts on any International Registered Global Note will be made to the common depositary, common safekeeper or its nominee as the registered owner thereof. Neither the Issuer, the Guarantor, the Registrar, the Transfer Agent nor any Paying Agent will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in an International Registered Global Note or for maintaining, supervising, or reviewing any records relating to such beneficial ownership interests.

Notwithstanding Condition 15 (*Notices*), so long as an International Registered Global Note Certificate is held on behalf of Euroclear, Clearstream, Luxembourg or any other clearing system, notices to Noteholders represented by the International Global Note Certificate may be given by delivery of the relevant notice to Euroclear, Clearstream, Luxembourg or (as the case may be) such other clearing system.

The Issuer expects that each of Euroclear and Clearstream, Luxembourg, upon receipt of any such payment in respect of an International Global Note represented by a Certificate held by a common depositary, common safekeeper or its nominee, will immediately credit participants' accounts with payments in amounts proportionate to their respective beneficial interests in the principal amount of the International Registered Global Note evidenced by such Certificate as shown on the records of Euroclear or Clearstream, Luxembourg, as the case may be. The Issuer also expects that payments by participants to owners of beneficial interests in an International Registered Global Note held through such participants will be governed by standing instructions and customary practices, as is

now the case with securities held for the accounts of customers registered in the names of nominees for such customers. Such payments will be the responsibility of such participants.

Transfers between participants in Euroclear and Clearstream, Luxembourg will be effected in accordance with the rules of Euroclear and/or Clearstream, Luxembourg and will be settled in immediately available funds.

International Registered Global Note Certificates will bear a legend to the effect set forth in "Transfer Restrictions". Book-entry interests in International Registered Global Notes will be subject to the restrictions on transfers and certification requirements discussed under "Transfer Restrictions".

Transfer of ownership interests in a Rule 144A Registered Note ("**Restricted Book-Entry Interests**") to persons wishing to take delivery of Restricted Book-Entry Interests will at all times be subject to such transfer restrictions.

Restricted Book-Entry Interests may be transferred to a person who takes delivery in the form of any ownership interests in a Regulation S Registered Note ("**Unrestricted Book-Entry Interests**") only upon delivery by the transferor of a written certification (in the form provided in the Programme Manual) to the effect that such transfer is being made in accordance with Regulation S or Rule 144 (if available) under the U.S. Securities Act. Prior to 40 days after the date of initial issuance of the notes, ownership of Unrestricted Book-Entry Interests will be limited to persons that have accounts with Euroclear or Clearstream or persons who hold interests through Euroclear or Clearstream, and any sale or transfer of such interest to U.S. persons shall not be permitted during such period unless such resale or transfer is made pursuant to Rule 144A.

Unrestricted Book-Entry Interests may be transferred to a person who takes delivery in the form of Restricted Book-Entry Interests only upon delivery by the transferor of a written certification (in the form provided in the Programme Manual) to the effect that such transfer is being made to a person who the transferor reasonably believes is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A or otherwise in accordance with the transfer restrictions described under "Transfer Restrictions" and in accordance with any applicable securities laws of any other jurisdiction.

Any book-entry interest in a Registered Note that is transferred to a person who takes delivery in the form of a book-entry interest in the other Registered Note will, upon transfer, cease to be a book-entry interest in the first mentioned Registered Note and become a book-entry interest in such other Registered Note and, accordingly, will thereafter be subject to all transfer restrictions, if any, and other procedures applicable to book-entry interests in such other Registered Note for as long as it remains such a book-entry interest.

#### **Bearer Notes**

Bearer Notes shall initially be issued in the form of a Temporary Global Note, without Coupons, in an initial aggregate principal amount equal to the principal amount of the Notes of such Series not initially sold to U.S. persons, which shall be exchangeable, unless otherwise specified in the Applicable Transaction Terms, (i) for a Permanent Global Note, without Coupons attached

(together with Temporary Global Notes, "**Global Bearer Notes**"), which shall in turn be exchangeable (in whole, but not in part) in limited circumstances in the form of Definitive Notes, with or without Coupons attached, or for interests in a Global Note Certificate of such Series, (ii) in whole but not in part, directly for Definitive Notes, with or without Coupons attached, which shall in turn be exchangeable at the option of the Noteholder for interests in a Global Note Certificate of such Series or (iii) directly for interests in a Global Note Certificate. Purchasers in the United States (including its territories, its possessions and other areas subject to its jurisdiction) will not be able to receive Bearer Notes.

The Fiscal Agent shall deliver each Temporary Global Note executed and authenticated: (1) in the case of a Classic Global Note, to the common depositary; or (2) in the case of a NGN, to the common safekeeper in each case for the benefit of Euroclear and Clearstream, Luxembourg for credit against payment in immediately available funds on the date of settlement to the respective accounts of the holders of the Notes of the Series represented by such Temporary Global Note.

The bearer of a Global Bearer Note will be considered the sole owner and holder of the Notes represented by such Global Bearer Note for all purposes under the Fiscal Agency Agreement and such Notes. Owners of beneficial interests in a Global Bearer Note will not be considered the owners or holders of such Global Bearer Note (or any Notes represented thereby) under the Fiscal Agency Agreement or the Notes. In addition, no beneficial owner of an interest in a Global Bearer Note will be able to transfer that interest except in accordance with applicable procedures of Euroclear and Clearstream, Luxembourg (in addition to those under the Fiscal Agency Agreement referred to herein).

Payments of the principal of and any premium, interest and other amounts on any Global Bearer Note will be made to the bearer thereof. Neither the Issuer, the Guarantor nor any Paying Agent will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in a Global Bearer Note or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

The Issuer expects that each of Euroclear and Clearstream, Luxembourg, upon receipt of any such payment in respect of a Global Bearer Note held by a common depositary or its nominee or by a common safekeeper, will immediately credit participants' accounts with payments in amounts proportionate to their respective beneficial interests in the principal amount of such Global Bearer Note as shown on the records of Euroclear or Clearstream, Luxembourg, as the case may be. The Issuer also expects that payments by participants to owners of beneficial interests in a Global Bearer Note held through such participants will be governed by standing instructions and customary practices, as is now the case with securities held for the accounts of customers registered in the names of nominees for such customers. Such payments will be the responsibility of such participants.

On or after the date (the "**Exchange Date**") which is the earlier of (i) the first Business Day following the expiration of a period of 40 days after the date on which the Notes of such Series were issued and (ii) the first day on which interest, if any, is paid on the Notes of such Series, beneficial interests in the Temporary Global Note of a Series as to which the Fiscal Agent has received certification as to the non-U.S. beneficial ownership thereof as required by U.S. Treasury

regulations and as set forth in the Programme Manual will, upon presentation thereof to or to the order of the Fiscal Agent, be exchanged (i) for interests in a Permanent Global Note of such Series, (ii) directly for interests in a Global Note Certificate of such Series, or (iii) in whole but not in part, directly for one or more Definitive Notes of the same Series, in each case pursuant to the procedures set forth in the next sentence, with respect to that portion of such Temporary Global Note; provided, however, that, if Definitive Notes and (if applicable) Coupons have already been issued in exchange for a portion of such Temporary Global Note or for all of the Notes represented for the time being by such Permanent Global Note because Euroclear and/or Clearstream, Luxembourg do not regard the Permanent Global Note to be fungible with such Definitive Notes, then such Temporary Global Note may only thereafter be exchanged for Definitive Notes and (if applicable) Coupons pursuant to the terms of the Fiscal Agency Agreement and of such Notes. At any time after the Exchange Date, upon 40 days' notice (which may be given at any time prior to, on or after the Exchange Date) to the Fiscal Agent by Euroclear or Clearstream, Luxembourg, as the case may be, acting at the request of or on behalf of the beneficial owner or owners of a Global Bearer Note, and, in the case of a Temporary Global Note, upon receipt of the certifications required by U.S. Treasury regulations referred to above, and, unless otherwise agreed, upon payment by the Holder of reasonable costs, interests in the Temporary Global Note or Permanent Global Note of a Series may be exchanged, in whole but not in part, for Definitive Notes of such Series with Coupons, if applicable, attached; provided, however, that, if Definitive Notes and (if applicable) Coupons have already been issued in exchange for a portion of such Temporary Global Note or for all of the Notes represented for the time being by such Permanent Global Note because Euroclear and/or Clearstream, Luxembourg do not regard the Permanent Global Note to be fungible with such Definitive Notes, then such Temporary Global Note may only thereafter be exchanged for Definitive Notes and (if applicable) Coupons pursuant to the terms of the Fiscal Agency Agreement and of such Notes. Any Definitive Note delivered in exchange for a beneficial interest in a Temporary Global Note or Permanent Global Note shall bear substantially the same legends as are set forth on the face of the Temporary or Permanent Global Note for which it was exchanged. No Bearer Note may be delivered nor may any interest be paid on any Bearer Note until the person entitled to receive such Bearer Note or such interest furnishes the certifications required by U.S. Treasury Regulations referred to above.

Upon the conditions set out in the Fiscal Agency Agreement, Permanent Global Notes and Definitive Notes may be exchanged for the same aggregate principal amount of Individual Note Certificates of the same Series in authorised denominations, or, if so indicated in the Applicable Transaction Terms, for beneficial interests in a Global Note Certificate, at the request in writing of the Holder and, in the case of an exchange of Definitive Notes, upon surrender of such Definitive Notes to be exchanged (together with all unmatured Coupons, if any, relating to it) to the specified office of the Registrar, its duly authorised agent or any other Transfer Agent. Where, however, a Definitive Note is surrendered for exchange after the Clearing System Business Day before the due date for any payment of interest, or such other record Date as may be applicable, the Coupon in respect of that payment of interest need not be surrendered with it. No holder of any Note may require a Permanent Global Note or Definitive Note to be exchanged for a Registered Note during the period of 30 days ending on the due date for any payment of principal on that Note. Notes issued pursuant to the exchanges described above will be available from the specified office of the



Registrar, its duly authorised agent or any other Transfer Agent (including the Transfer Agent located in Luxembourg).

Subject as provided below, until exchanged in full, Global Bearer Notes of a Series shall in all respects be entitled to the same benefits under the Fiscal Agency Agreement as Definitive Notes of such Series authenticated and delivered thereunder, except that principal of and any premium, interest, additional amounts and other amounts on a Temporary Global Note will not be payable unless a certification, as described herein, is given by the persons appearing in the records of Euroclear or Clearstream, Luxembourg as the owner of the Temporary Global Note or portions thereof being presented for payment, and unless a corresponding certification by Euroclear or Clearstream, Luxembourg shall have been delivered prior to each such date on which such amounts are to be paid.

Each Global Bearer Note will contain provisions which modify the Terms and Conditions of the Notes as they apply to the Global Bearer Note. The following is a summary of certain of those provisions:

*Notices:* Notwithstanding Condition 15 (*Notices*), while all the Notes are represented by the Temporary Global Note (or by the Temporary Global Note and the Permanent Global Note) deposited with a depositary or a common depositary for Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system or a common safekeeper, notices to Noteholders may be given by delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system and, in any case, such notices shall be deemed to have been given to the Noteholders in accordance with Condition 15 (*Notices*) on the date of delivery to Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system.

In relation to the Permanent Global Note only:

*Exercise of call option:* In connection with an exercise of the option contained in Condition 7(d) (*Redemption at the option of the Issuer and exercise of Issuer's options*) in respect of some but not all of the Notes, the rights of accountholders with a clearing system in respect of the Notes will be governed by the standard procedures of Euroclear, Clearstream, Luxembourg (this shall be recorded in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in principal amount, at their discretion) or any other clearing system (as the case may be).

*Exercise of put option:* In order to exercise the option contained in Condition 7(e) (*Redemption at the option of Noteholders and holders' Exercise of Noteholder's options*) the bearer of the Permanent Global Note must give notice to the Fiscal Agent (via the relevant clearing system) within the time limits relating to the deposit of Notes with a Paying Agent set out in the Conditions substantially in the form of the notice available from any Paying Agent, except that the notice shall not be required to contain the serial numbers of the Notes in respect of which the option has been exercised, and stating the principal amount of Notes in respect of which the option is exercised and at the same time presenting the Permanent Global Note to the Fiscal Agent, or to a Paying Agent for notation.

In the case of any Tranche of Notes having a maturity of more than 365 days, the following legend will appear on all Global Bearer Notes and Definitive Notes and any related Coupons or Talons:

"Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in sections 165(j) and 1287(a) of the Internal Revenue Code."

The sections referred to in the above legend provide that a United States taxpayer, with certain exceptions, will not be permitted to deduct any loss, and will not be eligible for capital gains treatment with respect to any gain realised on any sale, exchange or redemption of Bearer Notes or any related Coupons.

Notwithstanding any other provision herein, Bearer Notes with maturities of one year or less may be issued

## TRANSFER RESTRICTIONS

Each prospective purchaser of Notes offered in reliance on Rule 144A by accepting delivery of this Offering Circular will be deemed to have represented and agreed that such offeree acknowledges that this Offering Circular is personal to such offeree and does not constitute an offer to any other person or to the public generally to subscribe for or otherwise acquire the Notes other than pursuant to Rule 144A or in offshore transactions in accordance with Regulation S. Distribution of this Offering Circular, or disclosure of any of its contents to any person other than such offeree and those persons, if any, retained to advise such offeree with respect thereto is unauthorised, and any disclosure of any of its contents, without the prior written consent of the Issuer, is prohibited.

Each purchaser of Notes offered and sold in reliance on Rule 144A will be deemed to have represented and agreed as follows (terms used in this paragraph that are defined in Rule 144A or in Regulation S are used herein as defined therein):

- (1) The purchaser (A) is a qualified institutional buyer, (B) is aware that the sale to it is being made in reliance on Rule 144A and (C) is acquiring such Notes for its own account or for the account of a qualified institutional buyer.
- (2) The Notes are being offered only in a transaction not involving any public offering in the United States within the meaning of the Securities Act, the Notes have not been and will not be registered under the Securities Act, and, if in the future the purchaser decides to offer, resell, pledge or otherwise transfer such Notes, such Notes may be offered, sold, pledged, or otherwise transferred only (A) to a person who the seller reasonably believes is a qualified institutional buyer in a transaction meeting the requirements of Rule 144A, (B) in an offshore transaction in accordance with Rule 903 or Rule 904 of Regulation S or (C) pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder (if available), in each case in accordance with any applicable securities laws of any state of the United States or any other jurisdiction.
- (3) The purchaser understands that Notes of a Series offered in reliance on Rule 144A will be represented by a Restricted Global Note Certificate or, as the case may be, a Restricted International Global Note Certificate. Before any interest in such Restricted Global Note Certificate or, as the case may be, a Restricted International Global Note Certificate may be offered, sold, pledged or otherwise transferred to a person who takes delivery in the form of an interest in an Unrestricted Global Note Certificate or, as the case may be, a Unrestricted International Global Note Certificate, the seller will be required to provide the Registrar with a written certification as to compliance with the transfer restrictions referred to in clause (2)(B) or (2)(C) above.
- (4) Either (A) the purchaser is not and for so long as it holds a Note (or any interest therein) will not be (i) an "employee benefit plan" as defined in Section 3(3) of the U.S. Employee Retirement Income Security Act of 1974, as amended ("**ERISA**") that is subject to Title I of ERISA, (ii) a "plan" subject to Section 4975 of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), (iii) an entity whose underlying assets include the assets of any such employee benefit plan subject to ERISA or other plan subject to Section 4975 the Code, or

(iv) a governmental or other benefit plan which is subject to any U.S. federal, state or local law, that is substantially similar to the provisions of Section 406 of ERISA or Section 4975 of the Code, or (B) her purchase and holding of the Notes will not result in a prohibited transaction under Section 406 of ERISA or Section 4975 of the Code (or, in the case of such a governmental or other employee benefit plan, any such substantially similar U.S. federal, state or local law) for which an exemption is not available.

In order to effectuate the foregoing restrictions on resales and other transfers of the Definitive Notes or Individual Note Certificates sold, or issued in exchange for a Note sold pursuant to Rule 144A, if any resale or transfer of a Note is proposed to be made (otherwise than to or through a Dealer or in reliance on Rule 144A or Regulation S), (i) directly by the holder of a Note, or (ii) through the services of a dealer other than a Dealer, the prospective purchaser of the Note, in the case of a resale or transfer of a Note to be made directly by the holder of such note, or such dealer, in the case of a resale or transfer of such Note to be made through such dealer, shall deliver a letter to the Issuer substantially in the form provided in the Programme Manual, appropriately completed. If any resale or transfer of a Note is proposed to be made to a Dealer or in reliance on Rule 144A or Regulation S, either (i) the holder of such Note shall have made the appropriate notation on the transfer notice set forth on such Note or otherwise advised the Fiscal Agent in writing that it is relying on Rule 144A or Regulation S in connection with such transfer or is transferring such Note to a Dealer or (ii) the prospective purchaser, its agent or a Dealer shall deliver a letter to the Fiscal Agent substantially in the form prescribed in the Programme Manual, appropriately completed along with the Note presented for transfer. Inquiries concerning transfers of Notes should be made to any Dealer.

The Restricted U.S. Global Note Certificates will bear a legend to the following effect unless the Issuer determines otherwise in compliance with applicable law:

"THE NOTES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 (THE "SECURITIES ACT") OR ANY SECURITIES LAW OF ANY STATE OF THE UNITED STATES. THE HOLDER HEREOF, BY PURCHASING THE NOTES REPRESENTED HEREBY, AGREES FOR THE BENEFIT OF THE ISSUER AND THE GUARANTOR THAT THE NOTES REPRESENTED HEREBY MAY BE REOFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY IN COMPLIANCE WITH THE SECURITIES ACT AND OTHER APPLICABLE LAWS AND ONLY (1) PURSUANT TO RULE 144A UNDER THE SECURITIES ACT TO A PERSON THAT THE HOLDER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A PURCHASING FOR ITS OWN ACCOUNT OR A PERSON PURCHASING FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER WHOM THE HOLDER HAS INFORMED, IN EACH CASE, THAT THE REOFFER, RESALE, PLEDGE OR OTHER TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (2) IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 903 OR 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) OR (4) TO THE ISSUER, THE GUARANTOR OR THEIR RESPECTIVE AFFILIATES.

IF THIS NOTE CERTIFICATE IS REGISTERED IN THE NAME OF CEDE & CO. (OR SUCH OTHER PERSON AS MAY BE NOMINATED BY THE DEPOSITORY TRUST COMPANY ("DTC") FOR THE PURPOSE) (COLLECTIVELY, "**CEDE & CO.**") AS NOMINEE FOR DTC, THEN, UNLESS THIS NOTE CERTIFICATE IS PRESENTED BY AN AUTHORISED REPRESENTATIVE OF DTC TO THE ISSUER OR ITS AGENT FOR REGISTRATION OR TRANSFER, EXCHANGE OR PAYMENT AND ANY NOTE CERTIFICATE ISSUED UPON REGISTRATION OF TRANSFER OR EXCHANGE OF THIS NOTE CERTIFICATE IS REGISTERED IN THE NAME OF CEDE & CO. (OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORISED REPRESENTATIVE OF DTC) AND ANY PAYMENT HEREUNDER IS MADE TO CEDE & CO. (OR, AS THE CASE MAY BE, SUCH OTHER PERSON), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, SINCE THE REGISTERED OWNER HEREOF, CEDE & CO. (OR, AS THE CASE MAY BE, SUCH OTHER PERSON), HAS AN INTEREST HEREIN."

The Restricted International Global Note Certificates will bear a legend to the following effect unless the Issuer determines otherwise in compliance with applicable law:

"THE NOTES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 (THE "**SECURITIES ACT**") OR ANY SECURITIES LAW OF ANY STATE OF THE UNITED STATES. THE HOLDER HEREOF, BY PURCHASING THE NOTES REPRESENTED HEREBY, AGREES FOR THE BENEFIT OF THE ISSUER AND THE GUARANTOR THAT THE NOTES REPRESENTED HEREBY MAY BE REOFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY IN COMPLIANCE WITH THE SECURITIES ACT AND OTHER APPLICABLE LAWS AND ONLY (1) PURSUANT TO RULE 144A UNDER THE SECURITIES ACT TO A PERSON THAT THE HOLDER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A PURCHASING FOR ITS OWN ACCOUNT OR A PERSON PURCHASING FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER WHOM THE HOLDER HAS INFORMED, IN EACH CASE, THAT THE REOFFER, RESALE, PLEDGE OR OTHER TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (2) IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 903 OR 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) OR (4) TO THE ISSUER, THE GUARANTOR OR THEIR RESPECTIVE AFFILIATES.

IF THIS NOTE CERTIFICATE IS REGISTERED IN THE NAME OF A PERSON NOMINATED BY THE COMMON DEPOSITORY OR, AS THE CASE MAY BE, COMMON SAFEKEEPER OF EUROCLEAR BANK S.A./N.V. ("**EUROCLEAR**") AND/OR CLEARSTREAM BANKING, SOCIÉTÉ ANONYME, LUXEMBOURG ("**CLEARSTREAM, LUXEMBOURG**", AND TOGETHER WITH EUROCLEAR, THE "**INTERNATIONAL CLEARING SYSTEMS**") AS NOMINEE FOR THE INTERNATIONAL CLEARING SYSTEMS, THEN, UNLESS THIS NOTE CERTIFICATE IS PRESENTED BY AN AUTHORISED REPRESENTATIVE OF SUCH COMMON DEPOSITORY OR, AS THE CASE MAY BE, COMMON SAFEKEEPER TO THE

ISSUER OR ITS AGENT FOR REGISTRATION OR TRANSFER, EXCHANGE OR PAYMENT AND ANY NOTE CERTIFICATE ISSUED UPON REGISTRATION OF TRANSFER OR EXCHANGE OF THIS NOTE CERTIFICATE IS REGISTERED IN THE NAME OF SUCH NOMINEE (OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORISED REPRESENTATIVE OF THE COMMON DEPOSITARY OR, AS THE CASE MAY BE, COMMON SAFEKEEPER) AND ANY PAYMENT HEREUNDER IS MADE TO SUCH NOMINEE (OR, AS THE CASE MAY BE, SUCH OTHER PERSON), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, SINCE THE REGISTERED OWNER HEREOF, THE RELEVANT NOMINEE (OR, AS THE CASE MAY BE, SUCH OTHER PERSON), HAS AN INTEREST HEREIN."

Restricted Individual Note Certificates issued in exchange for an interest in a Restricted International Global Note Certificate will bear the following legend and be subject to the transfer restrictions set forth therein:

"THE NOTES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 (THE "SECURITIES ACT") OR ANY SECURITIES LAW OF ANY STATE OF THE UNITED STATES. THE HOLDER HEREOF, BY PURCHASING THE NOTES REPRESENTED HEREBY, AGREES FOR THE BENEFIT OF THE ISSUER AND THE GUARANTOR THAT THE NOTES REPRESENTED HEREBY MAY BE REOFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY IN COMPLIANCE WITH THE SECURITIES ACT AND OTHER APPLICABLE LAWS AND ONLY (1) PURSUANT TO RULE 144A UNDER THE SECURITIES ACT TO A PERSON THAT THE HOLDER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A PURCHASING FOR ITS OWN ACCOUNT OR A PERSON PURCHASING FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER WHOM THE HOLDER HAS INFORMED, IN EACH CASE, THAT THE REOFFER, RESALE, PLEDGE OR OTHER TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (2) IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 903 OR 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) OR (4) TO THE ISSUER, THE GUARANTOR OR THEIR RESPECTIVE AFFILIATES."

The Fiscal Agency Agreement provides that such legends will not be removed unless the Registrar is advised that the relevant Note is being transferred pursuant to Regulation S or unless there is delivered to the Issuer, the Guarantor and the Registrar satisfactory evidence, which may include an opinion of U.S. counsel, to the effect that neither such legends nor the restrictions on transfer set forth therein are required to ensure that transfers of such Note comply with the provisions of Rule 144A, Rule 144 or Regulation S under the Securities Act or that such Note is not a "restricted security" within the meaning of Rule 144 under the Securities Act. As a general matter, the legends may be removed from any Note two years after the original issue date thereof, provided that during such two-year period such Note has not been acquired by the Issuer or any affiliate thereof.

## **USE OF PROCEEDS**

The net proceeds of the issue of each Tranche of Notes will be used for the general corporate purposes of the Guarantor.

## BANESTO FINANCIAL PRODUCTS PLC

The legal name of the Issuer is Banesto Financial Products Plc, registered and incorporated on 25 June 2004 in Ireland under the Irish Companies Acts 1963 - 2009, as a public limited company for an indefinite period with registration number 387937. Banesto Financial Products Plc is a subsidiary of Banco Español de Crédito, S.A.

The Registered Office of the Issuer is at 4<sup>th</sup> Floor, Hanover Building, Windmill Lane, Dublin 2, telephone number: + 353 1 612 32 97.

The authorised share capital of the Issuer is Euro 40,000 divided into 40,000 ordinary shares of Euro 1 each, all of which have been issued and paid up.

The Issuer complies with the corporate governance regime(s) in Ireland.

### Major Shareholders

39,994 of the issued ordinary shares of the Issuer are held by the Guarantor and the remaining six shares are held by Hualle, S.A., Banesto Renting, S.A., Dudebasa, S.A., Gescoban Soluciones, S.A., Mesena Servicios de Gestión Inmobiliaria, S.A. and Merciver, S.L. The Issuer complies with the relevant statutory provisions and safeguards which regulate the relationship between a company and its major shareholder in order to prevent an abuse of control by a major shareholder.

### Business

The principal objects of the Issuer are set forth in Clause 3 of its Memorandum of Association and are the issuance of *participaciones preferentes* (preferred securities) and other financial instruments.

Financial instruments issued by the Issuer are quoted on the following markets:

- (a) the Irish Stock Exchange Limited; and
- (b) the Luxembourg Stock Exchange.

At 31 December 2011, the outstanding notional amount of the Notes issued under the EUR 6,000,000,000 Euro-Commercial Paper Programme, guaranteed by Banco Español de Crédito, S.A., was EUR 578,312,577.75.

The outstanding notional amount of the Notes issued under the Banesto Financial Products Plc EUR 10,000,000,000 Euro Medium Term Note Programme, guaranteed by Banco Español de Crédito, S.A., was, at 31 December 2011, EUR 5,334,744,238,000.

### Directors

The Directors of the Issuer are as follows:

<u>Name</u>	<u>Principal Occupation</u>
Adrian Masterson	Director



Jokin Cantera Bengoechea	Director
Fermín Cifuentes Muntadas	Director
Jaime Ybarra Loring	Director

The address of Adrian Masterson is 21 Temple Gardens, Dublin 6, Ireland. The business address of the other Directors is C/Mesena 80, 28033 Madrid, Spain.

The Bank of New York Mellon is the administrator of the Issuer. Its duties include the provision of certain administrative and related services including acting as company secretary. The appointment of the administrator may be terminated and the administrator may retire upon 90 days written notice subject to the appointment of an alternative administrator.

The Issuer has established a bank account with the Guarantor.

### **Conflicts of Interest**

There exist no conflicts of interest between the administrative, management and supervisory bodies of the Issuer and there exist no potential conflicts of interest between any duties to the issuing entity of any members of such administrative, management or supervisory bodies and their private interests and/or other duties.

### **Auditors**

The auditors of the Issuer, Deloitte & Touche, are chartered accountants and members of the Institute of Chartered Accountants and registered auditors, qualified to practice in Ireland. The registered office of Deloitte & Touche is Earlsfort Terrace, Dublin 2, Ireland.

## BANCO ESPAÑOL DE CRÉDITO, S.A.

As of 31 December 2011 the total assets of Banco Español de Crédito, S.A. ("**Banesto**" or the "**Bank**"), together with its consolidated subsidiaries (the "**Group**"), were EUR 108,848,072. Banesto's business consists primarily of providing commercial banking services in Spain, focusing on the individual, small and medium-sized business sectors. The Bank also engages in wholesale banking and capital and money markets activities. The Group operated through 1,714 offices as of 31 December 2011, making it one of the largest commercial bank networks in Spain at that date in terms of number of branches.

The Bank was incorporated in Spain on 1 May 1902 as a *Sociedad Anónima* (Limited Liability Company) for an indefinite term and it commenced its operations on 1 July 1902. The Bank is subject to, amongst others, the Royal Legislative Decree 1/2010, of 2 July (*texto refundido de la Ley de Sociedades de Capital*) (Spanish Corporations' Law).

Banesto's registered office is at Gran Vía de Hortaleza 3, Madrid, Spain. The business address of the members of Banesto's Board of Directors is the registered office of the Bank, registration number: A28000032 and email address: [correo@banesto.es](mailto:correo@banesto.es) (telephone number +34 91 388 03 05).

### Major Shareholder(s)

At 31 December 2010, Banco Santander, S.A. ("**Santander**") owned 89.95 per cent. of the Bank's capital stock (687,386,798 shares).

In accordance with the Article 4 of the Spanish Securities Market Law (*Ley 24/1988, de 28 Julio del Mercado de Valores*) and the Article 42 of the Spanish Commerce Code, certain measures have been put in place to safeguard against any abuse of control by Santander as a major shareholder of Banesto. These measures include (but are not limited to) the following:

- The Group and Santander maintain the principles of free and open competition between their respective banking and finance activities.
- Any commercial transaction entered between Santander or a member of the Santander group and the Group are required to be entered into on reasonable market terms, taking into account the particular aspects of the transaction and any other relevant circumstances that would have been taken into consideration in similar transactions executed with between independent entities.
- Banesto's Board of Directors consists of 14 members, 2 of whom are executive Directors and 7 of whom (representing half of the board), are independent Directors.

The majority of members of the Audit and Compliance Committee, the Appointment and Remunerations Committee and the Delegated Risks Committee are executive directors and independent directors.

Further information regarding the measures outlined above together with a full list of the rules governing the relationship between Banesto and Santander are available on Banesto's website ([www.banesto.es](http://www.banesto.es)).

## Management of the Bank

Banesto is managed by a Board of Directors which, in accordance with Banesto's by-laws, must consist of at least five and no more than fifteen members elected for six-year terms by the shareholders of Banesto. Members of the board may be re-elected. One fifth of the Board of Directors is renewed annually at the Annual General Meeting of Shareholders on the basis of time spent in office.

The Board of Directors must meet at least once every three months and in addition may meet at the discretion of the Chairman. The Chairman has the power to call meetings of the Board of Directors, either on his own initiative or at the request of at least three members of the Board.

The members of the Board of Directors as of the date of this Offering Circular are:

Name	Position	Age	Position held since
Antonio Basagoiti García Tuñón	Non Executive Chairman	69	24 November 2010
José Luis López Combarros	Vice-Chairman	68	12 May 2009
José García Cantera	Chief Executive Officer	45	22 June 2006
Juan Delibes Liniers	Member	62	23 August 1994
José Corral Lope	Member	70	19 January 2011
José María Fuster Van Bendegem	Member	53	28 February 2006
Matías Rodríguez Inciarte	Member	63	22 August 1994
Juan Guitard Marín	Member	51	19 January 2011
Carlos Pérez de Bricio y Olariaga	Member	84	22 July 2008
Belén Romana García	Member	46	25 March 2008
Rafael del Pino y Calvo-Sotelo	Member	53	4 February 2003
Alfonso Líbano Daurella	Member	57	19 January 2011
Carlos Sabanza Teruel	Member	68	28 February 2006
Rosa María García García	Member	46	12 May 2009
Mónica López-Monis Gallego	Secretary -Non Member	42	25 March 2009

The business address of the Board of Directors is Avenida Gran Vía de Hortaleza, 3, Madrid, Spain.

The Board of Directors delegates powers to a Chief Executive Officer and to a number of committees, including the Executive Committee, the Audit and Compliance Committee, the Delegated Risks Committee and the Appointments and Remuneration Committee.

The Executive Committee has power to take day to day administrative and management decisions and regularly informs the Board of Directors of its decisions.

The Executive Officers as of the date of this Offering Circular are as follows:

Name	Title	Position held since
Antonio Basagoiti García Tuñón	President	24 November 2010
José Luis López Combarros	Vice-Chairman	12 May 2009
José García Cantera	Chief Executive Officer	22 June 2006
Juan Delibes Liniers	Member	17 June 1997
José Corral Lope	Member	19 January 2011
Carlos Sabanza Teruel	Member	28 February 2006
Mónica López-Monis Gallego	Secretary (Non-member)	25 March 2009

### ***Audit and Compliance Committee***

The Audit and Compliance Committee is entrusted, *inter alia*, with the following duties in the areas of information, accounting control and assessment of the compliance system:

1. To report, through its Chairman or Secretary, to the Annual General Meeting on any matters raised therein by the shareholders on which the Audit and Compliance Committee has authority.
2. To propose the appointment of the auditors, the terms of their engagement, the scope of their services and, if applicable, the revocation or non-renewal of their appointment.
3. To review Banesto's financial statements and the Group's consolidated financial statements, monitor compliance with legal requirements and the proper application of generally accepted accounting principles.
4. To serve as a communication channel between the Board of Directors and the auditors, and to assess the results of each audit and the response of the management team to the auditors' recommendations.
5. To be familiar with the financial reporting process and the internal control systems.
6. To monitor any situations which might jeopardise the independence of the auditors and, specifically, to check the percentage of the fees paid to them with respect to the auditors' total revenues. The fees paid must be disclosed publicly.
7. To review, before public disclosure, the periodic financial information furnished by the Group to the markets and to their supervisory bodies, to ensure that this information is prepared in accordance with the same principles and practices as those used for the financial statements.
8. To examine compliance with the Group's Code of Conduct relating to the securities markets, with the anti-money laundering manuals and procedures and, in general, with the Group's rules of governance, and to make the required proposals for their improvement.

According to Banesto's bylaws, the Audit and Compliance Committee shall be formed by a minimum of three and a maximum of five members, all of them non-executive directors. The members shall appoint a Chairman from among them. The Chairman must be substituted every four years, and can be re-elected once the period of one year has passed since his substitution. The Audit and Compliance Committee shall also appoint a Secretary, not a member of the Committee, either the Secretary or the Deputy Secretary of the Board of Directors, or the Director of Compliance of the Group.

The Audit and Compliance Committee shall meet when called to do so by the Chairman or by resolution of the Audit and Compliance Committee passed by at least two members thereof, but in any event not less than four times a year. The attendance of its meetings is mandatory.

The members of this Committee shall have access to the information that any member of the management team or of the personnel of the Group have, and that may be required in order for the Committee to fulfill its purpose. The Committee meets with the persons in charge of the Group's business areas and with those in charge of the support and risk management areas, in particular with the Controller and with the Group's Internal Audit Division, and with the external auditors to analyze their reports and recommendations. The Committee may also require the attendance of the Auditor of Accounts when deemed necessary.

One of its meetings shall be dedicated to assessing the efficiency and compliance with the rules and procedures that govern the Group and to prepare the information that the Board of Directors has to approve and include in the annual public documentation.

Through its Chairman, the Audit and Compliance Committee shall report to the Board of Directors at least twice a year.

The following table shows the name and title of each member of the Audit and Compliance Committee:

Name	Position	Position Held Since
Belén García Romana	Chairman	22 July 2008
José Luis López Combarros	Member	22 July 2008
Matías Rodríguez Inciarte	Member	18 December 2002
Juan Guitard Marín	Member	19 January 2011
Belén García Romana	Member	25 March 2009
Mónica López-Monis Gallego	Secretary – Non Member	Secretary – Non Member

The business address of each of the above members is Gran Vía de Hortaleza 3, 28033 Madrid, Spain.

#### ***Appointment and Remunerations Committee***

The Appointment and Remunerations Committee is entrusted, inter alia, with the following duties:

1. Propose to the Board the criteria to be followed for the appointment of the Board of Director's members as well as for the composition thereof.
2. Submit to the Board of Directors proposals for the appointment of Banesto's Directors.
3. Propose to the Board of Directors the Senior Executives' (*Alta Dirección*) and Directors' annual remuneration, as well as other kinds of remuneration.
4. Reconsideration and modification, when necessary, of remuneration packages, taking into account the Group's results, and ensuring the transparency and disclosure in the Annual Report (*Memoria Anual*) of this information.
5. Issuance of reports based on the Director's and Manager's conduct, proposing to the Board of Directors the appropriate measures that should be taken against directors who do not comply with the Group's Securities' Market Code of Conduct (*Código de Conducta del Grupo en los Mercados de Valores*).

The members of the Appointment and Remunerations Committee are:

<b>Name</b>	<b>Position</b>	<b>Position Held Since</b>
José Luis López Combarros	Chairman	25 March 2008
Belén Romana García	Member	25 March 2008
Rosa María García García	Member	12 May 2009
Mónica López-Monis Gallego	Secretary – Non Member	25 March 2009

### ***Delegated Risks Committee***

Created by the Board of Directors in February 2006, the Delegated Risks Committee is entrusted, inter alia, with the following duties:

1. Propose to the Board of Directors the risk strategy as well as the procedures, politics and methods to be followed in those transactions in which the Bank may engage in risk taking. These proposals refer to the granting and study of transactions, as well as to the documentation needed.
2. Approval of specific transactions (clients) and specific procedures for certain transactions, under the scope of the Bank's Risk Authorisation System.
3. Periodic revision of the Bank's portfolio, focusing on credit quality and achieving an adequate risk-adjusted profit.
4. Periodic approval and verification of the systems, procedures, methodology and criteria used by the Bank regarding the approval of transactions, with the goal of achieving a more efficient development as per risk management.
5. Periodically inform the Executive Committee and the Board of Directors of the Bank's risk position.

The Delegated Risks Committee is composed of at least three Board Members (one executive member, who will act as Chairman, and two non-executive independent members).

The Delegated Risks Committee meets as many times as its members deem necessary, or as so called by the Chairman. During 2010 the Delegated Risks Committee held 51 meetings.

The members of the Delegated Risks Committee are:

<b>Name</b>	<b>Position</b>	<b>Position Held Since</b>
José Corral Lope	Chairman	23 February 2011
Belén Romana García	Member	7 April 2010
Carlos Sabanza Teruel	Member	28 February 2006
Juan M. Delibes Liniers	Member	28 February 2006
Mónica López-Monis Gallego	Secretary – Non Member	25 March 2009

### **Conflicts of Interest**

There exist no conflicts of interest between the Administrative, Management and Supervisory bodies of the Guarantor and there exist no potential conflicts of interest between any duties to the

Guarantor of any members of such administrative, management or supervisory bodies and their private interests and/or other duties.

## **Description of Operations**

Historically, the Bank's main activity in Spain has been commercial banking, particularly retail banking and business with small- and medium-sized enterprises (SMEs) and shops. It also conducts wholesale banking and activities in the capital markets.

### ***Retail Banking***

Banesto is principally a domestic retail banking group. At 31 December 2011, Banesto's retail banking activities were carried out through the Group's 1,714 branches located throughout Spain in almost 1,100 municipalities and one branch located abroad. The Bank's retail banking activities involve a wide range of banking and financial services, including deposit taking, asset management, personal loans, mortgage lending, short and medium-term financing of businesses, bank assurance, electronic bank transfer, credit and debit card transactions and private banking activities.

*Small and Medium-sized business.* Clients classified as small are those whose annual revenues range between EUR 500,000 and EUR 6 million. Clients classified as medium-sized are those whose annual revenues range between EUR 6 million and EUR 500 million. Following the strategy of increasing Banesto's presence in the small and medium-sized business sector, Banesto has organised its branches providing services to small-sized businesses through 1,632 retail oriented branches and 80 branches particularly focused on medium-sized businesses.

*Insurance.* Banesto provides life insurance products, homeowners' insurance and car insurance, through its subsidiary Santander Seguros y Reaseguros Compañía Aseguradora, S.A. ("**Santander Seguros**") (Banesto holds a 26% stake in this subsidiary).

### ***Wholesale Banking***

*Corporate Banking.* The Bank provides short, medium and long term financing, bill-discounting, foreign trade financing, structured treasury transactions, electronic banking and payment management services to large Spanish companies principally through dedicated corporate branches in Madrid and Barcelona. In 2010, the Bank has focused its strategy on yield optimisation in this sector. Therefore, balance management has been concentrated on adequate-return operations, which has resulted in an annual growth of gross operating margin of 4.8% in 2010 and -0.3% as of 31 December 2011.

*International Banking.* Banesto has focused its international banking activities primarily to serve Spanish customers abroad, principally through the provision of trade finance, export finance and international private banking. The International Banking unit provides its services mainly through its Madrid headquarters, Banesto is also present in New York with a branch and a broker (Banesto Securities).

*Premium Banking.* Banesto provides Premium Banking services to individuals with at least EUR 70,000 in assets for investment. At 31 December 2011, Banesto provided such services to more than 184,105 clients.

### ***Treasury and Capital Markets***

This unit markets standard Treasury and Capital Markets products and services as well as risk-customised products and services to its customer base. These products and services are either externally sourced or internally created. Through this unit the Bank is a market maker in Spanish government securities and its treasury operations include dealing in the interbank funding market, domestic and foreign debt and equity markets, and the foreign exchange and swap, forward contract, and other derivatives markets, both for its own account and for the accounts of its clients. The Bank also operates with foreign exchange and derivatives activity to manage its customers' interest rate and foreign exchange risks. Through its broker-dealer subsidiary, Banesto Bolsa, Banesto conducts equity operations for its individual and institutional clients.

Since mid-2002, the Bank has focused its treasury business on the distribution of its products among customers (for example, derivatives, fx forwards, structured deposits and loans) with the aim of substantially reducing both the profitability volatility as well as market risk in this business area. Business plans are aimed at client-oriented activities, with special emphasis on hedging treasury products to Banesto's customer base through projects coordinated among different areas of the Bank.

### ***Main Products and Services***

Banesto offers a wide variety of products designed specifically to cover the financial needs and demands of its clients. The following is a brief description of the main categories of products and services currently being offered by Banesto:

- *Deposits.* As of 31 December 2011, the Bank's clients' customer funds amounted to EUR 51,246 million.
- *Asset management.* As at 31 December 2011, the Bank offered its clients 61 different investment funds and UCITs. The asset value of these funds was EUR 4.4 billion.

Banesto also offered 47 pension funds and pension plans or retirement schemes, which, as of 31 December 2011, amounted to EUR 1.237 million. These funds were marketed under the Banesto name although they are managed by Santander Asset Management, S.A., S.G.I.I.C.,S.A..

- *Credit and Debit cards.* The Bank offers its customers multiple means of payment. Since 2002, when Banesto launched the Visa Card "Banesto Selección", many other new products have followed, such as a new debit card "Tarjeta Selección", which was launched in March 2010. As of 31 December 2010, the number of credit cards issued by the Bank reached 913,543.



- *Insurance.* The Bank offers life, savings, home and car insurances and has entered into more than 882,168 insurance contracts as of 31 December 2011.
- *Consumer Loans.* Banesto offers a wide range of consumer loans, such as car loans and loans for the acquisition of long term household goods. During 2011 the Consumer Unit, which was created in 2005, maintained its level of activity through the coordination of credit card and consumer loan activities.
- *Other Products for Companies.* The Bank is taking advantage of its technological and human resources capabilities to develop innovative products for medium-sized companies. In addition to offering consolidated products such as treasury structures distribution, Banesto offers trade financing and the "e-factura" (e-invoice) which consists in a digitally executed invoice which allows customers to fully utilise automatic financing and supplying processes.

### ***Employees***

At 31 December 2011, the Group employed 8,613 people. Most of the workforce is based in Spain.

### ***Auditors***

The auditors of Banesto, Deloitte, S.L. are registered auditors in Spain and a member of the *Registro Oficial de Auditores de Cuentas*, with registration number S0692. The registered office of Deloitte, S.L. is Plaza Pablo Ruiz Picasso, 1, 28020 Madrid, Spain.

## PLAN OF DISTRIBUTION

Subject to the terms and conditions contained in an amended and restated Dealer Agreement dated 24 February 2012 (the "**Dealer Agreement**") between the Issuer, the Guarantor, the Arranger and the Dealers, the Notes will be offered on a continuous basis by the relevant Issuer to the Dealers. However, the Issuer has reserved the right to sell Notes directly on its own behalf to other dealers. The Notes may be resold at prevailing market prices, or at prices related thereto, at the time of such resale, as determined by the Dealers. The Notes may also be sold by the Issuer through the Dealers, acting as agents of the Issuer. The Dealer Agreement also provides for Notes to be issued in syndicated Tranches which are jointly and severally underwritten by two or more Dealers.

Each of the Issuer failing whom, the Guarantor, has agreed to indemnify the Dealers against certain liabilities in connection with the offer and sale of the Notes. The Dealer Agreement may be terminated in relation to all the Dealers or any of them by the Issuer or, in relation to itself and the Issuer only, by any Dealer, at any time on giving not less than ten business days' notice.

### United States of America

Regulation S Category 2, TEFRA D, unless TEFRA C is specified as applicable in the relevant Applicable Transaction Terms: Rule 144A eligible if so specified in the relevant Applicable Transaction Terms.

The Notes have not been and will not be registered under the U.S. Securities Act of 1933 (as amended) (the "**Securities Act**") and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except in certain transactions exempt from the registration requirements of the Securities Act. Terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act.

Notes in bearer form are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a U.S. person, except in certain transactions permitted by U.S. tax regulations. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code and regulations thereunder.

In addition, until 40 days after the commencement of the offering, an offer or sale of Notes within the United States by any dealer (whether or not participating in the offering) may violate the registration requirements of the Securities Act if such offer or sale is made otherwise than in accordance with Rule 144A under the Securities Act (if available).

Such Dealers as may be specified in the relevant Applicable Transaction Terms may offer and sell Notes in accordance with Rule 144A under the Securities Act ("**144A Resales**") subject to compliance with all applicable United States selling restrictions.

In connection with any such 144A resale, each such Dealer has represented, undertaken and agreed that it has taken or will take reasonable steps to ensure that the purchaser is aware that the Notes have not been and will not be registered under the Securities Act, that transfers of Notes are restricted as set forth herein and that the selling Dealer may rely upon the exemption provided by Rule 144A under the Securities Act.

Each Series of Notes may also be subject to such further United States selling restrictions as the relevant Issuer and the relevant Dealer may agree and as indicated in the relevant Applicable Transaction Terms.

### **Selling Restrictions Addressing Additional United Kingdom Securities Laws**

In relation to each Tranche of Notes, the Dealers subscribing for or purchasing such Notes have represented to and agreed with, or will represent to and agree with, the Issuer, the Guarantor and each other such Dealer (if any) that:

- (a) **No deposit-taking:** in relation to any Notes having a maturity of less than one year:
  - (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business; and
  - (ii) it has not offered or sold and will not offer or sell any Notes other than to persons:
    - (A) whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses; or
    - (B) who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses,where the issue of the Notes would otherwise constitute a contravention of Section 19 of the Financial Services and Markets Act 2000 (the "FSMA") by the Issuer;
- (b) **Financial promotion:** it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Notes in circumstances in which section 21(1) of the FSMA does not apply to the Issuer or, in the case of the Guarantor, would not apply to the Guarantor if it was not an authorised person; and
- (c) **General compliance:** it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

### **The Kingdom of Spain**

The Notes may not be offered, sold or distributed, nor may any subsequent resale of Notes be carried out in Spain, except in circumstances which do not constitute a public offer of securities in Spain within the meaning of the Spanish Securities Market Law (*Ley 24/1988, de 28 julio del Mercado de Valores*) or without complying with all legal and regulatory requirements under Spanish securities laws. No publicity or marketing of any kind shall be made in Spain in relation to the Notes.

Neither the Notes nor the Offering Circular have been registered with the Spanish Securities Market Commission (*Comisión Nacional del Mercado de Valores*) and therefore the Offering Circular is not intended for any public offer of the Notes in Spain.

### **European Economic Area**

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "**Relevant Member State**"), each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Programme will be required to represent, warrant and agree, that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the "**Relevant Implementation Date**") it has not made and will not make an offer of Notes which are the subject of the offering contemplated by the Offering Circular as completed by the Applicable Transaction Terms in relation thereto (or are the subject of the offering contemplated by a Drawdown Prospectus, as the case may be) to the public in that Relevant Member State except that it may, with effect from and including the Relevant Implementation Date, make an offer of such Notes to the public in that Relevant Member State:

- (a) *Approved prospectus*: if the Applicable Transaction Terms or Drawdown Prospectus in relation to the Notes specify that an offer of those Notes may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State (a "**Non-exempt Offer**"), following the date of publication of a prospectus in relation to such Notes which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, **provided that** any such prospectus which is not a Drawdown Prospectus has subsequently been completed by the Applicable Transaction Terms contemplating such Non-exempt Offer, in accordance with the Prospectus Directive, in the period beginning and ending on the dates specified in such applicable transaction or final terms, as applicable and the Issuer has consented in writing to its use for the purpose of that Non-exempt Offer;
- (b) *Qualified investors*: at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive;
- (c) *Fewer than 100 offerees*: at any time to fewer than 100 or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive), subject to obtaining the prior consent of the relevant Dealer or Dealers nominated by the Issuer for any such offer; or
- (d) *Other exempt offers*: at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Notes referred to in (b) to (d) above shall require the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression an "**offer of Notes to the public**" in relation to any Notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the Notes, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State, the expression "**Prospectus Directive**" means Prospectus Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in the Relevant Member State and the expression "**2010 PD Amending Directive**" means Directive 2010/73/EU.

## **Japan**

Each Dealer has acknowledged that the Notes have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948, as amended; the "**FIEA**") and, accordingly, each Dealer has undertaken that it will not offer or sell any Notes, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (as defined under item 5, Paragraph 1, Article 6 of the Foreign Exchange and Foreign Trade Act (Act No.228 of 1949, as amended) or to others for re-offering or resale, directly or indirectly, in Japan or to, or for the benefit of, a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise with, the FIEA and any other applicable laws of Japan.

## **Ireland**

Each Dealer has represented and agreed that:

- (a) it has not and will not underwrite the issue of, or place the Notes, otherwise than in conformity than with the provisions of S.I. No. 60 of 2007, European Communities (Markets in Financial Instruments) Regulations 2007, including, without limitation, Parts 6, 7 and 12 thereof and the provisions of the Investor Compensation Act 1998;
- (b) it has not and will not underwrite the issue of, or place, the Notes, otherwise than in conformity with the provisions of the Irish Central Bank Acts 1942 – 2011 (as amended) and any codes of conduct rules made under Section 117(1) thereof;
- (c) it has not and will not underwrite the issue of, or place, or do anything in Ireland in respect of the Notes otherwise than in conformity with the provisions of the Prospectus (Directive 2003/71/EC) Regulations 2005 and any rules issued under Section 51 of the Irish Investment Funds, Companies and Miscellaneous Provisions Act 2005, by the Central Bank;
- (d) it has not and will not underwrite the issue of, place or otherwise act in Ireland in respect of the notes, otherwise than in conformity with the provisions of the Market Abuse (Directive 2003/6/EC) Regulations 2005 and any rules issued under Section 34 of the Irish Investment Funds, Companies and Miscellaneous Provisions Act 2005 by the Central Bank; and
- (e) no notes will be offered or sold with a maturity of less than twelve months except in full compliance with the Central Bank Notice BSD C 01/02.

## **General**

Each Dealer has represented, warranted and agreed, that to the best of its knowledge and belief, it has complied, and will comply with all applicable laws and regulations in each country or jurisdiction in or from which it purchases, offers, sells or delivers Notes or possesses, distributes such offering material, in all cases at its own expense.

Other persons into whose hands this Offering Circular or any Applicable Transaction Terms comes are required by the Issuer, the Guarantor and the Dealers to comply with all applicable laws and regulations in each country or jurisdiction in or from which they purchase, offer, sell or deliver Notes or possess, or distribute this Offering Circular or any Applicable Transaction Terms or any related offering material, in all cases at their own expense.

The Dealer Agreement provides that the Dealers shall not be bound by any of the restrictions relating to any specific jurisdiction (set out above) to the extent that such restrictions shall, as a result of change(s) or change(s) in official interpretation, after the date hereof, of applicable laws and regulations, no longer be applicable but without prejudice to the obligations of the Dealers described in the paragraph headed "General" above.

Selling restrictions may be supplemented or modified with the agreement of the Issuer. Any such supplement or modification may be set out in the relevant Applicable Transaction Terms (in the case of a supplement or modification relevant only to a particular Tranche of Notes) or in a supplement to this Offering Circular.

## TAXATION AND DISCLOSURE OF INFORMATION IN CONNECTION WITH PAYMENTS

*The information provided below does not purport to be a complete summary of tax law and practice currently applicable in the Kingdom of Spain and Ireland and is subject to any changes in law and the interpretation and application thereof, which could be made with retroactive effect. The following summary does not purport to be a comprehensive description of all the tax considerations that may be relevant to a decision to acquire, hold or dispose of the Notes, and does not purport to deal with the tax consequences applicable to all categories of investors, some of whom (such as dealers in securities) may be subject to special rules. Prospective investors who are in any doubts as to their position should consult with their own professional advisers.*

### Taxation in Spain

*The following is a general description of certain Spanish tax considerations. The information provided below does not purport to be a complete summary of tax law and practice currently applicable in the Kingdom of Spain and is subject to any changes in law and the interpretation and application thereof, which could be made with retroactive effect.*

### Introduction

This information has been prepared in accordance with the following Spanish tax legislation in force at the date of this Offering Circular:

- (a) of general application, Additional Provision Two of Law 13/1985, of 25 May 1985 on investment ratios, own funds and information obligations of financial intermediaries, as amended by Law 19/2003, of 4 July 2003 on legal rules governing foreign financial transactions and capital movements and various money laundering prevention measures, Law 23/2005, of 18 November 2005, on certain measures to promote productivity and Law 4/2008, abolishing the Wealth Tax Levy, generalising the Value Added Tax monthly refund system and introducing other amendments to the tax legal system, as well as Royal Decree 1065/2007 ("**Royal Decree 1065/ 2007**"), of 27 July 2007 establishing information obligations in relation to preferential holdings and other debt instruments and certain income obtained by individuals resident in the European Union and other tax rules as amended by Royal Decree 1145/2011 of 29 July;
- (b) for individuals with tax residency in Spain who are personal income tax ("**Personal Income Tax**") tax payers, Law 35/2006, of 28 November 2006 on Personal Income Tax and on the partial amendment of the Corporate Income Tax Law, Non Residents Income Tax Law and Wealth Tax Law (the "**Personal Income Tax Law**"), and Royal Decree 439/2007, of 30 March 2007 promulgating the Personal Income Tax Regulations, along with Law 19/1991, of 6 June 1991 on Wealth Tax as amended by Law 4/2008, Royal Decree-Law 13/2011 and Law 29/1987, of 18 December 1987 on Inheritance and Gift Tax;
- (c) for legal entities resident for tax purposes in Spain which are corporate income tax ("**Corporate Income Tax**") taxpayers, Royal Legislative Decree 4/2004, of 5 March 2004 promulgating the Consolidated Text of the Corporate Income Tax Law, and Royal Decree

1777/2004, of 30 July 2004 promulgating the Corporate Income Tax Regulations (the "**Corporate Income Tax Regulations**"); and

- (d) for individuals and legal entities who are not resident for tax purposes in Spain and are non-resident income tax ("**Non-Resident Income Tax**") taxpayers, Royal Legislative Decree 5/2004, of 5 March 2004 promulgating the Consolidated Text of the Non-Resident Income Tax Law, and Royal Decree 1776/2004, of 30 July 2004 promulgating the Non-Resident Income Tax Regulations, along with Law 19/1991, of 6 June 1991 on Wealth Tax as amended by Law 4/2008, Royal Decree-Law 13/2011 and Law 29/1987, of 18 December 1987 on Inheritance and Gift Tax.

Whatever the nature and residence of the holder of a beneficial interest in the Notes (each, a "**Beneficial Owner**"), the acquisition and transfer of the Notes will be exempt from indirect taxes in Spain, for example exempt from transfer tax and stamp duty, in accordance with the consolidated text of such tax promulgated by Royal Legislative Decree 1/1993, of 24 September 1993, and exempt from value added tax, in accordance with Law 37/1992, of 28 December 1992 regulating such tax.

## 1. **Individuals with Tax Residency in Spain**

### 1.1. **Individual Income Tax (*Impuesto sobre la Renta de las Personas Físicas*)**

Payments of income deriving from the transfer, redemption or repayment of the Notes constitute a return on investment obtained from the transfer of own capital to third parties in accordance with the provisions of Section 25.2 of the Personal Income Tax Law, and must be included in each investor's savings income and taxed at the tax rate applicable from time to time, currently 21 per cent for taxable income up to €6,000, 25 per cent for taxable income between €6,000 and €24,000 and 27 per cent. for taxable income in excess of €24,000.

According to Section 44.5 of Royal Decree 1065/2007, of 27 July as amended by Royal Decree 1145/2011, of 29 July, the Issuer will make interest payments to individual holders who are resident for tax purposes in Spain without withholding provided that the relevant information about the Notes is submitted. In addition, income obtained upon transfer, redemption or exchange of the Notes may also be paid without withholding.

### 1.2 **Wealth Tax (*Impuesto sobre el Patrimonio*)**

According to Wealth Tax regulations as amended by Royal Decree-Law 13/2011 (subject to any exceptions provided under relevant legislation in an autonomous region (*Comunidad Autónoma*)), the net worth of any individuals with tax residency in Spain up to the amount of EUR700,000 is not subject to Wealth Tax in respect of tax years 2011 and 2012. Therefore, they should take into account the value of the Notes which they hold as at 31 December in each of the years 2011 and 2012, the applicable rates ranging between 0.2 per cent. and 2.5 per cent.

### 1.3 **Inheritance and Gift Tax (*Impuesto sobre Sucesiones y Donaciones*)**



Individuals with tax residency in Spain who acquire ownership or other rights over any Notes by inheritance, gift or legacy will be subject to inheritance and gift tax in accordance with the applicable Spanish regional or federal rules.

## **2. Legal Entities with Tax Residency in Spain**

### **2.1 Corporate Income Tax (*Impuesto sobre Sociedades*)**

Payments of income deriving from the transfer, redemption or repayment of the Notes constitute a return on investments for tax purposes obtained from the transfer to third parties of own capital and must be included in profit and taxable income of legal entities with tax residency in Spain for Corporate Income Tax purposes in accordance with the rules for Corporate Income Tax. In accordance with Section 44.5 of Royal Decree 1065/2007, of 27 July as amended by Royal Decree 1145/2011 of 29 July, there is no obligation to withhold on income payable to Spanish CIT taxpayers (which for the sake of clarity, include Spanish tax resident investment funds and Spanish tax resident pension funds). Consequently, the Issuer will not withhold on interest payments to Spanish CIT taxpayers provided that the relevant information about the Notes is submitted.

### **2.2 Wealth Tax (*Impuesto sobre el Patrimonio*)**

Spanish resident legal entities are not subject to Wealth Tax.

### **2.3 Inheritance and Gift Tax (*Impuesto sobre Sucesiones y Donaciones*)**

Legal entities with tax residency in Spain which acquire ownership or other rights over the Notes by inheritance, gift or legacy are not subject to inheritance and gift tax and must include the market value of the Notes in their taxable income for Spanish Corporate Income Tax purposes.

## **3. Individuals and Legal Entities with no Tax Residency in Spain**

### **3.1 Non-Resident Income Tax (*Impuesto sobre la Renta de No Residentes*)**

#### **(a) *Non-Spanish resident investors acting through a permanent establishment in Spain***

Ownership of the Notes by investors who are not resident for tax purposes in Spain will not in itself create the existence of a permanent establishment in Spain.

If the Notes form part of the assets of a permanent establishment in Spain of a person or legal entity who is not resident in Spain for tax purposes, the tax rules applicable to income deriving from such Notes are the same as those for Spanish Corporate Income Tax taxpayers.

#### **(b) *Non-Spanish resident investors not acting through a permanent establishment in Spain***

Payments of income deriving from the transfer, redemption or repayment of the Notes, obtained by individuals or entities who have no tax residency in Spain, and which are Non- Resident Income Tax taxpayers with no permanent establishment in Spain, are

exempt from such Non-Resident Income Tax on the same terms laid down for income from public debt.

### **3.2 Wealth Tax (*Impuesto sobre el Patrimonio*)**

Individuals resident in a country with which Spain has entered into a double tax treaty in relation to the Wealth Tax would generally not be subject to such tax. Otherwise, according to Royal Decree-Law 13/2011, non-Spanish resident individuals whose properties and rights located in Spain, or that can be exercised within the Spanish territory exceed EUR700,000 would be subject to Wealth Tax, the applicable rates ranging between 0.2 per cent. and 2.5 per cent.

Non-Spanish resident legal entities are not subject to Wealth Tax.

### **3.3 Inheritance and Gift Tax (*Impuesto sobre Sucesiones y Donaciones*)**

Individuals who do not have tax residency in Spain who acquire ownership or other rights over the Notes by inheritance, gift or legacy, and who reside in a country with which Spain has entered into a double tax treaty in relation to inheritance and gift tax will be subject to the relevant double tax treaty.

If the provisions of the foregoing paragraph do not apply, such individuals will be subject to inheritance and gift tax in accordance with Spanish legislation.

Non-Spanish resident legal entities which acquire ownership or other rights over the Notes by inheritance, gift or legacy are not subject to inheritance and gift tax. They will be subject to Non-Resident Income Tax. If the legal entity is resident in a country with which Spain has entered into a double tax treaty, the provisions of such treaty will apply. In general, double-tax treaties provide for the taxation of this type of income in the country of residence of the beneficiary.

## **4. Information about the Notes in Connection with Payments**

The Issuer is currently required by Spanish law to file an annual return with the Spanish tax authorities in which it reports on certain information relating to the Notes. In accordance with Section 44 of Royal Decree 1065/2007, for the purpose of preparing the annual return referred to above, certain information with respect to the Notes must be submitted to the Issuer at the time of each payment.

Such information would be the following:

- (a) Identification of the Notes (as applicable) in respect of which the relevant payment is made;
- (b) Date on which relevant payment is made;
- (c) the total amount of the relevant payment; and

- (d) the amount of the relevant payment corresponding to each entity that manages a clearing and settlement system for securities situated outside Spain.

In particular, the Fiscal Agent must certify the information above about the Notes by means of a certificate the form of which is attached as Annex I of this Offering Circular. In light of the above, the Issuer and the Fiscal Agent have arranged certain procedures to facilitate the collection of information concerning the Notes. Investors should note that the Issuer does not accept any responsibility relating to the procedures established for the collection of information concerning the Notes.

Accordingly, the Issuer will not be liable for any damage or loss suffered by any holder who would otherwise be entitled to an exemption from Spanish withholding tax but whose income payments are nonetheless paid net of Spanish withholding tax because these procedures prove ineffective. Moreover, the Issuer will not pay any additional amounts with respect to any such withholding. See "*Risk Factors*". The procedures for providing documentation referred to in this section are set out in detail in the amended and restated fiscal agency agreement dated 24 February 2012 (the "**Fiscal Agency Agreement**") which may be inspected during normal business hours at the specified office of the Fiscal Agent. In particular, if the Fiscal Agent does not act as common depositary, the procedures described in this section will be modified in the manner described in the Fiscal Agency Agreement.

*Set out below is Annex I. Sections in English have been translated from the original Spanish and such translations constitute direct and accurate translations of the Spanish language text. In the event of any discrepancy between the Spanish language version of the certificate contained in Annex I and the corresponding English translation, the Spanish tax authorities will give effect to the Spanish language version of the relevant certificate only.*

## SCHEDULE 2

### Annex I

**Anexo al Reglamento General de las actuaciones y los procedimientos de gestión e inspección tributaria y de desarrollo de las normas comunes de los procedimientos de aplicación de los tributos, aprobado por Real Decreto 1065/2007**

**Modelo de declaración a que se refieren los apartados 3, 4 y 5 del artículo 44 del Reglamento General de las actuaciones y los procedimientos de gestión e inspección tributaria y de desarrollo de las normas comunes de los procedimientos de aplicación de los tributos**

Annex to Royal Decree 1065/2007, of 27 July, approving the General Regulations of the tax inspection and management procedures and developing the common rules of the procedures to apply taxes

Declaration form referred to in paragraphs 3, 4 and 5 of Article 44 of the General Regulations of the tax inspection and management procedures and developing the common rules of the procedures to apply taxes

**Don (nombre), con número de identificación fiscal (...) <sup>(1)</sup>, en nombre y representación de (entidad declarante), con número de identificación fiscal (...) <sup>(1)</sup> y domicilio en (...) en calidad de (marcar la letra que proceda):**

Mr. (name), with tax identification number (...) <sup>(1)</sup>, in the name and on behalf of (entity), with tax identification number (...) <sup>(1)</sup> and address in (...) as (function - mark as applicable):

**(a) Entidad Gestora del Mercado de Deuda Pública en Anotaciones.**

(a) Management Entity of the Public Debt Market in book entry form.

**(b) Entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero.**

(b) Entity that manages the clearing and settlement system of securities resident in a foreign country.

**(c) Otras entidades que mantienen valores por cuenta de terceros en entidades de compensación y liquidación de valores domiciliadas en territorio español.**

(c) Other entities that hold securities on behalf of third parties within clearing and settlement systems domiciled in the Spanish territory.

**(d) Agente de pagos designado por el emisor.**

(d) Fiscal Agent appointed by the issuer.

**Formula la siguiente declaración, de acuerdo con lo que consta en sus propios registros:**

Makes the following statement, according to its own records:

**1. En relación con los apartados 3 y 4 del artículo 44:**

1. In relation to paragraphs 3 and 4 of Article 44:

**1.1 Identificación de los valores.....**

1.1 Identification of the securities.....

**1.2 Fecha de pago de los rendimientos (o de reembolso si son valores emitidos al descuento o segregados)**

1.2 Income payment date (or refund if the securities are issued at discount or are segregated)

**1.3 Importe total de los rendimientos (o importe total a reembolsar, en todo caso, si son valores emitidos al descuento o segregados).....**

1.3 Total amount of income (or total amount to be refunded, in any case, if the securities are issued at discount or are segregated)

**1.4 Importe de los rendimientos correspondiente a contribuyentes del Impuesto sobre la Renta de las Personas Físicas, excepto cupones segregados y principales segregados en cuyo reembolso intervenga una Entidad Gestora .....**

1.4 Amount of income corresponding to Personal Income Tax taxpayers, except segregated coupons and segregated principals for which reimbursement an intermediary entity is involved.....

**1.5 Importe de los rendimientos que conforme al apartado 2 del artículo 44 debe abonarse por su importe íntegro (o importe total a reembolsar si son valores emitidos al descuento o segregados).**

1.5 Amount of income which according to paragraph 2 of Article 44 must be paid gross (or total amount to be refunded if the securities are issued at discount or are segregated).

**2. En relación con el apartado 5 del artículo 44.**

2. In relation to paragraph 5 of Article 44.

**2.1 Identificación de los valores.....**

2.1 Identification of the securities.....

**2.2 Fecha de pago de los rendimientos (o de reembolso si son valores emitidos al descuento o segregados) .....**

2.2 Income payment date (or refund if the securities are issued at discount or are segregated)  
.....

**2.3 Importe total de los rendimientos (o importe total a reembolsar si son valores emitidos al descuento o segregados .....**

2.3 Total amount of income (or total amount to be refunded if the securities are issued at discount or are segregated)

**2.4 Importe correspondiente a la entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero A.**

2.4 Amount corresponding to the entity that manages the clearing and settlement system of securities resident in a foreign country A.

**2.5 Importe correspondiente a la entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero B.**

2.5 Amount corresponding to the entity that manages the clearing and settlement system of securities resident in a foreign country B.

**2.6 Importe correspondiente a la entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero C.**

2.6 Amount corresponding to the entity that manages the clearing and settlement system of securities resident in a foreign country C.

**Lo que declaro en .....a .... de .....de ....**

I declare the above in ..... on the.... of ..... of ....

<sup>(1)</sup>**En caso de personas, físicas o jurídicas, no residentes sin establecimiento permanente se hará constar el número o código de identificación que corresponda de conformidad con su país de residencia**

<sup>(1)</sup>In case of non-residents (individuals or corporations) without permanent establishment in Spain it shall be included the number or identification code which corresponds according to their country of residence.

## **Ireland**

### ***Withholding Tax***

In general, tax at the standard rate of income tax (currently 20 per cent.), is required to be withheld from payments of Irish source interest which could include interest paid on the Notes. However, an exemption from withholding on interest payments exists under Section 64 of the Taxes Consolidation Act, 1997 (the "**1997 Act**") for certain interest bearing securities ("**quoted Eurobonds**") issued by a body corporate (such as the Issuer) which are quoted on a recognised stock exchange (which would include the Irish Stock Exchange).

Any interest paid on such quoted Eurobonds can be paid free of withholding tax provided:

- (a) the person by or through whom the payment is made is not in Ireland; or
- (b) the payment is made by or through a person in Ireland, and either:
  - (i) the quoted Eurobond is held in a clearing system recognised by the Irish Revenue Commissioners (Euroclear and Clearstream, Luxembourg are so recognised), or
  - (ii) the person who is the beneficial owner of the quoted Eurobond and who is beneficially entitled to the interest is not resident in Ireland and has made a declaration to a relevant person (such as an Irish paying agent) in the prescribed form.

So long as the Notes are quoted on a recognised stock exchange and are held in Euroclear and/or Clearstream, Luxembourg, interest on the Notes can be paid by the Issuer and any paying agent acting on behalf of the Issuer without any withholding or deduction for or on account of Irish income tax.

In certain circumstances, Irish tax will be required to be withheld at the standard rate from interest on any quoted Eurobond, where such interest is collected by a bank or other agent in Ireland on behalf of any Noteholder.

### ***Taxation of Noteholders***

Notwithstanding that a Noteholder may receive interest on the Notes free of withholding tax, the Noteholder may still be liable to pay Irish income tax. Interest paid on the Notes may have an Irish source and therefore be within the charge to Irish income tax, pay related social insurance "**PRSI**" and the universal social charge. Ireland operates a self-assessment system in respect of income tax and any person, including a person who is neither resident nor ordinarily resident in Ireland, with Irish source income comes within its scope.

However, interest on the Notes will be exempt from Irish income tax if the recipient of the interest is resident in a relevant territory (a member state of the European Union (other than Ireland) or in a country with which Ireland has a comprehensive double taxation agreement) provided either (i) the Notes are quoted Eurobonds and are exempt from withholding tax as set out above (ii) if the Notes

are not or cease to be quoted Eurobonds exempt from withholding tax and the recipient of the interest is a company resident in a relevant territory that generally taxes foreign source interest.

Notwithstanding these exemptions from income tax, a corporate recipient that carries on a trade in Ireland through a branch or agency in respect of which the Notes are held or attributed may have a liability to Irish corporation tax on the interest.

Noteholders receiving interest on the Notes which does not fall within the above exemptions may be liable to Irish income tax, PRSI and the universal social charge.

### ***Capital Gains Tax***

A holder of Notes may be subject to Irish tax on capital gains on a disposal of Notes unless such holder is neither resident nor ordinarily resident in Ireland and does not carry on a trade in Ireland through a branch or agency in respect of which the Notes are used or held.

### ***Capital Acquisitions Tax***

A gift or inheritance comprising of Notes will be within the charge to capital acquisitions tax if either (i) the disponent or the donee/successor in relation to the gift or inheritance is resident or ordinarily resident in Ireland (or, in certain circumstances, if the disponent is domiciled in Ireland irrespective of his residence or that of the donee/successor) or (ii) if the Notes are regarded as property situate in Ireland. Bearer notes are generally regarded as situated where they are physically located at any particular time. Registered Notes are generally regarded as situated where the principal register of Noteholders is maintained or is required to be maintained, but the Notes may be regarded as situated in Ireland regardless of their physical location or the location of the register as they represent a debt owed by an Irish incorporated debtor which may be secured over Irish property. Accordingly, if such Notes are comprised in a gift or inheritance, the gift or inheritance may be within the charge to tax regardless of the residence status of the disponent or the donee/successor.

### ***Stamp Duty***

Any document transferring title to the Notes is potentially subject to 1 per cent. Irish stamp duty. However, if the terms of the loan capital exemption are satisfied no stamp duty is payable. There are four conditions that must be satisfied to avail of this exemption:

- (a) the Notes must not carry a right of conversion into shares of an Irish incorporated company;
- (b) the Notes must not carry rights similar to those attaching to shares, including voting rights, entitlement to a share of profits or a share in surplus on liquidation of the Issuer;
- (c) the Notes must be issued for a price which is not less than 90 per cent. of the nominal value of the Notes; and
- (d) the Notes must not carry a right to a sum in respect of repayment or interest which is related to certain movements in an index or indices (based wholly or partly and directly or indirectly on stocks or marketable securities) specified in any document relating to the Notes.



## **EU Savings Directive**

Under EU Council Directive 2003/48/EC on the taxation of savings income, each Member State is required to provide to the tax authorities of another Member State details of payments of interest or other similar income paid by a person within its jurisdiction to, or collected by such a person for, an individual resident or certain limited types of entity established in that other Member State; however, for a transitional period, Austria and Luxembourg may instead apply a withholding system in relation to such payments, deducting tax at rates rising over time to 35%. The transitional period is to terminate at the end of the first full fiscal year following agreement by certain non-EU countries to the exchange of information relating to such payments.

The European Commission has proposed certain amendments to the Directive, which may, if implemented, amend or broaden the scope of the requirements described above.

A number of non-EU countries, and certain dependent or associated territories of certain Member States, have agreed to adopt similar measures (either provision of information or transitional withholding) in relation to payments made by a person within its jurisdiction to, or collected by such a person for, an individual resident or certain limited types of entity established in a Member State. In addition, the Member States have entered into reciprocal provision of information or transitional withholding arrangements with certain of those dependent or associated territories in relation to payments made by a person in a Member State to, or collected by such a person for, an individual resident or certain limited types of entity in one of those territories.

## GENERAL INFORMATION

1. Application has been made for Notes issued under the Programme to be admitted to the Official List and trading on the GEM or the regulated market of the Irish Stock Exchange.

However, Notes may be issued pursuant to the Programme which will not be admitted to listing, trading and/or quotation by the Irish Stock Exchange but which will be admitted to listing, trading and/or quotation by such other or further competent authorities, stock exchanges and/or quotation systems as the Issuer and the relevant Dealer(s) may agree.

2. Each of the Issuer and the Guarantor have obtained all necessary consents, approvals and authorisations in Ireland and the Kingdom of Spain in connection with the establishment of the Programme and the issue and performance of the Notes and the guarantees relating to them. The establishment of the Programme was authorised by the resolution of the board of directors of the Issuer passed on 7 July 2004, and the establishment of the Programme and the giving of the guarantees relating to the Notes by the Guarantor was authorised by a resolution of the executive committee of the Guarantor passed on 10 January 2005. The increase of the aggregate principal amount of Notes which may be outstanding at any time under the Programme was increased from EUR 5,000,000,000 to EUR 10,000,000,000 pursuant to a resolution of the executive committee of the Guarantor and a meeting of the board of directors of the Issuer, both held on 13 November 2006. The update of the Programme was authorised by the resolution of the board of directors of the Issuer passed on 22 February 2012 and by an authorisation of the executive committee of the Guarantor on 20 February 2012.
3. Each Bearer Note, Receipt, Coupon and Talon will bear the following legend: **"Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in Sections 165(j) and 1287(a) of the Internal Revenue Code"**.
4. There are no pending or threatened governmental, legal or arbitration actions, suits or proceedings against or affecting the Issuer or the Guarantor or any of the Guarantor's subsidiaries, which, if determined adversely to the Issuer, the Guarantor or the Guarantor's subsidiaries, may have, or have had during the 12 months prior to the date hereof, individually or in the aggregate, a significant effect on the financial position of the Issuer or the Guarantor and its subsidiaries and, to the best knowledge of the Issuer or the Guarantor and its subsidiaries, no such actions, suits or proceedings are threatened or contemplated.
5. Since 31 December 2011 in the case of the Guarantor and the Guarantor's subsidiaries, and since 31 December 2010 in the case of the Issuer, there has been no material adverse change in the financial position or prospects, and no significant change in the financial or trading position.
6. Notes will be accepted for clearance through the Euroclear and Clearstream systems. The Common Code and the International Securities Identification Number (ISIN) will be set out in the relevant Applicable Transaction Terms.

7. For so long as the Programme remains in effect or any Notes remain outstanding, the following documents will be available for inspection and (in the case of the items listed under (vi), (vii), (viii), (ix) and (x) below) obtainable, during usual business hours on any weekday (Saturdays and public holidays excepted) in physical form, at the registered offices of the Issuer, the Guarantor, the Fiscal Agent and each of the Paying Agents:
- (i) the Fiscal Agency Agreement;
  - (ii) the Programme Manual (which includes the form of the Global Notes, the definitive Bearer Notes, the Certificates in respect of Registered Notes, the Coupons, the Receipts and the Talons);
  - (iii) the Dealer Agreement;
  - (iv) the Deed of Covenant;
  - (v) the Deed of Guarantee;
  - (vi) the Memorandum and Articles of Association of the Issuer and the *Estatutos* (with English translation) of the Guarantor;
  - (vii) the annual report and audited consolidated and non-consolidated financial statements of the Guarantor for the years ended 31 December 2011 and 2010;
  - (viii) the annual report of the Issuer for the years ended 31 December 2010 and 2009;
  - (ix) the 2011 Conditions, 2010 Conditions, 2009 Conditions, 2008 Conditions, 2007 Conditions and 2006 Conditions, as defined above;
  - (x) Applicable Transaction Terms relating to Notes issued under the Programme;
  - (xi) a copy of this Offering Circular together with any Supplement to this Offering Circular or further Offering Circular;
  - (xii) all reports, letters and other documents, balance sheets, valuations and statements by any expert any part of which is extracted or referred to in this Base Prospectus; and
  - (xiii) the Issuer - ICSDs Agreement (which is entered into between the Issuer and Euroclear and/or Clearstream Luxembourg with respect to the settlement in Euroclear and Clearstream Luxembourg of Notes in New Global Form).
8. The consolidated and non-consolidated financial statements of the Guarantor for the years ended 31 December 2011 and 2010 were audited by Deloitte S.L. of Plaza Pablo Ruiz Picasso, 1, 28020 Madrid, Spain (registered auditors in Spain and a member of the *Registro Oficial de Auditores de Cuentas* and with registration number S0692). The financial statements of the Issuer for the year ended 31 December 2010 and 2009 were audited by Deloitte & Touche, Chartered Accountants of Earlsfort Terrace, Dublin 2, Ireland (a member of the Association of Chartered Certified Accountants).

9. Copies of the latest financial statements of the Issuer and the annual report and audited consolidated and non-consolidated financial statements of the Guarantor may be obtained, and copies of the Fiscal Agency Agreement will be available for inspection, at the specified offices of each of the Paying Agents during normal business hours, so long as any of the Notes is outstanding. The Issuer does not prepare audited interim financial statements.
10. Any uniform resource locators given in respect of web-site addresses in the Offering Circular are inactive textual references only and it is not intended to incorporate the contents of any such web sites into this Base Prospectus nor should the contents of such web sites be deemed to be incorporated into this Base Prospectus.
11. A&L Goodbody, Solicitors have acted as legal adviser to the Issuer as to Irish law and Clifford Chance S.L. have acted as legal adviser to the Arranger and Dealers as to Spanish law and English law, in relation to the update of the Programme.
12. In relation to this Programme, Banco Español de Crédito, S.A. acts in its capacity as Arranger and a Dealer of the Programme. Prospective investors should note that Banco Español de Crédito, S.A. is also the Guarantor under the Programme.
13. There are no material contracts which could result in any member of the Banesto consolidated group of companies being under an obligation that is material to the Issuer's ability to meet its obligations to the Noteholders.

## **THE ISSUER**

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## **ARRANGER AND DEALER**

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CALCULATION AGENT, TRANSFER  
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DIRECTIVE AGENT**

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*To the Issuer as to Irish law*

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*To the Arranger and the Dealers as to  
Spanish law and English law*

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