

## MESENA CLO 2011-1 B.V.

€848,381,000 Class A Senior Secured Floating Rate Notes due 2026  
€375,246,000 Class B Deferrable Secured Floating Rate Notes due 2026  
€407,875,000 Class C Deferrable Secured Floating Rate Notes due 2026  
€85,054,000 Class D Notes due 2026

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MESENA CLO 2011-1 B.V. (THE "ISSUER") WILL ISSUE €848,381,000 CLASS A SENIOR SECURED FLOATING RATE NOTES DUE 2026 (THE "CLASS A NOTES"), €375,246,000 CLASS B DEFERRABLE SECURED FLOATING RATE NOTES DUE 2026 (THE "CLASS B NOTES"), €407,875,000 CLASS C DEFERRABLE SECURED FLOATING RATES NOTES DUE 2026 (THE "CLASS C NOTES" AND, TOGETHER WITH THE CLASS A NOTES AND THE CLASS B NOTES, THE "FLOATING RATE NOTES") AND €85,054,000 CLASS D NOTES DUE 2026 (THE "CLASS D NOTES" AND TOGETHER WITH THE FLOATING RATE NOTES, THE "NOTES").

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The Class A Notes, the Class B Notes and the Class C Notes will bear interest at a floating rate equal to three month EURIBOR (as defined in "Conditions of the Notes") plus 0.70 per cent., plus 1.00 per cent. and plus 1.80 per cent., respectively, as provided herein. Interest on the Class D Notes will be paid on an available funds basis. Interest on the Class A Notes will accrue from the Issue Date and will first be payable in arrear on 27 January 2012 and thereafter, quarterly in arrear on 27 October, 27 January, 27 April and 27 July of each year (subject to adjustment for non-Business Days (as defined in "Conditions of the Notes")) in accordance with the terms and conditions (the "Conditions") of the Notes, at maturity and upon any redemption of the Notes (each, a "Payment Date"). Interest on the Class B Notes and the Class C Notes will only accrue on those Interest Accrual Periods (as defined in "Conditions of the Notes") on which the relevant Principal Deficiency Test (as defined in "Conditions of the Notes") has been satisfied, and be payable in arrear on the relevant Payment Date. Payments (if any) on the Class D Notes will be made on each Payment Date. The Notes are limited recourse obligations of the Issuer that are payable solely out of amounts received by or on behalf of the Issuer in respect of the Collateral (as defined herein). The net proceeds of the enforcement of the security over the Collateral following an Event of Default (as defined herein) may be insufficient to pay all amounts due to the Noteholders (as defined herein) after making payments to other creditors of the Issuer ranking prior thereto or *pari passu* therewith. In the event of a shortfall in such proceeds, the Issuer will not be obliged to pay, and the other assets (including the Issuer Dutch Account, and the rights of the Issuer under the Management Agreement (each as defined herein)) of the Issuer will not be available for payment of such shortfall all claims in respect of which shall be extinguished. See Condition 4 (Security).

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There is no established trading market for the Notes. This Prospectus (the "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 Prospectus as meeting the requirements imposed under Irish and EU law pursuant to the Prospectus Directive. Application has been made to the Irish Stock Exchange for the Notes to be admitted to the Official List (the "Official List") and trading on its regulated market. Such approval relates only to 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 public in any member state of the EEC. There can be no assurance that such listing and admission to trading will be granted. This Prospectus constitutes the Prospectus for the purposes of the Prospectus Directive.

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It is a condition of the issue and sale of the Notes that the Class A Notes be issued with at least the following rating from Standard & Poor's Ratings Group, a division of The McGraw Hill Companies, Inc. ("S&P"): AAA(sf); and at least the following rating from DBRS Ratings Limited ("DBRS"): AAA(sf). For description of the ratings see "Ratings of the Notes" herein. A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the applicable Rating Agency. The credit ratings included or referred to in this Prospectus have been issued by S&P, DBRS, Fitch Ratings ("Fitch"), and Moody's Investor Services ("Moody's") each of which is established in the European Union and each of which has applied to be registered under Regulation (EC) No. 1060/2009 of the European Parliament and the Council of 16 September 2009 on credit rating agencies. As at the date of this Prospectus, the application by each of S&P, DBRS, Fitch Ratings and Moody's Investor Services for registration under Regulation (EC) No. 1060/2009 of the European Parliament and the Council of 16 September 2009 on credit rating agencies has not been approved.

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See "Risk Factors" for a description of certain factors which should be considered by prospective investors in connection with an investment in the Notes offered hereby.

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THE NOTES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER JURISDICTION. THE NOTES WILL BE OFFERED OUTSIDE THE UNITED STATES TO NON-U.S. PERSONS IN OFFSHORE TRANSACTIONS IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT ("REGULATION S"). THE NOTES MAY NOT BE OFFERED OR SOLD, DIRECTLY OR INDIRECTLY, WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS (AS DEFINED IN REGULATION S) EXCEPT PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS AND UNDER CIRCUMSTANCES THAT WOULD NOT REQUIRE THE ISSUER TO REGISTER UNDER THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "INVESTMENT COMPANY ACT"). THERE WILL BE NO OFFER OF THE NOTES IN THE UNITED STATES, NEITHER THE ISSUER NOR THE COLLATERAL HAS BEEN OR WILL BE REGISTERED UNDER THE INVESTMENT COMPANY ACT, AND INVESTORS WILL NOT BE ENTITLED TO THE BENEFIT OF THAT ACT. INTERESTS IN THE NOTES WILL BE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER. SEE "PLAN OF DISTRIBUTION" AND "TRANSFER RESTRICTIONS". EACH PURCHASER OF NOTES OFFERED HEREBY, IN MAKING ITS PURCHASE, WILL BE DEEMED TO HAVE MADE, OR IN LIMITED CIRCUMSTANCES BE REQUIRED TO EXPRESSLY MAKE, CERTAIN ACKNOWLEDGEMENTS, REPRESENTATIONS AND AGREEMENTS AS SET OUT HEREIN UNDER "PLAN OF DISTRIBUTION" AND "TRANSFER RESTRICTIONS".

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The Notes are being offered by the Issuer through Banco Español de Crédito S.A. as Initial Purchaser of the offering of such Notes subject to prior sale, when, as and if delivered to and accepted by the Initial Purchaser, and to certain conditions. It is expected that delivery of the Notes will be made on or about the Issue Date. The Class A Notes will be issued under the new safekeeping structure applicable to debt securities in global registered form intended to be recognised as eligible collateral for Eurosystem monetary policy and intraday credit operations as of 1 October 2010 (the "NSS"). The Class A Notes are intended to be held in a manner which will allow Eurosystem eligibility, as described in the Prospectus.

Initial Purchaser, Arranger and the Originator

## BANCO ESPAÑOL DE CRÉDITO S.A.

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The date of this Prospectus is 27 September 2011

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The purchaser of any Note, by such purchase, agrees that such Note is being acquired for its own account and not with a view to distribution and may be resold, pledged or otherwise transferred only (1) to the Issuer (upon redemption thereof or otherwise), or (2) outside the United States to a non-U.S. Person in an offshore transaction in reliance on Regulation S, in each case, in compliance with the Trust Deed and all applicable securities laws of any state of the United States or any other jurisdiction.

Interests in the Notes will be subject to certain transfer restrictions set out in the legend of the certificate representing such Notes and the Trust Deed and each transferee of a Note or a beneficial interest therein will be required to represent that it is a non-U.S. Person and will only transfer its beneficial interest in such Note upon receipt of any certificate of transfer required by the Trust Deed. See "*Transfer Restrictions*".

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The Issuer accepts responsibility for the information contained in this Prospectus (the "**Prospectus**") and to the best of the knowledge and belief of the Issuer (which has taken all reasonable care to ensure that such is the case), such information is in accordance with the facts and does not omit anything likely to affect the import of such information. The delivery of this Prospectus at any time does not imply that the information herein is correct at any time subsequent to the date of this Prospectus.

The Collateral Administrator accepts responsibility only for the information contained in the section of this Prospectus headed "*Description of the Collateral Administrator*" and any other information concerning the Collateral Administrator contained in this Prospectus, at the date of this Prospectus and at the Issue Date, such section is true and accurate in all material respects and does not omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

The Portfolio Servicer accepts responsibility only for the information contained in the sections of this Prospectus headed "*Description of the Portfolio Servicer and the Interest Rate Swap Counterparty*" and "*Risk Factors – Certain Conflicts of Interest – Conflicts of Interest involving the Portfolio Servicer*" and such sections at the Issue Date do not contain any untrue statement of a material fact and do not omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Portfolio Servicer is not responsible for, and accepts no responsibility for, the accuracy and completeness of any other information contained in this Prospectus.

The Interest Rate Swap Counterparty accepts responsibility only for the information contained in the section of this Prospectus headed "*Description of the Portfolio Servicer and the Interest Rate Swap Counterparty*" and such section at the Issue Date does not contain any untrue statement of a material fact and does not omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Interest Rate Swap Counterparty is not responsible for, and accepts no responsibility for, the accuracy and completeness of any other information contained in this Prospectus.

None of the Issuer (with respect to the sections headed "*Description of the Collateral Administrator*", "*Description of the Portfolio Servicer*", "*Risk Factors – Certain Conflicts of Interest – Conflicts of Interest involving the Portfolio Servicer*" and "*Description of the Portfolio Servicer and the Interest Rate Swap Counterparty*"), the Initial Purchaser, the Arranger, the Originator, the Trustee, the Collateral Administrator (save in respect of the section headed "*Description of the Collateral Administrator*"), the Portfolio Servicer (save in respect of the sections headed "*Description of the Portfolio Servicer*" and "*Risk Factors – Certain Conflicts of Interest – Conflicts of Interest involving the Portfolio Servicer*") and the Interest Rate Swap Counterparty (save in respect of the section headed "*Description of the Portfolio Servicer and the Interest Rate Swap Counterparty*") has separately verified the information contained in this Prospectus and, accordingly, none of the Issuer (with respect to the sections headed "*Description of the Collateral Administrator*", "*Description of the Portfolio Servicer*", "*Risk Factors – Certain Conflicts of Interest – Conflicts of Interest involving the Portfolio Servicer*" and "*Description of the Portfolio Servicer and the Interest Rate Swap Counterparty*"), the Initial Purchaser, the Arranger, the Originator, the Trustee, the Collateral Administrator (save in respect of the section headed "*Description of the Collateral Administrator*"), the Portfolio Servicer (save in respect of the section headed "*Description of the Portfolio Servicer and the Interest Rate Swap Counterparty*") and the Interest Rate Swap Counterparty (save in respect of the section headed "*Description of the Portfolio Servicer and the Interest Rate Swap Counterparty*") makes any representation, recommendation or warranty, express or implied, regarding the accuracy, adequacy, reasonableness or completeness of the information contained in this Prospectus or in any further notice or other document which may at any time be supplied in connection with the Notes or their distribution or accepts any responsibility or liability therefor. None of the Initial Purchaser, the Arranger, the Originator, the Trustee, the Collateral Administrator, the Portfolio Servicer or the Interest Rate Swap Counterparty undertakes to review the financial condition or affairs of the Issuer during the life of the arrangements contemplated by this Prospectus nor to advise any investor or potential investor in the Notes of any information coming to the attention of the Trustee, the Collateral Administrator, the Initial Purchaser, the Arranger or the Originator which is not included in this Prospectus.

An investment in the Notes is only suitable for financially sophisticated investors who are capable of evaluating the merits and risks of such investment and who have sufficient resources to be able to bear any losses which may result from such investment.

Any individual intending to invest in any investment described in this document should consult his or her professional adviser(s) and ensure that he or she fully understands all the risks associated with making such an investment and has sufficient financial resources to sustain any loss that may arise from it.

In connection with the issue and sale of the Notes, no Person is authorised to give any information or to make any representation not contained in this Prospectus and, if given or made, such information or representation must not be relied upon as having been authorised by or on behalf of the Issuer. The delivery of this Prospectus at any time does not imply that the information contained in it is correct as at any time subsequent to its date.

The language of the Prospectus is English. Certain legislative references and technical terms have been cited in their original language in order that the correct technical meaning may be ascribed to them under applicable law.

Unless otherwise specified or the context requires, references to "**Euro**", "**euro**", "**EUR**" and "**€**" are to the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty establishing the European Community, as amended. See "*Index of Defined Terms*" for details of the pages on which capitalised terms used herein are defined.

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### **Information as to the United States**

The Notes of each Class will each be represented on issue by beneficial interests in one or more permanent global certificates of such Class (each, a "**Global Certificate**" and together, the "**Global Certificates**") in fully registered form, without interest coupons or principal receipts, which will be (i) in respect of the Class A Notes, delivered to and deposited on 27 September 2011 (the "**Issue Date**") with a common safekeeper (the "**Common Safekeeper**") for Euroclear Bank S.A./N.V. as operator of the Euroclear System ("**Euroclear**") and Clearstream Banking, *société anonyme* ("**Clearstream, Luxembourg**") and (ii) in respect of the Class B Notes, the Class C Notes and the Class D Notes, registered in the name of BT Globenet Nominees Limited as nominee of, and deposited with, Deutsche Bank AG, London Branch as common depositary for Euroclear and Clearstream, Luxembourg. U.S. Persons may not hold an interest in a Global Certificate at any time. Ownership interests in the Global Certificates will be shown on, and transfers thereof will only be effected through, records maintained by Euroclear and Clearstream, Luxembourg respectively and their respective participants. In each case, purchasers and transferees of Notes will be deemed to have made and in some cases will be required to affirmatively make certain representations and agreements. See "*Form of the Notes*", "*Book-Entry Clearance Procedures*" and "*Transfer Restrictions*".

Except in the limited circumstances described under "*Form of the Notes – Exchange for Definitive Certificates – Exchange*", Notes in definitive fully registered form (each, a "**Definitive Certificate**") will not be issued in exchange for beneficial interests in the Global Certificates.

The purchaser of any Class A Note, Class B Note, Class C Notes or Class D Notes will be required to make certain purchaser representations as described in "*Transfer Restrictions*" herein.

Neither the Issuer nor the Collateral has been or will be registered under the Investment Company Act, and investors will not be entitled to the benefit of that Act.

The purchaser of any Note, by such purchase, agrees that such Note is being acquired for its own account and not with a view to distribution and may be resold, pledged or otherwise transferred only (1) to the Issuer (upon redemption thereof or otherwise), or (2) outside the United States to a non-U.S. Person in an offshore transaction in reliance on Regulation S, in each case, in compliance with the Trust Deed and all applicable securities laws of any state of the United States or any other jurisdiction.

Each purchaser of Notes offered hereby in making its purchase will be deemed to have made certain acknowledgements, representations and agreements as set out herein under "*Plan of Distribution*" and "*Transfer Restrictions*". The Notes may not be offered or sold, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. Persons except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and any applicable state securities laws and under circumstances that would not require the Issuer to register under the

Investment Company Act. Interests in the Notes will be subject to certain transfer restrictions set out in the legend of the certificate representing such Notes and the Trust Deed and each transferee of a Note or a beneficial interest therein will be required to represent that it is, a non-U.S. Person and will only transfer its beneficial interest in such Note upon receipt of a certificate of transfer in the form provided in the Trust Deed. See "*Transfer Restrictions*" below.

This Prospectus has been prepared by the Issuer solely for use in connection with the offering of the Notes described herein (the "**Offering**"). Each of the Issuer and the Initial Purchaser reserves the right to reject any offer to purchase the Notes in whole or in part for any reason, or to sell less than the stated initial principal amount of any Class of Notes offered hereby. This Prospectus is personal to each offeree to whom it has been delivered by the Issuer, the Initial Purchaser, or any Affiliate or representative thereof and does not constitute an offer to any other person or to the public generally to subscribe for or otherwise acquire the Notes. Distribution of this Prospectus to any persons other than the 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.

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IN CONNECTION WITH THIS ISSUE, BANCO ESPAÑOL DE CRÉDITO S.A. (THE "**STABILISING MANAGER**") (OR PERSONS ACTING ON BEHALF OF THE STABILISING MANAGER) MAY OVER-ALLOT NOTES (PROVIDED THAT THE AGGREGATE PRINCIPAL AMOUNT OF NOTES ALLOTTED DOES NOT EXCEED 105 PER CENT. OF THE AGGREGATE PRINCIPAL AMOUNT OF THE NOTES) OR EFFECT TRANSACTIONS WITH A VIEW TO SUPPORTING THE MARKET PRICE OF THE NOTES AT A LEVEL HIGHER THAN THAT WHICH MIGHT OTHERWISE PREVAIL. HOWEVER, THERE IS NO ASSURANCE THAT THE STABILISING MANAGER (OR PERSONS ACTING ON BEHALF OF THE STABILISING MANAGER) WILL UNDERTAKE STABILISATION ACTION. ANY STABILISATION ACTION MAY BEGIN ON OR AFTER THE ISSUE DATE 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 AND 60 DAYS AFTER THE DATE OF THE ALLOTMENT OF THE NOTES. ANY STABILISATION ACTION SHOULD BE CONDUCTED IN ACCORDANCE WITH APPLICABLE LAWS AND RULES.

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#### **GENERAL NOTICE**

EACH PURCHASER OF THE NOTES MUST COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS IN FORCE IN EACH JURISDICTION IN WHICH IT PURCHASES, OFFERS OR SELLS SUCH NOTES OR POSSESSES OR DISTRIBUTES THIS PROSPECTUS AND MUST OBTAIN ANY CONSENT, APPROVAL OR PERMISSION REQUIRED FOR THE PURCHASE, OFFER OR SALE BY IT OF SUCH NOTES UNDER THE LAWS AND REGULATIONS IN FORCE IN ANY JURISDICTIONS TO WHICH IT IS SUBJECT OR IN WHICH IT MAKES SUCH PURCHASES, OFFERS OR SALES, AND NONE OF THE ISSUER, THE INITIAL PURCHASER, THE ARRANGER, THE ORIGINATOR, THE COLLATERAL ADMINISTRATOR, THE PORTFOLIO SERVICER OR THE TRUSTEE (OR ANY OF THEIR AFFILIATES) SPECIFIED HEREIN SHALL HAVE ANY RESPONSIBILITY THEREFOR.

INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

#### **NOTICE TO RESIDENTS OF SPAIN**

The Notes may not be listed, offered, sold or distributed in Spain, except in accordance with the requirements set out in Law 24/1988 of 28 July of Securities Markets, as amended and restated (the "**Securities Markets Law**"), and Royal Decree 1310/2005, of 4 November, which develops the Securities Markets Law in relation to admission to listing, public offer of securities and prospectus to be published for such purposes, as amended and restated (the "**Royal Decree 1310/2005**"), or any other regulations that may be in force from time to time. This Prospectus has not been and it is not envisaged to be approved by, registered or filed with, or notified to the Spanish Securities Market Commission (*Comisión Nacional del Mercado de Valores*). It is not intended for the public offering or sale of the

Notes in Spain. Investors in the Notes may not sell or offer the securities in Spain other than in compliance with the requirements set out by articles 30bis of the Securities Markets Law and 38 of Royal Decree 1310/2005 so that any sale or offering of the Notes in Spain is not classified as a public offering of securities in Spain.

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## DESCRIPTION OF TERMS

The following summary does not purport to be complete and is qualified in its entirety by reference to the detailed information appearing elsewhere in this Prospectus and related documents referred to herein. For a discussion of certain risk factors to be considered in connection with an investment in the Notes, see "*Risk Factors*".

**The Issuer:** Mesena CLO 2011-1 B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands.

**The Portfolio Servicer:** Banco Español de Crédito S.A. (the "**Portfolio Servicer**") is appointed to carry out certain limited functions on behalf of the Issuer pursuant to a Portfolio Servicing Agreement including (but not limited to) the liquidation of Collateral Loan Obligations and certain limited powers of reinvestment during the Replenishment Period, including without limitation, the following:

- (a) the sale of Collateral Loan Obligations at any time (other than Defaulted Obligations or Credit Impaired Obligations) at a clean price equal to or greater than the Principal Balance of the Collateral Loan Obligation being sold, subject to:
  - (i) in the Portfolio Servicer's knowledge, no Event of Default having occurred which is continuing; and
  - (ii) either (a) the Collateral Administrator, at the request of the Portfolio Servicer, confirming that the Aggregate Principal Balance of Collateral Loan Obligations sold in any year (with each year commencing on the Issue Date or, as the case may be, an anniversary thereof, and ending on the next succeeding anniversary thereof (in each case excluding any Credit Impaired Obligations or Defaulted Obligations sold)) does not exceed 5.00 per cent. of the Aggregate Portfolio Balance, measured as at the beginning of each such year or (b) the consent of holders of the Controlling Class acting by Extraordinary Resolution in respect of sales of Collateral Loan Obligations (excluding Defaulted Obligations or Credit Impaired Obligations) to such sale has been obtained.
- (b) the sale of Credit Impaired Obligations at any time provided that (i) the sale price of such Credit Impaired Obligation is at least equal to the par amount thereof (unless the holders of the Controlling Class, acting by Extraordinary Resolution, have consented to such sale taking place at a lower price), and (ii) no Event of Default has occurred and is continuing (unless the holders of the Controlling Class, acting by Ordinary Resolution, have consented to such sale).

If the Portfolio Servicer determines that a Collateral Loan Obligation is a Credit Impaired Obligation it shall notify the Issuer and the Collateral Administrator of such fact and the date of such determination and shall seek to dispose of such Collateral Loan Obligation prior to the Maturity Date. The timing of such sale within such specified time period shall be at the sole discretion of the Portfolio Servicer. The

Portfolio Servicer will notify the Rating Agencies in the event of any such sale.

- (c) the sale of Defaulted Obligations at any time. The Portfolio Servicer will notify the Rating Agencies in the event of any such sale.

If the Portfolio Servicer determines (based, in part, on information and data provided by the Collateral Administrator to the Portfolio Servicer in respect of the Collateral Loan Obligations contained in the Portfolio) that a Collateral Loan Obligation is a Defaulted Obligation it shall notify the Issuer and the Rating Agencies of such fact and the date of such determination (such date the "Default Date") and shall seek to dispose of such Collateral Loan Obligation prior to the Maturity Date. The timing of such sale within such specified time period shall be at the sole discretion of the Portfolio Servicer.

- (d) subject to the terms of the Portfolio Servicing Agreement, during the Replenishment Period the Portfolio Servicer may also at its discretion reinvest Principal Proceeds in the purchase of New Collateral Loan Obligations satisfying the Eligibility Criteria and the Reinvestment Criteria.

For further details please see "*Description of the Portfolio*" and "*Description of the Portfolio Servicing Agreement*".

**Originator:** Banco Español de Crédito S.A.  
**Trustee:** Deutsche Trustee Company Limited  
**Arranger and Initial Purchaser:** Banco Español de Crédito S.A.  
**Collateral Administrator:** Deutsche Bank AG, London Branch

**Notes:**

Class of Notes	Principal Amount (€)	Stated Interest Rate	S&P Rating <sup>1</sup>	DBRS Rating <sup>2</sup>	Stated Maturity	Initial Offer Price <sup>3</sup>
Class A	848,381,000	3 month EURIBOR + 0.70%	AAA(sf)	AAA(sf)	2026	100%
Class B	375,246,000	3 month EURIBOR + 1.00%	N/A	N/A	2026	100%
Class C	407,875,000	3 month EURIBOR + 1.80%	N/A	N/A	2026	100%
Class D	85,054,000	N/A	N/A	N/A	2026	100%

**Status of the Notes:** Each Class of Notes will comprise limited recourse debt obligations of the Issuer. Subject as provided in the Conditions, the Class A Notes will rank *pari passu* and rateably without any preference among themselves and in priority to the Class B Notes, the Class C Notes and the Class D Notes. Subject as provided in the Conditions, the Class B Notes will rank *pari passu* and rateably without any preference among themselves and in priority to the Class C Notes and the Class D Notes. Subject as provided in the Conditions, the

<sup>1</sup> The S&P ratings assigned to the Class A Notes address the timely payment of interest and the ultimate payment of principal. A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the applicable Rating Agent.

<sup>2</sup> The DBRS ratings assigned to the Class A Notes address the timely payment of interest and principal. A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by DBRS.

<sup>3</sup> The Initial Purchaser may offer the Notes at other prices as may be negotiated at the time of sale.

Class C Notes will rank *pari passu* and rateably without any preference among themselves and in priority to the Class D Notes. Subject as provided in the Conditions, the Class D Notes will rank *pari passu* and rateably without any preference among themselves.

**Use of Proceeds:**

The estimated gross proceeds of the issue of the Notes is €1,716,556,000. The gross proceeds from the issue and offering of the Notes on the Issue Date will be used by the Issuer:

- (i) from the proceeds of the Class D Notes, in payment of applicable fees and expenses on the Issue Date including but not limited to legal fees, administration fees and, estimated expenses of €6,500 associated with admission to the Irish Stock Exchange;
- (ii) from the proceeds of the Class D Notes, in payment of an amount equal to the Initial Reserve Fund Amount to the Reserve Fund Account, and in payment of €1,500,000 to the Stamp Duty Reserve Account;
- (iii) from the proceeds of the Floating Rate Notes, in payment of amounts due and payable in relation to the acquisition of the Portfolio; and
- (iv) any remaining proceeds, in payment to the Interest Proceeds Ledger of the Collection Account.

**Priorities of Payment:**

Prior to the delivery of an Acceleration Notice in accordance with Condition 10(b) (*Acceleration*) or following the delivery of an Acceleration Notice which has subsequently been rescinded and annulled in accordance with Condition 10(c) (*Curing of Default*), and other than in connection with an optional redemption under Condition 7(b) (*Optional Redemption*), Interest Proceeds will be applied in accordance with the Interest Proceeds Priority of Payments and Principal Proceeds will be applied in accordance with the Principal Proceeds Priority of Payments. Upon any redemption in whole of the Notes pursuant to an Extraordinary Resolution of the applicable Classes of Noteholders pursuant to Condition 7(b) (*Optional Redemption*) or following the delivery of an Acceleration Notice in accordance with Condition 10(b) (*Acceleration*) which has not been rescinded and annulled in accordance with Condition 10(c) (*Curing Default*), Interest Proceeds, Principal Proceeds, and the net proceeds of enforcement of the security over the Collateral will be applied in accordance with the Post-Acceleration Priority of Payments, in each case as described in the Conditions.

**Interest Payments:**

**Class A Notes:** Interest in respect of the Notes will accrue from the Issue Date and will first be payable in arrear on 27 January 2012 and thereafter, quarterly in arrear on 27 October, 27 January, 27 April and 27 July of each year and in each case if any such day is not a Business Day, the immediately following Business Day, at maturity and upon any redemption of the Notes (each, a "**Payment Date**").

**Class B Notes and Class C Notes:** Interest in respect of the Class B Notes and the Class C Notes, respectively, will only accrue on those Interest Accrual Periods on which the relevant Principal Deficiency Test has been satisfied. Interest, if any, will be payable on the relevant Payment Date.

**Class D Notes:** The Class D Notes will not bear interest at a predetermined fixed or floating rate, but will be entitled to receive payments on an available funds basis on each Payment Date out of Interest Proceeds and Principal Proceeds, subject to prior payments in accordance with the Priorities of Payment of, *inter alia*, certain fees and expenses and interest payable in respect of the Floating Rate Notes.

**Failure to Pay Interest:**

Failure on the part of the Issuer to pay the Interest Amounts due and payable on any Class of Notes pursuant to Condition 6 (*Interest*) and the Priorities of Payment shall not be an Event of Default unless and until (a) such failure continues for a period of at least five Business Days (or, if such failure results from an administrative error, such failure continues for a period of at least seven Business Days) and (b) in the case of non-payment of interest due and payable on the Class B Notes, the Class B Principal Deficiency Test has been satisfied and the Class A Notes have been redeemed in full; in the case of non-payment of interest due and payable on the Class C Notes, the Class C Principal Deficiency Test has been satisfied and the Class A Notes and the Class B Notes have been redeemed in full; and, save in each case, as the result of any deduction therefrom or the imposition of any withholding tax thereon as set out in Condition 9 (*Taxation*).

For the avoidance of doubt, non-payment of Interest Amounts on Class B Notes and Class C Notes as a result of failure to satisfy the Class B Principal Deficiency Test and/or the Class C Principal Deficiency Test respectively, shall not constitute an Event of Default.

Non-payment of interest on the Class D Notes as a result of the non-availability of Interest Proceeds or Principal Proceeds on application of the Priorities of Payment will not constitute an Event of Default.

**Redemption of the Notes:**

Principal payments on the Notes will be made in the following circumstances:

- (a) on the Maturity Date (as defined below) subject to and in accordance with the Principal Proceeds Priority of Payments;
- (b) in whole at their respective Redemption Prices on any Payment Date, at the request of the holders of the Class D Notes acting by Extraordinary Resolution (subject to the detailed provisions of Condition 7(b) (*Optional Redemption*)) from the proceeds of liquidation or realisation of the Collateral applied in accordance with the Post-Acceleration Priority of Payments;
- (c) in whole at their respective Redemption Prices at the option of the Portfolio Servicer on any Payment Date which occurs on or after the Payment Date on which the Performing Portfolio Balance is less than or equal to 10 per cent. of the Initial Portfolio Balance (subject to the detailed provisions of Condition 7(b) (*Optional Redemption*)) from the proceeds of liquidation or realisation of the Collateral applied in accordance with the Post-Acceleration Priority of Payments;

- (d) on any Payment Date falling after the occurrence of a Collateral Tax Event, at the request of the holders of the Class D Notes acting by Extraordinary Resolution and provided that a substitution or relocation of the Issuer or other reasonable measures would fail to remedy a Collateral Tax Event (subject to the detailed provisions of Condition 7(b) (*Optional Redemption*)) from the proceeds of liquidation or realisation of the Collateral applied in accordance with the Post-Acceleration Priority of Payments;
- (e) upon the occurrence of a Note Tax Event which is continuing, at the direction of the holders of the Controlling Class or the holders of the Class D Notes, acting in either case by Extraordinary Resolution (subject to the detailed provisions of Condition 7(b) (*Optional Redemption*)) from the proceeds of liquidation or realisation of the Collateral applied in accordance with the Post-Acceleration Priority of Payments, on any Payment Date falling after the earlier to occur of:
  - (A) the date upon which the Issuer notifies the Noteholders that it is not able to effect (1) a substitution or (2) a change of tax residence, in each case in accordance with Condition 9(b) (*Substitution of Principal Obligor or Change in Tax Residence*) and the terms of the Trust Deed, and
  - (B) the date which is 90 days from the date upon which the Issuer first becomes aware of a Note Tax Event subject to Condition 9(b) (*Substitution of Principal Obligor or Change in Tax Residence*) (provided that such 90-day period shall be extended by a further 90 days in the event that during the first 90-day period the Issuer has notified the Noteholders that, based on advice received by it, it expects that it shall have effected a substitution or changed its place of residence by the end of the second 90-day period); and
- (f) on any Payment Date, out of Principal Proceeds in accordance with the Principal Proceeds Priority of Payments;
- (g) on any Payment Date, the Class A Notes and thereafter the Class B Notes and thereafter the Class C Notes will be redeemed out of Interest Proceeds subject to and in accordance with the Interest Proceeds Priority of Payments in an amount up to, respectively:
  - (A) the lesser of (i) the Principal Amount outstanding of the Class A Notes and (ii) the Principal Deficiency Amount (if any);
  - (B) subject to the redemption of the Class A Notes in full, the lesser of (i) the Principal Amount Outstanding of the Class B Notes and (ii) the Principal Deficiency Amount (if any); and

- (C) subject to the redemption of the Class B Notes in full, the lesser of (i) the Principal Amount Outstanding of the Class C Notes and (ii) the Principal Deficiency Amount (if any); and
- (h) upon the occurrence of an Issuer Tax Event, at the Issuer's own discretion or at the request of the Class D Noteholders acting by Extraordinary Resolution (subject to the detailed provisions of Condition 7(b) (*Optional Redemption*)) from the proceeds of liquidation or realisation of the Collateral applied in accordance with the Post-Acceleration Priority of Payments on any Payment Date,

each as set out in further detail in Condition 7 (*Redemption and Purchase*).

**Maturity Date:** Each Class of Notes will mature at their Principal Amount Outstanding on 27 July 2026 or, if such day is not a Business Day, the immediately following Business Day (the "**Maturity Date**"), in each case, unless redeemed or repaid prior thereto. The average life of each Class of Floating Rate Notes is expected to be shorter than the number of years from the Issue Date to the Maturity Date. See "*Risk Factors – Average Life and Prepayment Considerations*".

**Redemption Prices:** The Redemption Price applicable to the Class A Notes, the Class B Notes and the Class C Notes, will be equal to 100 per cent. of the respective Principal Amounts Outstanding thereof, in each case, together with interest accrued thereon (including any Deferred Interest) to the date of redemption.

The Redemption Price of each Class D Note will be an amount which is equal to such Class D Note's *pro rata* share of the aggregate proceeds of liquidation of the Collateral or realisation of the security thereover, remaining following redemption of each other Class of Notes in full and payment of all other amounts required to be paid in priority thereto pursuant to the Priorities of Payment.

**Liquidation of Collateral:** Prior to any redemption pursuant to paragraph (A), (B) or (C) of Condition 7(b)(i) (*Redemption at the Option of the Class D Noteholders or the Holders of the Controlling Class*) or Condition 7(b)(ii) (*Optional Redemption Clean-Up Call*), the Portfolio Servicer, on behalf of the Issuer, will seek to sell, assign, terminate and/or otherwise dispose of all of the Portfolio subject to the detailed provisions of such Condition.

**Portfolio Servicing Fee:** The fee payable to the Portfolio Servicer in arrear on each Payment Date equal to 0.01 per cent. per annum of the Aggregate Portfolio Balance as at the first Business Day of the Due Period immediately preceding the Payment Date (as further described under "*Description of the Portfolio Servicing Agreement*").

#### **Security for the Notes**

**General:** The Notes are and will be secured limited recourse debt obligations of the Issuer, secured by the Issuer in favour of the Trustee for the benefit of the Secured Parties by way of (amongst other things) a first fixed charge and assignment by way of security over the Issuer's portfolio of Collateral Loan Obligations and all cash and other property with respect to the Collateral Loan Obligations. See "*Description of the Portfolio*".

The Notes will also be secured by a charge over and/or assignment by way of security of certain other assets (such other assets, together with the Collateral Loan Obligations, being collectively referred to as the "**Collateral**") including (A) a first fixed charge over or as applicable, a pledge or an assignment by way of security of (a) all rights of the Issuer in respect of the Accounts (other than the Counterparty Downgrade Collateral Account, and any Counterparty Downgrade Collateral standing to the credit thereof which may be charged in favour of the relevant Interest Rate Swap Counterparty), (b) the Issuer's rights against the Custodian under the Agency Agreement and the Custody Account, (c) the Issuer's rights under each Interest Rate Swap Agreement, (d) the Issuer's rights under the other Transaction Documents (excluding the Management Agreement) and (e) all rights of the Issuer to any money held by the Paying Agents for the payment of principal or interest on the Notes and (B) a floating charge over the whole of the Issuer's undertaking and assets that are not subject to any other security created under the Trust Deed or any other additional security document (subject to certain excluded assets and rights). See Condition 4(a) (*Security*).

Pursuant to the Spanish Accounts Pledge Agreement, the Issuer has also created a Spanish pledge over the Accounts (save for the Payment Account and the Custody Account).

<b>The Portfolio:</b>	The Portfolio will consist of Senior Secured Loans and Senior Unsecured Loans details of which are set out in the " <i>Description of the Portfolio</i> ".
<b>Purchase of Collateral Loan Obligations:</b>	The Issuer has purchased or committed to purchase a Portfolio of Senior Secured Loans and Senior Unsecured Loans that, at the time the Issuer entered into binding commitments to purchase, comply with the Eligibility Criteria described herein.
<b>Reinvestment in Collateral Loan Obligations:</b>	During the Replenishment Period, the Portfolio Servicer may, at its discretion, reinvest Principal Proceeds on behalf of the Issuer in the purchase of New Collateral Loan Obligations meeting the Eligibility Criteria and the Reinvestment Criteria.
<b>Replenishment Period:</b>	The period from and including the Issue Date, up to and including the Payment Date falling on 27 October 2014, provided that if on any Determination Date the Principal Deficiency Amount divided by the Aggregate Portfolio Balance, expressed as a percentage, exceeds 5 per cent. then the next following Payment Date shall be deemed to be the last day of the Replenishment Period.
<b>Collateral Quality Tests and Portfolio Profile Tests:</b>	<p>The Collateral Quality Tests will comprise the following:</p> <ul style="list-style-type: none"><li>• Maximum DBRS Risk Score Test;</li><li>• S&amp;P CDO Monitor Test;</li><li>• the S&amp;P Weighted Average Recovery Rate Test; and</li><li>• Weighted Average Maturity Test.</li></ul> <p>In summary, the Portfolio Profile Tests will consist of each of the following:</p>

- (a) The Aggregate Principal Balance of Collateral Loan Obligations of a single Obligor as a percentage of the Aggregate Portfolio Balance shall not exceed the maximum percentage set out in the table below (or, for the purposes of the Reinvestment Criteria, if such percentage does exceed the maximum percentage, the relevant concentration is no greater after giving effect to the proposed reinvestment than it was immediately prior to the sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested):

Single Obligor Concentration Ranking	Maximum Percentage of Aggregate Portfolio Balance
First	12.5 per cent.
Second	8.5 per cent.
Third	7.5 per cent.
Fourth	6.5 per cent.
Fifth	5.5 per cent.
Sixth to Seventh	4.5 per cent.
Eighth to Ninth	4.0 per cent.
Tenth to Thirteenth	3.5 per cent.
>13	2.5 per cent.

Where "**Single Obligor Concentration Ranking**", means at any time in respect of each Obligor, a ranking determined by reference to the percentage of the Aggregate Portfolio Balance represented by the Principal Balance of the Collateral Loan Obligations (excluding any Defaulted Obligations) of such Obligor, whereby the single Obligor with the highest such percentage shall be ranked "First", the single Obligor with the next highest such percentage shall be ranked "Second" and so on; provided that if such percentage is exactly equal in respect of any two or more Obligors, the Portfolio Servicer shall determine the Single Obligor Concentration Ranking of those Obligors as amongst themselves in its discretion;

- (b) The Aggregate Principal Balance of Collateral Loan Obligations of Obligors in each respective S&P Industry Classification (as such term is used by S&P) and DBRS Industry Classification (as such term is used by DBRS) shall not exceed the maximum percentage of the Aggregate Portfolio Balance set out in the table below (or, for the purposes of the Reinvestment Criteria, if such percentage does exceed the maximum percentage, the relevant concentration is no greater after giving effect to the proposed reinvestment than it was immediately prior to the sale or prepayment (in whole or in part) of the relevant



Collateral Loan Obligation the Principal Proceeds of which are being reinvested):

**DBRS and S&P:**

Industry Obligor Concentration Ranking	Maximum Percentage of Aggregate Portfolio Balance
First	30.0 per cent.
Second	24.0 per cent.
Third and greater	12.0 per cent.

- (c) The Aggregate Principal Balance of Collateral Loan Obligations of the 10 largest Obligor (by principal amount outstanding) which are rated "B+" or less by S&P shall not exceed 55 per cent. of the Aggregate Portfolio Balance (or, for purposes of the Reinvestment Criteria, if such percentage exceeds 55 per cent., the relevant concentration is no greater after giving effect to the proposed reinvestment than it was immediately prior to the sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested).
- (d) The Aggregate Principal Balance of Collateral Obligation of the 12 largest Obligor (by principal amount outstanding) which are rated "CCC+" or less by S&P shall not exceed 55 per cent. of the Aggregate Portfolio Balance (or, for purposes of the Reinvestment Criteria, if such percentage exceeds 55 per cent., the relevant concentration is no greater after giving effect to the proposed reinvestment than it was immediately prior to the sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested).

On the Issue Date, the Collateral Quality Tests and the Portfolio Profile Tests must be satisfied.

If the Eligibility Criteria are no longer satisfied in respect of any Collateral Loan Obligation on any date subsequent to the date on which the Issuer enters into a binding commitment to acquire such Collateral Loan Obligation; or if the Collateral Quality Tests or the Portfolio Profile Tests (or any of them) are no longer satisfied at any time in respect of the Portfolio, there shall be no obligation on the Originator to repurchase any Collateral Loan Obligation or take any other action to bring the Portfolio into compliance with the Eligibility Criteria (in respect of each Collateral Loan Obligation individually), or the Collateral Quality Tests or the Portfolio Profile Tests (in respect of the Portfolio as a whole).

**Principal Deficiency Tests:**

The principal deficiency tests (the "**Principal Deficiency Tests**") will consist of the Class B Principal Deficiency Test and the Class C Principal Deficiency Test. On any Payment Date prior to any Redemption Date relating to any optional redemption of the Notes pursuant to Condition 7(b) (*Optional Redemption*) or following

delivery of an Acceleration Notice, if the Class B Principal Deficiency Test is failing, Interest Proceeds will be applied, subject to the redemption of the Class A Notes in full, in redemption of the Class B Notes before payment of interest on the Class C Notes. If the Class C Principal Deficiency Test is failing, Interest Proceeds will be applied, subject to the redemption of the Class B Notes in full, in redemption of the Class C Notes before payment of interest on the Class D Notes, in each case in accordance with the Priorities of Payment.

For the avoidance of doubt, interest on the Class B Notes and the Class C Notes will only accrue on those Interest Accrual Periods (as defined in the Conditions) on which the Principal Deficiency Tests are satisfied.

Each of the Class B Principal Deficiency Test and the Class C Principal Deficiency Test shall be satisfied on a Determination Date if (in the determination of the Collateral Administrator) the Principal Deficiency Amount for that Class divided by the Principal Amount Outstanding of all Classes of Notes on such Determination Date is lower than the relevant percentage threshold stipulated for the Principal Deficiency Test for that Class.

**Accounts:** Prior to the Issue Date, the Issuer will establish (i) the Payment Account with the Payment Account Account Bank, (ii) the Counterparty Downgrade Collateral Account with the Counterparty Downgrade Collateral Account Bank; (iii) the Collection Account, the Reserve Fund Account, the Interest Rate Swap Termination Account and the Stamp Duty Reserve Account (the "**Spanish Accounts**") with the Account Bank and (iv) the Custody Account with the Custodian (each as defined in the Conditions and, together with any other Accounts requested by the Issuer from time to time, the "**Accounts**").

**Interest Rate Swaps:** The Issuer (or the Portfolio Servicer on behalf of the Issuer) will enter into one or more Interest Rate Swap Transactions prior to, on or after the Issue Date. See "*Description of the Interest Rate Swap Arrangements*".

**Limited Recourse:** The Notes are limited recourse obligations of the Issuer which are payable solely out of amounts received by or on behalf of the Issuer in respect of the Collateral. See Condition 4(c) (*Limited Recourse*).

**Withholding Tax:** The Issuer is not and shall not be under any obligation to gross up in respect of any payments to the Noteholders. See Condition 9 (*Taxation*).

**Ratings:** It is a condition to issuance that the Notes receive at least the ratings set out below as at the Issue Date:

<b>Class of Notes</b>	<b>S&amp;P</b>	<b>DBRS</b>
A	AAA(sf)	AAA(sf)
B	Unrated	Unrated
C	Unrated	Unrated
D	Unrated	Unrated

The ratings assigned to the Class A Notes address the timely payment of interest and principal. A credit rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the Rating Agency. See "*Ratings of the Notes*" and "*Risk Factors*". The Class B Notes, Class C Notes and the Class D Notes will not be rated.

**Denominations:** The Notes of each Class will be issued in Minimum Denominations of €100,000 and integral multiples of €1,000 in excess thereof.

**The Offering:** The Notes of each Class will be offered outside of the United States to non-U.S. Persons in "offshore transactions" in reliance on Regulation S.

**Form, Registration and Transfer of the Notes:** The Notes of each Class will each be represented on issue by beneficial interests in one or more permanent global certificates of such Class in fully registered form, without interest coupons or principal receipts (each, a "**Global Certificate**" and together, the "**Global Certificates**") and will be delivered on or prior to the Issue Date and (i) in respect of the Class B Notes, the Class C Notes and the Class D Notes, registered in the name of BT Globenet Nominees Limited as nominee of, and deposited with Deutsche Bank AG, London Branch as common depositary for Euroclear and Clearstream, Luxembourg and (ii) in respect of the Class A Notes only, registered in the name of a nominee of the common safekeeper (the "**Common Safekeeper**") for Euroclear and Clearstream, Luxembourg. U.S. Persons may not hold an interest in a Global Certificate at any time. See "*Form of the Notes*", "*Book-Entry Clearance Procedures*" and "*Transfer Restrictions*".

The Global Certificates will bear a legend, and such Global Certificates or any interest therein, may not be transferred except in compliance with the transfer restrictions set out in such legend. See "*Transfer Restrictions*".

Except in the limited circumstances described herein, Notes in definitive, certificated, fully registered form ("Definitive Certificates") will not be issued in exchange for beneficial interests in either the Global Certificates. See "*Form of the Notes – Exchange for Definitive Certificates*".

The Class A Notes will be issued under the NSS. See "*Form of the Notes*".

**Governing Law:** The Notes and the Transaction Documents (save for the Management Agreement and the Spanish Accounts Pledge Agreement) and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to the Notes and the Transaction Documents (other than the Management Agreement and the Spanish Accounts Pledge Agreement) are governed by and shall be construed in accordance with English law. The Management Agreement is governed by and shall be construed in accordance with Dutch law. The Spanish Accounts Pledge Agreement is governed by and shall be construed in accordance with Spanish law.

**Listing:** This Prospectus has been approved by the Central Bank, as competent authority under the Prospectus Directive. The Central Bank only approves this Prospectus as meeting the requirements imposed under Irish and EU law pursuant to the Prospectus Directive. Application has been made to the Irish Stock Exchange

for the Notes to be admitted to the Official List and trading on its regulated market. Such approval relates only to 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 public in any member state of the EEC. There can be no assurance that such listing and admission to trading will be granted. This Prospectus constitutes the Prospectus for the purposes of the Prospectus Directive. See "*General Information*".

**Irish Listing Agent:**

Deutsche Bank Luxembourg S.A.

**Tax Status:**

See "*Tax Considerations*".

## **RISK FACTORS**

An investment in the Notes of any Class involves certain risks, including risks relating to the Collateral securing such Notes and risks relating to the structure and rights of such Notes and the related arrangements. Prospective investors should carefully consider the following factors, in addition to the matters set forth elsewhere in this Prospectus, prior to investing in the Notes of any Class.

### **1. GENERAL**

#### **1.1 General**

It is intended that the Issuer will invest directly in loan obligations, details of which are set forth in "*Description of the Portfolio*" herein. There can be no assurance that the Issuer's investments will be successful, that the holders of Notes will receive the full amounts payable by the Issuer under the Notes or that they will receive any return on their investment in the Notes. Prospective investors are therefore advised to review this entire Prospectus carefully and should consider, among other things, the factors set out below before deciding whether to invest in the Notes. Except as is otherwise stated below, such factors are generally applicable to all Classes of Notes, although the degree of certain risks associated with each Class of Notes will vary according to its position in terms of the Priorities of Payment.

None of the Initial Purchaser, the Arranger, the Originator, the Collateral Administrator, the Portfolio Servicer, the Trustee or the Interest Rate Swap Counterparty undertake to review the financial condition or affairs of the Issuer during the life of the arrangements contemplated by this Prospectus nor to advise any investor or potential investor in the Notes of any information coming to the attention of the Initial Purchaser, the Arranger, the Originator, the Collateral Administrator, the Portfolio Servicer, the Trustee or the Interest Rate Swap Counterparty which is not included in this Prospectus.

#### **1.2 Suitability**

Prospective purchasers of the Notes of any Class should ensure that they understand the nature of such Notes and the extent of their exposure to risk, that they have sufficient knowledge, experience and access to professional advisers to make their own legal, tax, accounting, regulatory and financial evaluation of the merits and risks of investment in such Notes and that they consider the suitability of such Notes as an investment in the light of their own circumstances and financial condition.

#### **1.3 Limited Sources of Funds to Pay Expenses of the Issuer**

The funds available to the Issuer to pay its expenses on any Payment Date are limited as provided in the Priorities of Payment. In the event that such funds are not sufficient to pay the expenses incurred by the Issuer, the ability of the Issuer to operate effectively may be impaired, and it may not be able to defend or prosecute legal proceedings brought against it or which it might otherwise bring to protect its interests or be able to pay the expenses of legal proceedings against persons it has indemnified.

### **2. RELATING TO THE NOTES**

#### **2.1 Recent Events in the CLO and Leveraged Finance Markets**

The global economy is currently being affected by a crisis in the credit markets and is experiencing a general downturn and, in certain countries, a recession. Among the sectors of the global credit markets that are experiencing particular difficulty are the collateralised loan obligations ("**CLO**") and leveraged finance markets. There exist significant risks for the Issuer and investors as a result of the current economic conditions. These risks include, among others, (i) the likelihood that the Issuer will find it more difficult to sell any of its assets in the secondary market, thus rendering it more difficult to dispose of such assets, (ii) the possibility that, on or after the Issue Date, the price at which assets can be sold by the Issuer will have deteriorated from their effective purchase price and (iii) the illiquidity of the Notes as there is currently little or no secondary trading in CLO securities. These risks may affect the returns on the Notes to investors and/or the ability of investors to realise their investment in the Notes prior to their stated maturity, if at all. In addition, the primary market for a number of financial products including leveraged loans has stalled. As well as reducing opportunities for the Issuer to purchase assets in the primary market, this is likely to heighten refinancing risk in respect of maturing assets. These additional risks may affect the returns on the Notes to investors. As the credit crisis continues it has had an increasing impact on the economic conditions in a number of jurisdictions. The

slow down in growth or commencement of a recession in such economies will have an adverse effect on the ability of consumers and businesses to repay or refinance their existing debt. Adverse macro economic conditions may adversely affect the rating, performance and the realisation value of the Collateral. It is possible that the Collateral will experience higher default rates than anticipated and that performance will suffer. Some leading global financial institutions have been forced into mergers with other financial institutions, been partially or fully nationalised or have gone bankrupt or insolvent. The bankruptcy or insolvency of a major financial institution may have an adverse effect on the Issuer, particularly if such financial institution is the administrative agent of a leveraged loan. In addition, the bankruptcy, insolvency or financial distress of one or more additional financial institutions, or one or more sovereigns, may trigger additional crises in the global credit markets and overall economy which could have a significant adverse effect on the Issuer, the Collateral and the Notes. While it is possible that current conditions may improve for certain sectors of the global economy, there can be no assurance that the CLO or leveraged finance markets will recover at the same time or to the same degree as such other recovering sectors.

## 2.2 Limited Liquidity and Restrictions on Transfer

Although there is currently a limited market for notes representing collateralised loan obligations similar to the Class A Notes, there is currently no market for the Notes themselves. There can be no assurance that any secondary market for any of the Notes will develop or, if a secondary market does develop, that it will provide the Noteholders with liquidity of investment or continue for the life of such Notes. Consequently, a purchaser must be prepared to hold the Notes potentially until their Maturity Date. As referred to above as a result of the current global economic conditions there is currently little or no secondary trading in CLO securities. See "*Recent Events in the CLO and Leveraged Finance Markets*" above.

In addition, no sale, assignment, participation, pledge or transfer of the Notes may be effected if, among other things, it would require any of the Issuer or any of its officers or directors to register under, or otherwise be subject to the provisions of, the Investment Company Act or any other similar legislation or regulatory action. Furthermore, the Notes will not be registered under the Securities Act or any U.S. state securities laws, and the Issuer has no plans, and is under no obligation, to register the Notes under the Securities Act. The Notes are subject to certain transfer restrictions and can be transferred only to certain transferees. See "*Plan of Distribution*" and "*Transfer Restrictions*". Such restrictions on the transfer of the Notes may further limit their liquidity. Consequently, a purchaser must be prepared to hold such Notes for an indefinite period of time or until the Maturity Date.

There is currently no market for the Class C Notes or the Class D Notes and there can be no assurance that such a market will develop. Consequently, a purchaser must be prepared to hold the Class C Notes and the Class D Notes potentially until their Maturity Date.

## 2.3 Limited Recourse Obligations and Non-Petition

The Notes are secured limited recourse obligations of the Issuer, secured by the Issuer in favour of the Trustee for the benefit of the Secured Parties and in the case of the Floating Rate Notes and the Class D Notes are payable solely from amounts received in respect of the Collateral Loan Obligations, all cash and other property with respect to the Collateral Loan Obligations and other Collateral securing the Notes as set out in detail in Condition 4(a) (*Security*). Payments on the Notes prior to enforcement of the security over the Collateral are subordinated to the prior payment of certain fees and expenses of, or payable by, the Issuer and in the case of the interest and principal on the Class D Notes, to payment of principal and interest on the Floating Rate Notes.

Only the Trustee may pursue the remedies available under applicable law and under the Trust Deed to enforce the rights of the Transaction Creditors against the Issuer and no other Transaction Creditor shall be entitled to proceed directly against the Issuer in respect of such rights, unless the Trustee having been bound to take steps and/or proceedings, fails to do so within a reasonable time and such failure is continuing. If the net proceeds of realisation of the security constituted by the Trust Deed, upon enforcement thereof in accordance with Condition 11 (*Enforcement*) and the provisions of the Trust Deed, are less than the aggregate amount payable in such circumstances by the Issuer in respect of the Notes and to the other Transaction Creditors (such negative amount being referred to herein as a "**shortfall**"), the obligations of the Issuer in respect of the Notes of each Class and its obligations to the other Transaction Creditors in such circumstances will be limited to such net proceeds, which shall be

applied in accordance with the Priorities of Payment (other than, in the case of the Interest Rate Swap Counterparty, with respect to Counterparty Downgrade Collateral (where applicable)). In such circumstances, the other assets (if any) of the Issuer (including any amounts standing to the credit of the Issuer Dutch Account and its rights under the Management Agreement) will not be available for payment of such shortfall which shall be borne by the Class A Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Trustee, and the other Transaction Creditors in accordance with the Priorities of Payment (other than, in the case of the Interest Rate Swap Counterparty, with respect to Counterparty Downgrade Collateral (where applicable)) (applied in reverse order). The rights of the Transaction Creditors to receive any further amounts in respect of such obligations shall be extinguished and none of the Noteholders of each Class or the other Transaction Creditors may take any further action to recover such amounts. None of the Noteholders of any Class or the other Transaction Creditors or, save as permitted in the Trust Deed, the Trustee (nor any other Person acting on behalf of any of them other than the Trustee acting in accordance with the Trust Deed) shall be entitled at any time to institute against the Issuer, or join in any institution against the Issuer of, any bankruptcy, examinership, reorganisation, arrangement, insolvency, winding-up or liquidation proceedings or other proceedings under any applicable bankruptcy or similar law in connection with any obligations of the Issuer relating to the Notes of any Class, the Trust Deed or otherwise owed to the Transaction Creditors, save for lodging a claim in the liquidation of the Issuer which is initiated by another non affiliated party or taking proceedings to obtain a declaration as to the obligations of the Issuer.

Consequently, the holders of the Notes must rely solely on distributions on the Collateral Loan Obligations and amounts received under the Interest Rate Swap Transaction and other Collateral securing the Notes for the payment of principal and interest. There can be no assurance that the distributions on the Collateral Loan Obligations and amounts received under the Interest Rate Swap Transaction and other Collateral securing the Notes will be sufficient to make payments on any Class D Notes after making payments on the Floating Rate Notes, and certain other required payments to other creditors ranking senior to or *pari passu* with such Class pursuant to the Priorities of Payment.

None of the Noteholders of any Class or any Transaction Creditor (nor any Person acting on behalf of any of them) shall have any recourse against any director, shareholder or officer of the Issuer in respect of any obligations, covenant or agreement entered into or made by the Issuer pursuant to the terms of the Trust Deed or any or any other Transaction Document to which it is a party or any notice or documents which it is requested to deliver hereunder or thereunder.

None of the Trustee, the Managing Directors, the Initial Purchaser, the Arranger, the Originator, the Portfolio Servicer, the Collateral Administrator, any Interest Rate Swap Counterparty or the Custodian has any obligation to any Noteholder of any Class for payment of any amount by the Issuer in respect of the Notes of any Class.

## **2.4 Subordination**

Subject to the detailed provisions of the Conditions, including but not limited to a failure to satisfy the Priorities of Payment, the Class C Notes will be subordinated to the Class B Notes, the Class B Notes will be subordinated to the Class A Notes, and the Class D Notes will be fully subordinated to the Notes of each other Class, save to the extent otherwise provided below. Payments of principal and interest on the Notes are also subordinated to payment of certain expenses of the Issuer and amounts payable to other Secured Parties as specified in the Priorities of Payment. The risk of delays in payments or ultimate non-payment of principal and/or interest will be borne disproportionately by the holders of the Class D Notes as compared to the Notes of each other Class, and as among the holders of the other Classes of Notes will be borne disproportionately by the holders of more junior Classes of Notes as compared to the more senior Classes of Notes (determined by reference to their ranking pursuant to the Priorities of Payment).

In addition, to the extent described herein, in the case of: (i) the Class B Notes, for so long as any of the Class A Notes remain Outstanding and subject to satisfaction of the Class B Principal Deficiency Test and the corresponding right to accrue interest (as further described in Condition 6(a)); and (ii) the Class C Notes, for so long as any of the Class B Notes remain Outstanding and subject to satisfaction of the Class C Principal Deficiency Test and the corresponding right to accrue interest (as further described in Condition 6(a)); an amount of interest equal to any shortfall in payment of the Interest Amount due and payable in respect of any of such Classes of Notes on any Payment Date (each such amount being

referred to as "**Deferred Interest**") shall be deferred and shall, with effect from and including such Payment Date, be added to the Principal Amount Outstanding of the Notes of the applicable Class and the principal amount of each such Note shall be increased by the amount of its pro rata share of such Deferred Interest which shall itself bear interest, in accordance with the Conditions from such date. Any such deferral of interest will increase the effect of the subordination of the Class of Notes or Classes of Notes which are junior to the Classes of Notes in respect of which payment was deferred. For the avoidance of doubt, non-payment of Interest Amounts on the Class B Notes and the Class C Notes as a result of a failure to satisfy the applicable Principal Deficiency Test shall not constitute an Event of Default.

## 2.5 Subordination of the Class D Notes

Payments on the Class D Notes both prior to and following enforcement of the security over the Collateral are subordinated to payments in respect of the Floating Rate Notes and payment of certain fees and other amounts payable by the Issuer in accordance with the Priorities of Payment. Interest on the Class D Notes will be paid on an available funds basis only, to the extent that there are Interest Proceeds available, on each Payment Date following payment of interest on the Floating Rate Notes whilst any such Notes remain Outstanding and the fees, expenses and other amounts set out in the Priorities of Payment.

The Issuer's ability to make payments of interest and principal in respect of the Class D Notes will be constrained by the terms of the Floating Rate Notes, by the level of distributions received in respect of the Portfolio and other Collateral securing the Notes. If distributions on the Portfolio and the other Collateral are insufficient to make payment on the Class D Notes, no other assets will be available for payment of such deficiency. See "*Limited Recourse Obligations and Non-Petition*" above. No interest may therefore be payable on the Class D Notes for an indefinite period of time to maturity.

As referred to under "**Subordination**" above, the risk of delays in payments or ultimate non-payment of principal and/or interest will be borne disproportionately by the holders of the Class D Notes as compared to the Floating Rate Notes. In addition, any deferral of interest payable on the Class B Notes and the Class C Notes, as described in "Subordination" above, will increase the effect of the subordination of the Class D Notes.

## 2.6 Non-Payment of Class A Notes

In the event of any non-payment of interest on the Class A Notes which is due and payable, an Event of Default shall occur (unless such default is otherwise cured by the Issuer and subject to any applicable grace periods) which entitles the Controlling Class, acting by Extraordinary Resolution, to accelerate the Notes in accordance with Condition 10(b) (*Acceleration*). It should be noted that notwithstanding non-payment of interest on the Class A Notes which is due and payable, no provision allows for the deferral of interest on such amounts so deferred in the manner as is provided for the Class B Notes, the Class C Notes and the Class D Notes.

## 2.7 Subordination through Conflicts between Classes

Following the occurrence of an Event of Default, the Trustee shall at the request of the holders of the Controlling Class acting by Extraordinary Resolution (subject to being indemnified and/or secured and/or prefunded to its satisfaction against all liabilities, proceedings, claims and demands to which it may become liable and all costs, charges and expenses which may be incurred by it in connection therewith) accelerate the Notes in accordance with Condition 10(b) (*Acceleration*).

In the event of any acceleration of the Notes following the occurrence of an Event of Default, liquidation of the Collateral at such time or the remedies pursued upon enforcement of the security over the Collateral at such time by the Trustee could be adverse to the interests of the holders of the Classes of Notes which rank junior in terms of priority to the Controlling Class directing such enforcements. Such remedies, or actions taken pursuant to such other voting rights, could be adverse to the interests of the holders of the Classes of Notes not entitled to vote, and the holders of the Notes of a given Class entitled to vote at any time will have no obligation to consider the effect of any such vote on the holders of any other classes of Notes. The Trustee shall not be liable to any person for any loss occasioned thereby.



In connection with the exercise of its trusts, powers, duties and discretions, the Trustee shall have regard to the interests of each Class of Noteholders as a Class and shall not have regard to the consequences of such exercise for individual Noteholders of such Class and the Trustee shall not be entitled to require, nor shall any Noteholder be entitled to claim, from the Issuer, the Trustee or any other Person, any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders except to the extent already provided for in Condition 8 (*Payments*).

The Trust Deed provides that in the event of any conflict of interest between the holders of the Class A Notes, the Class B Notes, the Class C Notes and/or the Class D Notes, the interests of the holders of the Controlling Class will prevail. If the holders of the Controlling Class do not have an interest in the outcome of the conflict, the Trustee shall give priority to the interests of the Class B Noteholders over the Class C Noteholders and the Class C Noteholders over the Class D Noteholders. In the event that the Trustee shall receive conflicting or inconsistent requests from two or more groups of holders of the Controlling Class (or another Class given priority as described in this paragraph), each representing less than the majority of the Principal Amount Outstanding of Notes of the Controlling Class (or other Class given priority as described in this paragraph), the Trustee shall give priority to the group which holds the greater Principal Amount Outstanding of Notes of such Class. The Trust Deed provides further that the Trustee will act upon the directions of the holders of the Controlling Class (or other Class given priority as described in this paragraph) in such circumstances, and shall not be obliged to consider the interests of the holders of any other Class of Notes unless specified otherwise in the Trust Deed or these Conditions.

In addition, the Trust Deed provides that in the event of any conflict of interest between the Noteholders and any other Secured Party, the interests of the Noteholders will prevail. See Condition 14(e) (*Entitlement of the Trustee and Conflicts of Interest*).

## **2.8 Amount and Timing of Payments**

Payments of interest and principal on the Class D Notes will only be made to the extent that there are Interest Proceeds and Principal Proceeds available for such purpose in accordance with the Priorities of Payment. No interest or principal may therefore be payable on the Class D Notes for an unlimited period of time, to maturity or at all.

Investment in the Notes of any Class involves a degree of risk arising from fluctuations in the amount and timing of receipt of the principal and interest on the Collateral Loan Obligations by or on behalf of the Issuer and the amounts of the claims of creditors of the Issuer ranking in priority to the holders of each Class of the Notes. In particular, prospective purchasers of such Notes should be aware that the amount and timing of payments of the principal and interest on the Collateral Loan Obligations will depend upon the detailed terms of the documentation relating to each of the Collateral Loan Obligations and on whether or not any obligor thereunder defaults in its obligations.

## **2.9 Average Life and Prepayment Considerations**

The Maturity Date of the Notes is the Payment Date falling on 27 July 2026 or in the event that such day is not a Business Day, the immediately following Business Day. However, the average life of each Class of Notes is expected to be shorter than the number of years to their Maturity Date. Average life refers to the average amount of time that will elapse from the date of issue of each Class of Notes until each Euro of the outstanding principal amount of such Note will be paid to the holder thereof.

The average lives of each Class of Notes will be determined by the amount and frequency of principal repayments in respect of such Class, which are dependent upon, among other things, the amount of any payments received at or in advance of the scheduled maturity of Collateral Loan Obligations (whether through sale, maturity, redemption, default or other liquidation or disposition). The actual average lives and actual maturities of each Class of Notes will be affected by the financial condition of each of the obligors of the underlying Collateral Loan Obligations and the characteristics of such loans, including the existence and frequency of exercise of any optional or mandatory redemption features, the prevailing level of interest rates, the redemption price, the actual default rate, the actual level of recoveries on any Defaulted Obligations and the frequency of tender or exchange offers for such Collateral Loan Obligations. In particular, loans are generally repayable at par and a high proportion of loans could be repaid. Substantially all of the Collateral Loan Obligations are expected to be subject to optional redemption or prepayment by the obligors of such loans thereunder. Any disposition of a

Collateral Loan Obligation may change the composition and characteristics of the Portfolio of Collateral Loan Obligations and the rate of payment thereon, and, accordingly, may affect the actual average lives of each Class of Notes. The average life of the Notes will also be affected by the exercise of any rights of optional redemption in accordance with Condition 7(b) (*Optional Redemption*). See paragraph 2.11 (*Optional Redemption and Volatility of Portfolio Market Value*) below.

#### **2.10 Mandatory Redemption of the Notes**

The Notes may be subject to mandatory redemption in certain circumstances. This could result in an elimination, deferral or reduction of interest and/or principal payments made to the holders of the Floating Rate Notes and/or the Class D Notes, as the case may be, and may affect the average lives of the Notes so redeemed and may also reduce the leverage ratio of the Class D Notes to the Collateral which could adversely impact the level of the returns to the holders of the Class D Notes.

#### **2.11 Optional Redemption and Volatility of Portfolio Market Value**

A form of liquidity for the Class D Notes is the optional redemption provision set out in Condition 7(b)(i) (*Redemption at the Option of the Class D Noteholders or holders of the Controlling Class*). In accordance with such Condition, the Notes may be redeemed in whole only. There can be no assurance however that such optional redemption provision will be capable of exercise in accordance with the conditions set out in Condition 7(b)(iv) (*Conditions to Optional Redemption in whole*). The market value of the Collateral Loan Obligations may fluctuate, with, among other things, changes in prevailing interest rates, general economic conditions, the conditions of financial markets, European and international political events, events in the home countries of the obligors under the Collateral Loan Obligations, developments or trends in any particular industry and the financial condition of such obligor. The secondary market for leveraged loans is still limited. A decrease in the market value of the Portfolio would adversely affect the amount of proceeds which could be realised upon liquidation of the Portfolio and ultimately the ability of the Issuer to redeem the Class D Notes pursuant to the right of optional redemption set out in Condition 7(b)(i) (*Redemption at the Option of the Class D Noteholders or holders of the Controlling Class*) due to the applicable threshold requirements set out therein. Furthermore, there can be no assurance that, upon any such redemption, the proceeds realised would permit any payment on the Class D Notes after required payments are made in respect of the Floating Rate Notes and the other creditors of the Issuer which rank in priority to the holders of the Class D Notes pursuant to the Priorities of Payment. In either case, the Portfolio Servicer shall have no liability to the Issuer, the Trustee, the Noteholders or any other person.

#### **2.12 Volatility of Class D Notes**

The Class D Notes and the other Classes of Notes subordinated to the Class A Notes represent a leveraged investment in the Collateral. The use of leverage is a speculative investment technique which increases the risk to the holders of the Notes, particularly the Class D Notes and the other Classes of Notes subordinated to the Class A Notes. In certain scenarios, the Notes may not be paid in full, and the Class D Notes and one or more of Classes of Notes subordinated to the Class A Notes may be subject to a partial or a 100 per cent. loss of invested capital. The Class D Notes represent the most junior securities in a leveraged capital structure. As a result, any deterioration in performance of the asset portfolio, including defaults and losses, a reduction of realised yield or other factors, will be borne first by holders of the Class D Notes, and then by the holders of the other Classes of Notes in reverse order of seniority.

#### **2.13 Future Ratings of the Class A Notes Not Assured and Limited in Scope**

A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal by any Rating Agency at any time. Credit ratings represent a rating agency's opinion regarding the credit quality of an asset but are not a guarantee of such quality. There is no assurance that a rating accorded to the Class A Notes will remain for any given period of time or that a rating will not be lowered or withdrawn entirely by a Rating Agency if, in its judgement, circumstances in the future so warrant. In the event that a rating initially assigned to the Class A Notes is subsequently lowered for any reason, no person or entity is required to provide any additional support or credit enhancement with respect to the Class A Notes and the market value of the Class A Notes is likely to be adversely affected.

## 2.14 Withholding Tax on the Notes

Although no withholding tax is currently imposed on payments of interest on the Notes, there can be no assurance that the law will not change.

In the event that any withholding tax or deduction for tax is payable on payments of interest on the Notes, the holders of the Notes will not be entitled to receive grossed-up amounts to compensate for such withholding tax and no Event of Default shall occur as a result of any such withholding or deduction.

In the event of the occurrence of a Note Tax Event pursuant to which any payment on the Notes of any Class becomes subject to any withholding tax or deduction on account of tax, the Notes may be redeemed in whole but not in part at the request of the holders of the Controlling Class or Class D Notes, in each case acting by Extraordinary Resolution, subject to certain conditions including a threshold test pursuant to which determination is made as to whether the anticipated proceeds of liquidation of the security over the Collateral would be sufficient to pay all amounts due and payable on the Notes in such circumstances in accordance with the Priorities of Payment.

## 2.15 Fixed Security

Although the security constituted by the Trust Deed over the Collateral held from time to time, including the security over the Accounts, is expressed to take effect as a fixed charge, it may (as a result of, among other things, the payments to be made from the Accounts in accordance with the Conditions and the Trust Deed) take effect as a floating charge which, in particular, would rank after a subsequently created fixed charge. However, the Issuer has covenanted in the Trust Deed not to create any such subsequent security interests (other than those permitted under the Trust Deed) without the consent of the Trustee. The Accounts, save for the Payment Account and the Custody Account (the "**Spanish Accounts**"), will be located in Spain. In addition to the security created by the Trust Deed over the Spanish Accounts, a Spanish pledge will be taken over the Spanish Accounts. Pursuant to the Spanish Accounts Pledge Agreement, the pledged asset will be the credit right deriving from the balance of the pledged accounts at the time of the enforcement of the pledge (whatever the balance may be) and not the monies credited therein at any other time. Furthermore, such credit right will be subject to the provisions set forth in the relevant account opening agreement (including, for instance, any rights of set-off in favour of the relevant bank) and to third party claims made prior to the enforcement of the relevant pledge. In addition, if the balance of a Spanish Account becomes zero or negative it could be argued that the relevant credit right has ceased to exist therefore leading to a termination of the security over that Account. There can be no assurance that an English court would enforce the English law security over the Spanish Accounts created by the Trust Deed. In addition, there can be no assurance that an English court would enforce English security over the Collateral Loan Obligations that are located and/or governed by Spanish law.

## 2.16 Resolutions, Amendments and Waivers

Decisions may be taken by Noteholders by way of Ordinary Resolution or Extraordinary Resolution, in each case, either acting together or, to the extent specified in any applicable Transaction Document, as a Class of Noteholders acting independently. Such Resolutions can be effected either at a duly convened meeting of the applicable Noteholders or by the applicable Noteholders resolving in writing. Meetings of the Noteholders may be convened by the Issuer, the Trustee or by one or more Noteholders holding not less than 10 per cent. in aggregate Principal Amount Outstanding of the Notes of a particular Class, subject to certain conditions including minimum notice periods.

The Trustee may, in its discretion, determine that any proposed Ordinary Resolution or Extraordinary Resolution affects only the holders of one or more Classes of Notes, in which event the required quorum and minimum percentage voting requirements of such Ordinary Resolution or Extraordinary Resolution may be determined by reference only to the holders of that Class or Classes of Notes.

In the event that a meeting of Noteholders is called to consider a Resolution, a determination as to whether the requisite Principal Amount Outstanding of Notes has voted in favour of such Resolution will be made by reference to the percentage which the Notes which voted in favour of such Resolution represent of the total Principal Amount Outstanding of Notes voted at such meeting and not, as the case is in respect of a Written Resolution, by the aggregate original Principal Amount Outstanding of all

such Notes which are entitled to be voted in respect of such Resolution. This means that a lower percentage of Noteholders may pass a Resolution which is put to a meeting of Noteholders than would be required for a Written Resolution in respect of the same matter. There are however quorum provisions which provide that one or more Noteholders representing a minimum amount of the aggregate Principal Amount Outstanding of the applicable Class or Classes of Notes be present at any meeting to consider an Extraordinary Resolution or Ordinary Resolution. In the case of an Extraordinary Resolution, this is one or more persons holding or representing not less than 66⅔ per cent. of the aggregate Principal Amount Outstanding of each Class of Notes (or the relevant Class or Classes only, if applicable) and in the case of an Ordinary Resolution this is one or more persons holding or representing not less than 50 per cent. of the aggregate Principal Amount Outstanding of each Class of Notes (or the relevant Class or Classes only, if applicable). Such quorum provisions still, however, require considerably lower thresholds than would be required for a Written Resolution. In addition, in the event that a quorum requirement is not satisfied at any meeting, lower quorum thresholds will apply at any meeting previously adjourned for want of quorum as set out in Condition 14(b) (*Decisions and Meetings of Noteholders*) and in the Trust Deed.

Certain entrenched rights relating to the Conditions including but not limited to the currency thereof, Payment Dates applicable thereto, the Priorities of Payment, the provisions relating to quorums and the percentages of votes required for the passing of an Extraordinary Resolution, cannot be amended or waived by Ordinary Resolution but require an Extraordinary Resolution. It should however be noted that amendments may still be effected and waivers may still be granted in respect of such provisions in circumstances where not all Noteholders agree with the terms thereof and any amendments or waivers once passed in accordance with the provisions of the Conditions and the provisions of the Trust Deed will be binding on all such dissenting Noteholders. In addition to the Trustee's right to agree to changes to the Transaction Documents to correct a manifest or cure an ambiguity, or to changes which, in its opinion, are not materially prejudicial to the interests of the Noteholders of any Class without the consent of the Noteholders, modifications may also be made and waivers granted in respect of certain other matters in relation to which the Trustee is obliged to give its consent without consultation with or the consent of the Noteholders as set out in Condition 14(c) (*Modification and Waiver*) which in certain circumstances could be materially prejudicial to the interests of the Noteholders. The Trustee shall not be liable to any Noteholder or any other person for any loss occasioned by concurring in the implementation of such other matters.

## 2.17 Enforcement Rights Following an Event of Default

If an Event of Default occurs and is continuing, the Trustee shall, at the direction of the holders of the Controlling Class acting by Extraordinary Resolution (subject to being indemnified and/or secured and/or prefunded to its satisfaction against all liabilities, proceedings, claims and demands to which it may become liable and all costs, charges and expenses which may be incurred by it in connection therewith), give notice to the Issuer that all the Notes are to be immediately due and payable (such notice an "**Acceleration Notice**").

At any time after an Acceleration Notice has been given following the occurrence of an Event of Default and prior to enforcement of the security pursuant to Condition 11 (*Enforcement*), the Trustee, at its discretion, may or, if directed by the holders of the Controlling Class acting by Extraordinary Resolution, shall (subject to being indemnified and/or secured and/or prefunded to its satisfaction against all liabilities, proceedings, claims and demands to which it may become liable and all costs, charges and expenses which may be incurred by it in connection therewith) rescind and annul such notice of acceleration under Condition 10(b)(i) (*Acceleration*) and its consequences if the requirements set out in Condition 10(c) (*Curing of Default*) are met.

The requirements described above could result in the Controlling Class being unable to procure enforcement of the security over the Collateral in circumstances in which they desire such enforcement and may also result in enforcement of such security in circumstances where the proceeds of liquidation thereof would be insufficient to ensure payment in full of all amounts due and payable in respect of the Classes of Notes in accordance with the Priorities of Payment and/or at a time when enforcement thereof may be adverse to the interests to certain Classes of Notes and, in particular, the Class D Notes.

## 2.18 Rating Agency Review

Prospective investors in the Notes should be aware that as a result of the recent events in the CLO and leveraged finance markets described in paragraph 2.1 above, the Rating Agency may review its rating methodology and criteria used to rate notes issued as part of CLO transactions. This could impact on the ratings assigned to the Class A Notes after the Issue Date and potentially result in the downgrade or withdrawal thereof following the Issue Date.

## 2.19 Eligibility of the Class A Notes for Eurosystem Monetary Policy

The Class A Notes are intended to be held in a manner which will allow Eurosystem eligibility and be recognised as eligible collateral for Eurosystem monetary policy and intraday credit operation by the Eurosystem ("**Eurosystem Eligible Collateral**") either upon issue, or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria as specified by the European Central Bank. If the Class A Notes do not satisfy the criteria specified by the European Central Bank, there is a risk that the Class A Notes will not be Eurosystem Eligible Collateral. None of the Issuer, the Arranger, the Originator or the Portfolio Servicer gives any representation, warranty, confirmation or guarantee to any investor in the Class A Notes that the Class A Notes will, either upon issue, or at any or all times during their lives, satisfy the criteria specified by the European Central Bank for Eurosystem eligibility and be recognised as Eurosystem Eligible Collateral. Any potential investor in the Class A Notes should make their own conclusions and seek their own advice with respect to whether or not the Class A Notes constitute Eurosystem Eligible Collateral.

## 2.20 The Perpetual Litigation

The validity and enforceability of certain provisions in contractual priorities of payments which purport to alter the priority in which a particular secured creditor is paid as a result of the occurrence of one or more specified trigger events, including the insolvency of such creditor ("**flip clauses**"), have been challenged recently in the English and U.S. courts on the basis that the operation of flip clause as a result of such creditor's insolvency breaches the "anti-deprivation" principles of English and U.S. insolvency law. This principle prevents a party from agreeing to a provision that deprives its creditors of an asset upon its insolvency.

In the English courts, the Court of Appeal in *Perpetual Trustee Co Ltd v BNY Corporate Trustee Services Ltd* [2009] EWCA Civ 1160 (the "**Perpetual Case**") dismissed this argument and upheld the validity of a flip clause contained in an English-law governed security document, stating that the anti-deprivation principle was not breached by such provisions. However, the Court of Appeal stopped short of deciding that all secured payment priorities were enforceable stating that "*it is probably inevitable that the courts must develop the law in this area, at least for the moment, on a relatively cautious, case-by-case basis*". We also note that the insolvent credit in the Perpetual Case applied for and was granted leave to appeal the decision of the Court of Appeal to the Supreme Court which heard the question of the validity of flip clauses in March 2011. However, before the appeal was heard by the Supreme Court, the proceedings in relation to the notes held by Perpetual were settled and the appeals were withdrawn. As such, the Supreme Court heard the appeal concerning those notes held by the Belmont respondents in respect of this matter. In the judgment given in July 2011 in *Belmont Park Investments PTY (Respondent) v BNY Corporate Trustees Limited and Lehman Brothers Special Financing Inc (Appellants)*, the Supreme Court unanimously upheld the decision of the Court of Appeal in the Perpetual Case that "flip clauses" are enforceable under English law.

In the U.S. courts, the U.S. Bankruptcy Court for the Southern District of New York in *Lehman Brothers Special Financing Inc. v. BNY Corporate Trustee Services Limited*. (In re Lehman Brothers Holdings Inc.), Adv. Pro. No. 09-1242-JMP (Bankr. S.D.N.Y. May 20, 2009) examined the same flip clause and held that such a provision, which seeks to modify one creditor's position in a priority of payments when that creditor files for bankruptcy, is unenforceable under the US Bankruptcy Code. Judge Peck acknowledged that this has resulted in the U.S. courts coming to a decision "*directly at odds with the judgement of the English Courts*". While BNY Corporate Trustee Services Ltd filed a motion for and was granted leave to appeal with the U.S. Bankruptcy Court, the case was settled before the appeal was heard. Given the current state of U.S. and English law, this is likely to be an area of continued judicial focus particularly in respect of multi-jurisdictional insolvencies.

The flip clause examined in the Perpetual case is similar in substance to the provisions in the Priorities of Payments (the "**Relevant Provisions**"). However, the Priorities of Payments differ on the basis that, among other things, in addition to ranking behind the Noteholders, the Interest Rate Swap Counterparties also rank behind other Secured Parties. This difference in respect of the facts and the detail of the Court of Appeal judgment and the Supreme Court judgment, mean that there is some uncertainty surrounding the binding nature of the Priorities of Payments.

Additionally, as a result of the conflicting statements of the English and New York courts there is uncertainty as to whether the English courts will give any effect to any New York court judgement. Similarly, if the Priorities of Payments are the subject of litigation in any jurisdiction outside England and Wales and such litigation results in a conflicting judgment in respect of the binding nature of the Priorities of Payments it is possible that termination payments due to the Interest Rate Swap Counterparties would not be subordinated as envisaged by the Priorities of Payments and as a result, the Issuer's ability to repay the Noteholders in full may be adversely affected. There is a particular risk of conflicting judgments where an Interest Rate Swap Counterparty is the subject of bankruptcy or insolvency proceedings outside of England and Wales.

### **3. RELATING TO THE COLLATERAL**

#### **3.1 Collateral Reinvestment Provisions, Reinvestment Risk, Uninvested Cash Balances**

During the Replenishment Period the Portfolio Servicer (acting on behalf of the Issuer) may dispose of certain Collateral Loan Obligations and reinvest the Sale Proceeds thereof, together with other Principal Proceeds received in New Collateral Loan Obligations subject to compliance with the Reinvestment Criteria and certain other conditions. The exercise by the Portfolio Servicer of its discretion in disposing of such Collateral Loan Obligation and purchasing New Collateral Loan Obligations in compliance with the Reinvestment Criteria and such other requirements will expose the Issuer to the market conditions prevailing at the time of such sale and reinvestment. Such actions during periods of adverse market conditions may result in unfavourable changes in the characteristics and quality of the Portfolio and may result in a decrease in the overall yield on the Portfolio, adversely affecting the Issuer's ability to make payments on the Notes. The income generated by any New Collateral Loan Obligations will depend, among other factors, on the price paid therefor and the availability of investments satisfying the Reinvestment Criteria which are acceptable to the Issuer or the Portfolio Servicer (acting on behalf of the Issuer). The need to satisfy such Reinvestment Criteria and the other trading criteria specified in the Portfolio Servicing Agreement and to identify acceptable investments may require the purchase of New Collateral Loan Obligations with lower yields than those initially acquired or require that any Principal Proceeds received be maintained temporarily in cash, which may reduce the yield on the Collateral. Additionally, due to the significant restrictions imposed by the Portfolio Servicing Agreement on the Portfolio Servicer's ability to buy and sell Collateral Loan Obligations, during certain periods or in certain circumstances, the Portfolio Servicer may be unable as a result of such restrictions to buy or sell securities or to take other actions which the Portfolio Servicer might consider to be in the best interests of the Issuer and the Noteholders. Further, Obligors of Collateral Loan Obligations may be more likely to exercise any rights they may have to redeem such obligations when interest rates or spreads are declining. The impact, including any adverse impact, of such disposal or potential reinvestment on the holders of the Class D Notes will be magnified by the leveraged nature of the Class D Notes. See "*Description of the Portfolio*" below.

#### **3.2 Portfolio Servicing Agreement and Portfolio Servicer**

The Portfolio Servicer is given authority in the Portfolio Servicing Agreement to administer the Portfolio and act in specific circumstances in relation to the Portfolio as agent of the Issuer pursuant to and in accordance with the parameters and criteria set out in the Portfolio Servicing Agreement. See "*Description of the Portfolio*" and "*Description of the Portfolio Servicing Agreement*". The powers and duties of the Portfolio Servicer in managing the Collateral Loan Obligations include the sale of certain of the debt obligations in the Portfolio during the Replenishment Period (subject to certain limits) and, at any time, upon the occurrence of certain events (including a Collateral Loan Obligation becoming a Defaulted Obligation or a Credit Impaired Obligation), in accordance with the provisions of the Portfolio Servicing Agreement. See "*Description of the Portfolio*". Any analysis by the Portfolio Servicer (on behalf of the Issuer) of Obligors under Collateral Loan Obligations which it is intending to purchase or which are held in the Portfolio from time to time will be limited to a review of readily available public information and will not include due diligence of the kind generally undertaken in a

primary securities offering or loan origination together with, in respect of any non-public information made available to the Portfolio Servicer, in respect of Collateral Loan Obligations which are Assignments of Senior Secured Loans and Senior Unsecured Loans, due diligence of the kind generally carried out in relation to senior loans of such kind.

The liability of the Portfolio Servicer to the Issuer under the Portfolio Servicing Agreement is limited to damage caused by (i) acts or omissions constituting bad faith, wilful misconduct or gross negligence in the making of the representations under the Portfolio Servicing Agreement or in the performance of the Portfolio Servicer of its obligations under the Portfolio Servicing Agreement or (ii) with respect to the information concerning the Portfolio Servicer provided in writing by the Portfolio Servicer for inclusion in this Prospectus if such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained in "*Risk Factors – Certain Conflicts of Interest*" (insofar as such section is related to the Portfolio Servicer) and "*Description of the Portfolio Servicer*", in the light of the circumstances under which they were made, not misleading.

The performance of any investment in the Notes will be dependent on, inter alia, the ability of the Portfolio Servicer to select, manage and service the Portfolio and the performance by the Portfolio Servicer of its obligations under the Transaction Documents. Prospective purchasers of the Notes should make their own evaluation of the Portfolio Servicer.

Although the Portfolio Servicer is required, pursuant to its entry into the Portfolio Servicing Agreement, to commit an appropriate amount of its business efforts to the management of the Portfolio, the Portfolio Servicer is not required to devote all of its time to such affairs and may continue to advise and manage other investment funds in the future.

The duties of the Portfolio Servicer under the Portfolio Servicing Agreement do not constitute advisory services and the Portfolio Servicer will not act as an advisor to the Issuer. The obligations of the Portfolio Servicer under the Portfolio Servicing Agreement are owed only to the Issuer, other than following an Event of Default when the Portfolio Servicer may be required to act on behalf of the Trustee. The Portfolio Servicer does not have any obligations or responsibilities to the Noteholders, the Initial Purchaser, the Arranger, the Originator, the Trustee (other than as mentioned in the foregoing sentence) or any other party and does not owe any fiduciary duties to the Issuer, the Noteholders, the Initial Purchaser, the Arranger, the Originator, the Trustee or any other party.

The inability of the Issuer and, for the avoidance of doubt, the Portfolio Servicer to manage the Portfolio of Collateral Loan Obligations could adversely affect the Issuer and the holders of the Notes, and it is impossible to quantify the potential magnitude of this impact. Potential investors in the Notes are urged to (a) review carefully this Prospectus and the related terms of the Portfolio Servicing Agreement and other operative documents and (b) consider the inability of the Issuer to manage the Portfolio before investing in any of the Notes.

### **3.3 Disclosure in Respect of the Portfolio**

The decision by any prospective holder of Notes to invest in such Notes should be based on (among other things), the Eligibility Criteria which each Collateral Loan Obligation is required to satisfy as at the entry by the Issuer into a binding commitment to purchase such Collateral Loan Obligation, as disclosed in this Prospectus and the Portfolio Profile Tests, Principal Deficiency Tests and Collateral Quality Tests that the Portfolio is required to satisfy as at the Issue Date, in each case as set out in the "*Description of the Portfolio*" section.

Although each Collateral Loan Obligation is required to satisfy the Eligibility Criteria as at the entry by the Issuer into a binding commitment to purchase such Collateral Loan Obligation, this Prospectus does not contain any information regarding the individual Collateral Loan Obligations and Collateral Loan Obligations may, subsequent to the date the Issuer enters into a binding commitment to purchase, no longer satisfy the Eligibility Criteria. The Portfolio of Collateral Loan Obligations are required to satisfy the Collateral Quality Tests and the Portfolio Profile Tests as at the Issue Date but, not at any time thereafter.

The Portfolio Servicer has selected the Collateral Loan Obligations for inclusion in the Portfolio. The value of the Portfolio may fluctuate from time to time and none of the Issuer, the Trustee, the Initial Purchaser, the Arranger, the Originator, the Custodian, the Portfolio Servicer, the Collateral

Administrator or any of their Affiliates are under any obligation to maintain the value of the Collateral Loan Obligations at any particular level. None of the Transaction Parties or any of their Affiliates has any liability to the Noteholders as to the amount or value of, or any decrease in the value of, the Collateral Loan Obligations from time to time.

The Portfolio Servicer may at any time sell any Collateral Loan Obligations (that is not a Defaulted Obligation or a Credit Impaired Obligation) subject to certain conditions. Any trading gains realised as a result of such sales will be applied in accordance with the Priorities of Payments, ultimately for the benefit of the Class D Noteholders.

### **3.4 Nature of the Collateral**

The Collateral on which the Notes and the claims of the other Secured Parties are secured will be subject to credit, liquidity, interest rate and exchange rate risks, general economic conditions, operational risks, structural risks, the condition of financial markets, political events, developments or trends in any particular industry, changes in prevailing interest rates and periods of adverse performance.

#### ***Timing of Payment and Interest Rate Mismatch***

Investment in the Notes of any Class involves a degree of risk arising from fluctuations in the amount and timing of receipt of the principal and interest on the Collateral Loan Obligations by or on behalf of the Issuer and the amounts of the claims of creditors of the Issuer ranking in priority to the holders of each Class of the Notes. In particular, prospective purchasers of the Notes should be aware that the amount and timing of payment of the principal and interest on the Collateral Loan Obligations will depend upon the detailed terms of the documentation relating to each of the Collateral Loan Obligations and on whether or not any obligor thereunder defaults in its obligations. The Notes are subject to a mismatch between the floating rate on the Notes and the floating rates on the Collateral Loan Obligations as the interest rates on Collateral Loan Obligations may adjust more frequently or less frequently and on different dates, and may be based on different indices than the interest rate on the Notes. The Issuer will enter into an Interest Rate Swap Transaction to reduce the effect of any such interest mismatch.

#### ***Default and Concentration Risk***

The subordination levels of each of the Classes of Notes will be established to withstand certain assumed deficiencies in payment caused by defaults on the related Collateral Loan Obligations. See "*Ratings of the Notes*". There is no assurance that actual losses will not exceed such assumed losses. If actual payment deficiencies exceed such assumed levels, however, payments on the Notes could be adversely affected. The amount which defaults on the Collateral Loan Obligations adversely affect the Floating Rate Notes and the Class D Notes will be directly related to the level of subordination thereof pursuant to the Priorities of Payment. The risk that payments on the Notes could be adversely affected by defaults on the related Collateral Loan Obligations will increase to the extent that the Portfolio is concentrated in any one obligor, industry, region or country as a result of the increased potential for correlated defaults in respect of a single issuer or within a single industry, region or country as a result of downturns relating generally to such industry, region or country.

To the extent that a default occurs with respect to any Collateral Loan Obligation and the Portfolio Servicer acting on behalf of the Issuer or (if so requested by the Trustee) the Trustee (through its agent) sells or otherwise disposes of such Collateral Loan Obligation, the proceeds of such sale or disposition are likely to be less than the unpaid principal and interest thereon. In addition, the Issuer may incur additional expenses to the extent it seeks recoveries upon the default of a Collateral Loan Obligation or participates in the restructuring of a Collateral Loan Obligation. Even in the absence of a default with respect to any of the Collateral Loan Obligations, the potential volatility and lack of liquidity at any time will vary and may vary substantially from the price at which such Collateral Loan Obligations were initially purchased and from the principal amount of such Collateral Loan Obligations. Accordingly, no assurance can be given as to the amount of proceeds of any sale or disposition of such Collateral Loan Obligations at any time, or that the proceeds of any such sale or disposition would be sufficient to repay a corresponding par amount of principal of and interest on the Floating Rate Notes, and the Class D Notes after, in each case, paying all amounts payable prior thereto pursuant to the Priorities of Payment. Moreover, there can be no assurance as to the timing of any recovery.



### ***Disposal Risk***

The financial markets have recently and may in the future experience substantial fluctuations in the prices of Senior Secured Loans and Senior Unsecured Loans and limited liquidity for such obligations. No assurance can be given that the conditions giving rise to such price fluctuations and limited liquidity will not continue, subsist or become more acute following the Issue Date. During periods of limited liquidity and higher price volatility, the ability of the Portfolio Servicer on behalf of the Issuer to dispose of Collateral Loan Obligations, in accordance with the terms of the Portfolio Servicing Agreement and the Trust Deed, at a price and time that the Portfolio Servicer deems advantageous may be impaired. As a result, in periods of rising market prices, the Issuer may be unable to participate in price increases fully in the event that it is unable to dispose of Collateral Loan Obligations whose prices have risen; the inability to dispose fully and promptly of Collateral Loan Obligations on behalf of the Issuer in declining markets will conversely cause the net asset value of the Portfolio to decline. A decrease in the market value of the Collateral Loan Obligations would adversely affect the proceeds of sale that could be obtained upon the sale of the Collateral Loan Obligations and could ultimately affect the ability of the Issuer to pay in full or redeem the Notes. Accordingly, no assurance can be given as to the amount of proceeds of any sale or disposition of such Collateral Loan Obligations at any time, or that the proceeds of any such sale or disposition would be sufficient to repay a corresponding par amount of principal and of interest on the Notes after, in each case, paying all amounts payable prior thereto pursuant to the Priorities of Payment. Moreover, there can be no assurance as to the timing of any recoveries received in respect of Defaulted Obligations.

### **3.5 Purchase of Collateral Loan Obligations**

The Issuer acquired Collateral Loan Obligations with an Aggregate Principal Balance of approximately €1,631,501,452.77 on or before the Issue Date. The effective prices paid for such Collateral Loan Obligations by the Issuer may be greater or less than the market value thereof on the Issue Date and, in addition, all the Collateral Loan Obligations to be acquired by the Issuer will be acquired from the seller of such Collateral Loan Obligations at par.

As a result of the economic crisis referred to in paragraph 2.1 above (*Recent Events in the CLO and Leveraged Finance Markets*) and the ensuing disruption in the global financial markets the prices at which such Collateral Loan Obligations are purchased by the Issuer may be above (and possibly significantly above) the prevailing market prices of those assets as at the Issue Date.

To the extent that any liquidation of the Collateral Loan Obligations occurs prior to their scheduled redemption date it is possible that the Noteholders will suffer losses in excess of those which would be suffered in the event that the Portfolio of Collateral Loan Obligations were acquired at a later date (or the binding commitment to acquire such assets was made at a later date) or at market prices prevailing as at the Issue Date. Any such losses will be borne by the Noteholders, beginning with the holders of the Class D Notes as the most junior class.

### **3.6 Characteristics of Senior Secured Loans and Senior Unsecured Loans**

Some of the Senior Secured Loans and Senior Unsecured Loans are of a type generally incurred by the obligors thereunder in connection with highly leveraged transactions, often (although not exclusively) to finance internal growth, acquisitions, mergers and/or stock purchases. As a result of, among other things, the additional debt incurred by the Obligor in the course of such a transaction, the Obligor's creditworthiness is often judged by the rating agencies to be below investment grade. Senior Secured Loans and Senior Unsecured Loans are typically at the more senior level of the capital structure. Senior Secured Loans are generally secured on shares in certain group companies and may also be secured by specific collateral or guarantees, including but not limited to, trademarks, patents, accounts receivable, inventory, equipment, buildings, real estate, franchises and common and preferred stock of the Obligor and its subsidiaries although the security granted in respect of some Senior Secured Loans may be limited to share security over the Obligor group. Senior Unsecured Loans are unsecured. In continental Europe, security is often limited to shares in certain group companies, accounts receivable, bank account balances and intellectual property rights. This security may not be perfected. Senior Secured Loans rank in priority to other obligations of their Obligor with respect to such security. Senior Secured Loans usually have shorter terms than more junior obligations and often require mandatory prepayments from excess cash flow, asset dispositions and offerings of debt and/or equity securities on a priority basis.

The majority of Senior Secured Loans and Senior Unsecured Loans bear interest based on a floating rate index, for example EURIBOR, the certificate of deposit rate, a prime or base rate (each as defined in the applicable loan agreement) or other index, which may reset daily (as most prime or base rate indices do) or may offer the Obligor a choice of one, two, three, six, nine or 12-month interest and rate reset periods. The purchaser of an interest in a Senior Secured Loan and Senior Unsecured Loans may also receive certain syndication fees or participation fees in connection with its purchase. Other fees which may be payable in respect of Senior Secured Loans and Senior Unsecured Loans, which are separate from interest payments on such loans, may include facility, commitment, amendment and prepayment fees.

Although any particular Senior Secured Loan and Senior Unsecured Loan often will share many similar features with other loans and obligations of its type, the actual terms of any particular Senior Secured Loan and Senior Unsecured Loan will have been a matter of negotiation and will thus be unique. Any particular loan or obligation may contain terms that are not standard and that provide less protection to creditors than might be expected, including in respect of covenants, events of default, security or guarantees. The credit markets are constantly evolving. In the recent past, there was an increasing trend of less protection for creditors in terms of covenants and other terms than has historically been the case.

### **3.7 Risks Associated with Senior Secured Loans and Senior Unsecured Loans**

#### ***Limited Liquidity***

In addition to the limited liquidity and restrictions on transfer of the Notes, there are limited liquidity risks associated with Senior Secured Loans and Senior Unsecured Loans. The Obligor under those types of loans often provide the lenders thereunder with extensive information about its business, which is not generally available to the public. Because of the provision of such confidential information, the unique and customised nature of a loan agreement, and the private syndication of the loan, Senior Secured Loans and Senior Unsecured Loans are generally not as easily purchased or sold as publicly traded securities, and historically the trading volume in the loan market has been small relative to, for example, the high yield bond market.

Senior Secured Loans and Senior Unsecured Loans also generally provide for restrictive covenants designed to limit the activities of the Obligor thereunder in an effort to protect the rights of lenders to receive timely payments of interest thereon, and repayment of, the principal of the loans. Such covenants may include restrictions on dividend payments, specific mandatory minimum financial ratios, limits on total debt and other financial tests. A breach of covenant (after giving effect to any cure period) under a Senior Secured Loan or a Senior Unsecured Loan which is not waived by the lender or the lending syndicate, as applicable, is normally an event of default which allows the lender or the syndicate to demand immediate repayment in full of the outstanding loan. The unique nature of the loan documentation, the confidentiality provisions included therein and the requirements imposed by the loan documentation for their transfer may also create a degree of complexity in negotiating a secondary market purchase or sale which may not exist, for example, in the high yield bond market.

As referred to above, in order to induce banks and institutional investors to invest in Senior Secured Loans and Senior Unsecured Loans, and to obtain a favourable rate of interest, an Obligor under such an obligation often provides the investors therein with extensive information about its business, which is not generally available to the public.

Historically, investors in or lenders under European Senior Secured Loans have been predominantly commercial banks and investment banks. The range of investors for such loans has broadened to include money managers, insurance companies, arbitrageurs, bankruptcy investors and mutual funds seeking increased potential total returns and portfolio managers of trusts or special purchase companies issuing collateralised bond and loan obligations. As secondary market trading volumes increase, new loans are frequently adopting more standardised documentation to facilitate loan trading which may improve market liquidity. There can be no assurance, however, that future levels of supply and demand in loan trading will provide an adequate degree of liquidity. This means that such assets will be subject to greater disposal risk in the event that such assets are sold following enforcement of the security over the Collateral or otherwise.

### ***Defaults and Recoveries***

There is limited historical data available as to the levels of defaults and/or recoveries that may be experienced on Senior Secured Loans and Senior Unsecured Loans and no assurance can be given as to the levels of default and/or recoveries that may apply to any Senior Secured Loans and Senior Unsecured Loans purchased by the Issuer. As referred to above, although any particular Senior Secured Loan and Senior Unsecured Loan often will share many similar features with other loans and obligations of its type, the actual terms of any particular Senior Secured Loan and Senior Unsecured Loan will have been a matter of negotiation and will thus be unique. The types of protection afforded to creditors will therefore vary from investment to investment. Recoveries on Senior Secured Loans and Senior Unsecured Loans may also be affected by the different bankruptcy regimes applicable in different jurisdictions and the enforceability of claims against the Obligor thereunder. See "*Insolvency of Obligors under Collateral Loan Obligations*" below.

The effect of an economic downturn on default rates and the ability of finance providers to protect their investment in a default situation is uncertain.

Furthermore, the holders of Senior Secured Loans and Senior Unsecured Loans are more diverse than ever before, including not only banks and specialist finance providers but also potentially alternative investment managers, specialist debt and distressed debt investors and other financial institutions. The increasing diversification of the investor base has also been accompanied by an increase in the use of hedges, swaps and other derivative instruments to protect against or spread the economic risk of defaults. All of these developments may further increase the risk that historical recovery levels will not be realised. The returns on Senior Secured Loans and Senior Unsecured Loans, therefore, may not adequately reflect the risk of future defaults and the ultimate recovery rates.

A non-investment grade loan or debt obligation or an interest in a non-investment grade loan is generally considered speculative in nature and may become a Defaulted Obligation for a variety of reasons. Upon any Collateral Loan Obligation becoming a Defaulted Obligation, such Defaulted Obligation may become subject to either substantial workout negotiations or restructuring, which may entail, among other things, a substantial reduction in the interest rate, a substantial write-down of principal and a substantial change in the terms, conditions and covenants with respect of such Defaulted Obligation. In addition, such negotiations or restructuring may be quite extensive and protracted over time, and therefore may result in uncertainty with respect to ultimate recovery on such Defaulted Obligation. The liquidity for Defaulted Obligations may be limited, and to the extent that Defaulted Obligations are sold, it is highly unlikely that the proceeds from such sale will be equal to the amount of unpaid principal and interest thereon. Furthermore, there can be no assurance that the ultimate recovery on any Defaulted Obligation will be at least equal either to the minimum recovery rate assumed by a Rating Agency in rating the Notes or any recovery rate used in the analysis of the Notes by investors in determining whether to purchase the Notes.

### ***Prepayment Risk***

Loans are generally prepayable in whole or in part at any time at the option of the Obligor thereof at par plus accrued and unpaid interest thereon. Prepayments on loans may be caused by a variety of factors, which are difficult to predict. See "*Average Life and Prepayment Considerations*" and "*Mandatory Redemption of the Notes*" above.

### ***Credit Risk***

Risks applicable to Senior Secured Loans also include the possibility that earnings of the Obligor may be insufficient to meet its debt service obligations thereunder and the declining creditworthiness and potential for insolvency of the Obligor of such loans during periods of rising interest rates and economic downturn. An economic downturn could severely disrupt the market for leveraged loans and adversely affect the value thereof and the ability of the Obligor thereunder to repay principal and interest.

## **3.8 Collateral Loan Obligations secured by Spanish real estate mortgages**

Certain Collateral Loan Obligations arising from Spanish law governed syndicated facilities agreements are secured by, inter alia, real estate mortgages over properties located in Spain. According to article 149 of Decree of 8 February 1946 that approves the Spanish Mortgage Act (as amended), the

transfer of a credit or loan secured with a mortgage may be transferred in full or in part in accordance with the provisions of article 1,526 of the Spanish Civil Code. The transfer of title to the mortgage securing the loan or credit must be made in a public deed (*escritura pública*) and be registered in the land registry. The fulfilment of elevation to public deed (*escritura pública*) and registration requirements will not have been made on the Issue Date. Whilst there is a consensus that such requirements are formality requirements that do not affect the substance of transfer of title to the relevant Collateral Loan Obligations and therefore do not affect the benefit of the relevant underlying security, fulfilment of such requirements may be necessary to enforce the relevant mortgages under the applicable Spanish enforcement proceedings. To this end, a power of attorney has been granted by the Originator to the Issuer so that the Issuer can fulfil such requirements by itself at any time, including following the insolvency of the Originator, should it deem necessary.

The transfer of mortgage secured loans or credits is subject to stamp duties in Spain, according to the Transfer Tax Act, approved by Royal Legislative Decree 1/1993 of 24 September. Payment of such stamp duty is a requirement for the registration of the relevant mortgage secured loans in the relevant land registries. To this end, on the Issue Date, the Issuer has credited €1,500,000 to the Stamp Duty Reserve Account which amount shall be available to pay such taxes.

### 3.9 Assignments

The Issuer may acquire interests in Collateral Loan Obligations which are loans directly (by way of novation or assignment). Each institution from which such an interest is acquired is referred to herein as an "**Assignor**". Interests in loans acquired directly by way of novation or assignment are referred to herein as "**Assignments**".

The purchaser of an Assignment typically succeeds to all the rights of the Assignor and becomes entitled to the benefit of the loans and the other rights of the lender under the loan agreement. The Issuer as an assignee will generally have the right to receive directly from the obligor all payments of principal and interest to which it is entitled, provided that notice of such Assignment has been given to the obligor. As a purchaser of an Assignment, the Issuer typically will have the same voting rights as other lenders under the applicable loan agreement and will have the right to vote to waive enforcement of breaches of covenants. The Issuer will also have the same rights as other lenders to enforce compliance by the obligor with the terms of the loan agreement, to set off claims against the obligor and to have recourse to collateral supporting the loan. As a result, the Issuer will generally not bear the credit risk of the Assignor and the insolvency of the Assignor should have little effect on the ability of the Issuer to continue to receive payment of principal or interest from the obligor. The Issuer will, however, assume the credit risk of the obligor.

Assignments are sold strictly without recourse to the Assignor and the Assignor will generally make no representations or warranties about the underlying loan, the borrowers thereunder, the documentation or any collateral securing the loans. In addition, the Issuer will be bound by provisions of the underlying loan agreements, if any, that require the preservation of the confidentiality of information provided by the borrower.

### 3.10 Lender Liability Considerations; Equitable Subordination

In recent years, a number of judicial decisions in the United States and other jurisdictions have upheld the right of borrowers to sue lenders or bondholders on the basis of various evolving legal theories (collectively, termed "**Lender Liability**"). Generally, lender liability is founded upon the premise that an institutional lender or bondholder has violated a duty (whether implied or contractual) of good faith and fair dealing owed to the borrower or issuer or has assumed a degree of control over the borrower or issuer resulting in the creation of a fiduciary duty owed to the borrower or issuer or its other creditors or shareholders. Although it would be a novel application of the lender liability theories, the Issuer may be subject to allegations of lender liability. However, the Issuer does not intend to engage in any conduct that would form the basis for a successful cause of action based upon lender liability.

In addition, under common law principles that in some cases form the basis for lender liability claims, if a lender or bondholder (a) intentionally takes an action that results in the under-capitalisation of a borrower to the detriment of other creditors of such borrower, (b) engages in other inequitable conduct to the detriment of such other creditors, (c) engages in fraud with respect to, or makes misrepresentations to, such other creditors, or (d) uses its influence as a stockholder to dominate or

control a borrower to the detriment of other creditors of such borrower, a court may elect to subordinate the claim of the offending lender or bondholder to the claims of the disadvantaged creditor or creditors, a remedy called "equitable subordination". Because of the nature of the Collateral Loan Obligations, the Issuer may be subject to claims from creditors of an Obligor that Collateral Loan Obligations issued by such Obligor that are held by the Issuer should be equitably subordinated. However, the Issuer does not intend to engage in any conduct that would form the basis for a successful cause of action based upon the equitable subordination doctrine described above.

The preceding discussion is based upon principles of United States federal and state laws. Insofar as Collateral Loan Obligations that are obligations of non-United States Obligors are concerned, the laws of certain foreign jurisdictions may impose liability upon lenders or bondholders under factual circumstances similar to those described above, with consequences that may or may not be analogous to those described above under United States federal and state laws.

The principles of creditor subordination under Spanish insolvency law, which is the law that would govern the insolvency of a substantial number of Obligors, are mainly set out in articles 92 and 93 of Law 22/2003 of 9 July, on insolvency (the "**Spanish Insolvency Act**"). These articles provide, inter alia, for the subordination of the rights of creditors who are deemed to be "specially related" with the insolvent Obligor, either because at the time the relevant claim arose the relevant creditor was a shareholder of the insolvent Obligor holding at least 5 per cent. of its share capital (if the insolvent Obligor was an issuer of listed securities) or 10 per cent. of its share capital (if the insolvent Obligor was not an issuer of listed securities), or if the relevant creditor is a director, actual or deemed or de facto (*administrador de hecho*) of the insolvent Obligor, among other circumstances.

Whilst there are a number of Spanish court decisions dealing with the interpretation of the aforementioned articles, jurisprudence dealing specifically with the analysis of a lender-creditor relationship in the context of lenders under facilities of the type of the Senior Secured Loans and Senior Unsecured Loans dominating or controlling a borrower to the detriment of other creditors is scarce. However, in a context where it is proven that a lender has used its influence as a stockholder to dominate or control a borrower to the detriment of other creditors of such borrower, a Spanish insolvency court may elect to subordinate the claim of the offending lender to the claims of other creditors under principles equivalent to those of "equitable subordination" mentioned above. As regards situations of lender misconduct, fraud or other damages to Obligors, articles 71 and 72 of the Spanish Insolvency Act provide for the rescission of transactions detrimental to the estate of the insolvent Obligor (which is interpreted to also include transactions which have the effect of impairing other creditors' rights for the benefit of a particular creditor) carried out within the period of two years prior to the declaration of the insolvency of the relevant Obligor. The rescission may lead to the subordination of the relevant creditor's claim if deemed to have acted in bad faith. There are other actions under Spanish law that other creditors may also carry out against creditors acting in fraud of other creditors which provide for a longer time barring period (particularly the so-called *actio pauliana*).

### 3.11 Counterparty Risk

The Interest Rate Swap Transaction involves the Issuer entering into a contract with the Interest Rate Swap Counterparty. Pursuant to such contract, such counterparty agrees to make payments to the Issuer under certain circumstances as described therein. The Issuer will be exposed to the credit risk of the Interest Rate Swap Counterparty with respect of any such payments. Such counterparty is required to satisfy the applicable Required Ratings, upon entry into the applicable contract or instrument.

Unless written notification to the contrary has been received from the Rating Agencies, if the applicable ratings of the Interest Rate Swap Counterparty at any time fall below the applicable Required Ratings or are withdrawn, the Interest Rate Swap Counterparty shall be required to take certain steps such as, inter alia, the posting of Counterparty Downgrade Collateral with the Issuer or the transfer of its rights and obligations under the Interest Rate Swap Agreements to another entity and failure to take such action may result in the termination of the Interest Rate Swap Agreements – see "*Description of the Interest Rate Swap Arrangements*".

Similarly, the Issuer will be exposed to the credit risk of the Account Bank, the Payment Account Account Bank and the Custodian to the extent of, respectively, all cash of the Issuer held in the Accounts and all securities of the Issuer held by the Custodian.

In the event that the Account Bank, the Payment Account Account Bank, the Counterparty Downgrade Collateral Account Bank or the Custodian is subject to a rating withdrawal or downgrade by a Rating Agency to below the applicable Required Ratings the Issuer shall (at the expense of the Account Bank, the Payment Account Account Bank or Custodian, as the case may be, in relation to administrative expenses only) use its reasonable endeavours to procure the appointment of a replacement Account Bank, the Payment Account Account Bank or Custodian, as the case may be, with the applicable Required Ratings and which is acceptable to the Trustee within 30 days of such withdrawal or downgrade.

### **3.12 Insolvency of Obligors under Collateral Loan Obligations**

The Collateral Loan Obligations may be subject to various laws enacted for the protection of creditors in the jurisdictions of incorporation of the Obligors thereunder and, if different, the jurisdictions from which the Obligors conduct their business and in which they hold their assets. Such laws may adversely affect such Obligors' abilities to make payment on a full or timely basis. These insolvency considerations will differ depending on the country in which each Obligor or its assets is located and may differ depending on whether the Obligor is a non-sovereign or a sovereign entity and the legal status of the Obligor. In particular, it should be noted that a number of continental European jurisdictions operate "debtor-friendly" insolvency regimes which could result in delays in payments under Collateral Loan Obligations where obligations thereunder are subject to such regimes, in the event of their insolvency. In particular, a substantial number of Obligors would be subject to the provisions of the Spanish Insolvency Act. The Spanish Insolvency Act provides generally, among other things, for the suspension of accrual of interest on claims against the insolvent Obligor from the date of declaration of insolvency, as well as for a moratorium on the enforcement of security of up to one year from the date of declaration of insolvency, in the event that the relevant assets are deemed to be attached to the commercial activity of the insolvent Obligor. The Spanish Insolvency Act also contains other provisions which could result in delays in payments under Collateral Loan Obligations.

The different insolvency regimes applicable in the different European jurisdictions result in a corresponding variability of recovery rates for Senior Secured Loans and Senior Unsecured Loans entered into or issued by Obligors in such jurisdictions. No reliable historical data for such recovery rates is available.

### **3.13 Changes in Tax Law**

Following acquisition by the Issuer, payments of interest on the Collateral Loan Obligations will not be subject to any withholding tax imposed by any jurisdiction (including pursuant to the operation of an applicable tax treaty and, in some cases, the completion of procedural formalities). However, there can be no assurance that, as a result of any change in any applicable law, rule or regulation or interpretation thereof, the payments on the Collateral Loan Obligations will not in the future become subject to withholding tax or increased withholding tax rates in respect of which the relevant Obligor will not be obliged to make gross up payments to the Issuer. In such circumstances, the Issuer may be able, but will not be obliged, to take advantage of (a) a double taxation treaty between The Netherlands and the jurisdiction from which the relevant payment is made or (b) the current applicable law in the jurisdiction of the relevant Obligor.

In addition, where the Issuer, in order to receive payments of interest gross, applies for the benefit of relevant double taxation treaties, there can be no guarantee that the Issuer will actually obtain such benefit either in a timely manner or at all. The application and procedure for relief from withholding tax is treaty specific and the approval process can, for example, take time, many months in certain jurisdictions. Until such time as the applicable approval process is complete and a clearance notice (or the equivalent) is issued to the applicable Obligor, the Obligor will be required to withhold tax on payments of interest if so required under applicable law. Any such withholding will reduce the funds available to the Issuer to pay its liabilities and may not be recoverable.

Such tax would also reduce the amounts available to make payments on the Notes. There can be no assurance that remaining payments on the Collateral Loan Obligations would be sufficient to make timely payments of interest, principal on the Maturity Date and other amounts payable in respect of the Notes of each Class. In addition, subject to the satisfaction of any relevant thresholds and conditions, any such withholding may result in a Collateral Tax Event in relation to which the Class D Noteholders

have an option to require the Issuer to redeem all of the Notes prior to the Maturity Date. See Condition 7(b) (*Optional Redemption*).

Although no withholding tax is currently imposed on payments of interest on the Notes, there can be no assurance that the law will not change. For example, see "*Tax Considerations*". In the event that any withholding tax is imposed on payments of interest on any Class of Notes, the Issuer will not "gross-up" payments to the holders of such Notes. In the event of the occurrence of a Note Tax Event pursuant to which any payment on the Notes of any Class becomes properly subject to any withholding tax or deduction for or on account of tax, the Notes may be redeemed in whole but not in part at the direction of the holders of the Controlling Class or the holders of the Class D Notes, in either case acting by Extraordinary Resolution, subject to certain conditions, including a threshold test pursuant to which determination is made as to whether the anticipated proceeds of liquidation of the security over the Collateral would be sufficient to pay all amounts due and payable on the Notes in such circumstances in accordance with the Priorities of Payments. In the case of such redemption at the direction of the holders of the Controlling Class or the Class D Notes, there can be no assurance that the proceeds of such redemption would be sufficient to make payments of all amounts payable in respect of the Notes of each Class.

### 3.14 Interest Rate Risk

The Floating Rate Notes bear interest at floating rates based on EURIBOR. It is possible that Collateral Loan Obligations may bear interest at fixed rates and there is no requirement that any amount or portion of Collateral Loan Obligations must bear interest on a particular basis.

There may be a floating/fixed rate or basis mismatch between the Floating Rate Notes on the one hand and the underlying Collateral Loan Obligations on the other hand to the extent that any amount or proportion of Collateral Loan Obligations bears interest at fixed rates or floating rates that are different to the floating rates paid on the Floating Rate Notes. Such mismatch may be material and may change from time to time as the composition of the related Collateral Loan Obligations change and as the liabilities of the Issuer accrue or are repaid. As a result of such mismatches, changes in the level of EURIBOR could adversely affect the ability to make payments on the Notes. The Issuer will enter into an Interest Rate Swap Transaction to reduce the effect of any such interest rate mismatch. In such circumstances, despite the Issuer having the benefit of the Interest Rate Swap Transaction, there can be no assurance that the Collateral Loan Obligations will in all circumstances generate sufficient Interest Proceeds to make timely payments of interest on the Notes. In addition, there can be no assurance that there will be no default under or other termination of the Interest Rate Swap Agreement by the Interest Rate Swap Counterparty. Furthermore, if a Collateral Loan Obligation is redeemed early, the Issuer may terminate any related Interest Rate Swap Agreements, which may result in a termination payment being due to an Interest Rate Swap Counterparty and any such termination (excluding any Defaulted Interest Rate Swap Termination Payments) will be made before any payments on the Notes and such termination payments could be considerable. The Issuer will depend upon the Interest Rate Swap Counterparty to perform its obligations under the Interest Rate Swap Transaction. If the Interest Rate Swap Counterparty defaults or becomes unable to perform due to insolvency or otherwise, the Issuer will not receive payments it would otherwise be entitled to receive from such Interest Rate Swap Counterparty to cover its interest rate risk exposure.

### 3.15 EU Savings Directive

Under EC Council Directive 2003/48/EC on the taxation of savings income, Member States are required to provide to the tax authorities of another Member State details of payments of interest (or similar income) paid by a person within its jurisdiction to an individual resident in that other Member State or to certain limited types of entities established in that other Member State. However, for a transitional period, Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries). A number of non-EU countries and territories including Switzerland have adopted similar measures (a withholding system in the case of Switzerland).

The European Commission has proposed certain amendments to the Directive, which may, if implemented, amend or broaden the scope of the requirements described above. If a payment were to be made or collected through a Member State which has opted for a withholding system and an amount

of, or in respect of, tax were to be withheld from that payment, neither the Issuer nor any Paying Agent nor any other person would be obliged to pay additional amounts with respect to any Note as a result of the imposition of such withholding tax. The Issuer is required to maintain a Paying Agent in a Member State that is not obliged to withhold or deduct tax pursuant to the Directive.

#### **4. CERTAIN CONFLICTS OF INTEREST**

##### **4.1 General**

Banco Español de Crédito S.A. acts as Portfolio Servicer and may act in other capacities in respect of transactions with the Issuer. Various potential and actual conflicts of interest may arise from the overall advisory, investment and other activities of the Portfolio Servicer, its Affiliates and their respective clients and from its conduct and its Affiliates of other transactions with the Issuer. The following briefly summarises some of these conflicts, but is not intended to be an exhaustive list of all such conflicts.

##### **4.2 Conflicts of Interest involving the Portfolio Servicer**

The Portfolio Servicer and/or its Affiliates and its clients may invest in debt obligations of the same type and class as the Collateral Loan Obligations and other assets forming part of the Portfolio. Such investments may be different from those made on behalf of the Issuer. The Portfolio Servicer and its Affiliates may also have ongoing relationships with, render services to or engage in transactions with, companies whose securities secure the Notes and may own, underwrite or market equity or debt securities issued by Obligors on Collateral Loan Obligations. As a result, officers or Affiliates of the Portfolio Servicer may possess information relating to Obligors of Collateral Loan Obligations which is not known to the individuals at the Portfolio Servicer responsible for monitoring the Collateral Loan Obligations and performing the other obligations under the Portfolio Servicing Agreement. In addition, Affiliates and clients of the Portfolio Servicer may invest in loans and securities that are senior to, or have interests different from or adverse to, the Collateral Loan Obligations. The Portfolio Servicer and/or its Affiliates may at certain times be simultaneously seeking to purchase or dispose of investments for its or their own account, for the Issuer, for any similar entity for which it serves as manager or adviser and for its clients or Affiliates. Although the professional staff of the Portfolio Servicer will devote as much time to the Issuer as the Portfolio Servicer deems appropriate to perform its duties in accordance with the Portfolio Servicing Agreement, those staff may have conflicts in allocating their time and services among the Issuer and the Portfolio Servicer's other accounts.

In addition, upon any resignation or removal of the Portfolio Servicer while any of the Notes are Outstanding, the Issuer shall appoint a substitute Portfolio Servicer which is an established institution:

- (a) which has demonstrated an ability to professionally and competently perform duties similar to those imposed upon the Portfolio Servicer and with a substantially similar (or better) level of expertise;
- (b) which is legally qualified and has the capacity (including the regulatory capacity to render such services to Dutch counterparties as a matter of the laws of The Netherlands) to act as the Portfolio Servicer under the Portfolio Servicing Agreement, as successor to the Portfolio Servicer in the assumption of all of the responsibilities, duties and obligations of the Portfolio Servicer thereunder;
- (c) which will perform its duties under the Portfolio Servicing Agreement without causing adverse tax consequences to the Issuer or the holders of any Class of Notes; and
- (d) in respect of which Rating Agency Confirmation has been received from S&P and DBRS.

The Portfolio Servicer, on behalf of the Issuer, may conduct principal trades with itself and its Affiliates, subject to applicable law. The Portfolio Servicer may also effect client cross transactions where the Portfolio Servicer causes a transaction to be effected between the Issuer and another account advised by the Portfolio Servicer or any of its Affiliates. Client cross transactions enable the Portfolio Servicer to sell a block of securities for the Issuer at a set price and possibly avoid an unfavourable price movement that may be created through entrance into the market with such sell order. In addition, with the prior authorisation of the Issuer, which may be revoked at any time, the Portfolio Servicer may enter into agency cross transactions where any of its Affiliates acts as broker for the Issuer and for the



other party to the transaction, in which case any such Affiliate will receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding, both parties to the transaction.

The Portfolio Servicer and its Affiliates may serve as directors of companies the securities of which may comprise Collateral purchased, sold or held by the Issuer and may engage in any other business and furnish collateral management and advisory services to others. Further potential conflicts of interest involving the Portfolio Servicer are set out in the Portfolio Servicing Agreement.

There is no limitation or restriction on the Portfolio Servicer or any of its Affiliates with regard to acting as Portfolio Servicer or portfolio servicing agent (or in a similar role) to other parties or persons. This and other future activities of the Portfolio Servicer and/or its Affiliates may give rise to additional conflicts of interest.

With respect to the Notes conflicts of interest may arise as a result of various factors involving the Initial Purchaser, the Arranger, the Originator, the Portfolio Servicer, the Collateral Administrator, their Affiliates and others. The following briefly summarises some of these conflicts, but is not intended to be an exhaustive list of all such potential conflicts.

#### **4.3 Conflicts of Interest involving the Initial Purchaser, the Arranger and the Originator and other Transaction Parties**

The Initial Purchaser, the Arranger or the Originator or their Affiliates may have underwritten, purchased, syndicated or acted as agent under certain of the Collateral Loan Obligations at original drawdown, own equity or other debt of Obligors under Collateral Loan Obligations and have provided investment banking services, advisory, banking and other services to Obligors under Collateral Loan Obligations. The Issuer may invest in the securities of companies affiliated with the Initial Purchaser, the Arranger or the Originator or their Affiliates or companies in which the Initial Purchaser, the Arranger or the Originator or their Affiliates have an equity or participation interest. In addition, the Initial Purchaser, the Arranger, the Originator and their Affiliates may invest in debt obligations that have interests different from or adverse to the debt obligations that constitute Collateral Loan Obligations. The Initial Purchaser, the Arranger, the Originator and their Affiliates, may serve as directors of companies the securities of which may comprise Collateral purchased, sold or held by or on behalf of the Issuer and may engage in any other business and furnish advisory services to others. The purchase, holding and sale of such investments by the Issuer, may enhance the profitability of the Initial Purchaser, the Arranger, or the Originator or their Affiliates' own investments in such companies. The Initial Purchaser, the Arranger and the Originator do not take any responsibility for, and have no obligations in respect of, the Issuer.

In addition, the Initial Purchaser, the Arranger or the Originator or one or more of their Affiliates thereof may also act as seller of credit protection to one or more classes of Noteholders.

The Initial Purchaser, the Arranger or the Originator may, from time to time, deal in any of the Notes.

The Initial Purchaser, the Arranger or the Originator may own equity or other debt of Obligors under Collateral Loan Obligations and may have provided investment banking services, advisory, banking and other services to Obligors under Collateral Loan Obligations. The Issuer may invest in the securities of companies affiliated with the Initial Purchaser, the Arranger, the Originator or their Affiliates or companies in which the Initial Purchaser, the Arranger, the Originator or their Affiliates have an equity or participation interest. In addition, the Initial Purchaser, the Arranger, the Originator and their Affiliates may invest in debt obligations that have interests different from or adverse to the debt obligations that constitute Collateral Loan Obligations. The purchase, holding and sale of such investments by the Issuer, may enhance the profitability of the Initial Purchaser, the Arranger, the Originator or their Affiliates' own investments in such companies. The Initial Purchaser, the Arranger and the Originator do not take any responsibility for and have no obligation in respect of the Issuer.

There will be no restriction on the ability of the Initial Purchaser, the Arranger, the Originator, the Portfolio Servicer, the Trustee, the Collateral Administrator, the Interest Rate Swap Counterparty or any of their respective Affiliates or employees to purchase Notes of any Class (either upon initial issuance or through secondary transfers) and to exercise any voting rights to which such Notes are

entitled (other than, in regard to voting rights, in respect of the Portfolio Servicer, as set out in paragraph 4.2 above). The interests of such holders may differ from those of other holders.

## 5. TAXATION OF THE ISSUER

The Managing Directors intend to conduct the affairs of the Issuer in such a manner as to minimise, so far as they consider reasonably practicable, taxation suffered by the Issuer. This will include conducting the affairs of the Issuer so that, to the extent that it is within the capacity of the Managing Directors and the Issuer, the Issuer is at all times resident in The Netherlands for taxation purposes. There can be no assurance, however, that the Issuer's income (particularly any U.S. source income it may derive) will not become subject to net income or withholding taxes in the United States or other countries as a result of unanticipated activities by the Issuer, changes in law, contrary conclusions by relevant tax authorities or other causes.

## 6. REGULATORY RISK

### 6.1 General

The Issuer is not conducting banking or financial services activity requiring licences or consents from regulators in its jurisdiction of incorporation and seeks to comply with all applicable laws and regulations applicable to it of which it is aware in all jurisdictions with which the transaction is connected. The possibility cannot be excluded, however, that either by reason of a change in law or regulation or their interpretation in any applicable jurisdiction or by reason of law or regulation of which the Issuer is unaware, certain of its activities or those of its agents in relation to the issue and offering of the Notes and the acquisition and disposal of the Portfolio may constitute the provision of cross border banking or financial services which are regulated in other jurisdictions. Should it be determined that the Issuer has failed to comply with any applicable licence or consent requirements under any applicable banking or financial services law or regulation in any jurisdiction in relation to the issue and offering of the Notes and the acquisition and disposal of the Portfolio, the regulators in such jurisdiction could, to the extent they have authority to do so, impose sanctions on certain of the parties involved, including the Issuer, seeking the immediate cessation of such parties' activities in that jurisdiction, liquidation of the transactions conducted by it in that jurisdiction or with investors in or from that jurisdiction and even the imposition of criminal sanctions.

### 6.2 Regulatory initiatives may result in increased regulatory capital requirements and/or decreased liquidity in respect of the Notes

In Europe, the U.S. and elsewhere there is increased political and regulatory scrutiny of the asset-backed securities industry. This has resulted in a raft of measures for increased regulation which are currently at various stages of implementation and which may have an adverse impact on the regulatory capital charge to certain investors in securitisation exposures and/or the incentives for certain investors to hold asset-backed securities, and may thereby affect the liquidity of such securities. Investors in the Notes are responsible for analysing their own regulatory position and neither the Issuer, the Arranger, the Originator (other than in respect of its Article 122a compliance as described under section "*Compliance with Article 122a of the CRD*"), the Portfolio Servicer nor the Collateral Administrator makes any representation to any prospective investor or purchaser of the Notes regarding the regulatory capital treatment of their investment in the Notes on the Issue Date or at any time in the future.

In particular, in Europe, investors should be aware of Article 122a ("**Article 122a**") of the Capital Requirements Directive (the "**CRD**") which applies in general to new securitisations issued on or after 1 January 2011, and, after 31 December 2014, to existing securitisations where new underlying exposures are added or substituted after 31 December 2014. Article 122a restricts an EU regulated credit institution from investing in asset-backed securities unless the originator, sponsor or original lender in respect of the relevant securitisation has explicitly disclosed to the EU regulated credit institution that it will retain, on an ongoing basis, a net economic interest of not less than 5 per cent. in respect of certain specified credit risk tranches or asset exposures as contemplated by Article 122a. Article 122a also requires an EU regulated credit institution to be able to demonstrate that it has a comprehensive and thorough understanding of the key terms and risks of the transaction and it has undertaken certain due diligence in respect of, among other things, the Notes it has acquired and the underlying exposures and that procedures are established for such activities to be conducted on an on-

going basis. Failure to comply with one or more of the requirements set out in Article 122a will result in the imposition of a penal charge on the Notes acquired by the relevant investor.

Article 122a applies in respect of the Notes, so investors which are EU regulated credit institutions should therefore make themselves aware of the requirements of Article 122a in addition to any other regulatory requirements applicable to them with respect to their investment in the Notes. Relevant investors are required to independently assess and determine the sufficiency of the information described in this Prospectus and in any investor reports provided in relation to the transaction for the purpose of complying with Article 122a and neither the Issuer, the Portfolio Servicer nor the Collateral Administrator makes any representation that the information described above is sufficient in all circumstances for such purposes.

There remains considerable uncertainty with respect to Article 122a and it is not clear what will be required to demonstrate compliance to national regulators. Investors who are uncertain as to the requirements that will need to be complied with in order to avoid additional regulatory charges for non-compliance with Article 122a should seek guidance from their regulator. Similar requirements to those set out in Article 122a are expected to be implemented for other EU regulated investors (such as investment firms, insurance and reinsurance undertakings and certain hedge fund managers) in the future.

Article 122a of the CRD and any other changes to the regulation or regulatory treatment of the Notes for some or all investors may negatively impact the regulatory position of individual investors and, in addition, have a negative impact on the price and liquidity of the Notes in the secondary market.

With respect to the fulfilment by the Originator of the requirements of Article 122a, please refer to section "*Compliance with Article 122a of the CRD*".

#### 7. **HIRING INCENTIVES TO RESTORE EMPLOYMENT ACT 2010**

It is possible that a recently enacted U.S. tax law, the Hiring Incentives to Restore Employment Act 2010, which includes the Foreign Account Tax Compliance provisions ("**FATCA**"), could compel the Issuer to subject the Notes held by some Recalcitrant Noteholders (as defined below) to a forced sale. It is also possible that FATCA could impose a withholding tax of up to 30 per cent. on payments of interest, principal or certain other income made to Recalcitrant Noteholders on or after January 1, 2015 depending on the particular circumstances of the Issuer, the Notes and the Noteholders and beneficial owners thereof. In such event it is possible that any withholding that should otherwise be allocable to such Recalcitrant Noteholder may be disproportionately allocable to Noteholders (including compliant Noteholders) of a particular Class. Further, there could also be, as of January 1, 2014, withholding of 30 per cent. on payments to the Issuer (and certain affiliates of the Issuer) of (if any) interest and dividends and of sales proceeds as of January 1, 2015 from Collateral Loan Obligations with US source income held by the Issuer.

In order to comply with FATCA, the Issuer is likely to require each (i) Non-U.S. Noteholder to provide satisfactory documentation (to be determined) that it is not a U.S. person and (ii) U.S. Noteholder to provide its name, address and taxpayer identification number. If a Noteholder is a non-U.S. entity or otherwise not the beneficial owner of the Notes, such Noteholder will generally be required to provide certain information about its owners (or beneficial owners) in order to enable the Issuer to identify and report on certain of such Noteholder's direct and indirect U.S. beneficial owners. Any Noteholder that does not comply with the Issuer's request for information to enable it to comply with FATCA shall be a "**Recalcitrant Noteholder**".

If the Issuer chooses not to enter into an IRS Agreement, such decision could preclude certain of its FFI (as such term is defined below) affiliates from entering into such an agreement and such failure could subject such FFI affiliates to a prohibitive 30 per cent. withholding tax on its US source income.

"**FFI**" means a non-US entity that is treated as a foreign financial institution for U.S. federal income tax purposes.

Each potential purchaser of Notes should consult its own tax advisor to obtain a more detailed explanation of FATCA and to learn how it might affect such investor in its particular circumstance. See "*Tax Considerations - Application of New U.S. Tax Reporting and Withholding Law*" below.

## ARTICLE 122A OF THE CAPITAL REQUIREMENTS DIRECTIVE

The Originator, pursuant to the Portfolio Servicing Agreement, has undertaken to retain and maintain on an ongoing basis a material net economic interest of not less than 5 per cent. of the nominal value of the securitised exposures in accordance with option (d) of Article 122a of the CRD (which does not take into account any implementing rules of the CRD in a relevant jurisdiction).

For such purpose, the Originator has undertaken on the Issue Date to retain until maturity €4,252,700 of the Class D Notes, representing the net economic interest of not less than 5 per cent. of the nominal value of the securitised exposures in accordance with option (d) of Article 122a of the CRD (which does not take into account any implementing rules of the CRD in a relevant jurisdiction) and to give relevant information to the Noteholders in this respect on a monthly basis through the Monthly Report and Payment Date Report. For further information please see the summary in relation to the Monthly Reports set out in "*Description of the Reports*".

Each prospective investor is required to independently assess and determine the sufficiency of the information described above and in this Prospectus generally for the purposes of complying with Article 122a and neither the Issuer, the Arranger, the Originator, the Trustee, the Portfolio Servicer nor the Collateral Administrator makes any representation that the information described above or in this Prospectus is sufficient in all circumstances for such purposes. In addition each prospective Noteholder should ensure that they comply with the implementing provisions in respect of Article 122a in their relevant jurisdiction. Investors who are uncertain as to the requirements which apply to them in respect of their relevant jurisdiction, should seek guidance from their regulator. For further information please refer to the Risk Factor entitled "*Regulatory initiatives may result in increased regulatory capital requirements and/or decreased liquidity in respect of the Notes*".

## CONDITIONS OF THE NOTES

*The following are the Conditions of each of the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes, substantially in the form in which they will be endorsed on such Notes if issued as Definitive Certificates, and will be incorporated by reference into the Global Certificates of each Class representing the Notes (subject to the provisions of such Global Certificates, some of which will modify the effect of these Conditions (See "Form of the Notes – Amendments to Terms and Conditions")).*

The issue of up to €848,381,000 Class A Senior Secured Floating Rate Notes due 2026 (the "**Class A Notes**"), €375,246,000 Class B Deferrable Secured Floating Rate Notes due 2026 (the "**Class B Notes**"), €407,875,000 Class C Deferrable Secured Floating Rate Notes due 2026 (the "**Class C Notes**") and together with the Class A Notes and the Class B Notes, the "**Floating Rate Notes**") and €85,054,000 Class D Notes due 2026 (the "**Class D Notes**" and together with the Floating Rate Notes, the "**Notes**") of Mesena CLO 2011-1 B.V. (the "**Issuer**") was authorised by a resolution of the board of Managing Directors of the Issuer dated 26 September 2011. The Notes are constituted by a trust deed (together with, unless the context does not permit, all other documents or agreements entered into from time to time by the Issuer in order to grant security over any of the Collateral to the Trustee, the "**Trust Deed**") dated on or about the Issue Date between (amongst others) the Issuer and Deutsche Trustee Company Limited in its capacity as trustee (the "**Trustee**" which expression shall include all Persons for the time being the trustee or trustees under the Trust Deed) for the Noteholders.

These Conditions include summaries of, and are subject to, the detailed provisions of the Trust Deed (which includes the forms of the Notes). The following agreements have been entered into in relation to the Notes in addition to the Trust Deed:

- (a) an agency agreement dated on or about the Issue Date (the "**Agency Agreement**") between the Issuer, Deutsche Bank Luxembourg S.A. as registrar (the "**Registrar**", which term shall include any successor or substitute registrar appointed pursuant to the terms of the Agency Agreement), Deutsche Bank AG, London Branch as principal paying agent, custodian, payment account account bank, counterparty downgrade collateral account bank and calculation agent (respectively, the "**Principal Paying Agent**", the "**Custodian**", the "**Payment Account Account Bank**", the "**Counterparty Downgrade Collateral Account Bank**" and the "**Calculation Agent**" which terms shall include any successor or substitute principal paying agent, custodian, payment account account bank, counterparty downgrade collateral account bank or calculation agent appointed pursuant to the terms of the Agency Agreement), the Trustee (as defined above) and Banco Español de Crédito S.A. as the Account Bank (the "**Account Bank**");
- (b) a portfolio servicing agreement dated on or about the Issue Date (the "**Portfolio Servicing Agreement**") between Banco Español de Crédito S.A. as the portfolio servicer (the "**Portfolio Servicer**") and as the originator (the "**Originator**"), which term shall include any successor or replacement portfolio servicer), Deutsche Bank AG, London Branch as the collateral administrator (the "**Collateral Administrator**"), which term shall include any successor or replacement collateral administrator), the Issuer and the Trustee;
- (c) a management agreement dated on or about the Issue Date (the "**Management Agreement**") between the Issuer and the Managing Directors (as defined below);
- (d) a subscription agreement dated on or about the Issue Date (the "**Subscription Agreement**") between the Initial Purchaser and the Issuer under which the Initial Purchaser (as defined below) agreed to subscribe for the Notes;
- (e) the ISDA Master Agreement (Multicurrency-Cross Border) entered into between the Issuer and Banco Español de Crédito S.A. (the "**Interest Rate Swap Counterparty**", which expression shall include any additional or successor Interest Rate Swap Counterparty or any Replacement Interest Rate Swap Counterparty), dated on or about the Issue Date (the "**Interest Rate Swap Agreement**", which term shall include each ISDA Master Agreement (Multicurrency Cross-Border), together with the schedule, confirmations and any annexes relating thereto, entered into between the Issuer and the Interest Rate Swap Counterparty evidencing one or more Interest Rate Swap Transactions entered into by the Issuer from time

to time, as amended, supplemented or replaced from time to time and including any guarantee thereof and any credit support document entered into pursuant to the terms thereof and including any replacement Interest Rate Swap Agreement entered into in replacement thereof);

- (f) an Issuer – ICSD agreement dated on or about the Issue Date (the "**ICSD Agreement**") between the Issuer and Euroclear SA/N.V. and Clearstream, Luxembourg (the "**ICSDs**"); and
- (g) a Spanish law pledge agreement dated on or about the Issue Date (the "**Spanish Accounts Pledge Agreement**") between, amongst others, the Issuer, the Trustee and the Custodian.

The holders of each Class of Notes are entitled to the benefit of, are bound by and are deemed to have notice of all the provisions of the Trust Deed, and are deemed to have notice of all the provisions of the Agency Agreement, the Portfolio Servicing Agreement, the Subscription Agreement, each Interest Rate Swap Agreement and the Management Agreement applicable to them.

Copies of the Trust Deed, the Agency Agreement, Portfolio Servicing Agreement, each Interest Rate Swap Agreement and the Management Agreement are available for inspection during usual business hours at the registered office of the Issuer, the principal office of the Trustee (presently at Winchester House, 1 Great Winchester Street, London EC2N 2DB) and at the specified offices of the Paying Agents for the time being.

The obligations of the Portfolio Servicer under the Portfolio Servicing Agreement are owed only to the Issuer, other than following an Event of Default or a Potential Event of Default when the Portfolio Servicer may be required to act on behalf of the Trustee. The Portfolio Servicer does not have any obligations or responsibilities to the Noteholders, the Initial Purchaser, the Arranger, the Originator, the Trustee (other than as mentioned in the foregoing sentence) and does not owe any fiduciary duties to the Issuer. Any reference herein to the Portfolio Servicer using reasonable commercial efforts is a reference to the Portfolio Servicer using such efforts in accordance with the standard of care set out in the Portfolio Servicing Agreement.

## 1. **Definitions**

"**Acceleration Notice**" has the meaning given thereto in Condition 10(b) (*Acceleration*);

"**Accounts**" means the Payment Account, the Collection Account, the Interest Rate Swap Termination Account, the Reserve Fund Account, the Custody Account, the Counterparty Downgrade Collateral Account and the Stamp Duty Reserve Account together with any other account requested by the Issuer from time to time, each held and administered outside The Netherlands but excluding, for the avoidance of doubt, the Issuer Dutch Account;

"**Administrative Expenses**" means amounts due and payable by the Issuer:

- (a) in relation to the fees and other amounts payable to the Agents pursuant to the Agency Agreement (including indemnities provided for therein);
- (b) to the Collateral Administrator pursuant to the Portfolio Servicing Agreement (including indemnities provided for therein);
- (c) to the independent accountants, auditors, agents and counsel of the Issuer;
- (d) to the Managing Directors of the Issuer pursuant to the Management Agreement (including any indemnification payments);
- (e) to the Irish Stock Exchange, or such other stock exchange or exchange upon which any of the Notes are listed from time to time;
- (f) to any other Person in respect of any governmental fee or charge (other than any value added taxes, taxes provided for elsewhere and withholding taxes but including stamp duty in respect of the transfer of the Collateral Loan Obligations to the extent not paid out of the Stamp Duty Reserve Account) or any statutory indemnity;

- (g) to any other Person in respect of any other indemnities, fees or expenses or other amounts properly incurred by the Issuer from time to time, contemplated in the Conditions or the Transaction Documents;
- (h) to the payment of any amounts necessary to ensure the orderly dissolution of the Issuer;
- (i) to the Portfolio Servicer pursuant to the Portfolio Servicing Agreement (including indemnities provided for therein), but excluding the Portfolio Servicing Fee;
- (j) to the payment of any amounts due to an agent bank in relation to the performance of its duties under a syndicated Senior Secured Loan or Senior Unsecured Loan but excluding any amounts paid in respect of the acquisition or purchase price of such syndicated Senior Secured Loan or Senior Unsecured Loan;
- (k) to any Rating Agency which may from time to time be requested to assign (i) a rating to any Notes or (ii) a confidential credit estimate to any of the Collateral Loan Obligations, for fees and expenses (including surveillance fees) in connection with any such rating or confidential credit estimate including, in each case, the ongoing monitoring thereof;
- (l) to the payment of any costs and expenses incurred by the Issuer in connection with the provision of ongoing reporting information required by any Noteholder in assisting in the preparation, provision or validation of data for purposes of that Noteholder's tax jurisdiction from time to time;
- (m) to the payment of any applicable value added tax required to be paid by the Issuer in respect of any of the foregoing; and
- (n) to the payment of costs, expenses and indemnities incurred by the Issuer in relation to the restructuring of a Collateral Loan Obligation,

provided that "**Administrative Expenses**" shall not include amounts due or accrued with respect to the actions taken on or in connection with the Issue Date which are payable out of the proceeds of the issue of the Notes;

"**Administrative Expenses Cap**" means in respect of each Due Period, Administrative Expenses in an amount not exceeding €300,000.00;

"**Affiliate**" or "**Affiliated**" means with respect to a Person (the "**Relevant Person**") (a) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, the Relevant Person or (b) any other Person who is a director, officer or employee of or who, directly or indirectly, manages (i) the Relevant Person or (ii) any Person described in (a) above. For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (A) to vote more than 50 per cent. of the securities having ordinary voting power for the election of directors of such Person or (B) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise. The Issuer shall be deemed to have no Affiliates;

"**Agent**" means each of the Registrar, the Paying Agents, the Calculation Agent, the Account Bank and the Custodian, and each of their permitted successors or assigns appointed as agents of the Issuer pursuant to the Agency Agreement and "**Agents**" shall be construed accordingly;

"**Agents' Fees and Expenses**" means fees, expenses and other amounts payable by the Issuer to the Paying Agents, the Registrar, the Calculation Agent, the Account Bank and the Custodian, pursuant to the Agency Agreement and to the Collateral Administrator (including any value added tax thereon whether payable to the relevant Agent, the Collateral Administrator or the relevant tax authority) pursuant to the Portfolio Servicing Agreement;

"**Aggregate Portfolio Balance**" means the sum of the Aggregate Principal Balance and the Balance standing to the credit of the Principal Proceeds Ledger of the Collection Account;

"**Aggregate Principal Balance**" means the aggregate of the Principal Balances of all the Collateral Loan Obligations and, when used with respect to some portion of the Collateral Loan Obligations,

means the aggregate of the Principal Balances of such portion of the Collateral Loan Obligations, in each case, as at the date of determination;

"**Applicable EURIBOR**" means with respect to the Notes, three month EURIBOR or EURIBOR for such other appropriate period in respect of the First Interest Accrual Period and/or the Interest Accrual Period immediately prior to the Maturity Date or the Redemption Date (rounded, if necessary, to the nearest one-thousandth of a percentage point (with 0.0005 being rounded upwards));

"**Arranger**" means Banco Español de Crédito S.A. and/or any of its Affiliates;

"**Authorised Denomination**" means in respect of any Note, the Minimum Denomination thereof and any denomination equal to one or more multiples of the Authorised Integral Denomination in excess of the Minimum Denomination;

"**Authorised Integral Denomination**" means, in respect of Notes of each Class, €1,000;

"**Balance**" means, in respect of any cash standing to the credit of an Account, the aggregate of:

- (a) the current balance of cash, demand deposits, time deposits, government-guaranteed funds and certificates of deposit;
- (b) the principal amount of interest bearing corporate and government securities, money market accounts and repurchase obligations; and
- (c) the purchase price (but not greater than the face amount) of non-interest bearing government and corporate securities and commercial paper;

"**Banesto Collection Account**" means the existing omnibus interest bearing account of Banco Español de Crédito S.A., into which certain payments from the Obligor of the Collateral Loan Obligations as referred to in paragraphs (a) and (b) of Condition 3(j)(A) are credited, the amounts standing to the credit of which shall be transferred every two Business Days to the Principal Proceeds Ledger of the Collection Account or the Interest Proceeds Ledger of the Collection Account as appropriate, in accordance with Condition 3(j)(A)(a) and (b);

"**Business Day**" means (save to the extent otherwise defined herein or in any Transaction Document):

- (a) for the purposes of Condition 6 (*Interest*) a day, other than a Saturday or Sunday, on which (i) the TARGET 2 System is open for settlement of payments in euro (each such day, a "**TARGET Day**") and (ii) a day, other than a Saturday or Sunday, on which banks are open for business in London;
- (b) for the purposes of the definition of "Presentation Date", in relation to any place, a day, other than a Saturday or Sunday, on which commercial banks and foreign exchange markets settle payments in the relevant place of presentation; and
- (c) for any other purpose, a TARGET Day or, if such TARGET Day is not a day on which banks are open for business in London and Madrid, the next succeeding TARGET Day on which banks are open for business in London and Madrid.

"**CCC Average Market Value**" means in respect of any Excess 5 per cent. CCC Haircut Obligations, the product of:

- (a) the Principal Balance; and
- (b) the Market Value of each such CCC Obligation,

divided by the Aggregate Principal Balance of such Excess 5 per cent. CCC Obligations expressed as a percentage;

"**CCC Haircut Amount**" means, at any time, an amount equal to the product of:



- (a) the Aggregate Principal Balance of the relevant CCC Obligations as at such time the Aggregate Principal Balance of which exceeds 5 per cent. of the Aggregate Portfolio Balance (the "Excess 5 per cent. CCC Haircut Obligations"); and
- (b) the lower of 70 per cent. and the CCC Average Market Value of the Excess 5 per cent. CCC Haircut Obligations as at such time;

"**CCC Obligations**" means, at any time, any Collateral Loan Obligation (other than Defaulted Obligations) that has an S&P Rating of "CCC" or lower;

"**CCC Obligations Balance**" means the Aggregate Principal Balance of all CCC Obligations;

"**Class**" or "**Class of Notes**" means each of the classes of Notes being:

- (a) the Class A Notes;
- (b) the Class B Notes;
- (c) the Class C Notes; and
- (d) the Class D Notes; and

"**Class of Noteholders**" shall be construed accordingly;

"**Class A Floating Rate of Interest**" has the meaning given thereto in Condition 6(f)(i) (*Rate of Interest*);

"**Class A Margin**" has the meaning given thereto in Condition 6(f)(i)(D) (*Rate of Interest*);

"**Class A Noteholders**" means the registered holders of the Class A Notes from time to time;

"**Class B Floating Rate of Interest**" has the meaning given thereto in Condition 6(f)(i) (*Rate of Interest*);

"**Class B Margin**" has the meaning given thereto in Condition 6(f)(i)(D) (*Rate of Interest*);

"**Class B Noteholders**" means the registered holders of the Class B Notes from time to time;

"**Class B Principal Deficiency Test**" means the test that will be satisfied on a Determination Date if the Principal Deficiency Amount divided by the Principal Amount Outstanding of all Classes of Notes on such Determination Date is lower than 10 per cent. For the avoidance of doubt, redemption in full of the Class A Notes shall deem the Class B Principal Deficiency Test as being satisfied on the Determination Date;

"**Class C Floating Rate of Interest**" has the meaning given thereto in Condition 6(f)(i) (*Rate of Interest*);

"**Class C Margin**" has the meaning given thereto in Condition 6(f)(i)(D) (*Rate of Interest*);

"**Class C Noteholders**" means the registered holders of the Class C Notes from time to time;

"**Class C Principal Deficiency Test**" means the test that will be satisfied on a Determination Date if the Principal Deficiency Amount divided by the Principal Amount Outstanding of all Classes of Notes on such Determination Date is lower than 3 per cent. For the avoidance of doubt, redemption in full of the Class A Notes and the Class B Notes shall deem the Class C Principal Deficiency Test as being satisfied on the Determination Date;

"**Class D Noteholders**" means the registered holders of the Class D Notes from time to time;

"**Clean-Up Call Redemption**" has the meaning given thereto in Condition 7(b)(ii) (*Optional Redemption Clean-Up Call*);

**"Collateral"** means the property, assets, rights and benefits described in Condition 4(a) (*Security*) which are charged and/or assigned and/or pledged to the Trustee and/or held on trust from time to time for the benefit of all of the Secured Parties pursuant to the Trust Deed and the Spanish Accounts Pledge Agreement;

**"Collateral Acquisition Agreement"** means each agreement whereby the Issuer acquires one or more Collateral Loan Obligation, as further described in the section "*Description of the Collateral Acquisition Agreements*" below;

**"Collateral Loan Obligation"** means any debt obligation purchased and held by or on behalf of the Issuer from time to time (or if the context requires, to be purchased by or on behalf of the Issuer) each of which the Portfolio Servicer has determined, in accordance with the Portfolio Servicing Agreement, satisfies the Eligibility Criteria. For the avoidance of doubt, the failure of any obligation to satisfy the Eligibility Criteria at any time after the Issuer or the Portfolio Servicer on behalf of the Issuer has entered into a binding commitment to purchase it, shall not cause such obligation to cease to constitute a Collateral Loan Obligation unless, in the case of a Restructured Obligation, (i) the borrower of such Restructured Obligation is not an affiliate of the original borrower or (ii) it is an Exchanged Equity Security. Debt obligations which are to constitute Collateral Loan Obligations in respect of which the Issuer has entered into a binding commitment to sell or purchase but which have not yet settled shall be included as Collateral Loan Obligations in the calculation of the Portfolio Profile Tests and the Collateral Quality Tests at any time as if such sale or purchase had settled. References to Collateral Loan Obligations shall not include Exchanged Equity Securities;

**"Collateral Quality Tests"** means the Collateral Quality Tests set out and defined in the Portfolio Servicing Agreement;

**"Collateral Tax Event"** has the meaning given thereto in Condition 7(b)(i) (*Redemption at the Option of the Class D Noteholders or the Holders of the Controlling Class*);

**"Collection Account"** means the interest bearing account of the Issuer with the Account Bank into which (i) Principal Proceeds denominated in Euro are to be paid into the principal proceeds ledger thereof (the "**Principal Proceeds Ledger**"); and (ii) Interest Proceeds denominated in Euro are to be paid into the interest proceeds ledger thereof (the "Interest Proceeds Ledger");

**"Conditions"** means the conditions of the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes set out in the Trust Deed and references to any "**Condition**" shall be construed accordingly;

**"Controlling Class"** means the Class A Notes or, following redemption and payment in full of the Class A Notes, the Class B Notes or, following redemption and payment in full of the Class A Notes and the Class B Notes, the Class C Notes or, following redemption and payment in full of the Class A Notes, the Class B Notes and the Class C Notes, the Class D Notes; in each case then Outstanding;

**"Counterparty Downgrade Collateral"** means any cash and/or securities delivered to the Issuer as collateral for the obligations of an Interest Rate Swap Counterparty under the related Interest Rate Swap Agreement;

**"Counterparty Downgrade Collateral Account"** means an interest bearing account of the Issuer with the Counterparty Downgrade Collateral Account Bank into which all Counterparty Downgrade Collateral is to be deposited;

**"Credit Impaired Obligation"** means any Collateral Loan Obligation which, in the Portfolio Servicer's sole judgment (acting in a commercially reasonable manner and which judgment will not be called into question as a result of any subsequent events) has a high probability of declining in credit quality or has significantly declined in credit quality and has a high probability of becoming a Defaulted Obligation;

**"CTHs"** means certain Collateral Loan Obligations governed by Spanish law, whose purpose is mainly the financing of the acquisition or development of real estate properties, which are secured with mortgages over such real estate properties and which are transferred under the so-called mortgage transfer certificates (*certificados de transmisión de hipoteca*);

**"Current Performing Portfolio Balance"** means, at any time, the Performing Portfolio Balance;

**"Custody Account"** means the custody account or accounts (including any cash account relating to any securities account) established on the books of the Custodian in accordance with the provisions of the Agency Agreement;

**"DBRS"** means DBRS Ratings Limited and any successors or successor thereto;

**"DBRS Counterparty Short Term Rating"** means, for any financial institution, on any date: (a) if a short term rating by DBRS is publicly available, such short term rating; or (b) if (a) above does not apply, the private internal assessment as determined by DBRS and provided to the Portfolio Servicer and/or the Trustee, as applicable;

**"DBRS Counterparty Long Term Rating"** means, for any financial institution, on any date:

- (c) if such financial institution is a bank holding company and an issuer and senior debt rating by DBRS is publicly available for such bank holding company at such date, such issuer and senior debt rating;
- (d) if such financial institution is a bank and a public senior unsecured long-term long term debt and deposit rating by DBRS is publicly available for such financial institution at such date, such senior unsecured long-term debt and deposit rating; or
- (e) if neither (a) and (b) above applies, the private internal assessment as determined by DBRS and provided to the Portfolio Servicer and/or the Trustee, as applicable;

**"Defaulted Interest Rate Swap Termination Payment"** means any Interest Rate Swap Termination Payment payable by the Issuer to an Interest Rate Swap Counterparty upon termination of any Interest Rate Swap Transaction in respect of which such Interest Rate Swap Counterparty was the "Defaulting Party" under an "Event of Default" or, in respect of which the Interest Rate Swap Counterparty was the sole "Affected Party" under a "Termination Event" (as such terms are defined in the applicable Interest Rate Swap Agreement);

**"Defaulted Obligation"** means any Collateral Loan Obligation:

- (a) in respect of which there has occurred and is continuing a default with respect to the payment of interest or principal for the lesser of five Business Days and any grace period applicable thereto, which default entitles the holders thereof, with notice or passage of time or both, to accelerate the maturity of all or a portion of the principal amount of such obligation, but only until such default has been cured;
- (b) in respect of which a Distressed Exchange has become binding upon the holders of the Collateral Loan Obligation generally;
- (c) in respect of which any bankruptcy or insolvency proceedings have been instituted in respect of the Obligor thereunder;
- (d) in the case of Collateral Loan Obligations, which the Portfolio Servicer knows that the Obligor thereof is in default as to payment of principal and/or interest on another obligation, save for obligations constituting trade debts which the applicable Obligor is disputing in good faith (and such default has not been cured); but only if one of the following conditions is satisfied:
  - (i) both such other obligation and the Collateral Loan Obligation are full recourse unsecured obligations and the other obligation is senior to, or *pari passu* with, the debt security in right of payment;
  - (ii) all of the following conditions are satisfied:
    - (A) both such other obligation and the Collateral Loan Obligation are full recourse secured obligations secured by identical collateral;

- (B) the security interest securing the other obligation is senior to or *pari passu* with the security interest securing the debt security; and
- (C) the other obligation is senior to or *pari passu* with the debt security in right of payment; or
- (iii) to the extent to which paragraphs (i) or (ii) above do not apply, then only to the extent to which such other obligation is senior or *pari passu* in right of payment to such debt security;
- (e) which has (or the applicable Obligor has) a public or private rating or credit estimate of below "CCC-", "CC", "C", "SD" and "D" by S&P and "C" by DBRS;
- (f) which the Portfolio Servicer, in its reasonable business judgement, determines is to be treated as a "Defaulted Obligation",

but, in the case of paragraph (a) above, only until such default has been cured or waived or, in the case of paragraph (f) above, the Portfolio Servicer determines otherwise, or until such Defaulted Obligation has been sold.

**"Defaulted Portfolio Amount"** means the Aggregate Principal Balance of Collateral Loan Obligations which are Defaulted Obligations;

**"Deferred Interest"** has the meanings given thereto in Condition 6(c) (*Deferral of Interest*);

**"Determination Date"** means the last Business Day of each Due Period or, in the case of any acceleration of the Notes pursuant to an Event of Default, the applicable Redemption Date;

**"Distressed Exchange"** means any distressed exchange or other debt restructuring where the Obligor of such Collateral Loan Obligation has offered the class of holders of the Collateral Loan Obligation generally a new obligation or package of obligations which, in the reasonable judgement of the Portfolio Servicer amounts to a diminished financial obligation;

**"Distribution"** means any payment of principal or interest or any dividend or premium or other amount or asset paid or delivered on or in respect of any Collateral Loan Obligation, any Exchanged Equity Security or under or in respect of any Interest Rate Swap Transaction;

**"Due Date"** means each date on which a Distribution is due and payable on, or in respect of, a Collateral Loan Obligation or an Exchanged Equity Security;

**"Due Period"** means, with respect to any Payment Date, the period commencing on the day immediately following the eighth Business Day prior to the preceding Payment Date (or on the Issue Date, in the case of the Due Period relating to the first Payment Date) and ending on (and including) the eighth Business Day prior to such Payment Date (or, in the case of the Due Period applicable to the Payment Date which is the Maturity Date of any Note, ending on the day preceding such Payment Date);

**"Dutch Ineligible Securities"** means any and all:

- (a) securities or interests in securities which are bearer instruments (*effecten aan toonder*) physically located in The Netherlands or registered shares (*aandelen op naam*) in a Netherlands corporate entity where the Issuer owns such bearer instruments or registered shares directly and in its own name; or
- (b) securities or interests in securities the purchase or acquisition of which by or on behalf of the Issuer would cause the breach of applicable selling or transfer restrictions or of applicable Dutch laws relating to the offering of securities or of collective investment schemes; or
- (c) instruments or obligations that are convertible or exchangeable for any securities or interests in securities as referred to under (a) above; or

- (d) shares representing 5 per cent. or more of the nominal paid up share capital of or the voting rights in a corporate entity; or
- (e) obligations or instruments which are convertible into or exchangeable for shares, rights to acquire shares or derivatives referring to shares, where the shares underlying such obligations, instruments, rights or derivatives, alone or together with any shares held at any time by the Issuer, represent 5 per cent. or more of the nominal paid up share capital of or the voting rights in a corporate entity;

"**Eligibility Criteria**" means the criteria set out in the Portfolio Servicing Agreement which each Collateral Loan Obligation is required to satisfy at the time the Issuer enters into a binding commitment to acquire each such Collateral Loan Obligation;

"**Enforcement Event**" means, as further specified in the Trust Deed, that the security constituted by the Trust Deed shall have become enforceable provided that the relevant Acceleration Notice has not been rescinded and annulled in accordance with Condition 10(c) (*Curing of Default*);

"**EU Member States**" means each of the member states of the European Union;

"**EURIBOR**" means the rate determined in accordance with Condition 6(f)(i)(A) (*Rate of Interest*);

"**Euros**", "**euro**", "**euros**" and "**€**" mean the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty establishing the European Community, as amended from time to time;

"**Euroclear**" means Euroclear Bank S.A./N.V., as operator of the Euroclear System;

"**Euroclear Pledge Agreement**" means the Belgian law pledge agreement which may be entered into between (possibly amongst others) the Issuer, the Trustee and the Custodian (at any time after the Issue Date pursuant to the terms of the Trust Deed);

"**Euro zone**" has the meaning given thereto in Condition 6(f)(i)(D) (*Rate of Interest*);

"**Event of Default**" means each of the events defined as such in Condition 10(a) (*Events of Default*);

"**Excess 5 per cent. CCC Haircut Obligations**" has the meaning attributed to it in paragraph (a) of the definition of CCC Haircut Amount;

"**Exchanged Equity Security**" means an equity security which is not a Dutch Ineligible Security and which is delivered to the Issuer in any circumstances including (a) upon acceptance of an Offer in respect of a Defaulted Obligation, (b) as a result of a restructuring of the terms of a Collateral Loan Obligation or (c) in connection with the exercise of any conversion or exchange rights in respect of a Collateral Loan Obligation;

"**Extraordinary Resolution**" means an Extraordinary Resolution as described in Condition 14 (*Meetings of Noteholders, Modification, Waiver and Substitution*) and as further described in, and as defined in, the Trust Deed;

"**First Determination Date**" means the Determination Date in respect of the Payment Date falling on 27 January 2012;

"**First Interest Accrual Period**" means the period from, and including, the Issue Date to, but excluding, the Payment Date falling on 27 January 2012;

"**Floating Rate Notes**" means the Class A Notes, the Class B Notes and the Class C Notes together;

"**Form Approved Interest Rate Swap**" means an Interest Rate Swap Transaction the documentation for and structure of which conforms (save for the amount and timing of periodic payments, the name and economics of the related Collateral Loan Obligation, the notional amount, the effective date, the termination date and other consequential and immaterial changes) to a form approved by the Rating Agencies from time to time. For the avoidance of doubt, the Rating Agencies may, at any time and each in its sole discretion, notify the Issuer and the Portfolio Servicer that the then current Form

Approved Interest Rate Swap no longer constitutes a "Form Approved Interest Rate Swap" and that any subsequent or replacement Interest Rate Swap Transactions to be entered into subsequent to such notification shall require Rating Agency Confirmation;

**"Foundation"** means Stichting Mesena CLO 2011-1, a foundation (*stichting*) established under the laws of The Netherlands;

**"ICSDs"** means the International Central Securities Depositories;

**"Initial Portfolio Balance"** means the Portfolio Outstanding Amount on the Portfolio Cut-off Date: which is approx. €1,631,501,452.77;

**"Initial Purchaser"** means Banco Español de Crédito S.A. and/or any of its Affiliates;

**"Initial Reserve Fund Amount"** means €81,575,072.64, being part of the net proceeds of the Class D Notes;

**"Interest Accrual Period"** has the meaning given thereto in Condition 6(a)(i) (*Payment Dates*);

**"Interest Amount"** means, on each Payment Date, the amount of interest payable in respect of the principal amounts of the Notes of any Class indicated for any Interest Accrual Period being:

- (a) in the case of each of the Class A Notes, the Class B Notes and the Class C Notes, as the case may be, the amount calculated by the Collateral Administrator as soon as practicable after 11:00 a.m. (Brussels time) on the relevant Interest Determination Date in accordance with Condition 6(f) (*Interest on the Floating Rate Notes*) and payable pursuant to the Priorities of Payment excluding any Deferred Interest; and
- (b) in the case of the Class D Notes, the amount calculated as provided in Condition 6(g) (*Interest on the Class D Notes*);

**"Interest Determination Date"** has the meaning given thereto in Condition 6(f)(i)(A) (*Rate of Interest*);

**"Interest Proceeds"** means all amounts (without duplication) paid or payable into the Interest Proceeds Ledger from time to time in accordance with Condition 3(i) (*Accounts*) and, with respect to any Payment Date, means the Interest Proceeds received by or on behalf of the Issuer during the related Due Period, to be disbursed pursuant to Condition 3(c) (*Priorities of Payment*) on such Payment Date and any amounts to be disbursed out of the Payment Account as Interest Proceeds on such Payment Date in accordance with Condition 3(i) (*Accounts*);

**"Interest Proceeds Ledger"** has the meaning given thereto under the definition of Collection Account;

**"Interest Proceeds Priority of Payments"** means the priority of payments set out in Condition 3(c)(i) (*Application of Interest Proceeds*);

**"Interest Rate Swap Agreement"** has the meaning given thereto in the definition of Interest Rate Swap Transaction;

**"Interest Rate Swap Counterparty"** means each financial institution with which the Issuer enters into an Interest Rate Swap Transaction or any permitted assignee or successor thereto under the terms of the related Interest Rate Swap Transaction and in each case which satisfies the applicable Required Ratings (taking into account any guarantor thereof), and provided always such financial institution has the regulatory capacity, as a matter of Dutch law, to enter into derivatives transactions with Dutch residents;

**"Interest Rate Swap Replacement Payment"** means any amount payable to a Replacement Interest Rate Swap Counterparty by the Issuer upon entry into a Replacement Interest Rate Swap Transaction which is replacing an Interest Rate Swap Transaction which was terminated;

**"Interest Rate Swap Replacement Receipt"** means any amount payable to the Issuer by an Interest Rate Swap Counterparty upon entry into a Replacement Interest Rate Swap Transaction which is replacing an Interest Rate Swap Transaction which was terminated;

**"Interest Rate Swap Termination Account"** means the interest-bearing account of the Issuer with the Account Bank into which all Interest Rate Swap Termination Receipts and Interest Rate Swap Replacement Receipts are credited;

**"Interest Rate Swap Termination Payment"** means the amount payable to an Interest Rate Swap Counterparty by the Issuer upon termination or modification of an Interest Rate Swap Transaction pursuant to the relevant Interest Rate Swap Agreement (which amount shall, where applicable, take into account any "Unpaid Amounts" (as defined in the relevant Interest Rate Swap Agreement)) owing to either party to such Interest Rate Swap Agreement);

**"Interest Rate Swap Termination Receipt"** means the amount payable by an Interest Rate Swap Counterparty to the Issuer upon termination or modification of an Interest Rate Swap Transaction pursuant to the relevant Interest Rate Swap Agreement (which amount may, where applicable, take into account any "Unpaid Amounts" (as defined in the relevant Interest Rate Swap Agreement) owing to either party to such Interest Rate Swap Agreement);

**"Interest Rate Swap Transaction"** means each interest rate protection transaction, which is an interest rate swap or any other interest rate derivative transaction pursuant to which scheduled periodic payments are payable by the Issuer to an Interest Rate Swap Counterparty, in each case entered into under a 1992 ISDA Master Agreement (Multicurrency-Cross Border) or 2002 ISDA Master Agreement (or such other ISDA pro forma master agreement as may be published by ISDA from time to time) (together with the schedule relating thereto, the applicable confirmation and any credit support annex entered into pursuant to the terms thereof, and each as amended or supplemented from time to time, an **"Interest Rate Swap Agreement"**), which is entered into between the Issuer and an Interest Rate Swap Counterparty;

**"Investment Company Act"** means the United States Investment Company Act of 1940, as amended;

**"Irish Stock Exchange"** means the Irish Stock Exchange Limited;

**"Issue Date"** means 27 September 2011;

**"Issuer"** means Mesena CLO 2011-1 B.V., a private company with limited liability incorporated under Dutch law, having its corporate seat in Amsterdam and its registered office at Herengracht 450, 1017 CA Amsterdam, The Netherlands and registered with the Chamber of Commerce in Amsterdam, The Netherlands under number 53049918;

**"Issuer Dutch Account"** means the account in the name of the Issuer to which, inter alia, its share capital is deposited;

**"Late Liquidation Proceeds"** has the meaning given thereto in Condition 7(b)(iv) (*Conditions to Optional Redemptions in Whole*);

**"Lock Up End Date"** means 48 months after the Issue Date;

**"Management Agreement"** means the management agreement relating to the Issuer dated on or about the Issue Date between the Issuer and the Managing Directors;

**"Managing Directors"** means Deutsche International Trust Company N.V. and/or such other persons who may be appointed as managing directors of the Issuer from time to time;

**"Market Value"** means in respect of any Collateral Loan Obligation on any date of determination:

- (a) the mean of bid prices determined by an independent pricing service; or
- (b) if such service is not available, the mean of the bid price determined by three independent broker-dealers active in the trading of one or more Collateral Loan Obligations or if such three broker-dealer prices are not available, the lower of the bid prices determined by two such

broker-dealers, or if two such broker-dealer prices are not available, the bid price determined by one such broker-dealer (unless a fair market value thereof determined by the Portfolio Servicer pursuant to (c) below would be lower); or

- (c) if the determinations of such broker-dealers are not available, then the lower of (i) the fair market value thereof determined by the Portfolio Servicer on a best efforts basis in a manner consistent with reasonable and customary market practice for Collateral Loan Obligations of the relevant type and (ii) the higher of (A) the S&P Recovery Rate thereof and (B) 70 per cent. of the par value thereof;

which shall, in each case where the Market Value is required to be expressed as an amount (rather than a percentage), be multiplied by the principal amount of such Collateral Loan Obligation as notified to the Collateral Administrator on the date of determination;

**"Maturity Date"** means, in respect of each Class of Notes the Payment Date falling on or about 27 July 2026 or in the event that such day is not a Business Day, the immediately following Business Day;

**"Measurement Date"** means (i) the Issue Date; (ii) for the purposes of determining satisfaction of the Reinvestment Criteria, any Business Day after the Issue Date on which such criteria are required to be determined; (iii) the date of acquisition of any New Collateral Loan Obligation following the Issue Date; (iv) each Determination Date; and (v) with reasonable (not less than two Business Days') notice in writing, any Business Day requested by the Rating Agencies;

**"Minimum Denomination"** means in respect of Notes of each Class €100,000;

**"Monthly Report"** means the monthly report defined as such in the Portfolio Servicing Agreement which is prepared by the Collateral Administrator (in consultation with the Portfolio Servicer) on behalf of the Issuer on such dates as are set forth in the Portfolio Servicing Agreement, and is made available by means of a dedicated website to the Issuer, the Trustee, the Portfolio Servicer, the Initial Purchaser and the Rating Agency and, upon request therefor in accordance with Condition 4(d) (*Information Regarding the Portfolio*), to any Noteholder and which shall include information regarding the status of the Collateral pursuant to the Portfolio Servicing Agreement;

**"New Collateral Loan Obligation"** means a Collateral Loan Obligation purchased pursuant to the terms of the Portfolio Servicing Agreement and which satisfies both the Eligibility Criteria and the Reinvestment Criteria;

**"Note Tax Event"** has the meaning set out in Condition 7(b)(i) (*Redemption at the Option of the Class D Noteholders or the Holders of the Controlling Class*);

**"Noteholders"** means the holders of each Class of Notes, or any of them;

**"Notes"** means the notes comprising, where the context permits, the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes, constituted by the Trust Deed or the principal amount thereof for the time being Outstanding or, as the context may require, a specific number thereof and includes any replacements for Notes issued pursuant to Condition 13 (*Replacement of Notes*);

**"NSS"** means the new safekeeping structure applicable to debt securities in global registered form intended to be recognised as eligible collateral for Eurosystem monetary policy and in trading credit operations as of 1 October 2010;

**"Obligor"** means, in respect of a Collateral Loan Obligation, the borrower thereunder or issuer thereof or, in either case, the guarantor thereof;

**"Offer"** means, with respect to any Collateral Loan Obligation, (a) any offer by the Obligor under such obligation or by any other Person made to all of the creditors of such Obligor in relation to such obligation to purchase or otherwise acquire such obligation (other than pursuant to any redemption in accordance with the terms of the related underlying instruments) or to convert or exchange such obligation into or for cash, securities or any other type of consideration or (b) any solicitation by the Obligor or any other Person to amend, modify or waive any provision of such obligation or any related underlying instrument;



**"Ordinary Resolution"** means an Ordinary Resolution as described in Condition 14 (*Meetings of Noteholders, Modification, Waiver and Substitution*) and as further described in, and defined in, the Trust Deed;

**"Originator"** means Banco Español de Crédito S.A., as originator of the transaction;

**"Other Sales"** means the sale described in section headed "*Terms and Conditions applicable to the Sale of Collateral Loan Obligations ("Other Sales")*" of the *Description of the Portfolio* section;

**"Outstanding"** means in relation to the Notes of a Class as of any date of determination, all of the Notes of such Class issued, as more particularly defined in the Trust Deed;

**"Paying Agent"** means the Principal Paying Agent and any other paying agent appointed pursuant to the Agency Agreement and **"Paying Agents"** shall be construed accordingly;

**"Payment Account"** means the interest bearing account of the Issuer with the Payment Account Account Bank into which euro amounts out of each of the Accounts shall be transferred by the Collateral Administrator on the second Business Day prior to each Payment Date and out of which the amounts required to be paid on each Payment Date, each as provided pursuant to the Priorities of Payment, shall be paid;

**"Payment Date Report"** means the report defined as such in the Portfolio Servicing Agreement which is prepared by the Collateral Administrator (in consultation with the Portfolio Servicer) on behalf of the Issuer and is made available by means of a dedicated website to the Issuer, the Trustee, the Initial Purchaser, any holder of a beneficial interest in any Note (upon written request of such holder) and the Rating Agency not later than the Business Day preceding the related Payment Date;

**"Payment Dates"** means 27 January 2012 and thereafter each 27 October, 27 January, 27 April and 27 July in each year ending on the Maturity Date and any Redemption Date, provided that, if any Payment Date would otherwise fall on a day which is not a Business Day, it shall be postponed to the next day that is a Business Day and **"Payment Date"** shall be construed accordingly;

**"Performing Portfolio Balance"** means the Aggregate Portfolio Balance of Collateral Loan Obligations which are not Defaulted Obligations;

**"Person"** means an individual, corporation (including a business trust), partnership, collective investment scheme, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated association or government or any agency or political subdivision thereof;

**"Portfolio"** means the Collateral Loan Obligations held by or on behalf of the Issuer from time to time;

**"Portfolio Cut-off Date"** means 26 September 2011;

**"Portfolio Outstanding Amount"** means the Aggregate Principal Balance outstanding in all of the Collateral Loan Obligations comprising the Portfolio;

**"Portfolio Servicing Fee"** means the fee payable to the Portfolio Servicer pursuant to the Portfolio Servicing Agreement equal to 0.01 per cent. per annum of the Aggregate Portfolio Balance as at the first Business Day of the Due Period preceding the applicable Payment Date (calculated on the basis of a 360-day year and the number of days elapsed in such Due Period) payable in arrear on each Payment Date in accordance with the Priorities of Payment together with any value added tax in respect thereof whether payable to the Portfolio Servicer or directly to the relevant taxing authority and includes, for the avoidance of doubt, any such fee payable to a former Portfolio Servicer pursuant to the Portfolio Servicing Agreement, pro rated where applicable;

**"Post-Acceleration Priority of Payments"** means the priority of payments set out in Condition 11(b) (*Enforcement*);

**"Presentation Date"** means a day which (subject to Condition 12 (*Prescription*)):

(a) is a Business Day;

- (b) is or falls after the relevant due date or, if the due date is not or was not a Business Day in the place of presentation, is or falls after the next following Business Day which is a Business Day in the place of presentation; and
- (c) is a day on which the account (if any) specified by the payee is open;

**"Principal Amount Outstanding"** means in relation to any Class of Notes and at any time, the aggregate principal amount Outstanding of such Class of Notes at that time (including, save for the purposes of determining any voting or quorum thresholds or any rights in connection therewith, any Deferred Interest which has been added pursuant to Condition 6(c) (*Deferral of Interest*) to the principal amount of such Class of Notes);

**"Principal Balance"** means, with respect to any Collateral Loan Obligation, as of any date of determination, the outstanding principal amount thereof (including, except as otherwise provided in paragraphs (a) to (c) (inclusive) below, any interest capitalised pursuant to the terms of such instrument), provided however that:

- (a) the Principal Balance of any cash shall be the amount of such cash;
- (b) the Principal Balance of any Senior Secured Loan or Senior Unsecured Loan shall include any amount of such Senior Secured Loan or Senior Unsecured Loan representing deferred or capitalised interest accrued prior to the purchase of such Senior Secured Loan or Senior Unsecured Loan but shall exclude any deferred and capitalised interest accrued after the purchase of such Senior Secured Loan or Senior Unsecured Loan; and
- (c) for the purposes of calculating the Aggregate Portfolio Balance in relation to Portfolio Servicing Fees only, the Principal Balance of an Exchanged Equity Security prior to its sale, disposition or liquidation shall be equal to the original Principal Balance until such time that such Exchanged Equity Security is sold, disposed of or liquidated,

provided that, paragraphs (a) and (b) above shall not apply in the calculation of the Aggregate Portfolio Balance for the purposes of the Portfolio Servicing Fee;

**"Principal Deficiency Amount"** means, on any Payment Date, the greater of zero and the Principal Amount Outstanding of all Classes of Notes, less the aggregate of:

- (i) the Current Performing Portfolio Balance;
- (ii) the Reserve Fund Balance; and
- (iii) the sum of the CCC Haircut Amount;

**"Principal Deficiency Tests"** means the Class B Principal Deficiency Test and the Class C Principal Deficiency Test;

**"Principal Proceeds Priority of Payments"** means the priority of payments set out in Condition 3(c)(ii) (*Application of Principal Proceeds*);

**"Principal Proceeds"** means all amounts paid and payable into the Principal Proceeds Ledger from time to time and, with respect to any Payment Date, means any principal proceeds (including any Sale Proceeds and/or prepayment proceeds) received or receivable by the Issuer during the related Due Period, together with any other amounts to be disbursed out of the Payment Account as Principal Proceeds on such Payment Date pursuant to Condition 3(i) (*Accounts*);

**"Principal Proceeds Ledger"** has the meaning given thereto under the definition of Collection Account;

**"Priorities of Payment"** means:

- (a) save for following (i) any optional redemption of the Notes pursuant to Condition 7(b)(i) (*Redemption at the Option of the Class D Noteholders or the Holders of the Controlling Class*) or Condition 7(b)(ii) (*Optional Redemption Clean-Up Call*) or (ii) the delivery of an

Acceleration Notice which has not subsequently been rescinded and annulled in accordance with Condition 10(c) (*Curing of Default*), in the case of Interest Proceeds, the Interest Proceeds Priority of Payments and in the case of Principal Proceeds, the Principal Proceeds Priority of Payments; and

- (b) in the event of any optional redemption of the Notes pursuant to Condition 7(b)(i) (*Redemption at the Option of the Class D Noteholders or the Holders of the Controlling Class*) or Condition 7(b)(ii) (*Optional Redemption Clean-Up Call*) or following the delivery of an Acceleration Notice which has not subsequently been rescinded and annulled in accordance with Condition 10(c) (*Curing of Default*), the Post-Acceleration Priority of Payments;

**"Prospectus"** means this Prospectus relating to the offering of the Notes by the Issuer;

**"Purchased Accrued Interest"** means all payments of interest and proceeds of sale and other Principal Proceeds in relation to any Collateral Loan Obligation, in each case, to the extent that such amounts represent accrued interest in respect of such Collateral Loan Obligation, which was purchased at the time of acquisition thereof with Principal Proceeds;

**"Rating Agencies"** means any rating agency (or rating agencies) that satisfies the European Central Bank's criteria for eligible collateral (including, inter alia, for the avoidance of doubt, S&P and DBRS) provided that if at any time such rating agency (or rating agencies) ceases to provide rating services, any other internationally recognised investment rating agency or Rating Agency (as applicable) selected by the Issuer and satisfactory to the Trustee (a **"Replacement Rating Agency"**, and **"Rating Agency"** means any such rating agency). In the event that at any time a Rating Agency is replaced by a Replacement Rating Agency, references to rating categories of the original Rating Agency in these Conditions, shall be deemed instead to be references to the equivalent categories of the relevant Replacement Rating Agency as of the most recent date on which such other rating agency published ratings for the type of security in respect of which such Replacement Rating Agency is used;

**"Rating Agency Confirmation"** means, with respect to any specified action, determination or appointment written confirmation by a Rating Agency which has assigned ratings to the Notes that are Outstanding (or, if applicable, a Rating Agency specified) that such specified action, determination or appointment will not result in the reduction or withdrawal of any of the ratings currently assigned to the Notes by such Rating Agency;

**"Receiver"** means an administrative receiver, administrator, trustee, receiver, custodian, conservator or other similar official (whether appointed pursuant to the Trust Deed, pursuant to any statute, by a court or otherwise);

**"Record Date"** has the meaning given thereto in Condition 8(a) (*Method of Payment*);

**"Redemption Date"** means each date specified for a redemption (in whole or in part) of the Notes of a Class pursuant to Condition 7 (*Redemption and Purchase*) or the date on which the Notes of such Class are accelerated pursuant to Condition 10 (*Events of Default*) provided that, in each case, if such day is not a Business Day, the Redemption Date shall be the next following Business Day;

**"Redemption Determination Date"** means the date on which the Collateral Administrator determines the Redemption Threshold Amount in the case of a redemption in whole, which shall be no later than 30 Business Days prior to the scheduled Redemption Date.

**"Redemption Notice"** means a redemption notice in the form available from any of the Paying Agents which has been duly completed by a Noteholder and which specifies, amongst other things, the applicable Redemption Date;

**"Redemption Price"** means, when used with respect to:

- (a) any Class A Note, Class B Note and Class C Note 100 per cent. of the Principal Amount Outstanding of such Note, as the case may be, in each case together with interest accrued thereon to the date of redemption (including any Deferred Interest on the Class B Notes and/or the Class C Notes); and

- (b) any Class D Note, such Class D Note's pro rata share (based on the percentage which the outstanding principal amount of such Class D Note bears to the Principal Amount Outstanding of the Class D Notes immediately prior to such redemption) of the aggregate proceeds of liquidation of the Collateral, or realisation of the security thereover in such circumstances, remaining following application thereof in accordance with the Priorities of Payment,

provided that, in the event that the Notes become subject to redemption in whole pursuant to more than one of the redemption provisions contained in Condition 7 (*Redemption and Purchase*) or an Event of Default, the Redemption Price applicable upon redemption thereof shall be that which relates to the redemption of the Notes (i) upon the occurrence of an Event of Default, if an Event of Default has occurred and (ii) which would occur first in time pursuant to the relevant provisions thereof if no Event of Default has occurred;

**"Redemption Threshold Amount"** has the meaning given in Condition 7(b)(iv) (*Conditions to Optional Redemptions in Whole*);

**"Regulation S"** means Regulation S under the Securities Act;

**"Reinvestment Criteria"** means the criteria set out in the Portfolio Servicing Agreement which are required to be satisfied in respect of each New Collateral Loan Obligation acquired by the Portfolio Servicer immediately after such obligation is purchased;

**"Reinvestment Principal Amortisation Amount"** means, on any Determination Date, the greater of:

- (i) the Reinvestment Principal Deficit less the Reinvestment Principal Deficit Threshold, and
- (ii) zero,

multiplied by the Principal Amount Outstanding of the Floating Rate Notes;

**"Reinvestment Principal Deficit"** means (i) the Principal Amount Outstanding of the Floating Rate Notes, less the Portfolio Outstanding Amount, divided by (ii) the Principal Amount Outstanding of the Floating Rate Notes, expressed as a percentage;

**"Reinvestment Principal Deficit Threshold"** means 2 per cent.;

**"Relevant Date"** means whichever is the later of (a) the date on which any payment first becomes due and (b) if the full amount payable has not been received by the Paying Agents or the Trustee on or prior to such date, the date on which the full amount having been so received, notice to that effect shall have been given to the Noteholders in accordance with Condition 16 (*Notices*);

**"Relevant Person"** has the meaning set out in the definition herein of "Affiliate";

**"Replacement Interest Rate Swap Agreement"** means an Interest Rate Swap Agreement entered into by the Issuer in accordance with the provisions of the Portfolio Servicing Agreement upon termination of an existing Interest Rate Swap Agreement on substantially the same terms as the original Interest Rate Swap Agreement (including with respect to any Interest Rate Swap Transactions entered into thereunder), subject to such amendments thereto as may be agreed by the Trustee and in respect of which Rating Agency Confirmation is obtained;

**"Replacement Interest Rate Swap Counterparty"** means a replacement Interest Rate Swap Counterparty under a Replacement Interest Rate Swap Agreement, provided always that such replacement Interest Rate Swap Counterparty has the Dutch regulatory capacity to enter into derivatives transactions with residents of The Netherlands and such replacement Interest Rate Swap Counterparty or its credit support provider has, as at the effective date of each Interest Rate Swap Transaction it enters into, the Required Ratings;

**"Replacement Interest Rate Swap Transaction"** means any Interest Rate Swap Transaction entered into by the Issuer in accordance with the provisions of the Portfolio Servicing Agreement upon termination of an existing Interest Rate Swap Transaction, on substantially the same terms as such terminated Interest Rate Swap Transaction, that preserves for the Issuer the economic effect of the terminated Interest Rate Swap Transaction, subject to such amendments thereto as may be agreed by

the Portfolio Servicer and in respect of which Rating Agency Confirmation is obtained unless such Replacement Interest Rate Swap Transaction is a Form Approved Interest Rate Swap;

**"Replenishment Period"** means the period from and including the Issue Date, up to and including the Payment Date falling on 27 October 2014, provided that if on any Determination Date the Principal Deficiency Amount divided by the Aggregate Portfolio Balance, expressed as a percentage, exceeds 5 per cent. then the next following Payment Date shall be deemed to be the last day of the Replenishment Period;

**"Required Ratings"** means:

- (a) in the case of the Account Bank, the Payment Account Account Bank, the Counterparty Downgrade Collateral Account Bank, the Paying Agents and the Custodian they or their respective guarantors, have (i) either (x) short-term unsecured debt ratings of at least "A-1" by S&P and long-term unsecured debt ratings of at least "A" by S&P or (y) long term unsecured debt ratings of at least "A+" by S&P, and (ii) in either case, a DBRS Counterparty Long Term Rating of "A" (or its equivalent);
- (b) in the case of any Interest Rate Swap Counterparty it or its credit support provider or guarantor under the relevant Interest Rate Swap Agreement has (i) either (x) short-term unsecured debt ratings of at least "A-1" by S&P and long-term unsecured debt ratings of at least "A" by S&P or (y) long term unsecured debt ratings of at least "A+" by S&P, and (ii) in either case, a DBRS Counterparty Long Term Rating of "A" (or its equivalent)

in each case, for so long as the relevant Rating Agency has assigned any rating to the Notes Outstanding and save to the extent Rating Agency Confirmation is received in respect of any failure to satisfy the requirements specified;

**"Reserve Fund Account"** means the interest bearing account of the Issuer with the Account Bank, amounts standing to the credit of which will be used to make payments to the Interest Proceeds Ledger of the Collection Account;

**"Reserve Fund Balance"** means the balance standing to the credit of the Reserve Fund Account;

**"Reserve Fund Required Amount"** means, on any Determination Date prior to the Lock Up End Date, the Initial Reserve Fund Amount and on any Determination Date after the Lock Up End Date, the higher of:

- (i) the product of (a) 5 per cent. and (b) the sum of the Principal Outstanding Amount of all Classes of Notes minus the Defaulted Portfolio Amount on the related Determination Date; and
- (ii) €20,000,000.00;

**"Resolution"** means any Ordinary Resolution or Extraordinary Resolution;

**"Restructured Obligation"** means a Collateral Loan Obligation which has been restructured (whether such restructuring has been effected by way of amendment to the terms of such Collateral Loan Obligation or by way of substitution of new obligations for such Collateral Loan Obligation);

**"S&P"** means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. and any successor or successors thereto;

**"S&P Recovery Rate"** means, in respect of any Collateral Loan Obligation, the recovery rate determined in accordance with the Portfolio Servicing Agreement or as so advised by S&P which for all purposes other than determining whether the S&P CDO Monitor Test and the S&P Weighted Average Recovery Rate Test (each as defined in the Portfolio Servicing Agreement), shall be the recovery rate applicable to the Controlling Class;

**"Sale Proceeds"** means proceeds received upon any Other Sale of any Collateral Loan Obligation or Exchange Equity Security excluding any accrued interest (whether or not deferred and/or capitalised)

included in any such proceeds of sale (other than Purchased Accrued Interest) received upon the sale or other realisation of any Collateral Loan Obligation or Exchanged Equity Security;

**"Scheduled Periodic Interest Rate Swap Payment"** means, with respect to any Interest Rate Swap Transaction, all amounts scheduled to be paid by the Issuer to the applicable Interest Rate Swap Counterparty pursuant to the terms of such Interest Rate Swap Transaction, excluding any Interest Rate Swap Termination Payments;

**"Scheduled Periodic Interest Rate Swap Receipt"** means, with respect to any Interest Rate Swap Transaction, all amounts scheduled to be paid to the Issuer by the applicable Interest Rate Swap Counterparty pursuant to the terms of such Interest Rate Swap Transaction, excluding any Interest Rate Swap Termination Receipts;

**"Secured Obligations"** means all present and future obligations and liabilities (whether actual or contingent) of the Issuer to each of the Secured Parties;

**"Secured Party"** means each of the Class A Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Portfolio Servicer, the Collateral Administrator, the Trustee, the Agents, the Initial Purchaser, each Interest Rate Swap Counterparty and **"Secured Parties"** means any two or more of them as the context so requires;

**"Securities Act"** means the United States Securities Act of 1933, as amended;

**"Senior Secured Loan"** means a secured senior loan obligation (a) that is secured either by (i) a valid first priority security interest over shares or assets of one or more members of the group of which the Obligor forms part, in a manner which is consistent with market practice for such type of obligation to be regarded as a secured senior debt obligation, or (ii) at least the greater of (x) 80 per cent. of the equity interest in the stock of the relevant Obligor, and (y) the percentage of such equity interests in the relevant Obligor that is actually owned by such Obligor's affiliates forming part of the related borrower group for such Collateral Loan Obligation, and (b) in respect of which no other obligation of the Obligor has any higher priority security interest in such shares or assets; or in a situation where the preceding does not apply it is some other debt obligation determined to be a secured senior debt obligation by the Portfolio Servicer acting in its reasonable business judgement subject to Rating Agency Confirmation;

**"Senior Unsecured Bilateral Corporate Loan"** means a debt obligation that:

- (a) is a bilateral corporate loan obligation senior to any subordinated obligation of the Obligor as determined by the Portfolio Servicer in its reasonable business judgment; and
- (b) is not secured on the shares and/or assets of one or more members of the group of which such Obligor forms part consistent with what the Portfolio Servicer considers to be market practice for senior unsecured bilateral corporate loans;

**"Senior Unsecured Loans"** means Senior Unsecured Bilateral Corporate Loans and Senior Unsecured Syndicated Corporate Loans;

**"Senior Unsecured Syndicated Corporate Loan"** means a debt obligation that:

- (a) is a syndicated corporate loan obligation senior to any subordinated obligation of the Obligor as determined by the Portfolio Servicer in its reasonable business judgment; and
- (b) is not secured on the shares and/or assets of one or more members of the group of which such Obligor forms part consistent with what the Portfolio Servicer considers to be market practice for senior unsecured syndicated corporate loans;

**"Spanish Accounts"** means the Collection Account, the Interest Rate Swap Termination Account, the Stamp Duty Reserve Account and the Reserve Fund Account;

**"Spanish Accounts Pledge Agreement"** means the Spanish law pledge agreement between, amongst others, the Issuer, the Account Bank, the Trustee and the Custodian;

**"Stamp Duty Reserve Account"** means the stamp duty reserve account of the Issuer established and maintained with the Account Bank in accordance with Condition 3(j)(F) (*Stamp Duty Reserve Account*);

**"Stated Maturity"** means, with respect to any Collateral Loan Obligation, the date specified in such obligation as the fixed date on which the final payment or repayment of principal of such obligation is due and payable;

**"TARGET 2 System"** means the Trans-European Automated Real-Time Gross Settlement Express Transfer System which utilises a single shared platform and which was launched on 19 November 2007 (or if such system ceases to be operative, such other system (if any) as determined by the Trustee to be suitable replacement);

**"Transaction Creditors"** means each of the Secured Parties and any other Person to whom the Issuer owes any obligations from time to time;

**"Transaction Documents"** means the Agency Agreement, the Portfolio Servicing Agreement, the Subscription Agreement, the Interest Rate Swap Agreements, the Management Agreement, the Trust Deed, the Spanish Accounts Pledge Agreement, the ICSD Agreement and any documents supplemental or ancillary thereto;

**"Trustee Fees and Expenses"** means the fees, costs, claims, indemnities, charges, disbursements, liabilities and expenses (including legal fees and expenses) and all other amounts payable by the Issuer to the Trustee and any receiver, delegate, agent or other person appointed by it pursuant to the Trust Deed or any other Transaction Document from time to time under or pursuant to the Trust Deed or any other Transaction Document, plus any applicable VAT required to be paid in respect of the foregoing;

**"Underlying Instrument"** means the agreements or instruments pursuant to which a Collateral Loan Obligation has been issued or created and each other agreement that governs the terms of, or secures the obligations represented by, such Collateral Loan Obligation or under which the holders or creditors under such Collateral Loan Obligation are the beneficiaries;

**"U.S. Person"** means "U.S. person" as defined in Regulation S; and

**"Written Resolution"** means a Resolution of the Noteholders which is passed in writing as described in Condition 14 (*Meetings of Noteholders, Modification, Waiver and Substitution*) and as further described in the Trust Deed.

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

### (a) ***Form and Denomination***

The Notes are in definitive fully registered form, without interest coupons or principal receipts attached, in the applicable Authorised Denomination. A Definitive Certificate will be issued to each Noteholder in respect of its registered holding or holdings of Notes. Each Definitive Certificate will be numbered serially with an identifying number which will be recorded in the Register which the Issuer shall procure to be kept by the Registrar.

### (b) ***Title to the Registered Notes***

Title to the Notes passes upon registration of transfers in respect thereof in the Register in accordance with the provisions of the Agency Agreement and the Trust Deed. Notes will be transferable only on the books of the Issuer and its agents. The registered holder of any Note will (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it, any writing on it, or its theft or loss) and no person will be liable for so treating the registered holder thereof. The Class A Notes are issued under the NSS.

### (c) ***Transfer***

One or more Notes may be transferred in whole or in part in nominal amounts equal to the applicable Authorised Denomination only upon the surrender, at the specified office of the

Registrar, of the Definitive Certificate representing such Note(s) to be transferred, with the form of transfer endorsed on such Definitive Certificate duly completed and executed and together with such other evidence as the Registrar may reasonably require. In the case of a transfer of part only of a holding of Notes represented by one Definitive Certificate, a new Definitive Certificate will be issued to the transferee in respect of the part transferred and a further new Definitive Certificate in respect of the balance of the holding not transferred will be issued to the transferor.

(d) ***Delivery of New Certificates***

Each new Definitive Certificate to be issued pursuant to Condition 2(c) (*Transfer*) will be available for delivery within five Business Days of receipt of such form of transfer and surrender of the relevant existing Definitive Certificate. Delivery of new Definitive Certificates shall be made at the specified office of the Registrar, to whom delivery or surrender shall have been made or, at the option of the holder making such delivery or surrender as aforesaid and as specified in the form of transfer or otherwise in writing, shall be mailed by pre-paid first class post (or any other manner acceptable to the Registrar) at the risk of the holder entitled to the new Definitive Certificate to such address as may be so specified. In this Condition 2(d) (*Delivery of New Certificates*), "**Business Day**" means a day, other than a Saturday or Sunday, on which banks are open for business in the place of the specified office of the Registrar.

(e) ***Transfer Free of Charge***

Transfer of Notes and Definitive Certificates representing such Notes in accordance with these Conditions on registration or transfer will be effected without charge by or on behalf of the Issuer or the Registrar, but upon payment (or the giving of such indemnity as the Issuer or the Registrar may require in respect thereof) of any tax or other governmental charges which may be imposed in relation to it.

(f) ***Closed Periods***

No Noteholder may require the transfer of a Note to be registered (i) during the period of 15 calendar days ending on the due date for redemption (in full) of that Note or (ii) during the period of seven calendar days ending on any Record Date.

(g) ***Regulations Concerning Transfer and Registration***

All transfers of Notes and entries on the Register will be made subject to the detailed regulations concerning the transfer of Notes scheduled to the Trust Deed, including without limitation, that a transfer of Notes in breach of certain of such regulations will result in such transfer being void *ab initio*. The regulations may be changed by the Issuer in any manner which is reasonably required by the Issuer (after consultation with the Trustee) to reflect changes in legal requirements or in any other manner which, in the opinion of the Issuer (after consultation with the Trustee), is not prejudicial to the interests of the holders of the relevant Class of Notes. A copy of the current regulations will be sent by the Registrar to any Noteholder who so requests.

3. **Status**

(a) ***Status***

The Notes of each Class constitute direct and secured obligations of the Issuer, recourse in respect of which is limited in the manner described in Condition 4(c) (*Limited Recourse*). The Notes of each Class are secured in the manner described in Condition 4(a) (*Security*) and, within each Class, shall at all times rank *pari passu* and without any preference amongst themselves.

(b) ***Relationship Among the Classes***

The Notes of each Class are constituted by the Trust Deed and are secured on the Collateral as further described in the Trust Deed. Payments of principal and interest (if any) on the Class A



Notes will rank *pari passu* in right of payment as between themselves and will rank senior to payments of principal and interest respectively on each Payment Date in respect of each other Class of Notes. Payments of principal and interest (if any) on the Class B Notes will rank *pari passu* in right of payment as between themselves but will be subordinated in right of payment to payments of principal and interest respectively in respect of the Class A Notes and senior in right of payment to payments of principal and interest respectively on the Class C Notes and the Class D Notes. Payments of principal and interest (if any) on the Class C Notes will rank *pari passu* in right of payment as between themselves but will be subordinated in right of payment to payments of principal and interest respectively on the Class A Notes and the Class B Notes and senior in right of payment to payments of principal and interest respectively on the Class D Notes. Payments of principal and interest on the Class D Notes will be subordinated in right of payment of principal and interest on each of the other Classes of Notes.

Notwithstanding the foregoing, in the circumstances described below, payment of interest on a more junior ranking Class of Notes may be paid prior to payment of principal on a Class of Notes ranking more senior in priority thereto as a result of the operation Condition 3(c)(i) (*Application of Interest Proceeds*) and Condition 3(c)(ii) (*Application of Principal Proceeds*).

No amount of principal in respect of the Class B Notes shall become due and payable until redemption and payment in full of the Class A Notes. No amount of principal in respect of the Class C Notes shall become due and payable until redemption and payment in full of the Class A Notes and the Class B Notes. The Class D Notes will be entitled to receive, out of Principal Proceeds, the amounts described under the Principal Proceeds Priority of Payments. Payments on the Class D Notes are subordinated to payments on the Floating Rate Notes and other amounts described in the Interest Proceeds Priority of Payments and the Principal Proceeds Priority of Payments, and no payments out of Principal Proceeds will be made on the Class D Notes until the Floating Rate and other payments ranking prior to the Class D Notes in accordance with the Priorities of Payment are paid in full.

(c) ***Priorities of Payment***

The Collateral Administrator shall (other than in the case of an optional redemption in whole pursuant to Condition 7(b) (*Optional Redemption*) or following the delivery of an Acceleration Notice), on the basis of the Payment Date Report prepared by the Collateral Administrator on each Determination Date in consultation with the Portfolio Servicer pursuant to the terms of the Portfolio Servicing Agreement, cause Banco Español de Crédito S.A. to disburse Interest Proceeds and Principal Proceeds from the Interest Proceeds Ledger and the Principal Proceeds Ledger, respectively, of the Collection Account to the Payment Account by the second Business Day prior to each Payment Date in accordance with the Priorities of Payment in paragraphs (i) and (ii) below, respectively:

(i) ***Application of Interest Proceeds***

Interest Proceeds shall (save for on any Redemption Date relating to any optional redemption of the Notes pursuant to Condition 7(b) (*Optional Redemption*) or following the delivery of an Acceleration Notice in which event the Post-Acceleration Priority of Payments shall apply) be applied on any Payment Date or on the Maturity Date in the following order of priority:

(A) to the payment of:

- (1) amounts equal to the minimum profit required to be retained by the Issuer for Dutch tax purposes for deposit into the Issuer Dutch Account from time to time; and
- (2) taxes or statutory fees (if any) owing by the Issuer due in respect of the related Due Period (other than Dutch corporate income tax in relation to the profit referred to under (1) above);

(B) to the payment of accrued and unpaid Trustee Fees and Expenses up to an amount equal to the Administrative Expenses Cap in respect of the related Due

Period, provided that the Administrative Expenses Cap shall not apply to this paragraph following the occurrence of an Enforcement Event or the occurrence of an Event of Default (for so long as the Event of Default is continuing);

- (C) to the payment on a pro rata and *pari passu* basis of all amounts then due and payable in respect of the Administrative Expenses up to an amount equal to the Administrative Expenses Cap in respect of the related Due Period less any amounts paid pursuant to paragraph (B) above;
- (D) to the payment on a pro rata basis of any accrued and unpaid the Portfolio Servicing Fee (together with any VAT thereon, if applicable) due and payable on such Payment Date;
- (E) to the payment on a pro rata basis of any Scheduled Periodic Interest Rate Swap Payments due and payable to any Interest Rate Swap Counterparty;
- (F) to the payment on a pro rata and *pari passu* basis of any Interest Rate Swap Termination Payments or Interest Rate Swap Replacement Payments due to any Interest Rate Swap Counterparty, as applicable, to the extent not paid out of Principal Proceeds or funds available for such purpose within the Interest Rate Swap Termination Account or the Principal Proceeds Ledger of the Collection Account (as applicable), in each case, other than Defaulted Interest Rate Swap Termination Payments;
- (G) to the payment on a pro rata and *pari passu* basis, of all Interest Amounts due and payable on the Class A Notes in respect of the Interest Accrual Period ending on such Payment Date;
- (H) subject to satisfaction of the Class B Principal Deficiency Test, to the payment on a pro rata and *pari passu* basis of all Interest Amounts due and payable on the Class B Notes in respect of the Interest Accrual Period ending on such Payment Date;
- (I) subject to the satisfaction of the Class C Principal Deficiency Test, to the payment on a *pari passu* and pro rata basis of all Interest Amounts due and payable on the Class C Notes in respect of the Interest Accrual Period ending on such Payment Date;
- (J) to the Class A Noteholders in payment, on a pro rata and *pari passu* basis of the Principal Amount Outstanding of the Class A Notes up to the lesser of: (i) the Principal Amount Outstanding of the Class A Notes and (ii) the Principal Deficiency Amount;
- (K) to the payment of an amount to the credit of the Reserve Fund Account until the Reserve Fund Balance equals the Reserve Fund Required Amount;
- (L) to the application as Principal Proceeds pursuant to the Principal Proceeds Priority of Payments of an amount equal to (i) the Reserve Fund Balance on the Payment Date (prior to payments being made) less (ii) the Reserve Fund Required Amount as at that Payment Date;
- (M) to the payment on a on a pro rata and *pari passu* basis of all Interest Amounts due and payable on the Class B Notes to the extent not paid under paragraph H above;
- (N) subject to redemption of the Class A Notes in full, to the Class B Noteholders in payment, on a pro rata and *pari passu* basis, of the Principal Amount Outstanding of the Class B Notes up to the lesser of: (i) the Principal Amount Outstanding of the Class B Notes and (ii) the Principal Deficiency Amount;

- (O) to the payment on a pro rata and *pari passu* basis of all Interest Amounts due and payable on the Class C Notes to the extent not paid under paragraph I above;
- (P) subject to the redemption of the Class B Notes in full, to the Class C Noteholders in payment, on a pro rata and *pari passu* basis, of the Principal Amount Outstanding of the Class C Notes up to the lesser of: (i) the Principal Amount Outstanding of the Class C Notes and (ii) the Principal Deficiency Amount;
- (Q) to the payment of any costs associated with entering into an Interest Rate Swap Transaction due and payable to any Interest Rate Swap Counterparty;
- (R) to the payment of Trustee Fees and Expenses (if any) not paid by reason of the Administrative Expenses Cap;
- (S) to the payment on a pro rata and *pari passu* basis of the Administrative Expenses (if any) not paid by reason of the Administrative Expenses Cap (other than those referred to in paragraph (C) above), in relation to each item thereof, on a pro rata and *pari passu* basis;
- (T) to the payment on a pro rata basis of any Defaulted Interest Rate Swap Termination Payments due to the relevant Interest Rate Swap Counterparty to the extent not paid out of the Interest Rate Swap Termination Account; and
- (U) any remaining Interest Proceeds, to the payment of the interest on the Class D Notes on a pro rata and *pari passu* basis.

(ii) ***Application of Principal Proceeds***

Principal Proceeds (save for on any Redemption Date relating to any optional redemption of the Notes pursuant to Condition 7(b) (*Optional Redemption*) or following the delivery of an Acceleration Notice in which event the Post-Acceleration Priority of Payments shall apply) shall be applied in the following order of priority:

- (A) to the payment on a sequential basis of the amounts referred to in paragraphs (A) through (G) (inclusive) of the Interest Proceeds Priority of Payments to the extent not paid in full thereunder;
- (B) during the Replenishment Period, at the discretion of the Portfolio Servicer, to the payment of any amounts to be used in the acquisition of New Collateral Loan Obligations;
- (C) during the Replenishment Period, to the Class A Noteholders in payment, on a pro rata and *pari passu* basis, of the Principal Amount Outstanding of the Class A Notes up to the lesser of: (i) the Principal Amount Outstanding of the Class A Notes, (ii) the Reinvestment Principal Amortisation Amount and (iii) any available Principal Proceeds;
- (D) during the Replenishment Period, at the discretion of the Portfolio Servicer, either (i) to the credit of the Principal Proceeds Ledger of the Collection Account for reinvestment in Collateral Loan Obligations or (ii) to the Class A Noteholders in payment, on a pro rata and *pari passu* basis, of the Principal Amount Outstanding of the Class A Notes;
- (E) following the Replenishment Period, to the Class A Noteholders in payment, on a pro rata and *pari passu* basis, of the Principal Amount Outstanding of the Class A Notes;
- (F) following the Replenishment Period, subject to redemption of the Class A Notes in full, to the Class B Noteholders in payment, on a pro rata and *pari passu* basis, of the Principal Amount Outstanding of the Class B Notes;

- (G) following the Replenishment Period, subject to redemption of the Class B Notes in full, to the Class C Noteholders in payment, on a pro rata and *pari passu* basis, of the Principal Amount Outstanding of the Class C Notes;
- (H) following the Replenishment Period, subject to the redemption of the Class C Notes in full, to the Class D Noteholders in payment, on a pro rata and *pari passu* basis, of the Principal Amount Outstanding of the Class D Notes; and
- (I) following the Replenishment period, any remaining Principal Proceeds to the payment of any interest on the Class D Notes on a pro rata and *pari passu* basis.

(d) ***Non-payment of Amounts***

Failure on the part of the Issuer to pay the Interest Amounts due and payable on any Class of Notes pursuant to Condition 6 (*Interest*) and the Priorities of Payment by reason solely that there are insufficient funds standing to the credit of the Payment Account shall not be an Event of Default unless and until (i) such failure continues for a period of at least five Business Days unless such failure results from an administrative error, in which case, at least seven Business Days and (ii) in the case of non-payment of interest due and payable on the Class B Notes, the Class B Principal Deficiency Test has been satisfied and the Class A Notes have been redeemed in full; and in the case of non-payment of interest due and payable on the Class C Notes, the Class C Principal Deficiency Test has been satisfied and the Class A Notes and the Class B Notes have been redeemed in full, save in each case as the result of any deduction therefrom or the imposition of withholding thereon as set forth in Condition 9 (*Taxation*).

For the avoidance of doubt, non-payment of Interest Amounts on Class B Notes and the Class C Notes as a result of a failure to satisfy the applicable Principal Deficiency Test shall not constitute an Event of Default.

Subject always, in the case of Deferred Interest payable in respect of the Class B Notes or the Class C Notes to Condition 6(c) (*Deferral of Interest*), in the event of non-payment of any amounts referred to in the Interest Proceeds Priority of Payments on any Payment Date, such amounts shall remain due and shall be payable on each subsequent Payment Date in the orders of priority provided for in this Condition. References to the amounts referred to in the Interest Proceeds Priority of Payments and the Principal Proceeds Priority of Payments of this Condition shall include any amounts thereof not paid when due in accordance with this Condition on any preceding Payment Date.

(e) ***Determination and Payment of Amounts***

The Collateral Administrator shall, in consultation with the Portfolio Servicer, on each Determination Date, calculate the amounts payable on the applicable Payment Date pursuant to the Priorities of Payment and shall notify the Issuer and the Trustee of such amounts. The Account Bank (acting in accordance with the Payment Date Report compiled by the Collateral Administrator on behalf of the Issuer) shall, on behalf of the Issuer not later than 12.00 noon (London time) on the second Business Day preceding each Payment Date cause the amounts standing to the credit of the Principal Proceeds Ledger and if applicable the Interest Proceeds Ledger of the Collection Account to the extent required to pay the amounts referred to in the Interest Proceeds Priority of Payments and the Principal Proceeds Priority of Payments which are payable on such Payment Date, to be transferred to the Payment Account in accordance with Condition 3(j) (*Payments to and from the Accounts*).

(f) ***De minimis Amounts***

The Collateral Administrator may, in consultation with the Portfolio Servicer and on behalf of the Issuer, adjust the amounts required to be applied in payment of principal on the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes from time to time pursuant to the Priorities of Payment so that the amount to be so applied in respect of each Class A Note, Class B Note, Class C Note and Class D Note is a whole amount, not involving any fraction of a 0.01 Euro or, at the discretion of the Collateral Administrator, part of a Euro.

(g) ***Publication of Amounts***

The Collateral Administrator will cause details of the amounts of interest and principal to be paid, and any amounts of interest payable but not paid, on each Payment Date in respect of the Notes to be notified at the expense of the Issuer to the Issuer, the Trustee, the Principal Paying Agent, the Registrar and the Irish Stock Exchange by no later than 11.00 a.m. (London time) on the second Business Day preceding each Payment Date and the Principal Paying Agent shall procure that details of such amounts are notified at the expense of the Issuer to the Noteholders of each Class in accordance with Condition 16 (*Notices*) as soon as possible after notification thereof to the Principal Paying Agent in accordance with the above but in no event later than (to the extent applicable) the third Business Day after the last day of the applicable Due Period.

(h) ***Notifications to be Final***

All notifications, opinions, determinations, certificates, quotations and decisions given, expressed, made or obtained or discretions exercised for the purposes of the provisions of this Condition will (in the absence of manifest error) be binding on the Issuer, the Collateral Administrator, the Trustee, the Registrar, the Principal Paying Agent and all Noteholders and (in the absence of manifest error as referred to above) no liability to the Issuer or the Noteholders shall attach to the Collateral Administrator in connection with the exercise or non-exercise by it of its powers, duties and discretions under this Condition.

(i) ***Accounts***

The Issuer shall, prior to the Issue Date, establish the following accounts with the Account Bank:

- (i) the Collection Account;
- (ii) the Interest Rate Swap Termination Account;
- (iii) the Reserve Fund Account; and
- (iv) the Stamp Duty Reserve Account.

The Issuer shall prior to the Issue Date, establish the Custody Account with the Custodian, the Payment Account with the Payment Account Account Bank and the Counterparty Downgrade Collateral Account with the Counterparty Downgrade Collateral Account Bank.

Each of the Account Bank, the Payment Account Account Bank, the Counterparty Downgrade Collateral Account Bank and the Custodian shall, at all times, be a financial institution with the Required Ratings and shall not be resident in The Netherlands but shall have the necessary regulatory capacity and licences to perform the services required by the Account Bank, the Payment Account Account Bank, the Counterparty Downgrade Collateral Account Bank and the Custodian, respectively, in The Netherlands. In the event that the ratings of the Account Bank, the Payment Account Account Bank, the Counterparty Downgrade Collateral Account Bank or the Custodian are downgraded below the Required Ratings or withdrawn, the Issuer shall use reasonable endeavours either (i) to procure that a replacement Account Bank, Payment Account Account Bank, the Counterparty Downgrade Collateral Account Bank or Custodian, as the case may be, with the Required Ratings and which is acceptable to the Trustee is appointed within 30 days, or (ii) put in place an unconditional and irrevocable guarantee from an entity satisfying the Required Ratings and the rating criteria of S&P, in accordance with the provisions of the Agency Agreement.

All interest accrued on any of the Accounts from time to time shall be paid into the Interest Proceeds Ledger of the Collection Account, save to the extent that the Issuer is contractually bound to pay such amounts to a third party.

To the extent that any amounts required to be paid into any Account pursuant to the provisions of this Condition are not categorised and/or defined, all such amounts shall be paid into the Principal Proceeds Ledger of the Collection Account.

Notwithstanding any other provisions of this Condition 3(i), all amounts standing to the credit of each of the Accounts (other than (i) the Interest Proceeds Ledger of the Collection Account, (ii) the Payment Account, (iii) all interest accrued on the Accounts, and (iv) the Counterparty Downgrade Collateral Account) shall be transferred to the Payment Account and shall constitute Principal Proceeds on the second Business Day prior to any redemption of the Notes in full, and all amounts standing to the credit of the Interest Proceeds Ledger of the Collection Account, together with the amounts not payable into the Principal Proceeds Ledger of the Collection Account referred to in (i), (iii) and (iv), above, shall be transferred to the Payment Account as Interest Proceeds on the second Business Day prior to any redemption of the Notes in full, save in the case of amounts standing to the credit of the Counterparty Downgrade Collateral Account, to the extent that such amounts are required to be paid to the relevant Interest Rate Swap Counterparty.

All references below to the Issuer procuring that payments are made to or from the Accounts shall be so procured by (i) the Account Bank in respect of all Accounts other than the Custody Account, the Payment Account and the Counterparty Downgrade Collateral Account, (ii) the Payment Account Account Bank in respect of the Payment Account, (iii) the Counterparty Downgrade Collateral Account Bank in respect of the Counterparty Downgrade Collateral Account and (iv) the Custodian in respect of the Custody Account, acting on behalf of the Issuer and in accordance with the Agency Agreement.

(j) ***Payments to and from the Accounts***

(A) ***Collection Account***

The Collection Account will comprise of two ledgers, a Principal Proceeds Ledger and an Interest Proceeds Ledger and the Issuer shall procure that amounts are credited and debited to the Principal Proceeds Ledger and the Interest Proceeds Ledger in accordance with the following provisions:

(a) ***Principal Proceeds Ledger***

The Issuer will procure that the following amounts are paid into the Principal Proceeds Ledger of the Collection Account promptly upon receipt thereof and shall constitute Principal Proceeds:

- (i) all premiums (including prepayment premiums) receivable upon redemption of any Collateral Loan Obligation at maturity or otherwise or upon the sale of any put or call option in respect thereof which is above the outstanding principal amount of any Collateral Loan Obligation;
- (ii) all Sale Proceeds received in respect of a Collateral Loan Obligation;
- (iii) all distributions and Sale Proceeds received in respect of Exchanged Equity Securities;
- (iv) both prior to and following the Replenishment Period, all Purchased Accrued Interest;
- (v) amounts transferred to the Principal Proceeds Ledger of the Collection Account from any other Account;
- (vi) amounts credited to the Principal Proceeds Ledger of the Collection Account pursuant to item (L) of the Interest Priority of Payments; and
- (vii) any other amounts received in respect of the Collateral which are not required to be paid into another Account.

In addition, the Issuer will procure that (i) an amount equal to all principal payments received in respect of any Collateral Loan Obligation, including, without limitation (A) amounts received in respect of any maturity, scheduled amortisation, prepayment or mandatory sinking fund payment on a Collateral Loan Obligation; and (B) any other principal payments with respect to Collateral Loan Obligations (to the extent not included in the Sale Proceeds), and (ii) any of paragraphs (i) to (vii) above, in each case paid by the obligors, are paid into the

Banesto Collection Account promptly upon receipt thereof by Banco Español de Crédito S.A. and, not less than two Business Days thereafter, are withdrawn from the Banesto Collection Account and credited to the Principal Proceeds Ledger of the Collection Account and shall constitute Principal Proceeds.

The Issuer shall procure payment of the following amounts (and shall ensure that payment of no other amount is made, save to the extent otherwise permitted above) out of the Principal Proceeds Ledger of the Collection Account:

- (1) on the second Business Day prior to each Payment Date, all Principal Proceeds standing to the credit of the Principal Proceeds Ledger of the Collection Account to the Payment Account to the extent required for disbursement pursuant to the Principal Proceeds Priority of Payments (save for amounts deposited after the end of the related Due Period);
- (2) at any time any Interest Rate Swap Replacement Payment or Interest Rate Swap Termination Payment due and payable to an Interest Rate Swap Counterparty to the extent not paid out of the Interest Rate Swap Termination Account; and
- (3) during the Replenishment Period, at the discretion of the Portfolio Servicer, to fund acquisitions of any New Collateral Loan Obligations.

(b) ***Interest Proceeds Ledger***

The Issuer will procure that the following amounts are credited to the Interest Proceeds Ledger of the Collection Account promptly upon receipt thereof and shall constitute Interest Proceeds:

- (i) all interest accrued on the Interest Proceeds Ledger of the Collection Account from time to time and all interest accrued in respect of the Balances standing to the credit of the other Accounts from time to time;
- (ii) all amendment and waiver fees, delayed compensation, all late payment fees, all commitment fees, syndication fees and all other fees and commissions received in connection with any Collateral Loan Obligations (other than fees and commissions received in connection with the purchase or sale of any Collateral Loan Obligations or work out or restructuring of any Defaulted Obligations or Collateral Loan Obligations which fees and commissions shall be payable into the Principal Proceeds Ledger of the Collection Account and shall constitute Principal Proceeds);
- (iii) all accrued interest included in the proceeds of sale of any other Collateral Loan Obligation that are designated by the Portfolio Servicer as Interest Proceeds pursuant to the Portfolio Servicing Agreement (provided that no such designation may be made in respect of (a) any Purchased Accrued Interest and (b) any interest received in respect of any Defaulted Obligation);
- (iv) all amounts paid to the Issuer under any Interest Rate Swap Transaction (including Scheduled Periodic Interest Rate Swap Receipts) save for any Counterparty Downgrade Collateral, Interest Rate Swap Termination Receipts or Interest Rate Swap Replacement Receipts;
- (v) recoveries on Defaulted Obligations (net of any amounts expended by or payable by the Issuer or the Portfolio Servicer in connection with the sale, disposition or termination of such Collateral Loan Obligation) and including proceeds received upon sale of any Collateral Loan Obligation save for sales effected as Other Sales, to the extent not included in Sale Proceeds;
- (vi) amounts transferred from the Reserve Fund Account under Condition 3(j)(E);
- (vii) all fees and commissions (such as syndication, workout, defaulted or restructuring fees) received in connection with Defaulted Obligations and the purchase or sale of any Collateral Loan Obligation;

- (viii) the Balance standing to the credit of the Interest Rate Swap Termination Account in the circumstances described under Condition 3(j)(C)(2) and (3) (*Interest Rate Swap Termination Account*);
- (ix) amounts required to be transferred to the Interest Proceeds Ledger from any other Account; and
- (x) on the Issue Date, an amount equal to the gross proceeds of the issue of the Notes remaining, after (i) crediting the Reserve Fund Account with an amount equal to the Initial Reserve Fund Amount and (ii) crediting the Stamp Duty Reserve Account with €1,500,000.

In addition the Issuer will procure that (i) all cash payments of interest in respect of the Collateral Loan Obligations and any deferred interest received in respect of any Senior Secured Loan or Senior Unsecured Loan including any capitalised interest (in each case, other than any Purchased Accrued Interest) together with all amounts received by the Issuer by way of gross-up in respect of such interest and in respect of a claim under any applicable double taxation treaty and any interest received in respect of any Defaulted Obligations; and (ii) any of paragraphs (ii) to (ix) above, in each case paid by the obligors, are paid into the Banesto Collection Account promptly upon receipt thereof by Banco Español de Crédito S.A. and, not less than two Business Days thereafter, are withdrawn from the Banesto Collection Account and credited to the Interest Proceeds Ledger of the Collection Account and shall constitute Interest Proceeds.

The Issuer shall procure payment of the following amounts (and shall ensure that payment of no other amount is made, save to the extent otherwise permitted above) out of the Interest Proceeds Ledger of the Collection Account:

- (1) on the second Business Day prior to each Payment Date, all Interest Proceeds standing to the credit of the Interest Proceeds Ledger of the Collection Account (after taking into account any withdrawals required to be made pursuant to (2) below) shall be transferred to the Payment Account to the extent required for disbursement pursuant to the Interest Proceeds Priority of Payments, save for amounts deposited after the end of the related Due Period;
- (2) at any time any Interest Rate Swap Replacement Payment or Interest Rate Swap Termination Payment due and payable to an Interest Rate Swap Counterparty to the extent not paid out of the Interest Rate Swap Termination Account or the Principal Proceeds Ledger of the Collection Account;
- (3) on the Issue Date, to fund the acquisition of the Portfolio; and
- (4) as soon as reasonably practicable after the Issue Date, in payment of all applicable fees and expenses, including but not limited, to legal expenses, administration fees and expenses associated with admission to the Irish Stock Exchange.

**(B) *Payment Account***

The Issuer will procure that, all amounts standing to the credit of each of the Accounts which are required to be transferred from such other Accounts to the Payment Account pursuant to Condition 3(i) (*Accounts*) and Condition 3(j) (*Payments to and from the Accounts*) are so transferred (i) on the second Business Day in respect of all Accounts other than the Custody Account and (ii) on the Business Day in respect of the Custody Account, prior to each Payment Date to be disbursed pursuant to the Priorities of Payment on any Payment Date and, on such Payment Date, the Collateral Administrator (acting on the basis of the Payment Date Report), shall disburse such amounts in accordance with the Priorities of Payment. No amounts shall be transferred to or withdrawn from the Payment Account at any other time or in any other circumstances, save that (A) all interest accrued on the Payment Account shall be credited to the Interest Proceeds Ledger of the Collection Account and (B) following the delivery of an Acceleration Notice or on a redemption of the Notes in whole, Interest Proceeds, Principal Proceeds and the net proceeds of enforcement of the security over the Collateral shall be credited to the Payment Account (or such other account as the holders of



the Class of Notes entitled to direct the Trustee with respect to enforcement shall designate to the Trustee) and shall be distributed in accordance with the Post-Acceleration Priority of Payments.

In addition, the Issuer shall procure that any Late Liquidation Proceeds are paid into the Payment Account on the date of receipt thereof and the Collateral Administrator shall disburse such amounts in satisfaction of any remaining amounts due and payable in accordance with the Post-Acceleration Priority of Payments, on the Business Day immediately following such receipt or on such date thereafter that the Portfolio Servicer has determined in a commercially reasonable manner and notified to the Collateral Administrator until the earlier of (i) the receipt of all Late Liquidation Proceeds; and (ii) the Portfolio Servicer determining in its commercially reasonable judgment that such Late Liquidation Proceeds will never be received by the Issuer.

**(C) *Interest Rate Swap Termination Account***

The Issuer will procure that, upon receipt, all Interest Rate Swap Termination Receipts and Interest Rate Swap Replacement Receipts (including where such amounts are payable to the Issuer from the Counterparty Downgrade Collateral Account) are paid into the Interest Rate Swap Termination Account which is opened and maintained in respect of the related Interest Rate Swap Transactions promptly upon receipt thereof.

The Issuer will procure payment of the following amounts (and shall ensure that payment of no other amount is made, save to the extent otherwise permitted above) out of the Interest Rate Swap Termination Account:

- (1) at any time, any Interest Rate Swap Replacement Payment or Interest Rate Swap Termination Payment due and payable to the relevant Interest Rate Swap Counterparty upon replacement of the Interest Rate Swap Transaction to which the particular account relates, up to an amount equal to the Interest Rate Swap Termination Receipt or Interest Rate Swap Replacement Receipt, respectively, received by the Issuer in respect thereof;
- (2) in the case of any Interest Rate Swap Termination Receipts paid into the relevant Interest Rate Swap Termination Account, in the event that:
  - (A) the Portfolio Servicer, acting on behalf of the Issuer, determines not to replace an Interest Rate Swap Agreement that has terminated and Rating Agency Confirmation is received in respect of such determination; or
  - (B) the termination of any Interest Rate Swap Agreement under which such Interest Rate Swap Termination Receipts are received occurs on a Redemption Date for a redemption of the Notes in full,

the Balance standing to the credit of the Interest Rate Swap Termination Account shall be transferred to the Interest Proceeds Ledger of the Collection Account; and

- (3) in the case of any Interest Rate Swap Replacement Receipt in excess of the corresponding Interest Rate Swap Termination Payment, the Balance shall be transferred to the Interest Proceeds Ledger of the Collection Account.

**(D) *Counterparty Downgrade Collateral Account***

The Issuer will procure that all Counterparty Downgrade Collateral pledged or transferred pursuant to an Interest Rate Swap Agreement shall be deposited in the Counterparty Downgrade Collateral Account. All Counterparty Downgrade Collateral deposited from time to time in any Counterparty Downgrade Collateral Account shall be held and released pursuant to the terms of the relevant Interest Rate Swap Agreement. Upon any default by the Interest Rate Swap Counterparty under an Interest Rate Swap Agreement, the Issuer or the Portfolio Servicer, on its behalf, shall promptly exercise its remedies under the related agreement, including liquidating the related Counterparty Downgrade Collateral, whereupon such Counterparty Downgrade Collateral shall be transferred to the Interest Rate Swap Termination Account in an amount determined pursuant to the related Interest Rate Swap Agreement. For

the avoidance of doubt, upon the termination of a Interest Rate Swap Agreement, the Counterparty Downgrade Collateral deposited from time to time in any Counterparty Downgrade Collateral Account which is required to be paid or returned to the Interest Rate Swap Counterparty pursuant to the applicable Interest Rate Swap Agreement shall be paid or transferred to the Interest Rate Swap Counterparty outside the Priorities of Payment and in accordance with the relevant Interest Rate Swap Agreement.

(E) **Reserve Fund Account**

The Issuer will procure that the following amounts are credited to the Reserve Fund Account promptly upon receipt thereof:

- (i) an amount equal to the Initial Reserve Fund Amount on the Issue Date; and
- (ii) all amounts transferred from the Interest Proceeds Ledger of the Collection Account to be credited to the Reserve Fund Account pursuant to paragraph (K) of the Interest Proceeds Priority of Payments.

The Issuer will procure the payment (and shall ensure that payment of no other amount is made, save to the extent otherwise permitted above) out of the Reserve Fund Account of amounts to be credited to the Interest Proceeds Ledger of the Collection Account in accordance with Condition 3(j)(A)(b)(vii).

(F) **Stamp Duty Reserve Account**

The Issuer will procure that on the Issue Date, €1,500,000 is credited to the Stamp Duty Reserve Account out of the net proceeds of issuance of the Class D Notes.

The Issuer shall procure the payment (and shall ensure that payment of no other amount is made) out of the Stamp Duty Reserve Account of:

- (i) at any time at the direction of the Portfolio Servicer (or the Trustee, if the Notes have become due and payable in accordance with Condition 10(b) (*Enforcement*) and the relevant Acceleration Notice has not been rescinded and annulled in accordance with Condition 10(c) (*Curing of Default*)), in payment of stamp duties in connection with the registration of the relevant mortgage secured loans in the relevant land registries in connection with the transfer of the Collateral Loan Obligations; and
- (ii) following the end of the Replenishment Period and on or following the date on which there are no Collateral Loan Obligations that attract stamp duty in the Portfolio, at the direction of the Portfolio Servicer, the Balance of the Stamp Duty Reserve Account to the Principal Proceeds Ledger of the Collection Account in accordance with Condition 3(j)(A)(a)(vi).

4. **Security**

(a) **Security**

Pursuant to the Trust Deed, the obligations of the Issuer under the Notes of each Class, the Trust Deed, the Agency Agreement, the Portfolio Servicing Agreement and the Interest Rate Swap Agreements (together with the obligations owed by the Issuer to the other Secured Parties) are secured in favour of the Trustee for the benefit of the Secured Parties by:

- (i) an assignment by way of security of the Issuer's rights, title and interest present and future, including its present and future claims in and to the Collateral Loan Obligations, Exchanged Equity Securities (including any debt or equity obligation received by the Issuer upon a restructuring of a Collateral Loan Obligation) and all rights, entitlements or other benefits relating thereto and/or (where, for example and without limitation, such rights are contractual rights the assignment of which would require the consent of a third party or would require the Trustee to accede to intercreditor arrangements) a first fixed charge and first priority security interest over all present and future rights, title and interest of the Issuer in respect of the Collateral Loan Obligations and the

Exchanged Equity Securities (including any debt or equity obligation received by the Issuer upon a restructuring of a Collateral Loan Obligation) including, without limitation, all monies received in respect thereof, all dividends and distributions paid or payable thereon, all property paid, distributed, accruing or offered at any time on, to or in respect of or in substitution therefor and the proceeds of sale, repayment and redemption thereof;

- (ii) a first fixed charge over all rights of the Issuer present and future in respect of each of the Accounts (other than the Counterparty Downgrade Collateral Account) and all monies from time to time standing to the credit of the Accounts and the debts represented thereby and including, without limitation, all interest accrued and other monies received in respect thereof and all of its rights, title, interest and benefit and all its entitlement relating thereto;
- (iii) a first fixed charge and first priority security interest (where the applicable assets are securities) over, or an assignment by way of security (where the applicable rights are contractual obligations) of, all present and future rights, title and interest of the Issuer in respect of any Counterparty Downgrade Collateral standing to the credit of the Counterparty Downgrade Collateral Account, including (and all entitlements or other benefits relating thereto) all monies received in respect thereof subject and subordinate to the security granted in favour of the Trustee for the benefit of each Interest Rate Swap Counterparty as described below;
- (iv) an assignment by way of security of the Issuer's rights, title and interest, present and future (and all entitlements or other benefits relating thereto) against the Custodian under the Agency Agreement and a first fixed charge over all of the Issuer's rights, title and interest in and to (and all entitlements or other benefits relating thereto) the Custody Accounts and/or accounts established on the books of the Custodian in accordance with the Agency Agreement and each cash account relating thereto, any cash held therein and the debts represented thereby;
- (v) an assignment by way of security of the Issuer's rights, title and interest, present and future (and all entitlements or other benefits relating thereto) under each Interest Rate Swap Agreement (including the Issuer's rights under any credit support document entered into pursuant to any Interest Rate Swap Agreement and any Counterparty Downgrade Collateral subject and subordinate to any security granted as referred to below and provided that such assignment by way of security shall not in any way restrict the release of collateral granted thereunder in whole or in part at any time pursuant to the terms thereof);
- (vi) an assignment by way of security of the Issuer's rights, title and interest, present and future (and all entitlements or other benefits relating thereto) under the Portfolio Servicing Agreement, the Subscription Agreement and the Spanish Accounts Pledge Agreement;
- (vii) a first fixed charge over all monies held from time to time by each Paying Agent for payment of principal, interest or other amounts on the Notes (if any);
- (viii) an assignment by way of security of the remainder of the Issuer's rights present and future under the Agency Agreement not assigned pursuant to paragraph (iv) above; and
- (ix) a floating charge over the whole of the Issuer's undertaking and all of its property, assets and rights, both present and future to the extent that such undertaking and assets are not subject to other security created pursuant to the Trust Deed,

excluding for the purpose of (i) to (ix) (inclusive) above, (A) any and all assets, property or rights which are located in, or governed by the laws of, The Netherlands (except for contractual rights or receivables (*rechten of vorderingen op naam*) which are assigned or charged to the Trustee pursuant to (i) to (ix) (inclusive) above), (B) any and all Dutch Ineligible Securities, (C) the Issuer's rights under the Management Agreement and (D) any and all amounts standing to the credit of the Issuer Dutch Account.

Pursuant to the Trust Deed, the Issuer grants security by way of a first priority charge to the Trustee the benefit of which charge shall be held by the Trustee for the benefit of each Interest Rate Swap Counterparty over any Counterparty Downgrade Collateral deposited by such Interest Rate Swap Counterparty in the Counterparty Downgrade Collateral Account as security for the Issuer's obligations to repay or redeem such Counterparty Downgrade Collateral pursuant to the terms of the applicable Interest Rate Swap Agreement.

Pursuant to the Spanish Accounts Pledge Agreement, the Issuer has also created a Spanish law governed pledge over the Spanish Accounts in favour of the Trustee.

If, for any reason, the purported assignment by way of security of, and/or the grant of first fixed charge over, the property, assets, rights and/or benefits described above is found to be ineffective in respect of any such property, assets, rights and/or benefits (together the "**Affected Collateral**"), the Issuer shall to the fullest extent permitted under Dutch mandatory law hold the benefit of the Affected Collateral and any sums received in respect thereof or any security interest, guarantee or indemnity or undertaking of whatever nature given to secure such Affected Collateral (together the "**Trust Collateral**") on trust for the Trustee (for the benefit of itself and the other Secured Parties) and shall (i) account to the Trustee, for or otherwise apply all sums received in respect of such Trust Collateral as the Trustee may direct (provided that subject to the Conditions and the terms of the Portfolio Servicing Agreement, if no Event of Default has occurred and is continuing, the Issuer shall be entitled to apply the benefit of such Trust Collateral and such sums in respect of such Trust Collateral received by it and held on trust under this clause without prior direction from the Trustee), (ii) exercise any rights it may have in respect of the Trust Collateral at the direction of the Trustee and (iii) at its own cost take such action and execute such documents as the Trustee may in its sole discretion require.

All deeds, documents, assignments, instruments, bonds, notes, negotiable instruments, papers and any other instruments comprising, evidencing, representing and/or transferring the Portfolio will be deposited with or held by or on behalf of the Custodian (save for the global notes (*titulo multiple*) representing the CTHs which will be held in custody by the Portfolio Servicer pursuant to the CTHs issuance and subscription deed) until the security over such obligations is irrevocably discharged in accordance with the provisions of the Trust Deed. In the event that the ratings of the Custodian, the Account Bank, the Counterparty Downgrade Collateral Account Bank and the Payment Account Account Bank are downgraded to below the Required Ratings or withdrawn, the Issuer shall use reasonable endeavours to procure that a replacement Custodian, the Account Bank or Payment Account Account Bank with the Required Ratings and who is acceptable to the Trustee is appointed within 30 days, in accordance with the provisions of the Agency Agreement.

Pursuant to the terms of the Trust Deed, the Trustee is exempted from any liability in respect of any loss or theft of the Collateral, from any obligation to insure the Collateral and from any claim arising from the fact that the Collateral is held in a clearing system or in safe custody by the Custodian, a bank or other custodian. The Trustee has no responsibility with respect to the services for the Portfolio performed by the Portfolio Servicer (under the Portfolio Servicing Agreement in respect of the Collateral Loan Obligations contained in the Portfolio only) or to supervise the administration of the Portfolio by the Collateral Administrator or any other party and is entitled to rely on the certificates or notices of any relevant party without further enquiry. The Trust Deed also provides that the Trustee shall accept without investigation, requisition or objection such right, benefit, title and interest, if any, as the Issuer may have in and to any of the Collateral and is not bound to make any investigation into the same or into the Collateral in any respect.

Pursuant to a Euroclear Pledge Agreement (if applicable and if required), the Issuer may also create a Belgian law pledge over the Collateral Loan Obligations from time to time held by the Custodian on behalf of the Issuer in Euroclear.

(b) ***Application of Proceeds upon Enforcement***

The Trust Deed provides that the net proceeds of realisation of, or enforcement with respect to the security over, the Collateral constituted by the Trust Deed, shall be applied in accordance with the priorities of payment set out in Condition 11 (*Enforcement*).

(c) ***Limited Recourse***

Only the Trustee may pursue the remedies available under applicable law, under the Trust Deed to enforce the rights of the Transaction Creditors against the Issuer and no other Transaction Creditor shall be entitled to proceed directly against the Issuer, unless the Trustee having been bound to take steps and/or proceedings, fails to do so within a reasonable time and such failure is continuing. The obligations of the Issuer to pay any amounts due and payable in respect of the Notes and the other Transaction Documents shall be limited to the proceeds available at such time to make such payments in accordance with the Priorities of Payment. If the net proceeds of realisation of the security constituted by the Trust Deed, upon enforcement thereof in accordance with Condition 11 (*Enforcement*) and the provisions of the Trust Deed, are less than the aggregate amount payable in such circumstances by the Issuer in respect of the Notes and to the other Transaction Creditors (such negative amount being referred to herein as a "**shortfall**"), the obligations of the Issuer in respect of the Notes of each Class and its obligations to the other Transaction Creditors in such circumstances will be limited to such net proceeds, which shall be applied in accordance with the Priorities of Payment (other than, in the case of each Interest Rate Swap Counterparty, with respect to the relevant Counterparty Downgrade Collateral). In such circumstances, the other assets (if any) of the Issuer (including any amounts standing to the credit of the Issuer Dutch Account and its rights under the Management Agreement) will not be available for payment of such shortfall which shall be borne by the Class A Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Trustee, and the other Transaction Creditors in accordance with the Priorities of Payment (other than, in the case of each Interest Rate Swap Counterparty, with respect to the relevant Counterparty Downgrade Collateral) (applied in reverse order), the rights of the Transaction Creditors to receive any further amounts in respect of such obligations shall be extinguished and none of the Noteholders of each Class or the other Transaction Creditors may take any further action to recover such amounts. None of the Noteholders of any Class, the Trustee or the other Transaction Creditors (nor any other Person acting on behalf of any of them) shall be entitled at any time to institute against the Issuer, or join in any institution against the Issuer of, any bankruptcy, examinership, reorganisation, arrangement, insolvency, winding-up or liquidation proceedings or other proceedings under any applicable bankruptcy or similar law in connection with any obligations of the Issuer relating to the Notes of any Class, the Trust Deed or otherwise owed to the Transaction Creditors, save for lodging a claim in the liquidation of the Issuer which is initiated by another non-affiliated party or taking proceedings to obtain a declaration as to the obligations of the Issuer.

None of the Noteholders of any Class, the Trustee or any Transaction Creditor (nor any Person acting on behalf of any of them) shall have any recourse against any Managing Director, shareholder, or officer of the Issuer in respect of any obligations, covenant or agreement entered into or made by the Issuer pursuant to the terms of the Trust Deed or any other Transaction Document to which it is a party or any notice or documents which it is requested to deliver hereunder or thereunder.

None of the Trustee, the Managing Directors, the Initial Purchaser, the Arranger, the Originator, the Portfolio Servicer, the Collateral Administrator, the Interest Rate Swap Counterparties or the Custodian has any obligation to any Noteholder of any Class for payment of any amount by the Issuer in respect of the Notes of any Class.

(d) ***Information Regarding the Portfolio***

The Collateral Administrator shall procure that a copy of each Monthly Report and each Payment Date Report will be forwarded to each Paying Agent where such reports will be available on request by any Noteholder. Each Monthly Report and Payment Date Report will be made available to the relevant Noteholders and certain other persons via the Collateral Administrator's internet website currently located at <https://tss.sfs.db.com/investpublic>. It is not intended that such reports will be made in any other format, save in certain limited

circumstances with the Collateral Administrator's agreement. The Collateral Administrator's website does not form part of the information provided for the purposes of this Prospectus and disclaimers may be posted with respect to the information posted thereon. Registration may be required for access to such website and persons wishing to access such website may be required to certify that they are Noteholders or otherwise entitled to access such website.

## 5. **Covenants of and Restrictions on the Issuer**

### (a) ***Covenants of the Issuer***

Unless otherwise provided and as more fully described in the Trust Deed, for so long as any of the Notes remains Outstanding, the Issuer covenants to the Trustee on behalf of the holders of such Outstanding Notes that it will:

- (i) take such steps as are reasonable to enforce all its rights and remedies:
  - (A) under the Notes;
  - (B) under the Trust Deed;
  - (C) in respect of the Collateral;
  - (D) in respect of the Accounts;
  - (E) under the Agency Agreement and in respect of the Custody Accounts and the Accounts and any accounts established on the books of the Custodian and the Account Bank, respectively in accordance with the Agency Agreement;
  - (F) under any Interest Rate Swap Agreement (including any guarantee or credit support annex entered into pursuant to any such Interest Rate Swap Agreement);
  - (G) under the Subscription Agreement;
  - (H) under the Portfolio Servicing Agreement;
  - (I) under the Management Agreement; and
  - (J) the Spanish Accounts Pledge Agreement;
- (ii) comply with its obligations under the Notes, the Trust Deed, the Agency Agreement and any other Transaction Document to which it is a party;
- (iii) keep proper books of account in accordance with the laws of The Netherlands (such books to be maintained at the Issuer's registered office) and allow the Trustee and any Person appointed by the Trustee, to whom the Issuer shall have no reasonable objection, access to the books of account of the Issuer at all reasonable times during normal business hours and shall send to any such Person on request, or if so stipulated, at specific intervals, copies thereof and other supporting documents relating thereto as such Person may specify;
- (iv) at all times maintain its tax residence in The Netherlands and shall not establish a branch or agency outside The Netherlands;
- (v) pay its debts generally as they fall due;
- (vi) do all things as are necessary to maintain its corporate existence;
- (vii) use its best endeavours to obtain and maintain a listing of the Outstanding Notes on the Irish Stock Exchange. If, however, it is unable to do so, having used such endeavours, or if the maintenance of such listing is agreed by the Trustee to be unduly onerous and the Trustee is satisfied that the interests of the holders of the Outstanding Notes would not thereby be materially prejudiced, the Issuer will instead use all reasonable endeavours promptly to obtain and thereafter to maintain a listing for such Notes on

such other stock exchange(s) as it may (with the approval of the Trustee) decide or failing such decision as the Trustee may determine having acted reasonably regarding its obligations as a trustee;

- (viii) supply such information to a Rating Agency as that Rating Agency may reasonably request; and
- (ix) conduct its business and affairs such that, at all times:
  - (A) it shall maintain its registered office in The Netherlands;
  - (B) it shall hold all meetings of its board of directors in The Netherlands and ensure that all of its directors are resident in The Netherlands for tax purposes, that they will exercise their control over the business and the Issuer independently and that those directors (acting independently) exercise their authority only from and within The Netherlands by taking all key decisions relating to the Issuer in The Netherlands;
  - (C) it shall not open any office or branch or place of business outside The Netherlands; and
  - (D) it shall not knowingly take any action (save to the extent necessary for the Issuer to comply with its obligations under the Transaction Documents) which will cause its "centre of main interests" (within the meaning of European Council Regulation No. 1346/2000 on Insolvency Proceedings (the "**Insolvency Regulations**") to be located in any jurisdiction other than The Netherlands and will not establish any offices, branches or other establishments (as defined in the Insolvency Regulations) or register as a company in any jurisdiction other than The Netherlands.

(b) ***Restrictions on the Issuer***

As more fully described in the Trust Deed, for so long as any of the Notes remains Outstanding, save as contemplated in the Transaction Documents, the Issuer covenants to the Trustee on behalf of the holders of such Outstanding Notes that (to the extent applicable) it will not, without prior notification to the Rating Agency and the prior written consent of the Trustee:

- (i) sell, factor, discount, transfer, assign, lend or otherwise dispose of any of its right, title or interest in or to the Collateral, other than in accordance with the Portfolio Servicing Agreement, nor will it create or permit to be outstanding any mortgage, pledge, lien, charge, encumbrance or other security interest over the Collateral except in accordance with the Trust Deed or these Conditions;
- (ii) sell, factor, discount, transfer, assign, lend or otherwise dispose of, nor create or permit to be outstanding any mortgage, pledge, lien, charge, encumbrance or other security interest over, any of its other property or assets or any part thereof or interest therein other than in accordance with the Trust Deed or these Conditions;
- (iii) engage in any business other than:
  - (A) acquiring and holding any property, assets or rights that are capable of being effectively charged in favour of the Trustee or that are capable of being held on trust by the Issuer in favour of the Trustee under the Trust Deed;
  - (B) issuing and performing its obligations under the Notes;
  - (C) entering into, exercising its rights and performing its obligations under or enforcing its rights under each Transaction Documents to which it is a party; and

- (D) performing any act, incidental to or necessary in connection with any of the above;
- (iv) amend any term or Condition of the Notes of any Class (save in accordance with these Conditions and the Trust Deed);
- (v) agree to any amendment to any provision of, or grant any waiver or consent under the Transaction Documents;
- (vi) incur any indebtedness for borrowed money, other than in respect of the Notes or any document entered into in connection with the Notes or the sale thereof, the Interest Rate Swap Agreements or as otherwise permitted pursuant to the Trust Deed;
- (vii) amend its constitutional documents;
- (viii) have any subsidiaries or establish any offices, branches or other "establishments" (as that term is used in article 2(h) of the Council Regulation (EC) No. 1346/2000 on Insolvency Proceedings) anywhere in the world;
- (ix) take any action (save to the extent necessary for the Issuer to comply with its obligations under the Transaction Documents) which will cause its "centre of main interests" to be located in any jurisdiction other than The Netherlands and will not establish any offices, branches or other establishments (as defined in the Insolvency Regulations) or register as a company in any jurisdiction other than The Netherlands;
- (x) have any employees (for the avoidance of doubt, the Managing Directors of the Issuer do not constitute employees);
- (xi) enter into any reconstruction, amalgamation, merger or consolidation;
- (xii) convey or transfer all or a substantial part of its properties or assets (in one or a series of transactions) to any Person, otherwise than as contemplated in these Conditions and except for dividends payable to the Foundation from amounts standing to the credit of the Issuer Dutch Account;
- (xiii) issue any shares (other than such shares as are in issue as at the Issue Date and the issuance of depositary receipts of those shares to Herengracht Financial Services B.V.) nor redeem or purchase any of its issued share capital;
- (xiv) enter into any material agreement or contract with any Person (other than an agreement on customary market terms, which terms do not contain the provisions below) unless such contract or agreement contains "limited recourse" and "non-petition" provisions similar to those included in the Trust Deed, to the effect that, inter alia, such Person shall not take any action or institute any proceeding against the Issuer under any insolvency law applicable to the Issuer or which would reasonably be likely to cause the Issuer to be subject to or seek protection of, any such insolvency law, provided that such Person shall be permitted to become a party to and to participate in any proceeding or action under any such insolvency law that is initiated by any other Person other than one of its Affiliates;
- (xv) otherwise than as contemplated in the Transaction Documents, release from or terminate the appointment of the Custodian or the Account Bank under the Agency Agreement, or that of the Collateral Administrator or the Portfolio Servicer under the Portfolio Servicing Agreement (including, in each case, any transactions entered into thereunder) or, in each case, from any executory obligation thereunder;
- (xvi) pay any dividends save for the payment of dividends to Herengracht Financial Services B.V. as holder of depositary receipts of the shares of the Issuer; or
- (xvii) enter into any lease in respect of, or own, premises.



6. **Interest**

(a) ***Payment Dates***

(i) ***Floating Rate Notes***

The Class A Notes bear interest from and including the Issue Date and such interest will first be payable in arrear on 27 January 2012 and thereafter quarterly in arrear on 27 October, 27 January, 27 April, and 27 July in each year, and ending on the Maturity Date and upon any Redemption of the Notes unless any such day is not a Business Day, in which case interest shall be payable on the immediately following Business Day, (each such date a "**Payment Date**"). The period from (and including) a Payment Date (or the Issue Date) to (but excluding) the next (or first) Payment Date is called an "**Interest Accrual Period**" in these Conditions.

**Class B Notes and Class C Notes:** The Class B Notes and the Class C Notes will only bear interest on those Interest Accrual Periods on which the relevant Principal Deficiency Test has been satisfied. Interest, if any, will be payable on the Payment Date.

(ii) ***Class D Notes***

Interest shall be payable in respect of the Class D Notes on an available funds basis in accordance with paragraph (U) of Condition 3(c)(i) (*Application of Interest Proceeds*), paragraph (I) of Condition 3(c)(ii) (*Application of Principal Proceeds*) on each Payment Date or paragraph (J) of Condition 11(b) (*Enforcement*) as applicable. Notwithstanding any other provision of the Conditions of the Notes or the Trust Deed, all references herein and therein to the Class D Notes being redeemed in full or at their Principal Amount Outstanding shall be deemed to be amended to the extent required to ensure that a minimum of €1 principal amount of each such Class of Notes remains Outstanding at all times and any amounts which are to be applied in redemption of each such Class of Notes pursuant hereto which are in excess of the Principal Amount Outstanding thereof minus €1, shall constitute interest payable in respect of such Notes and shall not be applied in redemption of the Principal Amount Outstanding thereof, provided always however that such €1 principal shall no longer remain Outstanding and each such Class of Notes shall be redeemed in full on the date on which all of the Collateral securing the Notes has been realised and is to be finally distributed to the Noteholders.

(b) ***Interest Accrual***

(i) ***Floating Rate Notes***

Each Floating Rate Note will cease to bear interest from the due date for redemption unless, upon due presentation, payment of principal is improperly withheld or refused. In such event, it shall continue to bear interest in accordance with this Condition 6 (*Interest*) (both before and after judgment) until whichever is the earlier of (i) 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 (ii) the day seven days after the Principal Paying Agent or the Registrar having notified the Noteholders of such Class of Notes in accordance with Condition 16 (*Notices*) of receipt of all sums due in respect of all the Notes of such Class up to that seventh day (except to the extent that there is failure in the subsequent payment to the relevant holders under these Conditions).

(ii) ***Class D Notes***

Interest on the Class D Notes will cease to be payable in respect of each Class D Note upon the date that all of the Collateral has been realised and no Interest Proceeds or Principal Proceeds remain available for distribution in accordance with the Priorities of Payment and no sums remain standing to the credit of the Collateral Enhancement Account.

(c) ***Deferral of Interest***

In the case of: (i) the Class B Notes, for so long as any of the Class A Notes remain Outstanding and subject to satisfaction of the Class B Principal Deficiency Test; and (ii) the Class C Notes, for so long as any of the Class B Notes remain Outstanding and subject to satisfaction of the Class C Principal Deficiency Test; an amount of interest equal to any shortfall in payment of the Interest Amount due and payable in respect of any of such Classes of Notes on any Payment Date (each such amount being referred to as "**Deferred Interest**") shall be deferred and shall, with effect from and including such Payment Date, be added to the Principal Amount Outstanding of the Notes of the applicable Class and the principal amount of each such Note shall be increased by the amount of its pro rata share of such Deferred Interest which shall itself bear interest, in accordance with the Conditions from such date.

(d) ***Payment of Deferred Interest***

Deferred Interest in respect of any Class B Note and Class C Note shall only become payable by the Issuer to the extent that Interest Proceeds or Principal Proceeds are available to make such payment in accordance with the Priorities of Payment.

(e) ***Non-payment of Interest Amount on Class B Notes and Class C Notes as a result of failure of the Class B Principal Deficiency Test and/or, the Class C Principal Deficiency (the "Principal Deficiency Tests")***

For the avoidance of doubt, non-payment of Interest Amounts on Class B Notes and the Class C Notes as a result of a failure to satisfy the applicable Principal Deficiency Test shall not constitute an Event of Default.

(f) ***Interest on the Floating Rate Notes***

(i) ***Rate of Interest***

Subject as provided in Condition 6(f)(iii) (*Reference Banks and Calculation Agent*) below, the floating rate of interest from time to time in respect of the Class A Notes (the "**Class A Floating Rate of Interest**"), the Class B Notes (the "**Class B Floating Rate of Interest**") and the Class C Notes (the "**Class C Floating Rate of Interest**"), will be determined by the Calculation Agent on the following basis:

(A) On the second TARGET Day before the beginning of each Interest Accrual Period (each, an "**Interest Determination Date**"), the Calculation Agent will determine the Applicable EURIBOR for euro deposits as at 11:00 a.m. (Brussels time) on the Interest Determination Date in question. Such offered rate will be that which appears on the display on the Reuters Screen "EURIBOR01" ("**EURIBOR**") or such other page or service as may replace it for the purpose of displaying EURIBOR rates. The Class A Floating Rate of Interest for such Interest Accrual Period shall be the aggregate of the Class A Margin and the Applicable EURIBOR which so appears, the Class B Floating Rate of Interest for such Interest Accrual Period shall be the aggregate of the Class B Margin and the Applicable EURIBOR which so appears, and the Class C Floating Rate of Interest for such Interest Accrual Period shall be the aggregate of the Class C Margin and the Applicable EURIBOR which so appears.

(B) If the offered rate so appearing is replaced by the corresponding rates of more than one bank then paragraph (A) above shall be applied, with any necessary consequential changes, to the arithmetic mean (rounded, if necessary, to the nearest one-thousandth of a percentage point (with 0.0005 being rounded upwards)) of the rates (being at least two) which so appear, as determined by the Calculation Agent. If for any other reason such offered rate does not so appear, or if the relevant page is unavailable, the Calculation Agent will request each of four major banks in the Euro zone interbank market acting in each case through its principal Euro zone office (the "**Reference Banks**") to provide the Calculation Agent with its offered quotation to leading banks for euro deposits in the Euro zone interbank market for a period of three months as at 11:00 a.m.

(Brussels time) on the Interest Determination Date in question (assuming an actual/360 day count basis). The Class A Floating Rate of Interest for such Interest Accrual Period shall be the aggregate of the Class A Margin and the arithmetic mean (rounded, if necessary, to the nearest one-thousandth of a percentage point (with 0.0005 being rounded upwards)) of such quotations (or of such of them, being at least two, as are so provided), the Class B Floating Rate of Interest for such Interest Accrual Period shall be the aggregate of the Class B Margin and the arithmetic mean (rounded, if necessary, to the nearest one-thousandth of a percentage point (with 0.0005 being rounded upwards)) of such quotations (or of such of them, being at least two, as are so provided), and the Class C Floating Rate of Interest for such Interest Accrual Period shall be the aggregate of the Class C Margin and the arithmetic mean (rounded, if necessary, to the nearest one-thousandth of a percentage point (with 0.0005 being rounded upwards)) of such quotations (or of such of them, being at least two, as are so provided).

(C) If on any Interest Determination Date one only or none of the Reference Banks provides such quotation, the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class C Floating Rate of Interest respectively, for the next Interest Accrual Period shall be the rate per annum which the Calculation Agent determines to be the arithmetic mean (rounded, if necessary, to the nearest one-thousandth of a percentage point (with 0.0005 being rounded upwards)) of the euro lending rates which major banks in the Euro zone selected by the Calculation Agent are quoting, on the relevant Interest Determination Date, for loans in euro for a period of three months to leading European banks plus, in the case of the Class A Floating Rate of Interest, the Class A Margin, in the case of the Class B Floating Rate of Interest, the Class B Margin, and in the case of the Class C Floating Rate of Interest, the Class C Margin.

(D) Where:

"**Class A Margin**" means 0.70 per cent. per annum;

"**Class B Margin**" means 1.00 per cent. per annum; and

"**Class C Margin**" means 1.80 per cent. per annum;

"**Euro zone**" means the region comprised of Member States of the European Union that have adopted the single currency in accordance with the Treaty establishing the European Community, as amended.

(ii) ***Determination of Floating Rate of Interest and Calculation of Interest Amount***

The Calculation Agent will, as soon as practicable after 11:00 a.m. (Brussels time) on each Interest Determination Date, but in no event later than the second Business Day after such date, determine the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class C Floating Rate of Interest and calculate the Interest Amount payable in respect of the Principal Amount Outstanding of the Class A Notes, the Class B Notes and the Class C Notes for the relevant Interest Accrual Period. The amount of interest payable in respect of the Class A Notes, the Class B Notes and the Class C Notes for each Authorised Integral Denomination shall be calculated by applying the Class A Floating Rate of Interest, in the case of the Class A Notes, the Class B Floating Rate of Interest, in the case of the Class B Notes, and the Class C Floating Rate of Interest, in the case of the Class C Notes, respectively, to an amount equal to the Principal Amount Outstanding in respect of each such Note, multiplying the product by the actual number of days in the Interest Accrual Period concerned divided by 360 and rounding the resultant figure to the nearest cent (half a cent being rounded upwards).

(iii) ***Reference Banks and Calculation Agent***

The Issuer will procure that, so long as any Class A Note, Class B Note and Class C Note remains Outstanding;

- (A) a Calculation Agent shall be appointed and maintained for the purposes of determining the interest rate and Interest Amount payable in respect of the Class A Notes, the Class B Notes and the Class C Notes, as applicable; and
- (B) in the event that the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and/or the Class C Floating Rate of Interest is to be calculated by reference to the rates quoted by Reference Banks pursuant to paragraph (B) of Condition 6(f)(i) (*Rate of Interest*) that the number of Reference Banks required pursuant to such Condition are appointed.

If the Calculation Agent is unable or unwilling to continue to act as the Calculation Agent for the purpose of calculating interest hereunder or fails duly to establish the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and/or the Class C Floating Rate of Interest for any Interest Accrual Period or to calculate the Interest Amount on the Class A Notes, the Class B Notes and/or the Class C Notes, the Issuer shall (with the prior approval of the Trustee) appoint some other leading bank to act as such in its place. The Calculation Agent may not resign its duties without a successor having been so appointed.

(g) ***Interest on the Class D Notes***

The Calculation Agent will on each Interest Determination Date calculate the Interest Amount payable to the extent of available funds in respect of each applicable Authorised Integral Denomination in original principal amount of the Class D Notes for the relevant Interest Accrual Period. The Interest Amount payable in respect of each Class D Note shall be paid on a pro rata and *pari passu* basis on the applicable Payment Date pursuant to paragraph (U) of Condition 3(c)(i) (*Application of Interest Proceeds*) and paragraph (I) of Condition 3(c)(ii) (*Application of Principal Proceeds*) determined by the proportion of the original principal amount of the Class D Notes held by the relevant Class D Noteholder to the Principal Amount Outstanding of the Class D Notes on the Issue Date.

If the aggregate of income and gains earned by the Issuer during an accounting period exceeds the costs and expenses accrued for that period, such excess shall accrue as interest on the Class D Notes but shall only be payable on any Payment Date following payment in full of all amounts payable in priority thereto pursuant to the Priorities of Payment on such Payment Date.

(h) ***Publication of Floating Rates of Interest, Interest Amounts and Deferred Interest***

The Calculation Agent will cause the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class C Floating Rate of Interest, the Interest Amount payable in respect of each Class of Notes, the amount of any Deferred Interest due but not paid on any Class of Notes for each Interest Accrual Period and Payment Date and the Principal Amount Outstanding of each Class of Notes as of the applicable Payment Date to be notified to the Issuer, the Registrar, the Trustee, the Irish Stock Exchange (for so long as the Notes are listed on such exchange), the Portfolio Servicer and the Paying Agent (including the Principal Paying Agent) as soon as possible after their determination but in no event later than the fourth Business Day thereafter, and the Principal Paying Agent shall cause each such rate, amount and date to be notified to the Noteholders of each Class in accordance with Condition 16 (*Notices*) as soon as possible following notification to the Principal Paying Agent but in no event later than the third Business Day after such notification. The Interest Amounts and Payment Date in respect of the Floating Rate Notes so published may subsequently be amended (or appropriate alternative arrangements made with the consent of the Trustee by way of adjustment) without notice in the event of an extension or shortening of the Interest Accrual Period. If any of the Notes become due and payable under Condition 10 (*Events of Default*), interest shall nevertheless continue to be calculated as previously by the Calculation Agent in accordance with this Condition 6(h) (*Publication of Floating Rates of Interest,*

*Interest Amounts and Deferred Interest*) but no publication of the applicable Interest Amounts shall be made unless the Trustee so determines.

(i) ***Determination or Calculation by Trustee***

If the Calculation Agent does not at any time for any reason (i) determine the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class C Floating Rate of Interest or (ii) calculate the Interest Amounts payable in respect of the Notes for an Interest Accrual Period, the Trustee (or a Person appointed by it for the purpose) shall do so and such determination or calculation shall be deemed to have been made by the Calculation Agent and shall be binding on the Noteholders. In doing so, the Trustee, or such Person appointed by it, shall apply the foregoing provisions of this Condition 6(i) (*Determination or Calculation by Trustee*), with any necessary consequential amendments, to the extent that, in its opinion, it can do so, and, in all other respects it shall do so in such manner as it shall deem fair and reasonable in all the circumstances and reliance on such Persons as it has appointed for such purpose. The Trustee shall have no liability to any Person in connection with any determination or calculation it is required to make pursuant to this Condition 6(i) (*Determination or Calculation by Trustee*).

(j) ***Notifications, etc. to be Final***

All notifications, opinions, determinations, certificates, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 6 (*Interest*), whether by the Reference Banks (or any of them), the Calculation Agent or the Trustee (or any Person appointed by it for such purpose), will (in the absence of wilful default, bad faith or manifest error) be binding on the Issuer, the Reference Banks, the Calculation Agent, the Trustee (and any Person appointed by it for such purpose), the Registrar, the Paying Agents and all Noteholders and (in the absence of manifest error) no liability to the Issuer or the Noteholders of any Class shall attach to the Reference Banks, the Calculation Agent or the Trustee in connection with the exercise or non exercise by them of their powers, duties and discretions under this Condition 6 (*Interest*).

7. **Redemption and Purchase**

(a) ***Final Redemption***

Save to the extent previously redeemed and cancelled, the Notes of each Class will be redeemed on the Maturity Date of such Notes. In the case of a redemption pursuant to this Condition 7(a) (*Final Redemption*), the Class A Notes, the Class B Notes and the Class C Notes will be redeemed at their Principal Amount Outstanding and the Class D Notes will be redeemed at the amount equal to their pro rata share of the amounts of Principal Proceeds to be applied towards such redemption pursuant to paragraph (G) of Condition 3(c)(ii) (*Application of Principal Proceeds*). Notes may not be redeemed other than in accordance with this Condition 7 (*Redemption and Purchase*).

(b) ***Optional Redemption***

(i) ***Redemption at the Option of the Class D Noteholders or the Holders of the Controlling Class***

Subject, in each case below, to the provisions of Condition 7(b)(iv) (*Conditions to Optional Redemption in Whole*) below, the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes shall be redeemed in whole by the Issuer at the applicable Redemption Prices, from the proceeds of liquidation or realisation of the Collateral applied in accordance with the Post-Acceleration Priority of Payments:

- (A) in whole but not in part, on any Payment Date, at the request of the holders of the Class D Notes acting by Extraordinary Resolution; or
- (B) in whole but not in part, on any Payment Date falling after the occurrence of a Collateral Tax Event at the request of the holders of the Class D Notes acting by Extraordinary Resolution and provided that a substitution or relocation of the

- Issuer or other reasonable measures would fail to remedy a Collateral Tax Event; or
- (C) in whole but not in part, upon the occurrence of a Note Tax Event which is continuing, at the request of the holders of the Controlling Class or the holders of the Class D Notes acting in either case by Extraordinary Resolution on any Payment Date falling after the earlier to occur of:
- (1) the date upon which the Issuer notifies the Noteholders that it is not able to effect (i) a substitution or (ii) a change of tax residence, in each case in accordance with Condition 9(b) (Substitution of Principal Obligor or Change in Tax Residence) and in accordance with the terms of the Trust Deed, and
  - (2) the date which is 90 days from the date upon which the Issuer first becomes aware of a Note Tax Event unless the Issuer has effected a substitution or changed its tax residence in accordance with Condition 9(b) (Substitution of Principal Obligor or Change in Tax Residence) in such 90 day period (provided that such 90-day period shall be extended by a further 90 days in the event that during the first 90-day period the Issuer has notified the Noteholders that, based on advice received by it, it expects that it shall have effected a substitution or changed its place of residence by the end of the second 90-day period).

The Issuer shall procure that notice of such redemption, including the applicable Redemption Date, shall be given to the Noteholders in accordance with Condition 16 (*Notices*) and the Trustee.

A "**Collateral Tax Event**" is the introduction of a new, or any change in, home jurisdiction or foreign tax statute, treaty, regulation, rule, ruling, practice, procedure or judicial decision or interpretation which results in payments due from the obligors under one or more Collateral Loan Obligations held by or on behalf of the Issuer becoming properly subject to the imposition of home jurisdiction or foreign withholding tax (other than where such withholding tax is compensated for by a "gross-up" provision in the terms of the Collateral Loan Obligation or such requirement to withhold is eliminated pursuant to a double tax treaty so that the holder thereof is held completely harmless from the full amount of such withholding tax on an after tax basis) which reduces in the aggregate by six per cent. or more the aggregate interest payments on all of the Collateral Loan Obligations held by or on behalf of the Issuer during the related Due Period.

A "**Note Tax Event**" is the introduction of a new, or any change in, the Issuer's home jurisdiction tax statute, treaty, regulation, rule, ruling, practice, procedure or judicial decision or interpretation which results in (or would on the next Payment Date result in) any payment of principal or interest on the Class A Notes, the Class B Notes, the Class C Notes or the Class D Notes becoming properly subject to any withholding tax (other than any withholding tax which arises in the circumstances described in Condition 9(b)(i), (ii), (iii) or (iv)) (*Substitution of Principal Obligor or Change in Tax Residence*).

(ii) ***Optional Redemption Clean-Up Call***

Subject to the provisions of Condition 7(b)(iv) (*Conditions to Optimal Redemption in Whole*) below, the Notes will be subject to redemption in whole but not in part at the applicable Redemption Prices on any Payment Date selected by the Portfolio Servicer which occurs on or after the Payment Date on which the Performing Portfolio Balance is less than or equal to 10 per cent. of the Initial Portfolio Balance (a "**Clean-Up Call Redemption**").

Upon receipt from the Portfolio Servicer of a direction in writing to effect a Clean-Up Call Redemption, the Issuer (or the Portfolio Servicer acting on its behalf) shall set the

Redemption Date and the Record Date (as defined in Condition 8(a) (*Method of Payment*)) and give 15 Business Days' prior written notice thereof to the Trustee, the Collateral Administrator, the Portfolio Servicer (if applicable), the Rating Agency and the Noteholders pursuant to Condition 16 (*Notices*). Any notice of a Clean-Up Call Redemption may be withdrawn by the Issuer (or the Portfolio Servicer acting on its behalf) up to the fourth Business Day prior to the scheduled Redemption Date by written notice to the Trustee, the Collateral Administrator, the Portfolio Servicer (if applicable), the Rating Agency and the Noteholders pursuant to Condition 16 (*Notices*) only if amounts equal to the Clean-Up Call Redemption Price are not received in full in immediately available funds by the fifth Business Day immediately preceding the Redemption Date. Notice of any such withdrawal of a notice of Clean-Up Call Redemption shall be given by the Issuer (or the Portfolio Servicer acting on its behalf). On the Redemption Date for a Clean-Up Call Redemption, the Clean-Up Call Redemption Price shall be distributed pursuant to the Post-Acceleration Priority of Payments.

(iii) ***Issuer Tax Event***

Subject to the provisions of Condition 7(b)(iv) (*Conditions to Optional Redemption in Whole*) below, the Issuer may, at its own discretion (upon notice to the Principal Paying Agent) or at the request of the Class D Noteholders acting by Extraordinary Resolution, redeem in whole, but not in part, on any Payment Date at the applicable Redemption Prices some or all of the Notes (on giving not less than seven or more than thirty days' irrevocable notice to the Noteholders) if the Issuer determines in good faith that:

- (a) it has, or there is a substantial likelihood that it will, become subject to withholding imposed on a payment made to it or be forced to liquidate its interest in a Collateral Loan Obligation on account of the Issuer's inability to comply with the reporting requirements imposed by sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended (the "**Code**") and the Treasury regulations (and any notices or official pronouncements promulgated thereunder (together with the Code, the "**Foreign Account Tax Compliance Provisions**"), provided that (1) such inability to comply with the reporting requirements is attributable to non-compliance by any Noteholder of such Notes (or a foreign withholding agent (if any) in the chain of custody of payments made to the relevant holder) with the Issuer's requests for certifications or identifying information (such holder a "**Recalcitrant Noteholder**") and (2) (in the reasonable determination of the Issuer) compliance with the reporting requirements would, or there is a substantial likelihood that it would, preclude such withholding; or
- (b) there is a substantial likelihood that it will otherwise violate its agreement (if any) with the U.S. taxing authority that it entered into with respect to the Foreign Account Tax Compliance Provisions,

each such event, an "**Issuer Tax Event**".

Upon an Issuer Tax Event, Notes held by Noteholders who are not Recalcitrant Noteholders, in addition to those held by Recalcitrant Noteholders, may be redeemed or terminated, even if, in the case of an Issuer Tax Event arising out of paragraph (b) above, such agreement only mandated the termination of the non-compliant holders. The Issuer shall procure that notice of such redemption, including the applicable Redemption Date, shall be given to the Noteholders in accordance with Condition 16 (*Notices*) and the Trustee.

(iv) ***Conditions to Optional Redemptions in Whole***

Following receipt of notice from the Issuer (or the Portfolio Servicer acting on behalf of the Issuer in accordance with (ii) (*Optional Redemption Clean-Up Call*) above) or, as the case may be, of confirmation from the Principal Paying Agent of receipt of a direction from the holder(s) of the requisite Principal Amount Outstanding of Class D

Notes or, as the case may be, the holders of the Controlling Class, to exercise any right of optional redemption of the Notes in whole pursuant to this Condition as set out in (v) (*Mechanics of Redemption*) below and subject to the establishment of a reasonable reserve as determined by the Trustee following consultation with the Portfolio Servicer and the Collateral Administrator for all administrative and other fees and expenses payable in such circumstances under the Priorities of Payment prior to the payment of principal on the Notes of each Class, the Collateral Administrator shall, (i) notify the Portfolio Servicer as soon as possible and in any event not less than 38 Business Days, or such shorter period as agreed between the Portfolio Servicer, the Trustee and the Issuer before the scheduled Redemption Date that it has received such notice and/or confirmation and (ii) as soon as practicable, calculate the "**Redemption Threshold Amount**", which amount shall be the aggregate of the Redemption Prices of the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes together with, in each case, all prior ranking amounts payable in accordance with the Priorities of Payment (taking into account any termination payments payable under any Interest Rate Swap Agreement upon termination thereof in such circumstances) on the scheduled Redemption Date to the extent such amounts are ascertainable on the Redemption Determination Date, provided that the Collateral Administrator may in its discretion provide a commercially reasonable estimate of all prior ranking amounts payable in accordance with the Priorities of Payment. The Collateral Administrator shall notify the Issuer, the Trustee and the Portfolio Servicer of the Redemption Threshold Amount on the Redemption Determination Date.

Following receipt of such notification from the Collateral Administrator, the Portfolio Servicer will use commercially reasonable efforts to estimate the current Market Value (expressed as a Euro amount) of the Portfolio based upon its reasonable commercial judgment in accordance with this paragraph. The Portfolio Servicer will advise the Collateral Administrator and the Trustee of such Market Value estimate no later than five Business Days after receipt of such notification.

The Notes shall not be optionally redeemed in whole pursuant to (i) (*Redemption at the Option of the Class D Noteholders or the Holders of the Controlling Class*), or (ii) (Optional Redemption Clean-Up Call) or (iii) Issuer Tax Event above unless:

- (a) at least 20 Business Days prior to the scheduled Redemption Date, the Issuer shall have provided the Noteholders with notice (in accordance with Condition 16 (*Notices*)) of such redemption; and
- (b) at least 20 Business Days before the scheduled Redemption Date, the Portfolio Servicer (on behalf of the Issuer) shall have furnished to the Trustee evidence, in form satisfactory to the Trustee, that the aggregate of:
  - (1) (A) the expected sale proceeds from a binding agreement or agreements entered into by the Issuer to purchase for settlement, not later than the Business Day immediately preceding the scheduled Redemption Date, in immediately available funds, all or part of the Portfolio; and/or
  - (B) the expected sale proceeds from a binding agreement or agreements entered into by the Issuer with (subject in each case to Rating Agency Confirmation unless the below mentioned fund or vehicle has the required issuer credit rating of "AA-/AYx" by S&P, in which case only notification to S&P is required) one or more funds or other vehicles established for the purpose of inter alia acquiring assets (either having an issuer credit rating of "AA-/A-1+" by S&P or having cash collateralised their obligation to purchase under the above described binding agreements), in each case with settlement dates on or prior to the Business Day immediately preceding the scheduled Redemption Date; and



- (2) the aggregate of the Balances standing to the credit of the Accounts on or about such date (as notified by the Collateral Administrator to the Portfolio Servicer), and all amounts scheduled to be received under any Interest Rate Swap Transaction on or prior to such scheduled Redemption Date,

is at least equal to the applicable Redemption Threshold Amount (as notified by the Collateral Administrator to the Portfolio Servicer on the Redemption Determination Date).

The Portfolio Servicer will bear no liability to any person (including Noteholders) in the event the sale proceeds from the sale, assignment, termination and/or other disposal of the Collateral Loan Obligations is less than the Market Value estimate.

Upon confirmation in writing from the Trustee that it is satisfied with the evidence referred to in (b) above, the Portfolio Servicer shall use commercially reasonable efforts to procure the sale, assignment, termination and/or other disposal of the Portfolio as soon as practicable (including, without limitation, pursuant to the binding agreements referred to in (b)(1)(A) and (B) above) so that the proceeds thereof are in immediately available funds not later than one Business Day prior to the scheduled Redemption Date. The Portfolio Servicer will use commercially reasonable efforts to procure that the settlement dates for any such sales of Collateral Loan Obligations shall be no later than one Business Day prior to the applicable scheduled Redemption Date.

If any proceeds are received by the Issuer on or after the scheduled Redemption Date (such proceeds being "**Late Liquidation Proceeds**"), then such Late Liquidation Proceeds shall be transferred to the Payment Account on the Business Day of such receipt and applied in satisfaction of any remaining amounts due and payable in accordance with the Post-Acceleration Priority of Payments on the Business Day immediately following such receipt or on such date thereafter that the Portfolio Servicer has determined in a commercially reasonable manner and notified to the Collateral Administrator until the earlier of (i) the receipt of all Late Liquidation Proceeds, and (ii) the Portfolio Servicer determining in its commercially reasonable judgment that such Late Liquidation Proceeds will never be received by the Issuer.

In liquidating the Portfolio, the Portfolio Servicer shall act solely as an agent of the Issuer and will not be responsible to any other person (including Noteholders) for the provision of such service. The Portfolio Servicer shall have no duties (including any fiduciary duties) or responsibilities to the Initial Purchaser, the Arranger, the Originator, the Noteholders or the Trustee and no fiduciary duties to the Issuer. In connection with the sale of all or a portion of the Portfolio on behalf of the Issuer (including, without limitation, pursuant to one or more binding agreements as described above), the Portfolio Servicing Agreement provides that the Portfolio Servicer, acting on behalf of the Issuer, may agree to sell and/or transfer assets and liabilities at prices determined by the Portfolio Servicer in a commercially reasonable manner, including, but not limited to, by reference to the bid side market price obtained from an internationally recognised pricing service, and the Portfolio Servicer shall have no liability to the Issuer, the Trustee, the Secured Parties or any other person for determining prices in such manner.

(v) ***Mechanics of Redemption***

Following calculation by the Collateral Administrator of the applicable Redemption Threshold Amount, the Collateral Administrator shall make such other calculations as it is required to make pursuant to the Portfolio Servicing Agreement and shall notify the Issuer, the Trustee, the Portfolio Servicer, the Registrar and each Rating Agency.

To exercise any option under this Condition 7(b) (*Optional Redemption*), the holders of the requisite Principal Amount Outstanding of Class D Notes or the holders of the requisite Principal Amount Outstanding of the Controlling Class (as applicable) must deliver to the Principal Paying Agent such Notes together with a duly completed

Redemption Notice not more than 60 nor less than 40 Business Days prior to the applicable Redemption Date. No Notes so delivered may be withdrawn without the prior written consent of the Issuer. The Principal Paying Agent shall copy each Redemption Notice received to each of the Issuer, the Trustee, the Collateral Administrator, the Registrar, the Portfolio Servicer and each Rating Agency.

The Portfolio Servicer shall notify the Issuer, the Trustee, the Collateral Administrator, each Interest Rate Swap Counterparty, the Principal Paying Agent, the Registrar and each Rating Agency, whereupon the Principal Paying Agent shall notify the Noteholders, upon satisfaction of any of the Conditions set out in (iv) (*Conditions to Optional Redemptions in Whole*) above. The Issuer shall deposit, or cause to be deposited, the funds required for an optional redemption of the Notes in accordance with this Condition 7(b) (*Optional Redemption*) in the Payment Account on or before the Business Day prior to the applicable Redemption Date. Principal Proceeds and Interest Proceeds received in connection with such redemption in whole shall be payable in accordance with the Post-Acceleration Priority of Payments specified in Condition 11(b) (*Enforcement*).

(c) ***Redemption in accordance with the Priorities of Payment***

Save to the extent previously redeemed and cancelled, the Notes of each Class will be redeemed on any Payment Date out of Principal Proceeds in accordance with the Priorities of Payment as set out in Condition 3(c)(ii) (*Application of Principal Proceeds*), or Condition 11(b) (*Enforcement*).

(d) ***Redemption***

All Notes in respect of which any notice of redemption is given under Condition 7(b) (*Optional Redemption*) shall be redeemed on the Redemption Date at their applicable Redemption Prices and to the extent specified in such notice and in accordance with the requirements of this Condition 7 (*Redemption and Purchase*).

(e) ***Purchase of Notes by the Issuer***

The Issuer may not purchase any of the Notes at any time.

(f) ***Cancellation***

All Notes redeemed in full, in accordance with this Condition 7 (*Redemption and Purchase*), will be cancelled and may not be reissued or resold.

(g) ***Redemption of the Class D Notes***

Notwithstanding any other provisions of the Conditions or the Trust Deed, all references herein and therein to any of the Class D Notes being redeemed in full or at their Principal Amount Outstanding shall be deemed to be amended to the extent required to ensure that €1 principal amount of each such Class of Notes remains Outstanding at all times and any amounts which are to be applied in redemption of such Notes pursuant hereto which are in excess of the Principal Amount Outstanding thereof minus €1, shall constitute interest payable in respect of such Notes and shall not be applied in redemption of the Principal Amount Outstanding thereof, provided always however that such €1 shall no longer remain Outstanding and each such Class of Notes shall be redeemed in full on the date on which all of the Collateral securing the Notes has been realised and is to be finally distributed to the Noteholders.

8. **Payments**

(a) ***Method of Payment***

Payments of principal upon final redemption in respect of each Note will be made to the holder (or to the first named of joint holders) of the Note appearing on the Register against presentation and surrender (or, in the case of part payment only, endorsement) of the Note at

the specified office of the Registrar or any Paying Agent by either bank transfer or euro cheque drawn on a bank in Europe. Payments of interest on each Note and, prior to redemption in full thereof, principal in respect of each Note, will be made to the Noteholder whose name appears in the Register. Payments will be made by either bank transfer or euro cheque drawn on a bank in Europe and posted on the Business Day immediately preceding the relevant due date to the holder (or to the first named of joint holders) of the Note appearing on the Register at the close of business on the fifteenth day before the relevant due date (the "**Record Date**") at his or her address shown on the register on the Record Date. Upon application of the holder to the specified office of the Registrar or any Paying Agent not less than five Business Days before the due date for any payment in respect of a Note, the payment may be made (in the case of any final payment of principal against presentation and surrender (or, in the case of part payment only of such final payment, endorsement) of the Note as provided above) by wire transfer, in immediately available funds, on the due date to a euro account maintained by the payee with a bank in Europe.

(b) ***Payments Subject to Fiscal Laws***

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 9 (*Taxation*). No commission shall be charged to the Noteholders.

(c) ***Payments on Presentation Dates***

A holder shall be entitled to present a Note for payment only on a Presentation Date and shall not, except as provided in Condition 6 (*Interest*), be entitled to any further interest or other payment if a Presentation Date is after the due date.

If a Note is presented for payment at a time when, as a result of differences in time zones it is not practicable to transfer the relevant amount to an account as referred to above for value on the relevant Presentation Date, the Issuer shall not be obliged so to do but shall be obliged to transfer the relevant amount to the account for value on the first practicable date after the Presentation Date.

(d) ***Registrar and Paying Agents***

The names of the initial Registrar and Paying Agents and their initial specified offices are set out below. The Issuer reserves the right at any time, with the approval of the Trustee, to vary or terminate the appointment of the Registrar and any Paying Agent and appoint additional or other agents, provided that (A) it will maintain (i) a Registrar and (ii) Paying Agents having specified offices in at least two major European cities approved by the Trustee and (B) it will appoint an additional paying agent in a Member State of the European Union that will not be obliged to withhold or deduct tax pursuant to the Directive (as defined below) and shall procure that it shall at all times maintain a Custodian, Account Bank, Portfolio Servicer and Collateral Administrator. Notice of any change in any of the Registrar, the Principal Paying Agent, the Paying Agents, the Account Bank or the Custodian or of their specified offices or in Collateral Administrator will promptly be given to the Noteholders by the Issuer in accordance with Condition 16 (*Notices*).

9. **Taxation**

(a) ***Withholding***

All payments of principal and interest in respect of the Notes shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or within The Netherlands (or any other country), or any political sub-division or any authority therein or thereof having power to tax, unless such withholding or deduction is required by law or by agreement with a taxing authority. For the avoidance of doubt, the Issuer shall not be required to gross-up any payments made to Noteholders of any Class and shall withhold or deduct from any such payments any amounts on account of tax where so required by law or any relevant taxing authority or by agreement with a taxing authority. If the Issuer is so required to withhold, then the Issuer will instruct the Collateral Administrator and Paying Agents to so

withhold. Any such withholding or deduction shall not constitute an Event of Default under Condition 10(a) (*Events of Default*).

(b) ***Substitution of Principal Obligor or Change in Tax Residence***

Subject as provided below, if the Issuer satisfies the Trustee by whatever means the Trustee shall deem appropriate in its sole discretion that it has or will on the occasion of the next payment due in respect of the Notes of any Class become obliged by the laws of The Netherlands to withhold or account for tax so that it would be unable to make payment of the full amount then due, the Issuer (with the consent of the Trustee and save as provided below) shall use all reasonable endeavours to arrange for the substitution of a company incorporated in another jurisdiction approved by the Trustee and as the principal obligor under the Notes of such Class, or to change its tax residence to another jurisdiction approved by the Trustee, subject to receipt by the Trustee of Rating Agency Confirmation in respect of such substitution or change (subject to receipt of such information and/or opinions as the Rating Agency may require), provided that any such substitution or change of residence does not cause the Issuer to be subject to tax.

Notwithstanding the above, if any taxes referred to in this Condition 9 (*Taxation*) arise:

- (i) due to the connection of any Noteholder with The Netherlands otherwise than by reason only of the holding of any Note or receiving principal or interest in respect thereof; or
- (ii) by reason of the failure by the relevant Noteholder to comply with any applicable procedures required to establish non-residence or other similar claim for exemption from such tax; or
- (iii) in respect of a payment made or secured for the immediate benefit of an individual or a non-corporate entity pursuant to Council Directive 2003/48/EC on Taxation of Savings Income in the Form of Interest Payments or any law implementing or complying with, or introduced in order to conform to, such Directive, or any arrangements entered into between the Member States and certain other third countries and territories in connection with the Directive; or
- (iv) as a result of presentation for payment by or on behalf of a Noteholder who would have been able to avoid such withholding or deduction by presenting the Note to another Paying Agent in a Member State of the European Union,

the requirement to substitute the Issuer as a principal obligor and/or change its residence for taxation purposes shall not apply.

10. **Events of Default**

(a) ***Events of Default***

The occurrence of any of the following events shall constitute an "**Event of Default**":

(i) ***Non-payment of interest***

the Issuer fails to pay any Interest Amount in respect of any Class A Notes when the same becomes due and payable, or following redemption and payment in full of the Class A Notes and subject to satisfaction of the Class B Deficiency Test, the Issuer fails to pay any Interest Amount in respect of any Class B Notes when the same becomes due and payable, or following redemption and payment in full of the Class B Notes and subject to satisfaction of the Class C Deficiency Test, the Issuer fails to pay any Interest Amount in respect of any Class C Notes when the same becomes due and payable, save, in each case, as the result of any deduction therefrom or the imposition of withholding tax thereon, provided that any such failure to pay such interest continues for a period of five Business Days unless such failure results from an administrative error, in which case, a period of seven Business Days. For the avoidance of doubt, non-payment of Interest Amounts on the Class B Notes and the Class C Notes as a

result of a failure to satisfy the applicable Principal Deficiency Test shall not constitute an Event of Default;

(ii) ***Non-payment of principal***

the Issuer fails to pay any principal when the same becomes due and payable on any Note on any Redemption Date;

(iii) ***Default under Priorities of Payment***

other than a failure already referred to in (i) and (ii) above, the Issuer fails on any Payment Date to disburse amounts available in the Payment Account in accordance with the Priorities of Payment, which failure continues for a period of five Business Days;

(iv) ***Breach of Other Obligations***

the Issuer does not perform or comply with any other of its covenants, warranties or other agreements of the Issuer under the Transaction Documents (other than a covenant, warranty or other agreement a default in the performance or breach of which is dealt with elsewhere in this Condition 10(a) (*Events of Default*) and other than the failure to meet the Class B Principal Deficiency Test, the Class C Principal Deficiency Test, the Collateral Quality Tests or the Portfolio Profile Tests), or any representation, warranty or statement of the Issuer made in the Trust Deed, or in any certificate or other writing delivered pursuant thereto, or in connection therewith ceases to be correct in all material respects when the same shall have been made, and the continuation of such default, breach or failure for a period of 30 days (or 15 days, in the case of any default, breach or failure of representation or warranty in respect of the Collateral) after notice thereof shall have been given, by registered or certified mail or overnight courier, to the Issuer by the Trustee specifying such default, breach or failure and requiring it to be remedied and stating that such notice is a "**Notice of Default**" hereunder provided that such default breach or failure is materially prejudicial to the interests of the Noteholders of any Class, as determined by the Trustee;

(v) ***Insolvency Proceedings***

proceedings are initiated against the Issuer under any applicable liquidation, insolvency, bankruptcy, composition, examinership, reorganisation or other similar laws (together, "**Insolvency Law**"), or an examiner, receiver, trustee, administrator, administrative receiver, custodian, conservator or other similar official (a "**Receiver**") is appointed in relation to the Issuer or in relation to the whole or, in the opinion of the Trustee, any substantial part of the undertaking or assets of the Issuer; or a winding-up petition is presented in respect of, or a winding-up order (including judicial liquidation) is applied for by, or a distress or execution or other process is levied or enforced upon or sued out against the whole or, in the opinion of the Trustee, any substantial part of the undertaking or assets of the Issuer; or the Issuer becomes or is, or could be deemed by law or a court to be, insolvent or bankrupt or unable to pay its debts, or initiates or consents to judicial proceedings relating to itself under any applicable Insolvency Law, or seeks the appointment of a Receiver, or makes a conveyance or assignment for the benefit of its creditors generally or otherwise becomes subject to any reorganisation or amalgamation (other than on terms previously approved in writing by the Trustee);

(vi) ***Illegality***

it is or will become unlawful for the Issuer to perform or comply with any one or more of its obligations under the Notes;

(vii) ***Investment Company Act***

the Issuer or the pool of collateral are required to be registered under the Investment Company Act.

(b) ***Acceleration***

- (i) If an Event of Default occurs and is continuing, the Trustee shall, at the direction of the Controlling Class acting by Extraordinary Resolution (subject to being indemnified and/or secured and/or prefunded to its satisfaction against all liabilities, proceedings, claims and demands to which the Trustee may thereby become liable and all costs, charges and expenses which may be incurred by the Trustee in connection therewith), give notice to the Issuer that all the Notes are to be immediately due and payable (such notice an "**Acceleration Notice**").
- (ii) Upon any such notice being given to the Issuer in accordance with (i) above, all of the Notes shall immediately become due and repayable at their applicable Redemption Prices.

(c) ***Curing of Default***

At any time after an Acceleration Notice has been given following the occurrence of an Event of Default and prior to enforcement of the security pursuant to Condition 11 (*Enforcement*), the Trustee, at its discretion, may or, if directed by the Controlling Class acting by Extraordinary Resolution, shall (in each case, subject to being indemnified and/or secured and/or prefunded to its satisfaction against all liabilities, proceedings, claims and demands to which the Trustee may thereby become liable and all costs, charges and expenses which may be incurred by the Trustee in connection therewith) rescind and annul such notice of acceleration under Condition 10(b)(i) (*Acceleration*) above and its consequences if:

- (i) the Issuer has paid or deposited with the Trustee a sum sufficient to pay:
  - (A) all overdue payments of interest and principal on the Notes, other than the Class D Notes;
  - (B) all due but unpaid taxes owing by the Issuer, as certified by an authorised officer of the Issuer to the Trustee;
  - (C) all unpaid Trustee Fees and Expenses;
  - (D) all unpaid Administrative Expenses;
  - (E) all amounts due and payable under the Interest Rate Swap Agreements; and
  - (F) all unpaid Portfolio Servicing Fees; and
- (ii) the Trustee is satisfied (upon receipt of expert advice or other certifications or confirmations, which it may obtain in its absolute discretion) that all Events of Default, other than the non payment of the interest in respect of, or principal of, the Notes that have become due solely as a result of the acceleration thereof under Condition 10(b) (*Acceleration*) above due to the occurrence of such Events of Default, have been cured or waived.

Any previous rescission and annulment of an Acceleration Notice pursuant to this Condition 10(c) (*Curing of Default*) shall not prevent the subsequent acceleration of the Notes if the Trustee accelerates in accordance with Condition 10(b) (*Acceleration*), at its discretion or, if subsequently directed to accelerate the Notes in accordance with Condition 10(b)(i) (*Acceleration*) above.

(d) ***Notification and Confirmation of No Default***

The Issuer shall promptly notify the Trustee, the Portfolio Servicer and the Rating Agencies upon becoming aware of the occurrence of an Event of Default. The Trust Deed contains provision for the Issuer to provide written confirmation to the Trustee and the Rating Agency on an annual basis or on request that no Event of Default has occurred and that no Condition, event or act has occurred which, with the lapse of time and/or the issue, making or giving of any notice, certification, declaration and/or request and/or the taking of any similar action

and/or the fulfilment of any similar Condition could constitute an Event of Default and that no other matter which is required (pursuant thereto) to be brought to the Trustee's attention has occurred.

11. **Enforcement**

(a) ***Security Becoming Enforceable***

The security constituted under the Trust Deed and the Spanish Accounts Pledge Agreement over the Collateral shall become enforceable upon an acceleration of the maturity of the Notes pursuant to Condition 10 (*Events of Default*).

Prior to any application of the Post-Acceleration Priority of Payments, the Counterparty Downgrade Collateral (if any) under the relevant Interest Rate Swap Agreement which is required to be paid or delivered to the relevant Interest Rate Swap Counterparty subject to and in accordance with the terms of the relevant Interest Rate Swap Agreement will be so paid or delivered by the Issuer.

(b) ***Enforcement***

At any time after the Notes become due and payable and the security under the Trust Deed becomes enforceable, the Trustee, to the extent permitted under any applicable laws but subject to Condition 4(c) (*Limited Recourse*), may, at its discretion and without further notice, appoint a Receiver to enforce the terms of the Trust Deed and the Notes and, pursuant and subject to the terms of the Trust Deed, realise and/or otherwise liquidate the Collateral and/or take such action as may be permitted under applicable laws against any obligor in respect of the Collateral and/or take any other action to enforce the security over the Collateral, in each case, without any liability as to the consequence of any action and without having regard (save to the extent provided in Condition 14(e) (*Entitlement of the Trustee and Conflicts of Interest*)) to the effect of such action on individual Noteholders of such Class or any other Secured Party.

The Trustee shall not be bound to institute any such proceedings or take any such other action unless it is directed to do so by the holders of the Controlling Class acting by Extraordinary Resolution (provided that the Trustee is indemnified and/or secured and/or prefunded to its satisfaction against all liabilities, proceedings, claims and demands to which it may thereby become liable and all costs, charges and expenses which may be incurred by the Trustee in connection therewith).

Following the delivery of an Acceleration Notice which has not been rescinded and annulled in accordance with Condition 10(c) (*Curing of Default*) or pursuant to an optional redemption in whole in accordance with Condition 7(b) (*Optional Redemption*), Interest Proceeds, Principal Proceeds and the net proceeds of enforcement of the security over the Collateral (other than with respect to any Counterparty Downgrade Collateral which is required to be paid or returned to the Interest Rate Swap Counterparty outside the Priorities of Payment in accordance with the Interest Rate Swap Agreement) shall be credited to the Payment Account or such other account as the holders of the Class of Notes entitled to direct the Trustee with respect to enforcement (in accordance with the previous paragraph) shall designate to the Trustee and shall be distributed in accordance with the following order of priority but in each case only to the extent that all payments of a higher priority have been made in full (the "**Post-Acceleration Priority of Payment**"):

- (A) to the payment of any Trustee Fees and Expenses up to an amount equal to the Administrative Expenses Cap in respect of the related Due Period, provided that the Administrative Expenses Cap and the reference to the related Due Period shall not apply to this paragraph following the occurrence of an Enforcement Event or the occurrence of an Event of Default (for so long as the Event of Default is continuing);
- (B) to the payment of any Administrative Expenses, up to an amount equal to the Administrative Expenses Cap less any amounts paid pursuant to paragraph (A) above;

- (C) on a pro rata basis, to the payment of all amounts then due and payable in respect of the Portfolio Servicing Fee;
- (D) to the payment of all amounts then due and payable in respect of the Interest Rate Swap Agreement (other than any Defaulted Interest Rate Swap Termination Payments and any Interest Rate Swap Termination Payments).
- (E) on a pro rata basis, to the payment of all Interest Amounts on the Class A Notes and the Principal Amount Outstanding of the Class A Notes;
- (F) on a pro rata basis, to the payment of all Interest Amounts on the Class B Notes and the Principal Amount Outstanding of the Class B Notes;
- (G) on a pro rata basis, to the payment of all Interest Amounts on the Class C Notes and the Principal Amount Outstanding of the Class C Notes;
- (H) to the payment of firstly, Trustee Fees and Expenses and thereafter any Administrative Expenses to the extent not paid in accordance with paragraphs (A) and (B) above;
- (I) to the payment of (i) any Interest Rate Swap Termination Payments and (ii) any Defaulted Interest Rate Swap Termination Payments; and
- (J) thereafter, any remaining amounts in payment to the Class D Notes on a pro rata basis.

(c) ***Only Trustee to Act***

Only the Trustee may pursue the remedies available under the Trust Deed to enforce the rights of the Noteholders or of any of the other Secured Parties and no such Noteholder or Secured Party is entitled to proceed directly against the Issuer or any of its assets unless the Trustee, having become bound to proceed in accordance with the terms of the Trust Deed, fails or neglects to do so within a reasonable period of time. Any proceeds received by a Noteholder or other Secured Party pursuant to any such proceedings brought by a Noteholder or other Secured Party shall be paid promptly following receipt thereof to the Trustee for application pursuant to the terms of the Trust Deed.

(d) ***Purchase of Collateral by Noteholders***

Upon any sale of any part of the Collateral following the occurrence of an Event of Default, whether made under the power of sale under the Trust Deed or by virtue of judicial proceedings, any Noteholder may (but shall not be obliged to) bid for and purchase the Collateral or any part thereof and, upon compliance with the terms of sale, may hold, retain, possess or dispose of such property in its or their own absolute right without accountability. For the avoidance of doubt, nothing in this clause shall prevent any Noteholder from making a bid for or purchasing the Collateral or any part thereof at any time prior to an Event of Default. In addition, any purchaser in any such sale which is a Noteholder may deliver Notes held by it in place of payment of the purchase price for such Collateral where the amount payable to such Noteholder in respect of such Notes pursuant to the Priorities of Payment out of the net proceeds of such sale is equal to or exceeds the purchase monies so payable.

12. **Prescription**

Claims in respect of principal and interest payable on redemption in full of the relevant registered Notes will become void unless payment is made as required by Condition 8 (*Payments*) within a period of five years, in the case of interest, and ten years, in the case of principal, from the appropriate Record Date.

13. **Replacement of Notes**

If any Note is lost, stolen, mutilated, defaced or destroyed it may be replaced at the specified office of the Principal Paying Agent, subject in each case to all applicable laws and Irish Stock



Exchange requirements (for so long as the Notes are listed on such exchange), upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence, security, indemnity and otherwise as the Issuer may require (provided that the requirement is reasonable in the light of prevailing market practice). Mutilated or defaced Notes must be surrendered before replacements will be issued.

14. **Meetings of Noteholders, Modification, Waiver and Substitution**

(a) ***Provisions in Trust Deed***

The Trust Deed contains provisions for convening meetings of the Noteholders (and for passing Written Resolutions) to consider matters affecting the interests of the Noteholders including, without limitation, modifying or waiving certain of the provisions of these Conditions and the substitution of the Issuer in certain circumstances. The provisions in this Condition 14 (*Meetings of Noteholders, Modification, Waiver and Substitution*) are descriptive of the detailed provisions of the Trust Deed.

(b) ***Decisions and Meetings of Noteholders***

(i) ***General***

Decisions may be taken by Noteholders by way of Ordinary Resolution or, to the extent required, Extraordinary Resolution, in each case, either acting together or, to the extent specified in any applicable Transaction Document, as a Class of Noteholders acting independently. Such Resolutions can be effected either at a duly convened meeting of the applicable Noteholders or by the applicable Noteholders resolving in writing, in each case, in at least the minimum percentages specified in the table "**Minimum Percentage Voting Requirements**" in paragraph (iii) (*Minimum Voting Rights*) below. Meetings of the Noteholders may be convened by the Issuer, the Trustee or by one or more Noteholders holding not less than 50 per cent. in Principal Amount Outstanding of the Notes of a particular Class, subject to certain Conditions including minimum notice periods.

The Trustee may, in its discretion, determine that any proposed Ordinary Resolution or Extraordinary Resolution affects only the holders of one or more Classes of Notes, in which event the required quorum and minimum percentage voting requirements of such Ordinary Resolution or Extraordinary Resolution may be determined by reference only to the holders of that Class or Classes of Notes and not the holders of any other Notes as set forth in the tables below.

(ii) ***Quorum***

The quorum required for any meeting convened to consider an Ordinary Resolution or Extraordinary Resolution, in each case, of all the Noteholders or of a specified Class of Noteholders, or at any adjourned meeting to consider such a Resolution, shall be as set out in the relevant column and row corresponding to the type of Resolution in the table "*Quorum Requirements*" below.

**Quorum Requirements**

<b>Type of Resolution</b>	<b>Any meeting other than a meeting adjourned for want of quorum</b>	<b>Meeting previously adjourned for want of quorum</b>
Extraordinary Resolution of all Noteholders (or a certain Class or Classes only)	One or more persons holding or representing not less than 66 $\frac{2}{3}$ per cent. of the aggregate Principal Amount Outstanding of each Class of Notes (or the relevant Class or Classes only, if applicable)	One or more persons holding or representing not less than 25 per cent. of the aggregate Principal Amount Outstanding of each Class of Notes (or of the relevant Class or Classes only, if applicable)

Type of Resolution	Any meeting other than a meeting adjourned for want of quorum	Meeting previously adjourned for want of quorum
		applicable)
Ordinary Resolution of all Noteholders (or a certain Class or Classes only)	One or more persons holding or representing not less than 50 per cent. of the aggregate Principal Amount Outstanding of each Class of Notes (or the relevant Class or Classes only, if applicable)	One or more persons holding or representing any Notes (or any Notes of the relevant Class or Classes only, if applicable) regardless of the aggregate Principal Amount Outstanding of each Class of Notes (or of the relevant Class or Classes only, if applicable) so held or represented

The Trust Deed does not contain any provision for higher quorums in any circumstances.

(iii) **Minimum Voting Rights**

Set out in the table "**Minimum Percentage Voting Requirements**" below are the minimum percentages required to pass the Resolutions specified in such table which (A) in the event that such Resolution is being considered at a duly convened meeting of Noteholders, shall be determined by reference to the percentage which the aggregate Principal Amount Outstanding of Notes which have voted in favour of such Resolution represents of the aggregate Principal Amount Outstanding of all applicable Notes which have voted at such meeting or (B) in the case of any Written Resolution, shall be determined by reference to the percentage which the aggregate Principal Amount Outstanding of the Notes which have voted in favour of such Resolution represents of the aggregate Principal Amount Outstanding of all the Notes entitled to be voted on in respect of such Written Resolution.

The voting threshold at any Noteholders' meeting in respect of an Ordinary Resolution or an Extraordinary Resolution of all Noteholders is, respectively, more than 50 per cent. or at least 66⅔ per cent. of the aggregate of the Principal Amount Outstanding of the Notes of each Class of those Notes represented at the meeting and entitled to vote. Accordingly, it is likely that, at any meeting of the Noteholders, an Ordinary Resolution or an Extraordinary Resolution may be passed with less than 50 per cent. or 66⅔ per cent. respectively of all the Noteholders of each Class of Notes or relevant Class or Classes of Notes, as applicable.

**Minimum Percentage Voting Requirements**

Type of Resolution	Minimum percentage of Principal Amount Outstanding
Extraordinary Resolution of all Noteholders (or a certain Class or Classes only)	66⅔ per cent.
Ordinary Resolution of all Noteholders (or a certain Class or Classes only)	More than 50 per cent.

(iv) **Written Resolutions**

Any Written Resolution may be contained in one document or in several documents in like form each signed by or on behalf of one or more of the relevant Noteholders

holding not less than the "Minimum Percentage Voting Requirements" as described above and as determined in accordance with Condition 14b(iii)(B) and the date of such Written Resolution shall be the date on which the latest such document is signed.

(v) ***All Resolutions Binding***

Any Resolution of the Noteholders duly passed shall be binding on all Noteholders (regardless of Class and regardless of whether or not a Noteholder was present at the meeting at which such Resolution was passed, if applicable).

(vi) ***Extraordinary Resolution***

Any Resolution to sanction any of the following items will be required to be passed by an Extraordinary Resolution (in each case, subject to anything else contemplated in the Trust Deed (other than (C) below) or the relevant Transaction Document, as applicable):

- (A) the exchange or substitution of the Notes of a Class for, or the conversion of the Notes of a Class into, shares, bonds or other obligations or securities of the Issuer or any other entity;
- (B) the modification of any provision relating to the timing and/or circumstances of redemption of the Notes of a Class at maturity or otherwise (including the circumstances in which the maturity of such Notes may be accelerated);
- (C) the modification of any of the provisions of the Trust Deed which would directly and adversely affect the calculation of the amount of any payment of interest or principal on any Note;
- (D) the adjustment of the Principal Amount Outstanding of the Notes of the relevant Class;
- (E) a change in the currency of payment of the Notes of a Class;
- (F) any change in the Priorities of Payments;
- (G) the modification of the provisions concerning the quorum required at any meeting of Noteholders or the minimum percentage required to pass an Extraordinary Resolution or any other provision of these Conditions which requires the written consent of the holders of a requisite principal amount of the Notes of any Class Outstanding;
- (H) any modification of any Transaction Document having a material adverse effect on the security over the Collateral constituted by the Trust Deed;
- (I) any item requiring approval by Extraordinary Resolution pursuant to these Conditions or any Transaction Document;
- (J) any modification of this Condition 14(b); and
- (K) the removal of the Rating Agency, by the holders of the Class A Notes, acting independently.

(c) ***Modification and Waiver***

The Trust Deed and the Portfolio Servicing Agreement provide that, the Trustee may, in the case of paragraphs (i), (xiii), (xiv) and (xv) below, and shall in the case of paragraphs (ii)-(xii) (inclusive), at any time concur with the Issuer to effect or grant, without the consent of the Noteholders and without any requirement for the Trustee to consult the Noteholders, save in respect of paragraph (x) below which is subject to the approval of the Controlling Class acting by Extraordinary Resolution, (and without prejudice to its rights in respect of any subsequent breach) any such amendments, modifications, supplements and/or waivers of the relevant

provisions of the Trust Deed and/or Conditions and/or any other Transaction Document (subject to the consent of the other parties thereto (other than, for the avoidance of doubt, the Noteholders)) for any of the following purposes:

- (i) to add to the covenants of the Issuer for the benefit of the Noteholders or to surrender any right or power in the Trust Deed or the Portfolio Servicing Agreement conferred upon the Issuer, where in the opinion of the Trustee, such addition or surrender is not materially prejudicial to the interests of the Noteholders of any Class;
- (ii) to charge, convey, transfer, assign, mortgage or pledge any property to or with the Trustee for the benefit of the Secured Parties;
- (iii) to correct or amplify the description of any property at any time subject to the security of the Trust Deed, or to better assure, convey and confirm unto the Trustee any property subject or required to be subject to the security of the Trust Deed (including, without limitation, any and all actions necessary or desirable as a result of changes in law or regulations) or to subject to the security of the Trust Deed any additional property;
- (iv) to evidence and provide for the acceptance of appointment under the Trust Deed by a successor Trustee subject to and in accordance with the terms of the Trust Deed and to add to or change any of the provisions of the Trust Deed as shall be necessary to facilitate the administration of the trusts under the Trust Deed by more than one Trustee, pursuant to the requirements of the relevant provisions of the Trust Deed;
- (v) to modify the restrictions on and procedures for resales and other transfers of Notes to reflect any changes in applicable law or regulation (or the interpretation thereof) or to enable the Issuer to rely upon any exemption from registration under the Securities Act or the Investment Company Act or applicable Dutch banking or securities laws or to remove restrictions on resale and transfer to the extent not required thereunder or otherwise to make any such modifications to the restrictions on and procedures for resales and other transfers of Notes as shall be necessary or advisable;
- (vi) to make such changes as shall be necessary or advisable in order for the Notes to be (or to remain) listed on the Irish Stock Exchange or any other exchange;
- (vii) save as contemplated pursuant to paragraph (d) (*Substitution*) below, to take any action advisable to prevent the Issuer from becoming subject to withholding or other taxes, fees or assessments;
- (viii) to take any action advisable to prevent the Issuer from being treated as resident in Spain for Spanish tax purposes, as trading in Spain through a Spanish permanent establishment for Spanish tax purposes or as subject to Spanish VAT in respect of Portfolio Servicing Fees;
- (ix) to take any action advisable to prevent the Issuer from being treated as engaged in a United States trade or business or otherwise be subject to United States federal, state or local income tax on a net income basis;
- (x) to enter into any additional agreements not expressly prohibited by the Trust Deed or the Portfolio Servicing Agreement (as applicable), subject to the approval of the Controlling Class acting by Extraordinary Resolution;
- (xi) to evidence any waiver by the Rating Agency as to any requirement (or condition in the Trust Deed, the Portfolio Servicing Agreement or any other Transaction Document (as applicable)), of the Rating Agency;
- (xii) to modify the calculation of any Collateral Quality Tests or Portfolio Profile Tests to correspond with changes in the guidelines, methodology or standards established by the Rating Agency or to amend any material misstatement of such guidelines, methodology or standards or any provision inconsistent therewith;

- (xiii) to make any other modification of any of the provisions of the Trust Deed or any other Transaction Document which, in the opinion of the Trustee, is of a formal, minor or technical nature or is made to correct a manifest error or cure any ambiguity;
- (xiv) (save as otherwise provided in the Trust Deed or the relevant Transaction Document), to make any other modification to any provisions of the Trust Deed, the Notes or any other Transaction Document that is, in the opinion of the Trustee, not materially prejudicial to the interests of the Noteholders; and
- (xv) (save as otherwise provided in the Trust Deed or the relevant Transaction Document), grant any waiver or authorisation of any breach or proposed breach of, any of the provisions of the Trust Deed or any other Transaction Document which is, in the opinion of the Trustee, not materially prejudicial to the interests of the Noteholders of any Class.

Any such modification, authorisation or waiver shall be binding on all Noteholders and shall, (save in the case of paragraph (xiii) above) be subject to receipt of Rating Agency Confirmation from the Rating Agencies and to notice being given to the Noteholders as soon as practicable in accordance with Condition 16 (*Notices*), provided that the Trustee shall be entitled to obtain such advice in connection therewith and give such consent as it sees fit. Any such fees and/or charges incurred by the Trustee in connection with such advice shall be for the account of the Issuer.

In relation to any matter falling within paragraphs (ii)-(xii) above, the Trustee shall be obliged to give its consent to such matter (including in relation to any matter falling within paragraph (x) which is subject to approval of the Controlling Class acting by Extraordinary Resolution) even if such matter is, or may be, prejudicial or materially prejudicial to the interests of the Noteholders of any Class. The Trustee shall not be liable to any Noteholder of any Class or any other person for any loss occasioned by consenting to or concurring in the implementation of any such matter.

Under no circumstances shall the Trustee be required to give such consent on less than 21 days' notice and shall be entitled to obtain such advice and/or opinions and/or certificates in connection with giving such consent as it sees fit (and to be indemnified and/or secured and/or prefunded in respect of all of its costs, expenses and charges in obtaining such advice and/or opinions and/or certificates) but, subject to the foregoing, shall not be entitled to withhold its consent or subject consent to the direction or approval of any Noteholders, where the proposed amendment, modification, supplement or waiver falls within any of paragraphs (ii) to (ix) and (xi) to (xiii) (inclusive) above and does not impose additional obligations, or duties or liabilities on the Trustee.

(d) ***Substitution***

The Trust Deed contains provisions permitting the Trustee to agree, subject to such amendment of the Trust Deed and such other condition as the Trustee may require, but without the consent of the Noteholders of any Class, to the substitution of any other company in place of the Issuer, or of any previous substituted company, as principal debtor under the Trust Deed and the Notes of each Class, if required for taxation purposes. In the case of such a substitution the Trustee may agree, without the consent of the Noteholders, but subject to receipt by the Trustee of Rating Agency Confirmation (subject to receipt of such information and/or opinions as the Rating Agency may require), to a change of the law governing the Notes and/or the Trust Deed, provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Noteholders of any Class. Any substitution agreed by the Trustee pursuant to this Condition 14(d) (*Substitution*) shall be binding on the Noteholders, and shall be notified to the Noteholders and the Irish Stock Exchange (for so long as the Notes are listed on such exchange) as soon as practicable in accordance with Condition 16 (*Notices*).

The Trustee may, subject to the satisfaction of certain condition, including receipt by the Trustee of Rating Agency Confirmation, agree to a change in the place of residence of the Issuer for taxation purposes without the consent of the Noteholders of any Class, provided the

Issuer does all such things as the Trustee may reasonably require in order that such change in the place of residence of the Issuer for taxation purposes is fully effective and complies with such other requirements which are in the interests of the Noteholders as it may reasonably direct.

(e) ***Entitlement of the Trustee and Conflicts of Interest***

The Trust Deed provides that in connection with the exercise of its trusts, powers, duties and discretions (including but not limited to those referred to in this Condition) the Trustee shall have regard to the interests of each Class of Noteholders as a Class and shall not have regard to the consequences of such exercise for individual Noteholders of such Class and the Trustee shall not be entitled to require, nor shall any Noteholder be entitled to claim, from the Issuer, the Trustee or any other Person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders except to the extent already provided for in Condition 9 (*Taxation*).

The Trust Deed further provides that in the event of any conflict of interest between the holders of the Class A Notes, the Class B Notes, the Class C and the Class D Notes, the interests of the holders of the Controlling Class will prevail. If the holders of the Controlling Class do not have an interest in the outcome of the conflict, the Trustee shall give priority to the interests of the Class B Noteholders over the Class C Noteholders and the Class C Noteholders over the Class D Noteholders. In the event that the Trustee shall receive conflicting or inconsistent requests from two or more groups of holders of the Controlling Class (or another Class given priority as described in this paragraph), each representing less than the majority of the Principal Amount Outstanding of Notes of the Controlling Class (or other Class given priority as described in this paragraph), the Trustee shall give priority to the group which holds the greater Principal Amount Outstanding of Notes of such Class. The Trust Deed provides further that the Trustee will act upon the directions of the holders of the Controlling Class (or other Class given priority as described in this paragraph) in such circumstances, and shall not be obliged to consider the interests of the holders of any other Class of Notes unless specified otherwise in the Trust Deed or these Conditions.

In addition, the Trust Deed provides that in the event of any conflict of interest between the Noteholders and any other Secured Party, the interests of the Noteholders will prevail.

(f) ***Replacement of the Trustee***

The Trust Deed contains provisions by which the Issuer has the power to appoint a new Trustee subject to the prior approval of such Person by an Ordinary Resolution of the Controlling Class. Any appointment of a new Trustee or new Trustees under the Trust Deed shall as soon as practicable thereafter be notified by the Issuer to the Paying Agents, the Secured Parties, the Registrar, the Noteholders, the Irish Stock Exchange (for so long as the Notes are listed on such exchange) and, so long as any of the Class A Notes remains Outstanding, the Rating Agency.

15. **Indemnification of the Trustee**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility in certain circumstances, including provisions relieving it from instituting proceedings to enforce repayment or to enforce the security constituted by or pursuant to the Trust Deed, unless indemnified and/ secured to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer and any entity related to the Issuer without accounting for any profit. The Trustee is exempted from any liability in respect of any loss or theft of the Collateral from, any obligation to insure, or to monitor the provisions of any insurance arrangements in respect of, the Collateral (for the avoidance of doubt, under the Trust Deed the Trustee is under no such obligation) and from any claim arising from the fact that the Collateral is held by the Custodian or is otherwise held in safe custody by a bank or other custodian. The Trustee shall not be responsible for the performance by the Custodian or any other Agent of any of its duties under the Agency Agreement, for the performance by the Collateral Administrator of its duties under the Portfolio Servicing Agreement or for the performance by any other Person appointed by the Issuer in relation to the Notes. The Trustee

shall not have any responsibility for the administration or operation of the Collateral, or to advise with respect thereto, including the request by the Portfolio Servicer as directed by the Issuer to release any of the Collateral from time to time.

16. **Notices**

Notices may be given to Noteholders in any manner deemed acceptable by the Trustee provided that for so long as the Notes are listed on the Irish Stock Exchange, such notice shall be in accordance with the guidelines of the Irish Stock Exchange. Notices regarding the Notes will be deemed duly given if posted to the address of such Noteholder appearing in the Register at the time of publication of such notice by pre-paid, first Class mail (or any other manner approved by the Trustee). Any such notice shall be deemed to have been given on the date of despatch thereof to the Noteholders.

17. **Third Party Rights**

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

18. **Governing Law**

(a) ***Governing Law***

The Trust Deed and each Class of Notes and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to the Trust Deed or any Class of Notes are governed by and shall be construed in accordance with English law. The Management Agreement is governed by and shall be construed in accordance with Dutch law. The Spanish Accounts Pledge Agreement is governed by and shall be construed in accordance with Spanish law.

(b) ***Jurisdiction***

The courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with the Notes, and accordingly any legal action or proceedings arising out of or in connection with the Notes ("**Proceedings**") may be brought in such courts. The Issuer has in the Trust Deed irrevocably submitted to the jurisdiction of such courts and waives any objection to Proceedings in any such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of each of the Noteholders and the Trustee and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

(c) ***Agent for Service of Process***

The Issuer appoints Deutsche Bank AG, London Branch at Winchester House, 1 Great Winchester Street, London EC2P 2GW, United Kingdom, as its agent in England to receive service of process in any Proceedings in England based on any of the Notes. If for any reason the Issuer does not have such agent in England, it will promptly appoint a substitute process agent and notify the Trustee and the Noteholders of such appointment. Nothing herein shall affect the right to service of process in any other manner permitted by law.

## USE OF PROCEEDS

The estimated gross proceeds of the issue of the Notes is €1,716,556,000. The gross proceeds from the issue and offering of the Notes on the Issue Date will be used by the Issuer:

- (i) from the proceeds of the Class D Notes, in payment of applicable fees and expenses on the Issue Date including but not limited to legal fees, administration fees and, estimated expenses of €6,500 associated with admission to the Irish Stock Exchange;
- (ii) from the proceeds of the Class D Notes, in payment of an amount equal to the Initial Reserve Fund Amount to the Reserve Fund Account and in payment of €1,500,000 to the Stamp Duty Reserve Account;
- (iii) from the proceeds of the Floating Rate Notes, in payment of amounts due and payable in relation to the acquisition of the Portfolio; and
- (iv) any remaining proceeds, in payment to the Interest Proceeds Ledger of the Collection Account;

all as further described in Condition 3 (j) (*Payments to and from the Accounts*)



## FORM OF THE NOTES

References below to Notes and to Global Certificates, and the Definitive Certificates representing such Notes are to each respective Class of Notes, except as otherwise indicated.

### Initial Issue of Notes

The Notes of each Class will be represented on issue by a Global Certificate which will be delivered on or prior to the Issue Date and (i) in respect of the Class B Notes, the Class C Notes and the Class D Notes, registered in the name of BT Globenet Nominees Limited as nominee of, and deposited with Deutsche Bank AG, London Branch as common depository for Euroclear and Clearstream, Luxembourg and (ii) in respect of the Class A Notes only, registered in the name of a nominee of the common safekeeper (the "**Common Safekeeper**") for Euroclear and Clearstream, Luxembourg (each, a "**Global Certificate**"). Beneficial interests in a Global Certificate may be held only through Euroclear or Clearstream, Luxembourg at any time. See "*Book-Entry Clearance Procedures*". Beneficial interests in a Global Certificate may not be held by or on behalf or for the account or benefit of a U.S. Person at any time. By acquisition of a beneficial interest in a Global Certificate, the purchaser thereof will be deemed to represent, among other things, that it is not a U.S. Person, and that, if in the future it determines to transfer such beneficial interest, it will transfer such interest only to a person whom the seller reasonably believes, (a) to be a non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 of Regulation S, (b) otherwise in accordance with the Trust Deed and applicable securities laws. See "*Transfer Restrictions*".

Interests in Global Certificates related thereto will be subject to certain restrictions on transfer set forth therein and in the Trust Deed and, for so long as any of the Class A Notes are represented by Global Certificates held by the Common Safekeeper for Euroclear and Clearstream, Luxembourg, the Class A Notes will be transferable only in accordance with the rules and procedures for the time being of Euroclear and/or Clearstream, Luxembourg, as the case may be, and the Certificates representing the Notes will bear the applicable legends regarding the restrictions set forth under "*Transfer Restrictions*".

Each of the Class A Notes will be issued under the new safekeeping structure applicable to debt securities in global registered form intended to be recognised as eligible collateral for Eurosystem monetary policy and intraday credit operations as of 1 October 2010, or "**NSS**". The Common Safekeeper will hold the Class A Notes in custody for Euroclear and Clearstream, Luxembourg. The Class A Notes are intended to be held in a manner which will allow Eurosystem eligibility. This means that the Class A Notes are intended upon issue to be deposited with one of the International Central Securities Depositories ("**ICSDs**") as common safekeeper and does not necessarily mean that the Class A 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 satisfaction of the Eurosystem eligibility criteria. The Class B Notes, the Class C Notes and the Class D Notes are not intended to be recognised as eligible collateral for Eurosystem monetary policy and intraday credit operations by the Eurosystem.

Except in the limited circumstances described below, owners of beneficial interests in Global Certificates will not be entitled to receive physical delivery of certificated Notes. The Notes will not be issued in bearer form.

### Amendments to Terms and Conditions

Each Global Certificate contains provisions that apply to the Notes that they represent, some of which modify the effect of the Terms and Conditions of the Notes in definitive form (See "Conditions of the Notes"). The following is a summary of those provisions:

- **Payments** Payments of principal and interest in respect of Notes represented by a Global Certificate shall be made against presentation and (if no further payment falls to be made on it) surrender of such Global Certificate at the specified office of any Paying Agent and shall be effective to satisfy and discharge (*pro tanto*) the corresponding liabilities of the Issuer in respect of the Notes. On each occasion on which a payment of interest or principal is made in respect of the relevant Global Certificate, the Issuer shall procure that the same is noted on the Register and, in the case of a payment of principal, the aggregate principal amount of the Notes represented by a Global Certificate to be decreased accordingly.

- **Notices** So long as any Notes are represented by a Global Certificate and such Global Certificate is held on behalf of a clearing system, notices to Noteholders may be given by delivery of the relevant notice to that clearing system for communication by it to entitled account holders in substitution for posting as required by the Conditions of such Notes provided that such notice is also made to the Company Announcements Office of the Irish Stock Exchange for so long as such Notes are listed on the Irish Stock Exchange and the Rules of the Irish Stock Exchange so require.
- **Prescription** Claims against the Issuer in respect of principal and interest on the Notes while the Notes are represented by a Global Certificate will become void unless presented for payment within a period of ten years (in the case of principal) and five years (in the case of interest) from the date on which any payment first becomes due.
- **Trustee's Powers** In considering the interests of Noteholders while the Global Certificates are registered in the name of any nominee for a clearing system, the Trustee may, but is not required to, have regard to any information provided to it by such clearing system or its operator as to the identity (either individually or by category) of its account holders with entitlements to each Global Certificate and may consider such interests as if such account holders were the holders of any Global Certificate.
- **Meetings** The holder of each Global Certificate shall be treated as being one person for the purposes of any quorum requirements of, or the right to demand a poll at, a meeting of Noteholders and, at any such meeting, as having one vote in respect of each €1,000 of principal amount of Notes for which the relevant Global Certificate may be exchanged.
- **Cancellation** Cancellation of any Note required by the Conditions of the Notes to be cancelled will be effected by reduction in the principal amount of the Notes on the Register, with a corresponding notation made on the applicable Global Certificate.
- **Optional Redemption** The Class D Noteholders' options in paragraphs (A) and (B) of Condition 7(b)(i) (*Redemption at the Option of the Class D Noteholders or the Holders of the Controlling Class*) may be exercised by the holder of any Global Certificate representing Class D Notes giving notice to the Registrar of the Principal Amount Outstanding of Class D Notes in respect of which the option is exercised and presenting such Certificate for endorsement of exercise within the time limit specified in Condition 7(b)(v) (*Mechanics of Redemption*). The option in Condition 7(b)(i)(C) (*Redemption at the Option of the Class D Noteholders or the Holders of the Controlling Class*) may be exercised by the holder of any Global Certificate representing Class D Notes or the Notes of the Controlling Class giving notice to the Registrar of the principal amount of Class D Notes or Notes of the Controlling Class in respect of which the option is exercised and presenting such Global Certificate for endorsement of exercise within the time limits specified in Condition 7(b)(v) (*Mechanics of Redemption*).
- **Record Date** Whilst the Notes are represented by Global Certificates, payments will be made by either bank transfer or euro cheque drawn on a bank in Europe and posted on the Business Day immediately preceding the relevant due date to the holder (or to the first named of joint holders) of the Note appearing on the Register at the close of business on the Business Day (in the ICSDs) prior to the date on which payment is due (the "**ICSD Record Date**") at his or her address shown on the register on the ICSD Record Date.

## **Exchange for Definitive Certificates**

### ***Exchange***

Each Global Certificate will be exchangeable, free of charge to the holder, on or after its Definitive Exchange Date (as defined below), in whole but not in part, for Definitive Certificates if Euroclear, Clearstream, Luxembourg or an alternative clearing system and any such clearing system is closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or announces its intention to permanently cease business or does in fact do so.

The Registrar will not register the transfer of, or exchange of interests in, a Global Certificate for Definitive Certificates for a period of 15 calendar days before the date for any payment of principal or interest in respect of the Notes.

If only one of the Global Certificates (the "**Exchanged Global Certificate**") becomes exchangeable for Definitive Certificates in accordance with the above paragraphs, transfers of Notes may not take place between, on the one hand, persons holding Definitive Certificates issued in exchange for beneficial interests in the Exchanged Global Certificate and, on the other hand, persons wishing to purchase beneficial interests in the other Global Certificate.

"**Definitive Exchange Date**" means a day falling not less than 30 days after that on which the notice requiring exchange is given and on which banks are open for business in the city in which the specified office of the Registrar or the relevant alternative clearing system is located.

### ***Delivery***

In such circumstances, the relevant Global Certificate shall be exchanged in full for Definitive Certificates and the Issuer will, at the cost of the Issuer (but against such indemnity as the Registrar may require in respect of any tax or other duty of whatever nature which may be levied or imposed in connection with such exchange), cause sufficient Definitive Certificates to be executed and delivered to the Registrar for completion, authentication and dispatch to the relevant Noteholders. A person having an interest in a Global Certificate must provide the Registrar with a written order containing instructions and such other information as the Issuer and the Registrar may require to complete, execute and deliver such Certificates.

### ***Legends***

The holder of a Definitive Certificate may transfer the Notes represented thereby in whole or in part in the applicable minimum denomination by surrendering it at the specified office of the Registrar together with the completed form of transfer thereon. Upon the transfer, exchange or replacement of a Definitive Certificate bearing the legend referred to under "*Transfer Restrictions*", or upon specific request for removal of the legend on a Definitive Certificate, the Issuer will deliver only Definitive Certificates that bear such legend, or will refuse to remove such legend, as the case may be, unless there is delivered to the Issuer and the Registrar such satisfactory evidence, which may include an opinion of counsel, as may reasonably be required by the Issuer that neither the legend nor the restrictions on transfer set forth therein are required to ensure compliance with the provisions of the Securities Act and the Investment Company Act.

## DESCRIPTION OF THE PORTFOLIO

### Acquisition of the Collateral Loan Obligations

It is anticipated that the Issuer will have purchased a Portfolio of Collateral Loan Obligations on or before the Issue Date. Each Collateral Loan Obligation included in the Portfolio will, as at the time of entering into the binding commitment, satisfy the Eligibility Criteria and the Portfolio Profile Tests set out below; and it is the responsibility of the Portfolio Servicer acting on behalf of the Issuer, to satisfy itself that the Eligibility Criteria are satisfied in respect of each Collateral Loan Obligation at the time of entering into the binding commitment.

If the Eligibility Criteria are no longer satisfied in respect of any Collateral Loan Obligation on any date subsequent to the date on which the Issuer enters into a binding commitment to acquire such Collateral Loan Obligation; or if the Collateral Quality Tests or the Portfolio Profile Tests (or any of them) are no longer satisfied at any time in respect of the Portfolio, there shall be no obligation on the Originator to repurchase any Collateral Loan Obligation or take any other action to bring the Portfolio into compliance with the Eligibility Criteria (in respect of each Collateral Loan Obligation individually), or the Collateral Quality Tests or the Portfolio Profile Tests (in respect of the Portfolio as a whole).

### Eligibility Criteria

Each Collateral Loan Obligation shall, as at the later of the Issue Date and the time of the Issuer entering into a binding commitment to acquire such obligation, be required to satisfy each of the Eligibility Criteria set out below, (collectively, the "**Eligibility Criteria**"):

- (a) it is a Senior Secured Loan or a Senior Unsecured Loan which:
  - (i) constitutes legal, valid and binding obligations of the Obligors subject only to applicable bankruptcy, insolvency, reorganisation, moratorium or other similar laws affecting the rights of creditors generally and the Obligors have not disputed the amount or validity of the relevant loan; and
  - (ii) has been originated in accordance with the standard origination and collection policies of the Seller for corporates;
- (b) the Seller has good and marketable title to the Collateral Loan Obligation free from any encumbrances;
- (c) it is not an obligation of an Obligor who previously defaulted on payments under a loan, credit line or other debt instrument for which the Seller is, or was, the lender of record;
- (d) it is denominated in Euro;
- (e) if the Obligor or Obligors is or are resident in The Netherlands, it or they must be acting in the conduct of a business or profession;
- (f) at the time of entering into a binding commitment to acquire such Collateral Loan Obligation, it is not actually known by the Portfolio Servicer, after making reasonable enquiries to be a Defaulted Obligation;
- (g) it is not the subject of an offer of exchange, conversion or tender by its issuer, for cash, securities or any other type of consideration (other than for an obligation which is an eligible Collateral Loan Obligation meeting the Eligibility Criteria);
- (h) it is capable of being sold, novated or assigned to the Issuer without any breach of applicable selling or transfer restrictions or of any legal or contractual provisions and all rights in relation thereto and the security (or the commercial benefit thereof) in relation therewith can be transferred to the Issuer and all necessary actions (including, but not limited to, obtaining, where necessary, borrowers' previous consents or approvals, sending prior notifications, where required by applicable contractual provisions, to the agent in case of syndicated loans) have been carried out in order for the above mentioned sale, novation or assignment to be perfected;

- (i) it is an obligation that pays interest no less frequently than annually;
- (j) it is not convertible into equity and is not a Margin Stock (as defined under Regulation U issued by The Board of Governors of the Federal Reserve System);
- (k) it is not a lease;
- (l) its acquisition by the Issuer will not result in the imposition on acquisition of ad valorem stamp duty or stamp duty reserve tax payable by the Issuer, unless it is either (i) paid in full by the Obligor, or (ii) included for all purposes as constituting part of the purchase price of such Collateral Loan Obligation, or (iii) an amount standing to the credit of the Stamp Duty Reserve Account is reserved for such payment and such amount is not reserved for the payment of such stamp duty or stamp duty reserve tax in respect of any other Collateral Loan Obligation;
- (m) it is not a loan whose repayment is subject to substantial non-credit related risk as determined by the Portfolio Servicer or to the non-occurrence of certain catastrophes or which is a catastrophe bond;
- (n) upon acquisition by the Issuer of a Collateral Loan Obligation forming part of the Portfolio, both (i) the Collateral Loan Obligation is capable of being, and will be, the subject of a first fixed charge or first priority security interest or other arrangement having similar commercial effect in favour of the Trustee for the benefit of the Secured Parties pursuant to the Trust Deed (or any deed or document supplemental thereto) and (ii) (subject to (i) above) following notification by the Issuer (or the Portfolio Servicer on behalf of the Issuer) to the Trustee that any such Collateral Loan Obligation is a bond that is not held through Euroclear, the Issuer shall have taken such action as the Trustee may require to create and perfect such security interest;
- (o) it is not a Dutch Ineligible Security;
- (p) it does not provide for the imposition of any present or future, actual or contingent, monetary liabilities or monetary obligations of the Issuer for future advances other than those (i) which may arise at its option; or (ii) which are fully collateralised (which collateralisation may be by way of deposit of an amount with a third party and which must be in an amount which is not less than 100 per cent. of the Issuer's unfunded principal payment obligations in respect thereof); or (iii) which are owed to the agent bank or letter of credit or guarantor fronting or syndicate member bank in relation to the performance of any of their duties under a syndicated Senior Secured Loan or Senior Unsecured Loan or to other syndicate bank members as a result of any pro rata sharing or from other trust or similar arrangements which apply to payments received by a syndicate bank member which are required to be shared between the syndicate bank members; or (iv) which may arise as a result of an undertaking to participate in a financial restructuring of a Collateral Loan Obligation where such undertaking is envisaged in the initial underlying documents for such Collateral Loan Obligation, does not require the advance of any new funds by the Issuer and is contingent upon the redemption in full of such Collateral Loan Obligation on or before the time by which the Issuer is obliged to enter into the restructured Collateral Loan Obligation and where the restructured Collateral Loan Obligation meets the Eligibility Criteria;
- (q) it is an obligation the ownership, enforcement or disposition of which will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes;
- (r) it has a Stated Maturity that is not later than the Maturity Date of Notes;
- (s) it is an obligation that is paying interest currently as at the date of entry by the Issuer into the commitment to purchase such obligation or security;
- (t) it has an S&P Rating, based either on a public credit rating by S&P of the relevant Obligor or a confidential credit estimate that has been obtained or applied for by the Portfolio Servicer on behalf of the Issuer, of at least "CCC+";

- (u) it is not a Synthetic Security and it is not deemed to be a credit-linked note;
- (v) it is not an equity investment;
- (w) it is not a Participation;
- (x) it is not an Exchanged Equity Security;
- (y) it is not a Structured Finance Security;
- (z) it is not a Revolving Collateral Obligation;
- (aa) it is not a Delayed Drawdown Collateral Obligation;
- (bb) the governing law of the Underlying Instrument in respect of such Collateral Loan Obligation is the law of an EEA Country;
- (cc) it has not been called for, and is not subject to a pending redemption;
- (dd) it was originated by an originator incorporated in the EEA;
- (ee) its acquisition is governed by the law of an EU Member State;
- (ff) its obligors must be incorporated in the EEA and if relevant the related security must be located in the EEA; and
- (gg) it is not an Asset Backed Security.

The subsequent failure of any Collateral Loan Obligation to satisfy any of the Eligibility Criteria shall not prevent any obligation which would otherwise be a Collateral Loan Obligation from being a Collateral Loan Obligation so long as such obligation satisfied the Eligibility Criteria as at the later of the Issue Date and the entry by the Issuer into a binding agreement to purchase such obligation.

**"Asset Backed Security"** means an obligation which is an asset backed security which legally entitles the holders thereof to receive payments that depend primarily on the cash flow from a specified pool of financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period together with rights or other assets designed to assume the securing or timely distribution of proceeds to holders of the asset backed securities;

**"Delayed Drawdown Collateral Obligation"** means any Collateral Loan Obligation that (i) satisfies the requirements set forth in the Eligibility Criteria, (ii) requires the Issuer to make one or more future advances to the borrower under the underlying instruments relating to such obligation, interest or security, (iii) specifies a maximum amount that can be borrowed on one or more fixed borrowing dates, and (iv) does not permit the re-borrowing of any amount previously repaid; provided that any such obligation, interest or security will be a "Delayed Drawdown Collateral Obligation" only until all commitments to make advances to the borrower expire or are terminated or reduced to zero;

**"EEA"** means the European Economic Area the countries of which comprise the EU Member States and Iceland, Liechtenstein and Norway;

**"Participation"** means an interest in relation to a Senior Secured Loan or Senior Unsecured Loan acquired indirectly by the Issuer by way of a sub-participation;

**"Revolving Collateral Obligation"** means any Collateral Loan Obligation (other than a Delayed Drawdown Collateral Obligation) that (i) satisfies the requirements set forth in the Eligibility Criteria and (ii) is a loan (including, without limitation, a revolving loan, funded and unfunded portions of revolving credit lines and letter of credit, guarantee and lending facilities, unfunded commitments under specific and ancillary facilities and other similar loans and investments) that by its terms requires the Issuer to make one or more future advances to the borrower; provided that any such obligation, interest or security will be a "Revolving Collateral Obligation" only until all commitments to make such advances expire or are irrevocably terminated or reduced to zero;

"Seller" means Banco Español de Crédito S.A.;

"Structured Finance Security" means a security issued as part of a securitisation of a portfolio of receivables, leases, loans, mortgages, corporate or sovereign debt, asset backed securities or similar assets; and

"Synthetic Security" means a credit derivative transaction in the form of a credit default swap or a note, loan, security or other instrument linked thereto.

#### Portfolio Profile Tests

The Collateral Loan Obligations that have been acquired on the Issue Date, in aggregate shall be required to satisfy each of the Portfolio Profile Tests on the Issue Date.

The Portfolio Profile Tests are as follows (the "Portfolio Profile Tests"):

- (a) The Aggregate Principal Balance of Collateral Loan Obligations of a single Obligor as a percentage of the Aggregate Portfolio Balance shall not exceed the maximum percentage set out in the table below (or, for the purposes of the Reinvestment Criteria, if such percentage does exceed the maximum percentage, the relevant concentration is no greater after giving effect to the proposed reinvestment than it was immediately prior to the sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested):

Single Obligor Concentration Ranking	Maximum Percentage of Aggregate Portfolio Balance
First	12.5 per cent.
Second	8.5 per cent.
Third	7.5 per cent.
Fourth	6.5 per cent.
Fifth	5.5 per cent.
Sixth to Seventh	4.5 per cent.
Eighth to Ninth	4.0 per cent.
Tenth to Thirteenth	3.5 per cent.
> 13	2.5 per cent.

Where "Single Obligor Concentration Ranking", means at any time in respect of each Obligor, a ranking determined by reference to the percentage of the Aggregate Portfolio Balance represented by the Principal Balance of the Collateral Loan Obligations (excluding any Defaulted Obligations) of such Obligor, whereby the single Obligor with the highest such percentage shall be ranked "First", the single Obligor with the next highest such percentage shall be ranked "Second" and so on; provided that if such percentage is exactly equal in respect of any two or more Obligors, the Portfolio Servicer shall determine the Single Obligor Concentration Ranking of those Obligors as amongst themselves in its discretion;

- (b) The Aggregate Principal Balance of Collateral Loan Obligations of Obligors in each respective S&P Industry Classification (as such term is used by S&P) and DBRS Industry Classification (as such term is used by DBRS) shall not exceed the maximum percentage of the Aggregate Portfolio Balance set out in the table below (or, for the purposes of the Reinvestment Criteria, if such percentage does exceed the maximum percentage, the relevant concentration is no greater after giving effect to the proposed reinvestment than it was immediately prior to the sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested):

#### DBRS and S&P:

<b>Industry Obligor Concentration Ranking</b>	<b>Maximum Percentage of Aggregate Portfolio Balance</b>
First	30.0 per cent.
Second	24.0 per cent.
Third and greater	12.0 per cent.

- (c) The Aggregate Principal Balance of Collateral Loan Obligations of the 10 largest Obligor (by principal amount outstanding) which are rated "B+" or less by S&P shall not exceed 55 per cent. of the Aggregate Portfolio Balance (or, for purposes of the Reinvestment Criteria, if such percentage exceeds 55 per cent., the relevant concentration is no greater after giving effect to the proposed reinvestment than it was immediately prior to the sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested).
- (d) The Aggregate Principal Balance of Collateral Obligation of the 12 largest Obligor (by principal amount outstanding) which are rated "CCC+" or less by S&P shall not exceed 55 per cent. of the Aggregate Portfolio Balance (or, for purposes of the Reinvestment Criteria, if such percentage exceeds 55 per cent., the maximum percentage, the relevant concentration is no greater after giving effect to the proposed reinvestment than it was immediately prior to the sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested).

Unless otherwise specified, the percentage requirements applicable to different types of Collateral Loan Obligations specified in the Portfolio Profile Tests shall be determined by reference to the Aggregate Principal Balance of such type of Collateral Loan Obligations, excluding Defaulted Obligations. Obligations which are to constitute Collateral Loan Obligations in respect of which the Issuer has entered into a binding commitment to purchase but which have not yet settled shall be included as Collateral Loan Obligations in the calculation of the Portfolio Profile Tests at any time as if such purchase had been completed.

### **Collateral Quality Tests**

#### ***Measurement of Collateral Quality Tests***

The Collateral Quality Tests will consist of each of the following (the "**Collateral Quality Tests**"):

- (i) so long as any Notes are rated by DBRS and are Outstanding, the Maximum DBRS Risk Score Test;
- (ii) so long as any Notes are rated by S&P and are Outstanding, the S&P CDO Monitor Test and the S&P Weighted Average Recovery Rate Test; and
- (iii) so long as any Notes are Outstanding, the Weighted Average Maturity Test.

The Portfolio shall be required to satisfy each of the Collateral Quality Tests on the Issue Date. Neither the Issuer, the Portfolio Servicer, nor any other person will be required to take any action in the event that the Portfolio fails to satisfy the Collateral Quality Tests following the Issue Date at any time.

#### ***Maximum DBRS Risk Score Test***

"**Maximum DBRS Risk Score Test**" means a test that will be satisfied on any date of determination if the Weighted Average DBRS Risk Score of the Collateral Loan Obligations is less than or equal to 25 per cent., provided that Defaulted Obligations shall be excluded from such calculation, and for purposes of condition (b) of the Reinvestment Criteria, the Maximum DBRS Risk Score Test shall be considered to be no further from being satisfied than immediately prior to sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested if the Weighted Average DBRS Risk Score of the Collateral Loan Obligations after giving



effect to any proposed reinvestment is no less than it was immediately prior to the sale or prepayment of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested.

**"Weighted Average DBRS Risk Score"** means, as of any date of determination, an amount (rounded up to the nearest hundredth and then expressed as a percentage) equal to:

- (a) the sum of the products of:
  - (i) the Principal Balance of each Collateral Loan Obligation; and
  - (ii) the DBRS Risk Score of such Collateral Loan Obligation (as determined in accordance with the below table); divided by
- (b) the Aggregate Principal Balance of all such Collateral Loan Obligations.

The **"DBRS Risk Score"** relating to any Collateral Loan Obligation at any time is the percentage set forth in the table below opposite the DBRS Long Term Rating of such Collateral Loan Obligation at such time:

<b>DBRS Long Term Rating</b>	<b>DBRS Risk Score</b>
AAA	0.1771
AA (high)	0.2705
AA	0.3729
AA (low)	0.4351
A (high)	0.5023
A	0.6066
A (low)	0.8085
BBB (high)	1.3445
BBB	2.1542
BBB (low)	3.6344
BB (high)	7.2478
BB	10.0962
BB (low)	13.4563
B (high)	17.7695
B	22.5401
B (low)	31.2211
CCC (high)	49.7747
CCC	70.5414
CCC (low)	90.6642
C	100.0000

***The S&P CDO Monitor Test***

The **"S&P CDO Monitor Test"** means a test which will be satisfied as at any Measurement Date from and including the Issue Date, if the Proposed Portfolio is passing the test metric of the S&P CDO Monitor function on such date. For purposes of condition (b) of the Reinvestment Criteria, the S&P CDO Monitor Test shall be considered to be no further from being satisfied than immediately prior to sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal

Proceeds of which are being reinvested if the S&P CDO Monitor Test is failing by no greater an amount with respect to the Proposed Portfolio than it had been with respect to the Current Portfolio.

The "**Current Portfolio**" means the portfolio of Collateral Loan Obligations (included at their Principal Balance, except in respect of Defaulted Obligations, which shall be included at the lower of (i) their then current Market Value and (ii) the product of their principal outstanding balance and the S&P Recovery Rate applicable to such Collateral Loan Obligation in the "AAA" rating level scenario) existing prior to the sale, maturity or other disposition or recovery in respect of any Collateral Loan Obligation and any proposed reinvestment of Principal Proceeds thereof in a New Collateral Loan Obligation. For the purposes of the Current Portfolio:

- (a) any unreinvested Principal Proceeds of a Defaulted Obligation, howsoever arising, shall be treated as having the characteristics of the corresponding principal outstanding balance of such Defaulted Obligation prior to the realisation of such Principal Proceeds; and
- (b) any unreinvested Principal Proceeds of a Collateral Loan Obligation that is not a Defaulted Obligation which has fully or partially matured or otherwise repaid its principal outstanding balance shall be treated as having the characteristics of the corresponding Principal Balance of such Collateral Loan Obligation prior to such maturity or repayment save that, following any maturity or repayment in full of a Collateral Loan Obligation, the maturity of such Collateral Loan Obligation shall be treated as being the later of (i) the last Business Day of the Replenishment Period and (ii) the date falling one year from the relevant Measurement Date.

The "**Proposed Portfolio**" means the portfolio of Collateral Loan Obligations (included at their Principal Balance, except in respect of Defaulted Obligations, which shall be included at the lower of (i) their then current Market Value and (ii) the product of their principal outstanding balance and the S&P Recovery Rate applicable to such Collateral Loan Obligation in the "AAA" rating level scenario) resulting from the sale, maturity or other disposition or recovery in respect of a Collateral Loan Obligation and following the proposed reinvestment of Principal Proceeds thereof in a New Collateral Loan Obligation, provided that in the case that such Principal Proceeds are not fully reinvested following such proposed reinvestment, the unreinvested portion thereof shall be treated in the Proposed Portfolio in the same manner as in the Current Portfolio.

The "**S&P CDO Monitor**" is the proprietary default expectation computer model developed by S&P and used to estimate the default risk that S&P projects the Portfolio is likely to experience and provided to the Portfolio Servicer and the Collateral Administrator at least five Business Days prior to the Issue Date, as it may be modified by S&P from time to time. The S&P CDO Monitor calculates the cumulative default rate of a pool of Collateral Loan Obligations consistent with a specified benchmark rating level based upon S&P's proprietary corporate debt default studies. In calculating the Scenario Default Rate in respect of a Class of Notes, the S&P CDO Monitor takes into consideration each Obligor's credit rating, the number of Obligors in the Portfolio, the Obligor and industry concentrations in the Portfolio and the remaining weighted average maturity of the Collateral Loan Obligations and calculates a cumulative default rate based on the statistical probability of distributions or defaults on the Collateral Loan Obligations.

The "**S&P Recovery Rate**" means, in respect of each Collateral Loan Obligation, the S&P Recovery Rate determined in accordance with the following tables as amended from time to time and in respect of any Collateral Loan Obligation that is a bilateral loan, shall be subject to a 10 per cent. haircut to the S&P Recovery Rates set out below:

**S&P Recovery Rate (%)**

Instrument/country grouping	CLO liability rating					
	AAA	AA	A	BBB	BB	B/CCC
<b>Senior secured loans first-lien</b>						
Group 1	50	55	59	63	75	79
Group 2	45	49	53	58	70	74
Group 3	39	42	46	49	60	63

**S&P Recovery Rate (%)**

Instrument/country grouping	CLO liability rating					
	AAA	AA	A	BBB	BB	B/CCC
Group 4	17	19	27	29	31	34
<b>Senior secured cov-lite loans/senior secured bonds</b>						
Group 1	41	46	49	53	63	67
Group 2	37	41	44	49	59	62
Group 3	32	35	39	41	50	53
Group 4	17	19	27	29	31	34
<b>Mezzanine/second-lien/senior unsecured loans/senior unsecured bonds</b>						
Group 1	18	20	23	26	29	31
Group 2	16	18	21	24	27	29
Group 3	13	16	18	21	23	25
Group 4	10	12	14	16	18	20
<b>Subordinated loans/subordinated bonds</b>						
Group 1	8	8	8	8	8	8
Group 2	10	10	10	10	10	10
Group 3	9	9	9	9	9	9
Group 4	5	5	5	5	5	5

**Country Groupings for S&P Recovery Rate**

Group 1	Group 2	Group 3	Group 4
Australia	Austria	Argentina	Kazakhstan
Denmark	Belgium	Brazil	Russia
Finland	Canada	Chile	Ukraine
Hong Kong	Germany	France	Others
Ireland	Israel	Greece	
The Netherlands	Japan	Italy	
New Zealand	Luxembourg	Mexico	
Norway	Portugal	South Korea	
Singapore	South Africa	Spain	
Sweden	Switzerland	Taiwan	
UK	US	Turkey	
		United Arab Emirates	

***The S&P Weighted Average Recovery Rate Test***

The "**S&P Weighted Average Recovery Rate Test**" means a test which will be satisfied as at any Measurement Date from (and including) the Issue Date, if the S&P Weighted Average Recovery Rate is above or equal to 25 per cent. and for purposes of condition (b) of the Reinvestment Criteria, the S&P Weighted Average Recovery Test shall be considered to be no further from being satisfied than immediately prior to sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested if the S&P Weighted Average Recovery Rate after giving effect to any proposed reinvestment is no greater than it was immediately prior to the sale or prepayment of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested.

The "**S&P Weighted Average Recovery Rate**" means, as of the Measurement Date, the number (expressed as a percentage) obtained by multiplying (a) the Principal Balance of each Collateral Loan Obligation (excluding Defaulted Obligations); and (b) the S&P Recovery Rate (excluding Defaulted Obligations); and dividing the product thereof by the Aggregate Principle Balance (excluding Defaulted Obligations).

#### ***The Weighted Average Maturity Test***

The "**Weighted Average Maturity Test**" means a test which will be satisfied as at any Measurement Date from (and including) the Issue Date, if the Weighted Average Maturity is below or equal to 5 years and for purposes of condition (b) of the Reinvestment Criteria, the Weighted Average Maturity Test shall be considered to be no further from being satisfied than immediately prior to sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested if the Weighted Average Maturity after giving effect to any proposed reinvestment is no greater than it was immediately prior to the sale or prepayment of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested.

The "**Weighted Average Maturity**" of the Collateral Loan Obligations shall be expressed as the number of years obtained by multiplying (a) the Principal Balance of each Collateral Loan Obligation (excluding Defaulted Obligations); and (b) the Tenor of each Collateral Loan Obligation (excluding Defaulted Obligations); and dividing the product thereof by the Aggregate Principal Balance (excluding Defaulted Obligations).

For the purposes of the definition of Weighted Average Maturity, the "**Tenor**" means in respect of a Collateral Loan Obligation, the number of years remaining for such Collateral Loan Obligation until its scheduled maturity.

#### ***Ratings***

The "**DBRS Rating**" of any Collateral Loan Obligation will be the DBRS Long Term Rating of the Obligor of such Collateral Loan Obligation determined in accordance with the definition of DBRS Long Term Rating below or the DBRS Short Term Rating of such Obligor determined in accordance with the definition of DBRS Short Term Ratings below, in each case as the context requires.

"**DBRS Long Term Rating**" means, in respect of an Obligor on any date, the rating of such Obligor determined as provided below:

- (a) if there is a DBRS public long term rating of such Obligor on such date, such DBRS public long term rating;
- (b) if a DBRS Long Term Rating for such Obligor cannot be determined under (a) above, but a Moody's Public Rating, S&P Public Rating and Fitch Public Rating (each, a "**Public Long Term Rating**") are all available at such date, the DBRS Long Term Rating will be the DBRS Equivalent of such Public Long Term Rating remaining after disregarding the highest and lowest such Public Long Term Ratings from such rating agencies, provided that, if any Public Long Term Rating is placed on (i) negative outlook or (ii) credit watch negative by Moody's, Fitch or S&P, as applicable, such rating will be deemed to be one notch lower for the purposes of the calculation of the DBRS Long Term Rating. For this purpose, if more than one Public Long Term Rating has the same highest DBRS Equivalent or the same lowest DBRS Equivalent, then in each case one of such Public Long Term Ratings shall be so disregarded;

- (c) if a DBRS Long Term Rating for such Obligor cannot be determined under (a) and (b) above, but Public Long Term Ratings of such Obligor by any two of Moody's, Fitch and S&P are available at such date, the DBRS Equivalent of the lower such Public Long Term Rating, provided that, if any Public Long Term Rating is placed on (i) negative outlook or (ii) credit watch negative by Moody's, Fitch or S&P, as applicable, such rating will be deemed to be one notch lower for the purposes of the calculation of the DBRS Long Term Rating;
- (d) if a DBRS Long Term Rating for such Obligor cannot be determined under (a) to (c) above, but a Public Long Term Rating of such Obligor by only one of Moody's, Fitch or S&P is available at such date, the DBRS Equivalent of such available Public Long Term Rating, provided that, if any Public Long Term Rating is placed on (i) negative outlook or (ii) credit watch negative by Moody's, Fitch or S&P, as applicable, such rating will be deemed to be one notch lower for the purposes of the calculation of the DBRS Long Term Rating; and
- (e) if a DBRS Long Term Rating for such Obligor cannot be determined under (a) to (d) above, the rating set forth below under the heading "DBRS Rating" opposite the applicable Banco Español de Crédito S.A.'s internal rating range:

Banco Español de Crédito S.A. internal rating greater than or equal to	Banco Español de Crédito S.A. internal rating less than or equal to	DBRS Rating
0	40	C
41	50	CCC (high)
51	55	B (low)
56	60	B
61	65	B (high)
66	70	BB (low)
71	80	BB
81	85	BB (high)

If at any time a DBRS Long Term Rating for an Obligor cannot be determined under subparagraphs (a) to (e) above, then such Obligor will be deemed to have a DBRS Long Term Rating of "C" at such time.

**"DBRS Short Term Rating"** means, in respect of an Obligor on any date, the rating of such Obligor determined as provided below:

- (a) if there is a DBRS public short term rating of such Obligor at such date, such DBRS public short term rating;
- (b) if a DBRS Short Term Rating for such Obligor cannot be determined under (a) above, but a Moody's Public Rating, S&P Public Rating and Fitch Public Rating (each, a **"Public Short Term Rating"**) are all available at such date, the DBRS Short Term Rating will be the DBRS Equivalent of the Public Short Term Rating remaining after disregarding the highest and lowest Public Short Term Ratings from such rating agencies, provided that, if any Public Short Term Rating is placed on (i) negative outlook or (ii) credit watch negative by Moody's, Fitch or S&P, as applicable, such rating will be deemed to be one notch lower for the purposes of the calculation of the DBRS Short Term Rating. For this purpose, if more than one Public Short Term Rating has the same highest DBRS Equivalent or the same lowest DBRS Equivalent, then in each case one of such Public Short Term Ratings shall be so disregarded;
- (c) if a DBRS Short Term Rating for such Obligor cannot be determined under (a) and (b) above, but Public Short Term Ratings of such Obligor by any two of Moody's, Fitch and S&P are available at such date, the DBRS Equivalent of the lower such Public Short Term Rating, provided that, if any Public Short Term Rating is placed on (i) negative outlook or (ii) credit watch negative by Moody's, Fitch or S&P, as applicable, such rating will be deemed to be one notch lower for the purposes of the calculation of the DBRS Short Term Rating;

- (d) if a DBRS Short Term Rating for such Obligor cannot be determined under (a) to (c) above, but a Public Short Term Rating of such Obligor by only one of Moody's, Fitch or S&P is available at such date, the DBRS Equivalent of such available Public Short Term Rating, provided that, if any Public Short Term Rating is placed on (i) negative outlook or (ii) credit watch negative by Moody's, Fitch or S&P, as applicable, such rating will be deemed to be one notch lower for the purposes of the calculation of the DBRS Short Term Rating; and
- (e) if a DBRS Short Term Rating for such Obligor cannot be determined under (a) to (d) above, then for purposes of this Agreement there shall be no DBRS Short Term Rating for such Obligor as at such date.

The "**DBRS Equivalent**" of any rating by Moody's, Fitch or S&P will be the rating set forth below under the heading "DBRS Rating" opposite the applicable rating by Moody's, Fitch or S&P:

#### Long Term Rating Equivalents

DBRS Rating	Moody's	S&P	Fitch
AAA	Aaa	AAA	AAA
AA (high)	Aa1	AA+	AA+
AA	Aa2	AA	AA
AA (low)	Aa3	AA-	AA-
A (high)	A1	A+	A+
A	A2	A	A
A (low)	A3	A-	A
BBB (high)	Baa1	BBB+	BBB+
BBB	Baa2	BBB	BBB
BBB (low)	Baa3	BBB-	BBB-
BB (high)	Ba1	BB+	BB+
BB	Ba2	BB	BB
BB (low)	Ba3	BB-	BB-
B (high)	B1	B+	B+
B	B2	B	B
B (low)	B3	B-	B-
CCC (high)	Caa1	CCC+	CCC+
CCC	Caa2	CCC	CCC
CCC (low)	Caa3	CCC-	CCC
C	Ca	CC	CC
D	D	D	D

#### Short Term Rating Equivalents

DBRS Rating	Moody's	S&P	Fitch
R-1(high)		A-1+	
R-1(middle)	P-1	A-1	F1
R-1(low)			
R-2(high)			
R-2(middle)	P-2	A-2	F2
R-2(low)			
R-3(high)			
R-3(middle)	P-3	A-3	F3
R-3(low)			
--B			
--C			
D	NP	D	D

The "**Fitch Public Rating**" of any Collateral Loan Obligation will be determined as follows:

- (a) if the Obligor in respect of such Collateral Loan Obligation has a public, long term issuer rating or senior unsecured rating by Fitch, such issuer rating or, if no issuer rating is available, such senior unsecured rating; or
- (b) if (a) does not apply but such Obligor has a public rating by Fitch in respect of another obligation:
  - (i) if such rating is on a senior secured obligation, one subcategory below such rating; and
  - (ii) if such rating is on a subordinate obligation, one subcategory above such rating.

If a Fitch Public Rating for an Obligor cannot be determined under (a) or (b) above at any time, then such Obligor will be deemed not to have a Fitch Public Rating at such time.

The "**Moody's Public Rating**" of an Obligor means, at any time, if such Obligor has a publicly available issuer rating or senior unsecured rating by Moody's, such rating.

The "**S&P Rating**" means with respect to any Collateral Loan Obligation:

- (a) if there is a public issuer credit rating by S&P of the Obligor of such Collateral Loan Obligation (including any guarantor who unconditionally and irrevocably guarantees such Collateral Loan Obligation), then the S&P Rating of such obligor or guarantor, as the case may be, shall be such rating (regardless of whether there is a published rating by S&P on the Collateral Loan Obligation of such Obligor held by the Issuer); provided, however, that:
  - (i) the S&P Rating of a Collateral Loan Obligation that has been placed on credit watch with negative implication by S&P shall be one subcategory below the otherwise applicable S&P Rating until such Collateral Loan Obligation is no longer on credit watch with negative implication, whereupon the otherwise applicable S&P Rating shall apply; and
  - (ii) the S&P Rating of a Collateral Loan Obligation that has been placed on credit watch with positive implication by S&P shall be one subcategory above the otherwise applicable S&P Rating until such Collateral Loan Obligation is no longer on credit watch with positive implication, whereupon the otherwise applicable S&P Rating shall apply; or
- (b) if no other security or obligation of the Obligor is rated by S&P, then the Issuer, or the Portfolio Servicer on behalf of the Issuer, may apply to S&P for a corporate credit estimate, which shall be its S&P Rating provided that, pending receipt from S&P of such estimate, such Collateral Loan Obligation shall have the S&P Rating which the Portfolio Servicer considers is commercially reasonable for such Collateral Loan Obligation, provided that:
  - (i) if the Portfolio Servicer provides S&P with all information which S&P reasonably requests from the Portfolio Servicer in respect of such Collateral Loan Obligation within 30 calendar days of the settlement date thereof, the S&P Rating for such Collateral Loan Obligation shall be the rating determined by the Portfolio Servicer until the first in time to occur of either the expiration of 90 calendar days following the settlement date relating to such Collateral Loan Obligation or the date on which S&P provides an alternative rating for the relevant Collateral Loan Obligation;
  - (ii) if the Portfolio Servicer fails to comply with the requirements in (i) above, the S&P Rating for such Collateral Loan Obligation shall be the rating determined by the Portfolio Servicer provided that such determinations by the Portfolio Servicer shall not exceed 5 per cent. of the Aggregate Principal Balance;
  - (iii) if S&P does not provide a corporate credit estimate within three months of the settlement date relating to such Collateral Loan Obligation, during the first three months of the settlement date relating to such Collateral Loan Obligation the S&P Rating of the relevant Collateral Loan Obligation shall be "CCC+", if S&P has not provided a corporate credit estimate by the end of the three month period, the S&P Rating of such Collateral Loan Obligation shall be "CCC+" for each subsequent

monthly period (provided that Rating Agency Confirmation is received from S&P for each subsequent monthly extension) until such time as S&P provides a corporate credit estimate in respect of such Collateral Loan Obligation, provided that such monthly extensions may only be made for up to six months from the settlement date of such Collateral Loan Obligation and provided further that no more than five per cent. of the Portfolio at any one time shall comprise Collateral Loan Obligations for which a corporate credit estimate is pending from S&P; and

- (iv) if S&P does not provide a corporate credit estimate in accordance with (ii) or (iii) above and fails to grant an extension in accordance with (iii) above, the S&P Rating for such Collateral Loan Obligation shall be determined in accordance with paragraph (d), (e) or (f) below; or
- (c) if such Collateral Loan Obligation is not rated by S&P, but another security or obligation of the issuer is rated by S&P and neither the Issuer nor the Portfolio Servicer obtains an S&P Rating for such Collateral Loan Obligation pursuant to sub-clause (b) above, then the S&P Rating of such Collateral Loan Obligation shall be the issuer credit rating or shall be determined as follows: (i) if there is a rating on a senior secured obligation of the issuer, then the S&P Rating of such Collateral Loan Obligation shall be (x) one subcategory below such rating if such rating is higher than "BB+" and such Collateral Loan Obligation is a senior secured or senior unsecured obligation of the Obligor; or (y) two categories below such rating if such rating is "BB+" or lower than such Collateral Loan Obligation is a senior secured or senior unsecured obligation of the Obligor; (ii) if there is a rating on a senior unsecured obligation of the issuer, then the S&P Rating of such Collateral Loan Obligation shall equal such rating if such Collateral Loan Obligation is a senior secured or senior unsecured obligation of the Obligor; and (iii) if there is a rating on a subordinated obligation of the Obligor, and if such Collateral Loan Obligation is a senior secured or senior unsecured obligation of the Obligor, then the S&P Rating of such Collateral Loan Obligation shall be one subcategory above such rating, if such rating is higher than "BB+", and shall be two subcategories above such rating, if such rating is "BB+" or lower; or
- (d) if (i) neither the Obligor nor any of its Affiliates is subject to reorganisation or bankruptcy proceedings and (ii) no debt securities or obligations of the Obligor have been in default during the past two years, the S&P Rating of such Collateral Loan Obligations will be "CCC"; or
- (e) if a debt security or obligation of the Obligor has been in default during the past two years, the S&P Rating of such Collateral Loan Obligation will be "D"; or
- (f) if there is no issuer credit rating published by S&P and such Collateral Loan Obligation is not rated by S&P, and no other security or obligation of the issuer is rated by S&P and neither the Issuer nor the Portfolio Servicer on behalf of the Issuer obtains an S&P Rating for such Collateral Loan Obligation pursuant to sub-clause (b) above but if such Collateral Loan Obligation has a Moody's Public Rating, then the S&P Rating of such Collateral Loan Obligation will be (i) one subcategory below the S&P equivalent of the Moody's Public Rating if such Collateral Loan Obligation is rated "Baa3" or higher by Moody's and (ii) two subcategories below the S&P equivalent of the public rating assigned by Moody's if such Collateral Loan Obligation is publicly rated "Ba1" or lower by Moody's provided, however, that (x) an S&P Rating may only be derived under this paragraph (f) from a Moody's Public Rating and may not be derived from any Moody's confidential credit rating or credit estimate and (y) the Aggregate Principal Balance of the Collateral Loan Obligations that may be deemed to have an S&P Rating based on a rating assigned by Moody's as provided in this paragraph (f) may not exceed 10 per cent. of the Aggregate Portfolio Balance.



## **The Principal Deficiency Test**

The principal deficiency tests (the "Principal Deficiency Tests") will consist of the Class B Principal Deficiency Test and the Class C Principal Deficiency Test. On any Payment Date prior to any Redemption Date relating to any optional redemption of the Notes pursuant to Condition 7(b) (*Optional Redemption*) or following delivery of an Acceleration Notice, if the Class B Principal Deficiency Test is failing, Interest Proceeds will be applied, subject to the redemption of the Class A Notes in full, in redemption of the Class B Notes before payment of interest on the Class C Notes. If the Class C Principal Deficiency Test is failing, Interest Proceeds will be applied, subject to the redemption of the Class B Notes in full, in redemption of the Class C Notes before payment of interest on the Class D Notes, in each case in accordance with the Priorities of Payment.

For the avoidance of doubt, interest on the Class B Notes and the Class C Notes will only accrue on those Interest Accrual Periods (as defined in the Conditions) on which the Principal Deficiency Tests have been satisfied.

Each of the Class B Principal Deficiency Test and the Class C Principal Deficiency Test shall be satisfied on a Determination Date if the Principal Deficiency Amount for that Class divided by the Principal Amount Outstanding of all Classes of Notes on such Determination Date is lower than the relevant percentage threshold stipulated for the Principal Deficiency Test for that Class.

## **Management of the Portfolio**

### ***Issuer's Agents***

Pursuant to the Portfolio Servicing Agreement, the Collateral Administrator is required to perform certain calculations and other administrative functions in relation to the Portfolio on behalf of the Issuer. Pursuant to the Portfolio Servicing Agreement, the Portfolio Servicer is required to act as the Issuer's Portfolio Servicer with respect to the sale, assignment, termination and/or other disposal of certain Collateral Loan Obligations and to carry out the duties and functions described in the Portfolio Servicing Agreement as described in greater detail below under "*Description of the Portfolio Servicing Agreement*".

### ***Sale of Collateral Loan Obligations***

#### ***Terms and Conditions applicable to the Sale of Collateral Loan Obligations ("Other Sales")***

Collateral Loan Obligations (other than Defaulted Obligations or Credit Impaired Obligations) may be sold at any time by the Portfolio Servicer (acting on behalf of the Issuer) at a clean price equal or greater than the Principal Balance of the Collateral Loan Obligation being sold subject to:

- (i) in the Portfolio Servicer's knowledge, no Event of Default having occurred which is continuing; and
- (ii) either (a) the Collateral Administrator confirming that the Aggregate Principal Balance of Collateral Loan Obligations sold in any year (with each year commencing on the Issue Date or, as the case may be, an anniversary thereof, and ending on the next succeeding anniversary thereof (in each case excluding any Credit Impaired Obligations or Defaulted Obligations sold)) does not exceed 5.00 per cent. of the Aggregate Portfolio Balance, measured as at the beginning of each such year or (b) the consent of holders of the Controlling Class acting by Extraordinary Resolution in respect of sales of Collateral Loan Obligations (excluding Defaulted Obligations or Credit Impaired Obligations) to such sale has been obtained.

#### ***Terms and Conditions applicable to the Sale of Credit Impaired Obligations***

Credit Impaired Obligations may be sold at any time by the Portfolio Servicer (acting on behalf of the Issuer) provided that (i) the sale price of such Credit Impaired Obligation is at least equal to the par amount thereof (unless the holders of the Controlling Class, acting by Extraordinary Resolution, have consented to such sale taking place at a lower price), and (ii) no Event of Default has occurred and is continuing (unless the holders of the Controlling Class, acting by Ordinary Resolution, have consented to such sale (notwithstanding the occurrence and subsistence of an Event of Defaults)).

If the Portfolio Servicer determines that a Collateral Loan Obligation is a Credit Impaired Obligation it shall notify the Issuer of such fact and the date of such determination and shall seek to dispose of such Collateral Loan Obligation prior to the Maturity Date. The timing of such sale within such specified time period shall be at the sole discretion of the Portfolio Servicer. The Portfolio Servicer will notify the Rating Agencies in the event of any such sale.

***Terms and Conditions applicable to the Sale of Defaulted Obligations***

Defaulted Obligations may be sold at any time by the Portfolio Servicer (acting on behalf of the Issuer). The Portfolio Servicer will notify the Rating Agencies in the event of any such sale.

If the Portfolio Servicer determines (based, in part, on information and data provided by the Collateral Administrator to the Portfolio Servicer in respect of the Collateral Loan Obligations contained in the Portfolio) that a Collateral Loan Obligation is a Defaulted Obligation it shall notify the Issuer and the Rating Agencies of such fact and the date of such determination (such date the "**Default Date**") and shall seek to dispose of such Collateral Loan Obligation prior to the Maturity Date. The timing of such sale within such specified time period shall be at the sole discretion of the Portfolio Servicer.

***Terms and Conditions applicable to the Sale of Exchanged Equity Securities***

Subject to compliance with the Portfolio Servicing Agreement, any Exchanged Equity Security shall be sold as soon as reasonably commercially practicable following delivery of such Exchanged Equity Security to the Issuer by the Portfolio Servicer (acting on behalf of the Issuer) subject to, to the Portfolio Servicer's knowledge, no Event of Default having occurred which is continuing. The Portfolio Servicer shall use all reasonable commercial effort to sell any Collateral Loan Obligation in respect of which the Portfolio Servicer in its reasonable business judgement believes, the Issuer shall be delivered an Exchanged Equity Security.

***Reinvestment of Collateral Loan Obligations***

During the Replenishment Period, the Portfolio Servicer may, at its discretion, reinvest Principal Proceeds in the purchase of New Collateral Loan Obligations satisfying the Eligibility Criteria provided that immediately after each such purchase, the criteria set out below (the "**Reinvestment Criteria**") must be satisfied:

- (a) to the Portfolio Servicer's knowledge, no Event of Default has occurred that is continuing at the time of such purchase;
- (b) the Collateral Quality Tests are satisfied or, if any such test was not satisfied, it is no further from being satisfied than immediately prior to sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested;
- (c) the Portfolio Profile Tests are satisfied or, if any such limitation is not satisfied, in the case of each limitation (i) in respect of which an upper limit is applicable, the relevant concentration is no greater, and (ii) in respect of which a lower limit is applicable, the relevant concentration is no lesser, after giving effect to such reinvestment than it was immediately prior to sale or prepayment (in whole or in part) of the relevant Collateral Loan Obligation the Principal Proceeds of which are being reinvested; and
- (d) the Portfolio Outstanding Amount after a purchase of New Collateral Loan Obligations must not be higher than the Initial Portfolio Balance.

***Designation for Reinvestment***

The Portfolio Servicer will notify the Issuer and the Collateral Administrator of the details of all Principal Proceeds which it has designated for reinvestment on the next following Payment Date on the Determination Date relating to such Payment Date in which event such amounts shall not constitute Principal Proceeds which are to be disbursed on such Payment Date in accordance with the Priorities of Payment.

### ***Liquidation of Collateral upon Optional Redemption of Notes***

#### ***Liquidation in Whole***

In the event of an optional redemption of the Notes in whole, the Portfolio Servicer (acting on behalf of the Issuer) shall, as far as practicable, perform the obligations of the Portfolio Servicer set forth in Condition 7(b) (*Optional Redemption*) including arranging for liquidation of the Portfolio and any other Collateral, including the termination or sale of the Interest Rate Swap Transaction to the extent applicable, in accordance with Condition 7(b) (*Optional Redemption*) without regard to the limitations set out under the above paragraphs "*Terms and Conditions applicable to the Sale of Defaulted Obligations*" and "*Terms and Conditions applicable to the Sale of Credit Impaired Obligations*", but subject always to any limitations or restrictions set out in the Conditions of the Notes and the Trust Deed in order to procure that the proceeds thereof are in immediately available funds by one Business Day (or where the Account Bank is not the same entity as or an Affiliate of the Principal Paying Agent, two Business Days) prior to the applicable scheduled Redemption Date.

#### ***Highest Price***

The Portfolio Servicer shall only sell any asset or group of assets together forming part of the Portfolio at a price which it believes to be reasonably close to the highest fully actionable price for such asset or group of assets together.

#### ***Acting as Agent***

In liquidating the Portfolio the Portfolio Servicer shall act solely as an agent of the Issuer and will not be responsible to any other person (including Noteholders) for the provision of such service. The Portfolio Servicer shall have no duties (including any fiduciary duties) or responsibilities to the Initial Purchaser, the Noteholders or the Trustee and no fiduciary duties to the Issuer. In connection with the sale of all or a portion of the Portfolio on behalf of the Issuer (including, without limitation, pursuant to one or more binding agreements as described below), the Portfolio Servicer, acting on behalf of the Issuer, may agree to sell and/or transfer assets and liabilities at prices determined by the Portfolio Servicer in a commercially reasonable manner, including, but not limited to, by reference to the bid side market price obtained from an internationally recognised pricing service, and the Portfolio Servicer shall have no liability to the Issuer, the Trustee, the Secured Parties or any other person for determining prices in such manner.

### ***Liquidation of Collateral upon Enforcement of Security***

Upon receipt of notification from the Trustee of the enforcement of security over the Collateral, the Portfolio Servicer will act as directed to act for the Trustee pursuant to clause 5.3 (*Portfolio Servicer to act for Trustee*) of the Portfolio Servicing Agreement acting in accordance with clause 7 of the Trust Deed (*Enforcement of Security*) and Condition 11 (*Enforcement*).

### ***Sale of Collateral Prior to Maturity Date***

In the event of any redemption of the Notes in whole prior to the Maturity Date, the Portfolio Servicer, in accordance with terms set out in the Portfolio Servicing Agreement, shall use commercially reasonable efforts to procure the sale, assignment, termination and/or other disposal of the Portfolio so that the proceeds thereof are in immediately available funds not later than one Business Day prior to such scheduled Redemption Date. The settlement dates for any such sales of Collateral Loan Obligations shall be no later than one Business Day (or where the Account Bank is not the same entity as or an Affiliate of the Principal Paying Agent, two Business Days) prior to the applicable scheduled Redemption Date.

### ***Participations***

The Issuer shall not acquire Collateral Loan Obligations by way of Participation.

### ***Acquisition of Collateral Loan Obligations***

The Portfolio Servicer shall procure that the Issuer acquires Collateral Loan Obligations by means of Collateral Acquisition Agreements, which may be in the form as further described in the section entitled "*Description of the Collateral Acquisition Agreements*" below.

### ***Projected Amortisation Schedule***

The average life of the Notes is anticipated to be shorter than the period from the Issue Date to the Maturity Date. The Issuer has projected that, on the basis of the expected performance of the Portfolio, for different prepayment scenarios, the weighted average life of the Notes should be equal to the figures set out in the table below. There can be no assurance that the Notes will amortise at these projected rates, or will achieve the ultimate return of any principal. The actual average lives and actual maturities of the Notes will be affected by the financial condition of each of the obligors of the underlying Collateral Loan Obligations and the characteristics of such loans, including the existence and frequency of exercise of any optional or mandatory redemption features, the prevailing level of interest rates, the redemption price, the actual default rate, the actual level of recoveries on any Defaulted Obligations and the frequency of tender or exchange offers for such Collateral Loan Obligations. See Risk Factor 2.9 (*Average Life and Prepayment Considerations*).

	CPR: 0%	CPR: 2.5%	CPR: 5%	CPR: 7.5%
Class A	5.27	5.11	4.96	4.81
Class B	6.86	6.63	6.43	6.30
Class C	8.91	8.72	8.54	8.33

## DESCRIPTION OF THE PORTFOLIO SERVICING AGREEMENT

### Introduction

Pursuant to the Portfolio Servicing Agreement, the Issuer has appointed Banco Español de Crédito S.A. (the "**Portfolio Servicer**") to provide portfolio management services in respect of the Portfolio.

The Issuer shall, in the Portfolio Servicing Agreement, delegate authority to the Portfolio Servicer to carry out certain of its functions in relation to the Portfolio without the requirement for specific approval by the Issuer.

### Duties of the Portfolio Servicer

Subject to the detailed provisions thereof, the duties of the Portfolio Servicer under the Portfolio Servicing Agreement shall include (but are not limited to) the following (including those described under "*Management of the Portfolio*" under "*Description of the Portfolio*"):

- (a) monitor the Portfolio so as to identify Defaulted Obligations and Credit Impaired Obligations after the Issue Date;
- (b) monitor and exercise on behalf of the Issuer certain rights of the Issuer under the Interest Rate Swap Transaction, negotiate the entry into, on behalf of the Issuer, Replacement Interest Rate Swap Transactions and manage the Interest Rate Swap Transaction;
- (c) subject to "*Actions for which the Issuer retains responsibility*" below, as agent of the Issuer, attend and/or vote or refrain from attending and/or voting at any meeting of the holders of, or other persons participating in or entitled to any rights or benefits under, or to otherwise exercise or refrain from exercising any voting rights arising in respect of, any Collateral Loan Obligation (including, but not limited to, those relating to amendments, waivers and offers);
- (d) seek to dispose of Collateral Loan Obligations in the Portfolio:
  - (i) that it has identified as Defaulted Obligations and/or Credit Impaired Obligations; and
  - (ii) in connection with any redemption of the Notes pursuant to Condition 7 (*Redemption and Purchase*) or Condition 10 (*Events of Default*);
- (e) sell any Collateral Loan Obligation which is, or at any time becomes, Margin Stock (as defined under Regulation U issued by The Board of Governors of the Federal Reserve System) as soon as practicable following such event;
- (f) during the Replenishment Period and subject to satisfaction of the Reinvestment Criteria, at its discretion, acquire on behalf of the Issuer New Collateral Loan Obligations satisfying the Eligibility Criteria at the time that the binding commitment to acquire such New Collateral Loan Obligations is entered into;
- (g) inform the Collateral Administrator in writing when a Collateral Loan Obligation becomes either a Defaulted Obligation or a Credit Impaired Obligation for inclusion in the Monthly Reports and Payment Date Reports;
- (h) use reasonable commercial efforts to sell all Exchanged Equity Securities. Exchanged Equity Securities may be sold by the Portfolio Servicer through a broker dealer or in such other manner as the Portfolio Servicer deems appropriate and the Portfolio Servicer shall have no duty to seek multiple bids for any Exchanged Equity Security;
- (i) exercise all discretions, make all judgements and determinations and give directions and take all other actions the Portfolio Servicer is authorised or required to exercise, make or take under the Portfolio Servicing Agreement or pursuant to the Conditions of the Notes, the Trust Deed and any other Transaction Document, including taking any action in respect of any judicial proceedings derived from or related to the Collateral Loan Obligations; and

- (j) provide information which is reasonably requested by the Collateral Administrator, the Issuer, the Trustee, independent accountants, the Rating Agencies and other parties provided the Portfolio Servicer has or can reasonably obtain and/or disclose such information (subject to any confidentiality requirements).

The duties of the Portfolio Servicer under the Portfolio Servicing Agreement do not constitute advisory services and the Portfolio Servicer will not act as an adviser to the Issuer, any Noteholder nor any other party. The obligations of the Portfolio Servicer under the Portfolio Servicing Agreement are owed only to the Issuer, other than following an Event of Default when the Portfolio Servicer may be required to act on behalf of the Trustee. The Portfolio Servicer does not have any obligations or responsibilities to the Noteholders, the Initial Purchaser, the Arranger, the Originator, the Trustee (other than as mentioned in the foregoing sentence) and does not owe any fiduciary duties to the Issuer. Any reference herein to the Portfolio Servicer using reasonable commercial efforts is a reference to the Portfolio Servicer using such efforts in accordance with the standard of care set out in the Portfolio Servicing Agreement.

#### **Actions for which the Issuer retains responsibility**

Pursuant to the terms of the Portfolio Servicing Agreement, in respect of any of the voting rights referred to in paragraph (c) of "*Duties of the Portfolio Servicer*" above, or the taking of any decision which relates to:

- (a) a change to the borrowers or guarantors (except the accession of additional guarantors or where the release of borrowers or guarantors does not require unanimous consent in respect of syndicated facilities);
- (b) a change in the order of priority or subordination of payments under the relevant facilities;
- (c) the release of security or guarantees where it requires unanimous lenders' consent under the relevant facilities or, in respect of bilateral facilities, such security or guarantee is material having regard to its value as compared to the outstanding amount owed under the relevant facilities;
- (d) a change in the manner in which the proceeds of enforcement of security or repayments of principal, interest or other amounts payable by the relevant obligors are distributed;
- (e) an extension to the date of payment of any amount under the relevant facilities;
- (f) a reduction in the margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (g) a change in the currency of payment of any amount under the relevant facilities;
- (h) an increase in any commitment or an extension of any availability period;
- (i) the introduction of additional obligations for the lenders; or
- (j) any provision which expressly requires the consent of all the lenders, in respect of syndicated facilities,

the Portfolio Servicer has no authority. Pursuant to the terms of the Portfolio Servicing Agreement, in case the Portfolio Servicer is requested to take action in respect of any of the terms of any of the Underlying Instruments as set out above, it will forward such request to the Issuer. If the Issuer fails to respond to a request in respect of a consent, waiver or amendment, in relation to any of the terms of any of the Underlying Instruments as set out above within seven Business Days of that request being made (unless the Issuer and the Portfolio Servicer agree to a longer time period in relation to any such request), the Portfolio Servicer will be authorised to grant the consent or take such other action as is required by it to be taken in respect of the relevant Collateral Loan Obligation.

## **Fees**

The Portfolio Servicer will receive a fee comprising the Portfolio Servicing Fee payable in arrear on each Payment Date in accordance with the Priorities of Payment.

The Portfolio Servicing Fee is equal to 0.01 per cent. per annum of the Aggregate Portfolio Balance as at the first Business Day of the Due Period preceding the applicable Payment Date (calculated on the basis of a 360-day year and the number of days elapsed in such Due Period), payable in arrear on each Payment Date in accordance with the Priorities of Payment together with any value added tax in respect thereof whether payable to the Portfolio Servicer or directly to the relevant taxing authority.

For the avoidance of doubt, the Portfolio Servicing Fee includes any such fee payable to a former Portfolio Servicer pursuant to the Portfolio Servicing Agreement, pro rated where applicable.

## **Termination and Resignation**

### ***Removal for Tax Reasons***

The Portfolio Servicer may be removed by the Issuer at its own discretion or as directed by either the holders of the Controlling Class acting by Ordinary Resolution or the Class D Noteholders acting by Ordinary Resolution, if at any time the appointment or activities of the Portfolio Servicer under the Portfolio Servicing Agreement and/or the activities of an agent appointed by the Portfolio Servicer pursuant to the Portfolio Servicing Agreement constitutes a Spanish permanent establishment of the Issuer for Spanish tax purposes and thereby causes the Issuer to become subject to Spanish corporation tax (or Spanish non-resident income tax) on profits of trading activities carried on by the Issuer that are attributable to that permanent establishment or in the reasonable opinion of the Issuer or the Trustee is likely to give rise to such tax (in each case a "**Tax Termination Event**"), provided that no such removal will be effective until a substitute Portfolio Servicer is appointed.

### ***Removal for Cause***

The Portfolio Servicer may be removed for Cause upon ten days' prior written notice by the Trustee, at the direction of the Controlling Class, acting by Extraordinary Resolution (excluding any Notes of the Controlling Class held by the Portfolio Servicer or its Affiliates), provided that notice of such removal shall have been given to the holders of each Class of the Notes by the Issuer in accordance with the Portfolio Servicing Agreement. For the purposes of the Portfolio Servicing Agreement, "**Cause**" means:

- (a) the Portfolio Servicer wilfully breaches, or wilfully takes any action which it knows violates in any material respect, any provision of the Portfolio Servicing Agreement, the Trust Deed or any other Transaction Document to which it is a party, as are applicable to it;
- (b) the Portfolio Servicer breaches in any material respect any provision of the Portfolio Servicing Agreement, the Trust Deed or any other Transaction Document to which it is a party, as are applicable to it (other than as specified in paragraph (a) above) and where the Portfolio Servicer fails to cure such breach within 30 days after the earlier of (i) the Portfolio Servicer becoming aware of, or (ii) the Portfolio Servicer receiving notice from the Issuer or the Trustee of, such breach or, if such breach is not capable of cure within 30 days, the Portfolio Servicer fails to cure such breach within the period in which a reasonably diligent person could cure such breach (in no event more than 90 days);
- (c) the failure of any representation, warranty, certification or statement made or delivered by the Portfolio Servicer, in or pursuant to the Portfolio Servicing Agreement, the Trust Deed or any other Transaction Document to which it is a party to be correct in any material respect when made and such failure (x) has a material adverse effect on the Issuer or is, in the opinion of the Trustee, materially prejudicial to the interests of the Noteholders of any Class and (y) no correction is made for a period of 30 days after the Portfolio Servicer becoming aware of, or its receipt of notice from the Issuer or the Trustee of, such failure;
- (d) any procedure is commenced with a view to the winding up or dissolution of the Portfolio Servicer, or with a view to the appointment over the Portfolio Servicer's or a substantial part of the Portfolio Servicer's assets or the appointment of a receiver, administrator (judicial or

otherwise), administrative receiver, trustee or similar officer, including the intervention (*intervención*) of the Portfolio Servicer by the Bank of Spain, the Fund for Bank Restructurings (*Fondo de Reestructuración Ordenada Bancaria*) or any other regulatory authority; or if the Portfolio Servicer (i) ceases to be able to, or admits in writing that it is unable to pay its debts as they become due and payable, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, its creditors generally; (ii) applies for or consents (by admission of material allegations of a petition or otherwise) to the appointment of a receiver, trustee, assignee, custodian, liquidator or sequestrator (or other similar official) of the Portfolio Servicer or of any substantial part of its properties or assets, or authorises such an application or consent, or proceedings seeking such appointment are commenced against the Portfolio Servicer without such authorisation, consent or application and either continue undismissed for 60 days or any such appointment is ordered by a court or regulatory body having jurisdiction; (iii) it is declared insolvent (*declarado en concurso* in accordance with Spanish Insolvency Law 22/2003 of 9 July, as amended), authorises or files a voluntary petition in bankruptcy (including, for the avoidance of doubt, the voluntary filing for its declaration of *concurso voluntario* in accordance with Spanish Insolvency Law 22/2003 of 9 July, as amended), or applies for or consents (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganisation, arrangement, readjustment of debt, insolvency, dissolution, or similar law, or authorises such application or consent, or proceedings to such end (including the filing of a petition by any third party for its mandatory declaration of insolvency (*concurso necesario*) in accordance with Spanish Insolvency Law 22/2003 of 9 July, as amended) are instituted against the Portfolio Servicer without such authorisation, application or consent and remain undismissed for 60 days or result in adjudication of bankruptcy or insolvency or the issuance of an order for relief; or (iv) permits or suffers all or any substantial part of its properties or assets to be sequestered or attached by court order and the order (if contested in good faith) remains undismissed for 60 days;

- (e) the occurrence of any event which under the laws of any jurisdiction has a similar or analogous effect to any of those events mentioned in paragraph (d);
- (f) the occurrence of an Event of Default specified in paragraphs (a)(i) and (a)(ii) of Condition 10 (*Events of Default*) of the Notes which is a direct consequence of the actions or omissions of the Portfolio Servicer;
- (g) the occurrence of an act by the Portfolio Servicer that constitutes fraud or criminal activity in the performance of its obligations under the Portfolio Servicing Agreement or any other Transaction Document to which it is a party, or its other investment management activities, or the Portfolio Servicer being found guilty of having committed a criminal offence related to the management of investments similar in nature and character to those which comprise the Collateral;
- (h) the Portfolio Servicer ceases to be authorised such that, as a result of such change, the Portfolio Servicer no longer has the legal or regulatory capacity to perform its obligations as Portfolio Servicer in accordance with the Portfolio Servicing Agreement; or
- (i) the Portfolio Servicer, breaches any law or regulation applicable to the performance of its obligations or its provision of portfolio servicing services under the Portfolio Servicing Agreement and such breach is, in the opinion of the Trustee, materially prejudicial to the interests of any Class of Noteholders and the Portfolio Servicer fails to cure such breach within 30 days after either notice of such failure is given to the Portfolio Servicer or the Portfolio Servicer has actual knowledge of such breach, whichever is earlier.

If any of the events specified in paragraphs (a) to (i) above (inclusive) shall occur, the Portfolio Servicer, shall give prompt written notice thereof to the Issuer, the Trustee, the Collateral Administrator, the Rating Agencies and the holders of all Outstanding Notes upon the Portfolio Servicer becoming aware of the occurrence of such event.



### ***Notes held by Originator***

On the Issue Date, the Originator (which is the same legal entity as the Portfolio Servicer) will acquire the Notes and, undertakes to retain until maturity €4,252,700 of the Class D Notes representing the net economic interest of not less than 5 per cent. of the nominal value of the securitised exposures in accordance with option (d) of Article 122A of the Capital Requirements Directive. In certain circumstances, the interests of the Issuer and/or the Noteholders with respect to matters as to which the Portfolio Servicer is acting as portfolio servicer of the Issuer may conflict with the foregoing interests of the Originator. Pursuant to the Portfolio Servicing Agreement, the Issuer acknowledges and consents to various potential and actual conflicts of interest that may exist with respect to the Portfolio Servicer and the Originator, as described therein, provided that nothing in the Portfolio Servicing Agreement will be construed as altering the duties of the Portfolio Servicer as set forth therein.

Any Notes held by, for the benefit of, for the account of or on behalf of the Originator and/or its Affiliates will have no voting rights with respect to any vote (or written direction or consent) in connection with the removal, appointment or replacement of the Portfolio Servicer and will be deemed not to be Outstanding in connection with any such vote; provided, however, that without prejudice to the foregoing, any Notes held by the Originator or its Affiliates will have voting rights (including in respect of written directions and consents) with respect to all other matters as to which Noteholders are entitled to vote in accordance with the Portfolio Servicing Agreement.

The Originator shall provide to the Trustee, as soon as practicable after being so requested by the Trustee, a certificate of the Originator signed by an authorised representative of the Originator, stating the Principal Amount Outstanding held at the date of such certificate by, for the benefit of, for the account of or on behalf of, the Originator and/or any of its Affiliates, which Certificate shall be conclusive and binding.

### ***Automatic Termination of the Portfolio Servicing Agreement***

The Portfolio Servicing Agreement will automatically terminate upon the earlier to occur of (a) the payment in full of the Notes and the termination of the Trust Deed in accordance with its terms and (b) the liquidation of the Collateral and the final distribution of the proceeds of such liquidation as provided in the Trust Deed.

### ***Termination at Election of the Portfolio Servicer***

The Portfolio Servicer may terminate the Portfolio Servicing Agreement by giving ten days' written notice to the Issuer (with a copy to each of the Trustee, the Collateral Administrator and the Rating Agencies) on occurrence of a Basic Termination Event in respect of the Issuer (as defined in the Portfolio Servicing Agreement).

### ***Resignation***

The Portfolio Servicer may resign upon 45 days' (or such shorter notice period as is acceptable to the Issuer) prior written notice to the Issuer (with a copy to each of the Trustee, the Collateral Administrator and the Rating Agencies).

### ***Substitute Portfolio Servicer***

Notwithstanding any of the foregoing, no termination, resignation or removal of the Portfolio Servicer under the Portfolio Servicing Agreement will be effective:

- (a) unless an Eligible Successor (as defined below) has agreed in writing to assume all of the Portfolio Servicer's duties and obligations under all the relevant Transaction Documents and such assumption has become effective;
- (b) if it causes the Issuer or the Portfolio to be required to register under the provisions of the Investment Company Act 1940; or
- (c) if such Eligible Successor will cause the Issuer to be resident in, or have a permanent establishment in, any jurisdiction other than The Netherlands, or deemed to be, resident for tax

purposes, or have a permanent establishment in, or be engaged or deemed to be engaged, in the conduct of a trade or business in any jurisdiction other than The Netherlands.

An "**Eligible Successor**" means an established institution:

- (a) which has demonstrated an ability to professionally and competently perform duties similar to those imposed upon the Portfolio Servicer and with a substantially similar (or better) level of expertise;
- (b) which is legally qualified and has the capacity (including the regulatory capacity to render such services to Dutch counterparties as a matter of the laws of The Netherlands) to act as the Portfolio Servicer under the Portfolio Servicing Agreement, as successor to the Portfolio Servicer in the assumption of all of the responsibilities, duties and obligations of the Portfolio Servicer thereunder;
- (c) which will perform its duties under the Portfolio Servicing Agreement without causing adverse tax consequences to the Issuer or the holders of any Class of Notes; and
- (d) in respect of which Rating Agency Confirmation has been received from S&P and DBRS,

paragraphs (a) to (d) (inclusive) constituting the "**Substitute Criteria**".

The Issuer shall appoint any substitute Portfolio Servicer that satisfies the Substitute Criteria and is proposed and/or approved by the holders of the Class D Notes (acting by Extraordinary Resolution) provided that the holders of the Controlling Class (acting by Extraordinary Resolution) do not reject the appointment of such substitute Portfolio Servicer within 30 days of such proposed appointment.

Where the appointment of the Portfolio Servicer is terminated for fraud or criminal activity (as more particularly specified in the Portfolio Servicing Agreement), any Notes held by or on behalf of the Portfolio Servicer and its Affiliates or by accounts over which any of them exercise discretionary voting authority will have no voting rights and be deemed not to be Outstanding for the purposes of any vote to appoint a replacement Portfolio Servicer.

If the Issuer has not so appointed a substitute Portfolio Servicer within 180 days of the first date on which such termination, resignation or removal for Cause would have taken place but for the failure to appoint a Substitute Portfolio Servicer, then the holders of the Controlling Class acting by Extraordinary Resolution shall have the right to nominate a substitute Portfolio Servicer for appointment provided that such substitute Portfolio Servicer is an Eligible Successor and the Issuer shall be deemed to consent to such nomination and appointment, such appointment being subject to the prior satisfaction of the Substitute Criteria (other than, for the avoidance of doubt, being proposed by the Class D Noteholders). If the Issuer has not so appointed a substitute Portfolio Servicer after 60 days after the expiry of such 180 day period the holders of the Class D Notes acting by Extraordinary Resolution may direct the Issuer as to what action to take in respect of any determinations that would have been made or directions taken by the Portfolio Servicer until such time as a replacement Portfolio Servicer is appointed by the Issuer acting at the direction of the Controlling Class acting by Extraordinary Resolution as provided above. Any Notes held by or on behalf of the Portfolio Servicer and its Affiliates or by accounts over which any of them exercise discretionary voting authority will have no voting rights with respect to any vote (or written direction or consent) in connection with any direction to the Issuer by the Class D Noteholders and will be deemed not to be Outstanding in connection with any such vote.

The Portfolio Servicing Fee may be adjusted by the Issuer (with the consent of the Trustee, Rating Agency Confirmation and an Extraordinary Resolution of the holders of each of the Notes) in the event of a replacement or substitute Portfolio Servicer being appointed.

#### ***Delegation by Portfolio Servicer***

The Portfolio Servicer may perform any and all of its duties and exercise its rights and powers by or through any one or more agents, including any of its Affiliates, selected by the Portfolio Servicer in accordance with the standard of care to which it is subject under the Portfolio Servicing Agreement, subject to (i) the Portfolio Servicer ensuring that any such agent is subject to no less a standard of care, (ii) the Portfolio Servicer complying with its standard of care in the selection of its delegates or agents,

(iii) the agreement of any such agent or delegate to be bound by the "limited recourse" and "non-petition" provisions of the Portfolio Servicing Agreement as if it were a party thereto and (iv) where necessary, such agent or delegate having the regulatory capacity as a matter of Dutch law, to render such delegated services to Dutch residents, and (v) would not cause the Issuer to be liable for any additional tax including any withholding tax or VAT on any payments or supplies under the Portfolio Servicing Agreement or any Transaction Documents.

As provided in the Portfolio Servicing Agreement, any delegation by the Portfolio Servicer to any agent of the performance of the duties of the Portfolio Servicer through such agent shall not in any way relieve the Portfolio Servicer from its obligations under the Portfolio Servicing Agreement for which it shall continue to be liable as if and to the extent that it would have been had no such delegation being made and any failure by such agent to perform the services expressed to be performed by the Portfolio Servicer thereunder shall be treated as a breach of the Portfolio Servicing Agreement by the Portfolio Servicer.

#### ***Amendments Affecting the Portfolio Servicer***

The Issuer has agreed in the Portfolio Servicing Agreement that it will not permit any amendment to the Notes or the Trust Deed that affects the obligation of the Portfolio Servicer under the Portfolio Servicing Agreement to become effective unless the Portfolio Servicer has been given prior written notice of such amendment and has consented thereto in writing.

#### ***Assignment or Transfer by the Portfolio Servicer***

The Portfolio Servicer may not assign or transfer any of its rights and obligations under the Portfolio Servicing Agreement unless (i) such assignment or transfer is consented to in writing by the Issuer and by the holders of the Controlling Class acting by Extraordinary Resolution, (ii) such assignee or transferee satisfies the Substitute Criteria, (iii) such assignment or transfer will not result in a material adverse tax event, and (iv) any such assignment or transfer will bind the transferee in the same manner as the Portfolio Servicer is bound, provided that subject to the Substitute Criteria, any corporation, partnership or limited liability company into which the Portfolio Servicer may be merged or converted or with which it may be consolidated or which results from any merger, conversion or consolidation to which the Portfolio Servicer may be a party or which succeeds to all or substantially all of the investment management business or the portfolio servicing business of the Portfolio Servicer will be the successor to the Portfolio Servicer without any further action by the Portfolio Servicer.

#### **Standard of Care Liability and Limits on Liability of the Portfolio Servicer**

##### ***Liability and Standard of Care of the Portfolio Servicer***

The Portfolio Servicer will agree in the Portfolio Servicing Agreement that it shall, subject to the terms and conditions thereof, perform its obligations thereunder in good faith and with reasonable care, using a degree of skill and attention which are at least equal to those which the Portfolio Servicer exercises with respect to its own portfolio; and to the extent not inconsistent with the foregoing, in a manner consistent with the customary standards, policies and procedures followed by institutions of recognised standing in providing the services specified in the Portfolio Servicing Agreement in relation to assets of the nature and character of those comprised in the Portfolio.

##### ***Limits on Liability of the Portfolio Servicer***

The Portfolio Servicer assumes no responsibility under the Portfolio Servicing Agreement other than to render the services called for thereunder in good faith and, subject to the standard of care described above, will not be responsible for any action or inaction of the Issuer taken, or not taken as the case may be, at the direction of the Portfolio Servicer. The Portfolio Servicer and its Affiliates will not be liable to the Issuer, the Trustee, the Noteholders or any other Person for any losses, claims, damages, judgments, assessments, costs, taxes or other liabilities (collectively, "**Liabilities**") incurred by the Issuer, the Trustee, the Noteholders or any other Person that arise out of or in connection with the performance by the Portfolio Servicer of its duties thereunder, except where such Liabilities arise:

- (i) by reason of acts or omissions constituting fraud, bad faith, wilful misconduct or gross negligence in the performance of the obligations of the Portfolio Servicer thereunder ("**Portfolio Servicer Breaches**"); and

- (ii) with respect to the information concerning the Portfolio Servicer provided in writing by the Portfolio Servicer for inclusion in this Prospectus if such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained in the section headed "*Description of the Portfolio Servicer*" of this Prospectus, in the light of the circumstances under which they were made, not misleading.

The parties will acknowledge in the Portfolio Servicing Agreement that the only information concerning the Portfolio Servicer provided in writing by the Portfolio Servicer for inclusion in this Prospectus is under the section headed "*Description of the Portfolio Servicer*".

In no circumstances will any of the directors, officers, shareholders, partners, members, agents or employees of the Portfolio Servicer or any of its Affiliates have any liability to the Issuer, the Trustee, the Noteholders, any other Secured Party or any other person.

## **Indemnities**

### ***Issuer Indemnity***

The Issuer will agree in the Portfolio Servicing Agreement to indemnify and hold harmless (the Issuer in such case, the "**Indemnifying Party**") the Portfolio Servicer, the Collateral Administrator, their respective Affiliates and each of the directors, officers, shareholders, partners, members, agents, employees and controlling persons of the Portfolio Servicer and the Collateral Administrator or any of their respective Affiliates (such parties collectively in such case, the "**Indemnified Parties**") from and against any and all Liabilities incurred by any such Indemnified Party (other than any Issuer Spanish Tax Representative Liabilities (as defined in the Portfolio Servicing Agreement), in respect of the Portfolio Servicer) resulting from an Issuer Indemnification Matter (as defined in the Portfolio Servicing Agreement), save to the extent that such Liability would not have arisen but for a Collateral Administrator Breach in respect of the Collateral Administrator, or a Portfolio Servicer Breach in respect of the Portfolio Servicer, and in addition will reimburse each such Indemnified Party for all reasonable fees and expenses (including reasonable fees and expenses of legal counsel) (collectively, the "**Expenses**") as such Expenses are incurred in investigating, preparing, pursuing or defending any claim, action, proceeding or investigation with respect to any pending or threatened litigation (collectively, the "**Actions**"), caused by, or arising out of or in connection with, any such Issuer Indemnification Matter, the issuance of the Notes (in respect of the Portfolio Servicer), the transactions contemplated by this Prospectus or the Portfolio Servicing Agreement (in respect of the Portfolio Servicer), and/or any action taken by, or any failure to act by, such Indemnified Party (in respect of the Portfolio Servicer); provided that no Indemnified Party will be indemnified for any Liabilities or Expenses it incurs as a result of such Indemnified Party's acts or omissions which constitute a Portfolio Servicer Breach or a Collateral Administrator Breach (as defined in the Portfolio Servicing Agreement and such definitions include, amongst other things, any act or omission constituting fraud, bad faith, wilful misconduct or gross negligence in the performance of the Portfolio Servicer's or Collateral Administrator's obligations under the Portfolio Servicing Agreement), as applicable. Notwithstanding anything contained in the Portfolio Servicing Agreement to the contrary, the obligations of the Issuer under such provisions of the Portfolio Servicing Agreement will be payable solely out of the Collateral in accordance with the Priorities of Payment (as an Administrative Expense) and will survive termination of the Portfolio Servicing Agreement.

### ***Issuer Spanish Tax Representative Liability***

The Issuer agrees to indemnify the Portfolio Servicer against any Issuer Spanish Tax Representative Liabilities (as defined in the Portfolio Servicing Agreement) provided that this shall not apply to the extent that such liabilities would not have arisen but for a breach by the Portfolio Servicer of a representation or warranty made by it pursuant to the Portfolio Servicing Agreement or any failure by the Portfolio Servicer to comply with the provisions of the Portfolio Servicing Agreement.

### ***Portfolio Servicer Indemnity***

The Portfolio Servicer will agree in the Portfolio Servicing Agreement to indemnify and hold harmless the Issuer, the Trustee, the Collateral Administrator, the Payment Account Account Bank, the Account Bank, the Custodian and each of their respective directors, officers, shareholders, partners, members, agents, employees and controlling persons from and against any direct liabilities (to the exclusion of

any consequential or indirect economic losses or any loss of turnover, profits or business incurred by the Issuer other than any amount contemplated or envisaged by the Portfolio Servicer and the Issuer on execution of the Portfolio Servicing Agreement to be payable to or as the case may be by the Issuer in relation to the Transaction Documents) resulting from any Portfolio Servicer Breach and shall reimburse each such PA Indemnified Person (as defined in the Portfolio Servicing Agreement) for all documented expenses properly incurred related thereto (including, without limitation, fees and expenses of counsel and all other costs of investigating, preparing, pursuing or defending any claim, action, proceeding or investigation with respect to any pending litigation, caused by, or arising out of or in connection with, any Portfolio Servicer Breach (as defined in the Portfolio Servicing Agreement)) except to the extent that such claims result from the wilful misconduct, bad faith, fraud or gross negligence of the PA Indemnified Person (as defined in the Portfolio Servicing Agreement) under the Portfolio Servicing Agreement.

***Collateral Administrator Indemnity***

The Collateral Administrator will agree in the Portfolio Servicing Agreement to indemnify and hold harmless the Issuer, the Trustee, the Portfolio Servicer, the Payment Account Account Bank, the Account Bank, the Custodian and each of their respective directors, officers, shareholders, partners, members, agents, employees and controlling persons from and against any direct liabilities (to the exclusion of any consequential or indirect economic losses or any loss or turnover, profits or business incurred by the Issuer other than any amount contemplated or envisaged by the Collateral Administrator and the Issuer on execution of the Portfolio Servicing Agreement to be payable to or as the case may be by the Issuer in relation to the Transaction Documents) resulting from, any Collateral Administrator Breach) and shall reimburse each such CA Indemnified Person (as defined in the Portfolio Servicing Agreement) for all documented expenses properly incurred related thereto (including, without limitation, fees and expenses of counsel and all other costs of investigating, preparing, pursuing or defending any claim, action, proceeding or investigation with respect to any pending litigation, caused by, or arising out of or in connection with, any Collateral Administrator Breach (as defined in the Portfolio Servicing Agreement)) except to the extent that such claims result directly from the wilful misconduct, bad faith, fraud or gross negligence of the CA Indemnified Person (as defined in the Portfolio Servicing Agreement) under the Portfolio Servicing Agreement.

## DESCRIPTION OF THE INTEREST RATE SWAP ARRANGEMENTS

### 1. Interest Rate Swap Transactions

#### (a) Interest Rate Swap Transactions

The Issuer (or the Portfolio Servicer on behalf of the Issuer) may, prior to, on or after the Issue Date, enter into one or more Interest Rate Swap Transactions which may be an interest rate swap or any other interest rate derivative transaction pursuant to which scheduled periodic payments are payable by the Issuer to an Interest Rate Swap Counterparty. The Issuer (or the Portfolio Servicer on its behalf) may enter into any additional Interest Rate Swap Transactions or Replacement Interest Rate Swap Transactions from time to time in order to swap any interest rate mismatch between the Notes (other than the Class D Notes) and the Collateral Loan Obligations, subject to the receipt of Rating Agency Confirmation in respect thereof to the extent such Interest Rate Swap Transaction is not a Form Approved Interest Rate Swap and provided that the Interest Rate Swap Counterparty satisfies the applicable Required Rating and has the regulatory capacity, as a matter of Dutch law, to enter into derivatives transactions with Dutch residents.

#### (b) Replacement Interest Rate Swap Transactions

In the event that an Interest Rate Swap Transaction terminates in whole at any time in circumstances which the applicable Interest Rate Swap Counterparty is the "Defaulting Party" or sole "Affected Party" (each such term as defined in the applicable Interest Rate Swap Agreement), the Issuer, or the Portfolio Servicer on its behalf, may, in its sole discretion, enter into a Replacement Interest Rate Swap Transaction with an Interest Rate Swap Counterparty which satisfies the applicable Required Rating and which has the regulatory capacity, as a matter of Dutch law, to enter into derivatives transactions with Dutch residents, unless the Interest Rate Swap Counterparty carries out any of the remedies provided in the Interest Rate Swap Agreement.

### 2. Standard Terms of Interest Rate Swap Agreements

Each Interest Rate Swap Agreement entered into by or on behalf of the Issuer shall contain the following standard provisions, save to the extent agreed otherwise by the Issuer and the relevant Interest Rate Swap Counterparty and subject to receipt of Rating Agency Confirmation in respect thereof.

***Limited Recourse*** The obligations of the Issuer under each Interest Rate Swap Agreement will be limited to the proceeds of enforcement of the Collateral as applied in accordance with the Priorities of Payment and will contain non-petition covenants, in each case as set out in Condition 4(c) (*Limited Recourse*).

#### ***Counterparties***

#### ***Rating Downgrade Requirements***

In the event that any Class A Notes remain Outstanding and the ratings of an Interest Rate Swap Counterparty at any time fall below the applicable Required Ratings or are withdrawn, the applicable Interest Rate Swap Counterparty shall, within the relevant period specified in the relevant Interest Rate Swap Agreement, take such steps (such as the posting of Counterparty Downgrade Collateral with the Issuer or the transfer of its rights and obligations under any Interest Rate Swap Transaction to which it is party to another entity) as required by the terms of the relevant Interest Rate Swap Transaction.

The Interest Rate Swap Counterparties may be Affiliates of the Initial Purchaser and/or the Arranger and/or the Originator which arrangements may create certain conflicts of interest. See "*Risk Factors – Certain Conflicts of Interest*".

### ***Termination***

Each Interest Rate Swap Agreement may terminate by its terms, whether or not the Notes have been paid in full prior to such termination, upon, among other events, the earlier to occur of:

- (i) certain events of bankruptcy, insolvency, receivership or reorganisation of the Issuer or the related Interest Rate Swap Counterparty;
- (ii) failure on the part of the Issuer or the related Interest Rate Swap Counterparty to make any payment under any Interest Rate Swap Agreement within the applicable grace period; and
- (iii) an "Illegality", "Tax Event" or "Tax Event Upon Merger", as defined in each Interest Rate Swap Agreement.

A termination of an Interest Rate Swap Agreement does not constitute an Event of Default under the Notes. The repayment in full of the Notes shall be an additional termination event under any Interest Rate Swap Agreements in respect of which the Issuer will be the sole "Affected Party".

### ***Transfer and Modification***

The Issuer may not modify any Interest Rate Swap Transaction without Rating Agency Confirmation in relation to such modification, save in the case of any Interest Rate Swap Transaction to the extent it would constitute a Form Approved Interest Rate Swap, as applicable, following such modification. The Interest Rate Swap Counterparty may only assign its obligations under an Interest Rate Swap Agreement as specified under the related Interest Rate Swap Agreement.

### ***Governing Law and Withholding Tax***

The payments to be made to the Issuer by the Interest Rate Swap Counterparty will not be subject to any withholding tax at the date on which such Agreement is entered into. Each Interest Rate Swap Agreement together with each Interest Rate Swap Transaction thereunder and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to such Interest Rate Swap Agreement and/or Interest Rate Swap Transaction will be governed by, and construed in accordance with, English law.

## DESCRIPTION OF THE REPORTS

### Monthly Reports

The Collateral Administrator, not later than the fifteenth calendar day of each month, (or if such day is not a Business Day, the immediately following Business Day) commencing in November 2011 on behalf, and at the expense, of the Issuer and in consultation with and based on information provided by, the Portfolio Servicer, shall compile and make available to the Trustee, the Portfolio Servicer, the Issuer, the Initial Purchaser, each Interest Rate Swap Counterparty, each Rating Agency, each Paying Agent (where such reports will be available upon request), and the Noteholders a monthly report (the "**Monthly Report**"), which shall contain the following information with respect to the Portfolio determined by the Collateral Administrator in consultation with the Portfolio Servicer, together with, in the Portfolio Servicer's opinion, any other materially relevant data on the credit quality and the performance of the individual Collateral Loan Obligations, cash flows and collateral, as well as such other information that is necessary to conduct comprehensive and well informed stress tests on the cash flows and collateral values supporting the Collateral Loan Obligations, in each case sufficient to satisfy the requirements of paragraph 7 of Article 122a of the CRD, subject in all cases to any confidentiality obligations binding on the Issuer. Each Monthly Report will be made available to the Noteholders and certain other persons via the Collateral Administrator's internet website currently located at <https://tss.sfs.db.com/investpublic>. If, due to technical reasons any Monthly Report is not made available via the Collateral Administrator's website, the Collateral Administrator shall use reasonable efforts to deliver such Monthly Report by such other method as it may reasonably determine is necessary. It is not intended that such reports will be made available in any other format, save in certain limited circumstances with the Collateral Administrator's agreement. The Collateral Administrator's website does not form part of the information provided for the purposes of this Prospectus and disclaimers may be posted with respect to the information posted thereon. Registration may be required for access to such website and persons wishing to access such website may be required to certify that they are Noteholders or otherwise entitled to access such website. For avoidance of doubt, there will be no Monthly Report required in the same month in which a Payment Date Report is due. The Monthly Report will be prepared as of the last calendar day of the preceding month. The first Monthly Report will be issued on the fifteenth calendar day in November 2011.

### *Portfolio*

- (a) the Principal Balance, the applicable interest rate, Stated Maturity, obligor's principal country of operation, the S&P Industry Classification, the S&P Rating, the DBRS Rating (if applicable) (but not any shadow rating unless otherwise agreed by the Rating Agency), the DBRS Industry Classification, the internal Banesto rating, the reference index (if applicable), the reference index level (if applicable), the spread (if applicable), the seniority, and the fixed or floating status of each Collateral Loan Obligation;
- (b) the original purchase price and sale price of each Collateral Loan Obligation acquired by the Issuer and each Collateral Loan Obligation purchased and or sold by the Issuer since the date of determination of the last Monthly Report and the identity of the purchasers or sellers thereof, if any, that are Affiliated with the Issuer, or the Portfolio Servicer;
- (c) subject to any confidentiality obligations binding on the Issuer, the number and, if applicable, Principal Balance of any Collateral Loan Obligations that were released for sale or other disposition (specifying the reason for such sale or other disposition and the section in the Portfolio Servicing Agreement pursuant to which such sale or other disposition was made), the Aggregate Principal Balances of Collateral Loan Obligations released for sale or other disposition at the Portfolio Servicer's discretion (expressed as a percentage of the Aggregate Portfolio Balance and measured at the date of determination of the current Monthly Report) and the sale price thereof and identity of any of the purchasers thereof (if any) that are Affiliated with the Portfolio Servicer;
- (d) subject in all cases to any confidentiality obligations binding on the Issuer, the number but not the identity of Collateral Loan Obligations which are Credit Impaired Obligations or Defaulted Obligations or in respect of which Exchanged Equity Securities have been received since the date of determination of the last Monthly Report; and



- (e) subject in all cases to any confidentiality obligations binding on the Issuer, the Aggregate Principal Balance and identity of Collateral Loan Obligations that are CCC Obligations.

#### *Notes*

The Principal Amount Outstanding of the Notes of each Class and such aggregate amount as a percentage of the original aggregate Principal Amount Outstanding of the Notes of such Class as of the Issue Date.

Applicable EURIBOR, the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class C Floating Rate of Interest applicable to the current Due Period.

#### *Accounts*

- (a) the Balances standing to the credit of each of the Accounts at the date of determination of the current Monthly Report;
- (b) the Balances standing to the credit of each of the Accounts at the date of determination of the last Monthly Report or Payment Date Report as applicable.

#### *Interest Rate Swap*

- (a) the current ratings by the Rating Agencies of the Interest Rate Swap Counterparty (including for the avoidance of doubt, satisfaction of any rating triggers);
- (b) the Performing Portfolio Balance necessary to determine the outstanding notional amount of each Interest Rate Swap Transaction; and
- (c) the amounts scheduled to be received and paid by the Issuer and the relevant counterparty.

#### *Portfolio Profile Test*

In respect of each Portfolio Profile Test, a statement as to whether such test is satisfied.

#### *Collateral Quality Tests*

- (a) the details for the S&P CDO Monitor Test and a statement of whether the S&P CDO Monitor Test is failing;
- (b) the DBRS Risk Score and a statement as to whether the Maximum DBRS Risk Score Test is satisfied;
- (c) the Weighted Average Maturity and a statement as to whether the Weighted Average Maturity Test is satisfied; and
- (d) the S&P Weighted Average Recovery Rate and a statement as to whether the Weighted Average Recovery Rate Test is satisfied.

#### *Article 122a Compliance*

- (a) confirmation from the Originator, as of the date of the Monthly Report, that it continues to hold the net economic interest as disclosed in the Prospectus, in accordance with option (d) of Article 122a of the CRD (which does not take into account any implementing rules of the CRD in a relevant jurisdiction);
- (b) inclusion of all materially relevant data on the credit quality and performance of the individual underlying exposures, cashflows and collateral supporting the securitisation exposure; and
- (c) inclusion of all information necessary to conduct comprehensive and well informed stress tests on the cashflows and collateral values supporting the underlying exposures.

## Payment Date Report

The Collateral Administrator, on behalf, and at the expense, of the Issuer and in consultation with, and based on information provided by, the Portfolio Servicer, shall render a report (the "**Payment Date Report**"), prepared and determined as of the Determination Date immediately preceding the relevant Payment Date, make available and provide such Payment Date Report to the Trustee, the Portfolio Servicer, the Issuer, the Initial Purchaser, each Interest Rate Swap Counterparty, each Rating Agency, each Paying Agent and the Noteholders not later than the second Business Day preceding the related Payment Date. Each Payment Date Report will be made available to the Noteholders and certain other persons via the Collateral Administrator's internet website currently located at <https://tss.sfs.db.com/investpublic>. If, due to technical reasons any Payment Date Report is not made available via the Collateral Administrator's website, the Collateral Administrator shall use reasonable efforts to deliver such Payment Date Report by such other method as it may reasonably determine is necessary. It is not intended that such reports will be made available in any other format, save in certain limited circumstances with the Collateral Administrator's agreement. The Collateral Administrator's website does not form part of the information provided for the purposes of this Prospectus and disclaimers may be posted with respect to the information posted thereon. Registration may be required for access to such website and persons wishing to access such website may be required to certify that they are Noteholders or otherwise entitled to access such website. The Collateral Administrator shall provide the Portfolio Servicer with a copy of any reports prepared by it. Upon publication of each Payment Date Report, the Collateral Administrator shall notify the Listing Agent who, in the name and at the expense of the Issuer, shall, for so long as Notes are listed on such exchange, notify the Irish Stock Exchange of the Principal Amount Outstanding of each Class of Notes after giving effect to the principal payments, if any, on the next Payment Date. The Payment Date Report shall also be available upon request from each Paying Agent and shall contain the following information subject in all cases to any confidentiality obligations binding on the Issuer:

### *Portfolio*

- (a) the information required in any Monthly Report pursuant to "*Portfolio*" above;
- (b) satisfaction or failure of the Class B Principal Deficiency Test and/or the Class C Principal Deficiency Test.

### *Notes*

- (a) the Principal Amount Outstanding of the Notes of each Class and such aggregate amount as a percentage of the original aggregate amount of the Notes of such Class Outstanding at the beginning of the Due Period, the amount of principal payments to be made on the Notes of each Class on the next Payment Date and the aggregate amount of the Notes of each Class Outstanding and such aggregate amount as a percentage of the original aggregate amount of the Notes of such Class Outstanding after giving effect to the principal payments, if any, on the next Payment Date; and
- (b) the interest payable in respect of each Class of Notes on the related Payment Date (in the aggregate and by Class).

### *Payment Date Payments*

- (a) the amounts payable pursuant to the Interest Proceeds Priority of Payments and the Principal Proceeds Priority of Payments on the related Payment Date;
- (b) the Trustee Fees and Expenses and Agents' Fees and Expenses, the amount of any Portfolio Servicing Fees and other Administrative Expenses payable on the related Payment Date on an itemised basis; and
- (c) any Interest Rate Swap Termination Payments or any Defaulted Interest Rate Swap Termination Payments.

#### *Accounts*

- (a) the Balances standing to the credit of each of the Accounts at the end of the related Determination Date;
- (b) the Balances standing to the credit of each of the Accounts at the date of determination of the last Monthly Report;

#### *Collateral Quality Tests and Portfolio Profile Tests*

The information required in any Monthly Report pursuant to "*Collateral Quality Tests*" and "*Portfolio Profile Tests*" above.

#### *Interest Rate Swap*

The information required in any Monthly Report pursuant to "*Interest Rate Swap*" above.

#### *Article 122a Compliance*

- (a) confirmation from the Originator, as of the date of the Payment Date Report, that it continues to hold the net economic interest as disclosed in the Prospectus, in accordance with option (d) of Article 122a of the CRD (which does not take into account any implementing rules of the CRD in a relevant jurisdiction);
- (b) inclusion of all materially relevant data on the credit quality and performance of the individual underlying exposures, cashflows and collateral supporting the securitisation exposure; and
- (c) inclusion of all information necessary to conduct comprehensive and well informed stress tests on the cashflows and collateral values supporting the underlying exposures.

#### **Miscellaneous**

Each Report shall state that it is for purposes of information only and that certain information in the Report is estimated, approximated or projected and that each Report is provided without any representations or warranties as to accuracy or completeness and that none of the Issuer, the Portfolio Servicer, the Collateral Administrator or the Trustee will have any liabilities for estimates, approximations or projections contained therein.

Nothing in any of the foregoing shall oblige the Issuer, the Trustee, the Portfolio Servicer or the Collateral Administrator to disclose, whether directly or indirectly, any information held under an obligation of confidentiality.

Any reference to a requirement to provide details of an applicable S&P Rating or DBRS Rating shall mean the applicable report will also need to (a) state whether such rating is on a watch for downgrade or upgrade and (b) provide the initial rating on the acquisition of the related obligation, the date of any change in rating and the current rating.

The Issuer authorises each Noteholder to provide copies of any Reports received by it to any person with an economic exposure to the Notes directly or indirectly through or from such Noteholder and no additional liability shall attach to any of the Issuer, the Trustee, the Collateral Administrator or the Portfolio Servicer as a result of a Noteholder so providing copies.

## DESCRIPTION OF THE COLLATERAL ACQUISITION AGREEMENTS AND THE PORTFOLIO CHARACTERISTICS AS AT THE ISSUE DATE

*The following description of the Collateral Acquisition Agreements consists of a summary of certain aspects and provisions of the Collateral Acquisition Agreements and does not purport to be complete and is subject to the detailed provisions of such agreements.*

### **Collateral Acquisition Agreements**

The Collateral Loan Obligations are transferred by means of four types of transfer arrangements (the "**Collateral Acquisition Agreements**"), depending on certain particulars of their documentation or security, as follows:

1. **Collateral Loan Obligations governed by Spanish law which are bilateral lending instruments between Banco Español de Crédito, S.A. ("Banesto" or the "Seller") and the relevant Obligors**

Collateral Loan Obligations which are Spanish law governed bilateral lending instruments between Banesto and the relevant obligors are transferred under a single credit rights Collateral Acquisition Agreement (*contrato de cesión de derechos de crédito*) whereby the Issuer acquires all rights and benefits to all payment obligations of the obligors under the relevant underlying agreements (including the rights and benefits to security and guarantees, as set out under article 1,528 of the Spanish Civil Code). The Collateral Acquisition Agreement and the transfers of credit rights transferred pursuant thereto are effective from (and including) the date of the Collateral Acquisition Agreement. Therefore, all accrued interest and any other payment accrued under the relevant Collateral Loan Obligations until (but excluding) the date of the Collateral Acquisition Agreement will be retained by the transferor (Cedente) and all accrued interest and any other payment accrued under the relevant Collateral Loan Obligations from (and including) the date of transfer will accrue to the Issuer.

Whilst the transfer of title to a credit right does not require notice to the debtor, according to articles 1,527 of the Spanish Civil Code and 347 of the Spanish Code of Commerce, the debtors under the Collateral Loan Obligations will not be bound to pay to the transferee unless they are served notice of the transfer. Therefore, the Collateral Acquisition Agreement herein described sets out the obligation of the transferee to give notice of the transfer to the debtors under the relevant Collateral Loan Obligations. Such notice will be given in the format set out in the Collateral Acquisition Agreement and shall have been executed on the date of the Collateral Acquisition Agreement for their subsequent dispatch to the relevant debtors.

The law governing the Collateral Acquisition Agreement referred to in this section is Spanish law and the Collateral Acquisition Agreement is subject to the jurisdiction of the Courts of Madrid.

2. **Collateral Loan Obligations governed by Spanish law which are syndicated lending facilities between, inter alia, Banesto and the relevant Obligors**

Collateral Loan Obligations arising from Spanish law governed syndicated facilities agreements are transferred by means of specific Collateral Acquisition Agreements, either in the form set out in the relevant documentation governing such facilities or under equivalent agreements. This is as a result of the requirement to comply with specific transfer formalities, as set out in the documentation governing such facilities, which in certain cases include the requirement for a specific format of Collateral Acquisition Agreement or the delivery of a copy of the Collateral Acquisition Agreement to the relevant facility agent.

In these cases, the rights under the relevant Collateral Loan Obligations are fully transferred to the Issuer with notice to the relevant facility agent, which in turn will, notify the relevant obligors. The Issuer also accedes as a lender under the relevant facilities and the related intercreditor agreements by execution of the relevant documentation required under such facilities agreements.

Effectiveness of the transfer in respect of the Collateral Loan Obligations referred to in this paragraph shall be the same date of the corresponding Collateral Acquisition Agreements.

The law governing the Collateral Acquisition Agreements referred to in this section is Spanish law and the Collateral Acquisition Agreements are subject to the jurisdiction of the Courts of Madrid.

Certain Collateral Loan Obligations arising from Spanish law governed syndicated facilities agreements are secured by, inter alia, real estate mortgages over properties located in Spain. According to article 149 of Decree of 8 February 1946 that approves the Spanish Mortgage Act (as amended), the transfer of a credit or loan secured with a mortgage may be transferred in full or in part in accordance with the provisions of article 1,526 of the Spanish Civil Code. The transfer of title to the mortgage securing the loan or credit must be made in a public deed (*escritura pública*) and be registered in the land registry. The fulfilment of elevation to public deed (*escritura pública*) and registration requirements will not have been made on the Issue Date. Whilst there is a consensus that such requirements are formality requirements that do not affect the substance of transfer of title to the relevant Collateral Loan Obligations and therefore do not affect the benefit of the relevant underlying security, fulfilment of such requirements may be necessary to enforce the relevant mortgages under the applicable Spanish enforcement proceedings. To this end, a power of attorney has been granted by Banesto to the Issuer so that the Issuer can fulfil such requirements by itself at any time should it deem necessary.

The transfer of some mortgage secured loans or credits is subject to stamp duties in Spain, according to the Transfer Tax Act, approved by Royal Legislative Decree 1/1993 of 24 September. Payment of such stamp duty is a requirement for the registration of the relevant mortgage secured loans in the relevant land registries. To this end, the Issuer has reserved an amount in the Stamp Duty Reserve Account which has been calculated as the amount that would be payable as at the date hereof in respect of such taxes.

### 3. **Collateral Loan Obligations governed by English law**

#### ***Assignments***

The Issuer may from time to time acquire, in accordance with the Portfolio Servicing Agreement, Collateral Loan Obligations from Assignors by way of Assignment provided that at the time any such Collateral Loan Obligation is acquired the Issuer shall have complied, to the extent within their control, with any requirements relating to such assignment set out in the relevant loan documentation for such Collateral Loan Obligation (including, without limitation, with respect to the form used for such Assignment and obtaining the consent of or giving notification to, any person specified in the relevant loan documentation).

"**Assignment**" means interests in Collateral Loan Obligations which are loans acquired directly by way of novation or assignment and assumption;

"**Assignor**" means each institution from which such an Assignment is acquired.

### 4. **Collateral Loan Obligations governed by Spanish law which are real estate financing loans between Banesto and the relevant Obligor**

The rights under Collateral Loan Obligations governed by Spanish law whose purpose is mainly the financing of the acquisition or development of real estate properties and which are secured with mortgages over such real estate properties are transferred under the so-called mortgage transfer certificates (*certificados de transmisión de hipoteca*) (hereinafter "**CTHs**").

According to the Fifth Additional Provision of Law 3/1994 of 14 April, entities referred to in Article 2 of Law 2/1981 of 25 March (which include banks) may make third party investors participate in all or part of one or more mortgage secured loans or credits of their portfolio, even if such loans or credits do not fulfil the requirements set forth in Section 2 of Law 2/1981 of 25 March. The instruments through which such participation is made are CTHs, which may be issued for placement among professional investors or asset securitisation funds. Regulation of CTHs is further developed by Royal Decree 716/2009 of 24 April.

The CTHs have been issued and subscribed by means of an issuance and subscription deed (the "**Issuance and Subscription Deed**") dated 27 September 2011 (as amended or supplemented from time to time).

The transfer of the CTHs to the Issuer is made by the subscription of the relevant securities by the Issuer through the execution of the Issuance and Subscription Deed. Such transfer of CTHs grants the Issuer the right to receive all payments of principal, interest and any other payments from the relevant Collateral Loan Obligations made to Banesto by the relevant Obligor.

Upon acquisition of the CTHs by the Issuer, as long as the relevant Obligor is not notified of the transfer arising from the issuance of the CTHs, Articles 1,198 et seq. of the Spanish Civil Code and Article 347 of the Commerce Code shall apply and payments to Banesto shall discharge the Obligor's payment obligations under the underlying Collateral Loan Obligations. However, in the event of an insolvency of Banesto, the Issuer, as owner of the CTHs, shall have, according to Article 80.1 of Law 22/2003 of 9 July on Insolvency and Article 15 of Law 2/1981 of 25 March, a right of separation, which is the right to continue to obtain from Banesto the proceeds derived from the CTHs (except for cash received and held by Banesto for the account of the Issuer but not yet distributed to it as of the date of declaration of insolvency, due to its fungible nature) since such amounts will be deemed to be owned by the Issuer.

#### **Portfolio Characteristics as at the Issue Date**

The following is a table summarising the general characteristics of the Portfolio as at the Issue Date, and does not purport to be complete and is subject to the detailed provisions of the Collateral Loan Obligations that constitute the Portfolio as at the Issue Date:

Loan ID	Outstanding Amount	Currency Code	Final Maturity Date	Guaranty	Scoring BTO	S&P Industry	DBRS Industry
S-001	2,777,777.78	EUR	23-Jul-12	Unsecured	60	Building & Development	Building & Development
S-002	7,222,222.23	EUR	20-Jul-13	Unsecured	60	Building & Development	Building & Development
S-003	8,333,333.35	EUR	20-Jul-13	Unsecured	60	Building & Development	Building & Development
S-004	1,316,219.31	EUR	17-Jun-13	Secured	63	Food products	Food products
S-005	8,999,999.99	EUR	16-Jun-14	Secured	63	Food products	Food products
S-006	10,600,000.20	EUR	19-Sep-14	Unsecured	60	Building & Development	Building & Development
S-007	18,938,181.82	EUR	13-Dec-12	Unsecured	72	Drugs	Drugs
S-008	10,171,971.46	EUR	6-Feb-17	Secured	60	Surface transport	Surface transport
S-009	3,876,516.34	EUR	31-Mar-16	Secured	58	Surface transport	Surface transport
S-010	48,723,077.81	EUR	6-Jul-15	Secured	58	Steel	Steel
S-011	4,849,461.08	EUR	6-Jul-15	Secured	58	Steel	Steel
S-012	46,885,408.21	EUR	6-Jul-15	Secured	58	Steel	Steel
S-013	12,000,000.00	EUR	14-Jul-16	Unsecured	60	Automotive	Automotive
S-014	14,700,000.00	EUR	16-Jun-14	Unsecured	61	Food/drug retailers	Food/drug retailers
S-015	9,230,769.23	EUR	18-Jun-17	Secured	61	Food/drug retailers	Food/drug retailers
S-016	7,200,000.00	EUR	29-Apr-13	Secured	55	Ecological services & equipment	Ecological services & equipment
S-017	5,944,055.94	EUR	14-Jan-14	Secured	53	Retailers (except food & drug)	Retailers (except food & drug)
S-018	99,656,871.17	EUR	14-Jan-14	Secured	52	Retailers (except food & drug)	Retailers (except food & drug)
S-019	19,463,887.19	EUR	14-Jul-13	Secured	52	Retailers (except food & drug)	Retailers (except food & drug)
S-020	7,790,004.11	EUR	13-Sep-13	Secured	53	Retailers (except food & drug)	Retailers (except food & drug)
S-021	2,384,695.14	EUR	13-Sep-13	Secured	53	Retailers (except food & drug)	Retailers (except food & drug)
S-022	3,068,307.74	EUR	13-Sep-13	Secured	53	Retailers (except food & drug)	Retailers (except food & drug)
S-023	25,000,000.00	EUR	25-Jan-16	Unsecured	66	Telecommunications	Telecommunications
S-024	11,200,000.00	EUR	30-Dec-13	Unsecured	60	Steel	Steel
S-025	7,888,873.84	EUR	13-May-12	Secured	60	Farming/agriculture	Farming/agriculture
S-026	29,250,000.00	EUR	29-Jun-15	Unsecured	59	Industrial equipment	Industrial equipment
S-027	37,500,000.00	EUR	30-Jul-13	Unsecured	60	Automotive	Automotive
S-028	16,444,444.44	EUR	27-Jul-15	Unsecured	60	Automotive	Automotive
S-029	1,279,761.90	EUR	23-Oct-17	Secured	61	Building & Development	Building & Development
S-030	16,369,047.62	EUR	23-Oct-17	Secured	61	Building & Development	Building & Development
S-031	1,994,047.62	EUR	23-Oct-17	Secured	61	Building & Development	Building & Development
S-032	2,678,571.43	EUR	7-Nov-17	Secured	61	Building & Development	Building & Development
S-033	9,162,115.33	EUR	12-Apr-17	Secured	62	Health care	Health care
S-034	12,637,730.71	EUR	29-Jul-15	Secured	59	Automotive	Automotive
S-035	4,128,500.00	EUR	29-Jul-15	Secured	59	Automotive	Automotive
S-036	51,441,410.86	EUR	31-Dec-13	Secured	58	Radio & Television	Radio & Television
S-037	10,909,090.92	EUR	15-Jun-15	Unsecured	60	Aerospace & Defense	Aerospace & Defense
S-038	13,848,979.60	EUR	1-Aug-15	Secured	60	Health care	Health care
S-039	1,753,408.16	EUR	1-Aug-13	Secured	60	Health care	Health care

Loan ID	Outstanding Amount	Currency Code	Final Maturity Date	Guaranty	Scoring BTO	S&P Industry	DBRS Industry
S-040	4,968,010.23	EUR	22-Apr-20	Secured	64	Health care	Health care
S-041	5,923,077.00	EUR	22-Apr-15	Secured	64	Health care	Health care
S-042	15,317,100.00	EUR	27-May-24	Secured	51	Building & Development	Building & Development
S-043	27,166,139.48	EUR	5-Aug-15	Unsecured	63	Building & Development	Building & Development
S-044	13,328,712.71	EUR	13-Dec-13	Secured	59	Building & Development	Building & Development
S-045	24,500,000.00	EUR	2-Aug-12	Secured	57	Lodging & casinos	Lodging & casinos
S-046	5,399,884.50	EUR	30-Jun-15	Secured	63	Beverage & Tobacco	Beverage & Tobacco
S-047	17,700,000.00	EUR	21-Jun-14	Secured	66	Food products	Food products
S-048	11,764,800.00	EUR	12-Nov-12	Secured	72	Cosmetics/toiletries	Cosmetics/toiletries
S-049	66,694,825.97	EUR	31-Dec-13	Secured	56	Publishing	Publishing
S-050	10,625,000.70	EUR	8-Feb-19	Unsecured	70	Food products	Food products
S-051	112,285,843.00	EUR	18-Jun-17	Secured	59	Building & Development	Building & Development
S-052	6,153,846.15	EUR	30-Jun-16	Secured	60	Surface transport	Surface transport
S-053	6,923,076.94	EUR	30-Jun-15	Secured	60	Surface transport	Surface transport
S-054	24,615,287.00	EUR	20-Dec-15	Secured	72	Industrial equipment	Industrial equipment
S-055	82,116,100.41	EUR	19-Jun-17	Secured	59	Building & Development	Building & Development
S-056	4,747,635.63	EUR	30-Jun-14	Secured	53	Health care	Health care
S-057	6,376,263.27	EUR	30-Jun-15	Secured	53	Health care	Health care
S-058	6,376,263.27	EUR	30-Jun-16	Secured	53	Health care	Health care
S-059	50,000,000.00	EUR	24-May-12	Unsecured	67	Ecological services & equipment	Ecological services & equipment
S-060	20,791,208.97	EUR	27-Dec-14	Secured	60	Other	Telecommunications
S-061	2,154,043.97	EUR	27-Dec-14	Secured	60	Other	Telecommunications
B-001	54,000,000.00	EUR	11-Oct-13	Unsecured	63	Utilities	Utilities
B-002	11,000,000.00	EUR	1-Jan-20	Secured	65	Containers & glass products	Containers & glass products
B-003	60,000,000.00	EUR	29-Mar-12	Unsecured	78	Building & Development	Building & Development
B-004	66,220,000.01	EUR	28-Mar-23	Secured	51	Building & Development	Building & Development
B-005	18,000,000.00	EUR	1-Jan-20	Secured	66	Building & Development	Building & Development
B-006	15,000,000.00	EUR	12-Jul-17	Unsecured	71	Building & Development	Building & Development
B-007	47,812,582.16	EUR	1-Nov-17	Unsecured	69	Retailers (except food & drug)	Retailers (except food & drug)
B-008	13,923,008.87	EUR	30-Sep-20	Unsecured	74	Utilities	Utilities
B-009	50,000,000.00	EUR	10-Jun-13	Unsecured	69	Retailers(except food & drug)	Retailers (except food & drug)
B-010	50,000,000.00	EUR	10-Jun-13	Unsecured	69	Retailers (except food & drug)	Retailers (except food & drug)
B-011	12,000,000.00	EUR	15-Oct-12	Unsecured	62	Building & Development	Building & Development
B-012	100,000,000.00	EUR	10-Jun-13	Unsecured	69	Retailers (except food & drug)	Retailers (except food & drug)
	1,631,501,452.77						



## RATINGS OF THE NOTES

It is a condition of the issue and sale of the Notes that the Class A Notes be issued with at least the following rating from S&P: AAA(sf), and the following rating from DBRS: AAA(sf). The ratings assigned to the Class A Notes address the timely payment of interest and the ultimate repayment of principal. The Class B Notes, the Class C Notes and the Class D Notes being offered hereby will not be rated. A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the Rating Agency.

### S&P Ratings

S&P will rate the Class A Notes in a manner similar to the manner in which it rates other structured issues. This requires an analysis of the following:

- (a) the credit quality of the portfolio of Collateral Loan Obligations;
- (b) the cash flow used to pay liabilities and the priorities of these payments; and
- (c) legal considerations.

Based on these analyses, S&P determines the necessary level of credit enhancement needed to achieve a desired rating.

S&P's analysis includes the application of its proprietary default expectation computer model (the "**S&P CDO Monitor**"), which is used to estimate the default rate S&P projects the Portfolio is likely to experience and which will be provided to the Collateral Administrator at least five Business Days prior to the Issue Date. The S&P CDO Monitor calculates the cumulative default rate of a pool of Collateral Loan Obligations consistent with a specified benchmark rating level based upon S&P's proprietary corporate debt default studies. The S&P CDO Monitor takes into consideration the rating of each issuer or obligor, the number of issuers or obligors, the issuer or obligor industry concentration and the remaining weighted average maturity of each of the Collateral Loan Obligations included in the Portfolio. The risks posed by these variables are accounted for by effectively adjusting the necessary default level needed to achieve a desired rating. The higher the desired rating, the higher the level of defaults the Portfolio must withstand. For example, the higher the issuer or obligor industry concentration or the longer the weighted average maturity, the higher the default level is assumed to be. None of the Issuer, the Portfolio Servicer, the Collateral Administrator, the Initial Purchaser, the Arranger or the Originator makes any representation as to, or takes any responsibility for, the accuracy or efficiency of the S&P CDO Monitor.

Credit enhancement to support a particular rating is then provided on the results of the S&P CDO Monitor, as well as other more qualitative considerations such as legal issues and management capabilities. Credit enhancement is typically provided by a combination of over collateralisation/subordination, cash collateral/reserve account, excess spread/interest and amortisation. A cash flow model (the "**Transaction Specific Cash Flow Model**") prepared by the seller or adviser is used to evaluate the portfolio and determine whether it can comfortably withstand the estimated level of default while fully repaying the class of debt under consideration.

There can be no assurance that actual losses on the Collateral Loan Obligations will not exceed those assumed in the application of the S&P CDO Monitor or that recovery rates and the timing of recovery with respect thereto will not differ from those assumed in the Transaction Specific Cash Flow Model. None of S&P, the Issuer, Portfolio Servicer, the Initial Purchaser, the Arranger or the Originator makes any representation as to the expected rate of defaults on the Portfolio or as to or takes any responsibility for the expected timing of any defaults that may occur.

S&P's ratings of the Class A Notes will be established under various assumptions and scenario analyses. There can be no assurance that actual defaults on the Collateral Loan Obligations will not exceed those assumed by S&P in its analysis, or that recovery rates with respect thereto (and, consequently, loss rates) will not differ from those assumed by S&P.

## DBRS Ratings

DBRS ratings address the probability of loss posed to investors by legal final maturity. The rating assigned to the Class A Notes by DBRS addresses the ability of the issuer to make timely payments of interest and principal on or before its legal final maturity. The Class B Notes, the Class C Notes and the Class D Notes being offered hereby will not be rated. DBRS will rate the Class A Notes in a manner similar to the manner in which it rates other structured credit issues. This requires an analysis of the following:

- (a) the credit quality of the portfolio of Collateral Loan Obligations securing the Class A Notes;
- (b) the cash flow used to pay the Class A Notes, and the priorities of these payments; and
- (c) legal considerations.

Based on these analyses, DBRS determines the necessary level of credit enhancement needed to achieve a desired rating. In this connection, DBRS assumes the Collateral Loan Obligations are comprised by the worst-case portfolio permitted by the final documentation (the "**Modelled Portfolio**"), in particular based primarily on the Eligibility Criteria, Reinvestment Criteria and Portfolio Profile Tests.

DBRS' analysis includes the application of its proprietary default expectation computer model (the "**CDO Toolbox**"), which is used to estimate the default rate DBRS projects the Modelled Portfolio is likely to experience. The CDO Toolbox is publicly available at [www.dbrs.com](http://www.dbrs.com). The CDO Toolbox calculates the cumulative default rate of a pool of Collateral Loan Obligations consistent with a specified benchmark rating level based upon DBRS' proprietary corporate debt default studies. The CDO Toolbox takes into consideration, amongst other things, the default probability of each obligor, the number of obligors, correlation amongst obligors, the obligor industry concentration and the remaining weighted average maturity of each of the Collateral Loan Obligations included in the portfolio. The risks posed by these variables are accounted for by effectively adjusting the necessary default level needed to achieve a desired rating. The higher the desired rating, the higher the level of defaults the portfolio must withstand. For example, the higher the obligor industry concentration or the longer the weighted average maturity, the higher the default level is assumed to be.

Credit enhancement to support a particular rating is provided based on the results of the CDO Toolbox, as well as other more qualitative considerations such as legal issues and management capabilities. Credit enhancement is typically provided by a combination of over-collateralisation/subordination, cash collateral/reserve account, excess spread/interest and amortisation. A cash flow model (the "**DBRS CLO Cash Flow Model**") prepared by DBRS is used to evaluate the portfolio and determine whether it can comfortably withstand the estimated level of default while fully repaying the class of debt under consideration.

There can be no assurance that actual losses on the portfolio will not exceed those assumed in the application of the CDO Toolbox or that recovery rates and the timing of recovery with respect thereto will not differ from those assumed in the DBRS CLO Cash Flow Model. DBRS makes no representation as to the expected rate of defaults on the portfolio or as to the expected timing of any defaults that may occur.

DBRS' rating of the Class A Notes will be established under various assumptions and scenario analyses. There can be no assurance that actual defaults on the Collateral Loan Obligations will not exceed those assumed by DBRS in its analysis, or that recovery rates with respect thereto (and, consequently, loss rates) will not differ from those assumed by DBRS.

## DESCRIPTION OF THE ISSUER

The Issuer, Mesena CLO 2011-1 B.V. was incorporated in The Netherlands as a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) on 30 June 2011. The Issuer has been established as a special purpose vehicle for the purpose of issuing asset backed securities.

The Issuer's registered office is situated at Herengracht 450, 1017 CA Amsterdam, The Netherlands. Its corporate seat is in Amsterdam and its correspondence address is its registered address. Its telephone number is +31 20555 4466. The Issuer is registered with the Trade Register of the Chamber of Commerce and Industry in Amsterdam under number 53049918.

The Issuer's issued share capital is €18,000 which is fully paid up and divided into 18 shares with a nominal value of €1,000 each. The entire issued share capital is owned by Stichting Mesena CLO 2011-1 (the "**Foundation**"), a foundation (stichting) established under the laws of The Netherlands. The Foundation was established on 27 June 2011.

The Issuer has been established as a special purpose vehicle. The principal activities of the Issuer are the issuance of financial instruments, the acquisition of financial assets and the entering into other legally binding arrangements.

### *Managing Director*

The Managing Director of the Issuer as at the date of this Prospectus is Deutsche International Trust Company N.V.

The business address of the Managing Director is at Herengracht 450, 1017 CA Amsterdam, The Netherlands.

### *Business*

The Issuer will enter into a management agreement dated on or about the Issue Date, with the Managing Director, pursuant to which the Managing Director will provide management services to the Issuer.

The objects of the Issuer are stated in Article 2 of its Articles of Association.

The Issuer's activities will principally be the issue of the Notes, the purchase of the Collateral Loan Obligations, entering into all documents relating to such issues and such purchase to which it is expressed to be a party, the exercise of related rights and powers and other activities reasonably incidental thereto and the supervision and monitoring of the activities of the Portfolio Servicer under the Portfolio Servicing Agreement.

The Issuer will not, on the Issue Date, have any loan capital (including term loans) outstanding or created but unissued, or any outstanding mortgages, charges or other borrowings or indebtedness in the nature of borrowing, including bank overdrafts and liabilities under acceptance credits, hire purchase agreements, guarantees or other contingent liabilities, other than, upon their issuance, the Notes, the Trust Deed, and the other Transaction Documents (as defined in this Prospectus).

### *Financial Statements*

Since the date of incorporation, the Issuer has not commenced any operations and no financial statements of the Issuer have been prepared as of the date of the Prospectus, save as described in this Prospectus. The first audited financial statements of the Issuer are in respect of the period from incorporation to 31 December 2012. The Issuer will not prepare interim financial statements. The auditors of the Issuer are KPMG Accountants N.V. of Rijnzathe 14, 3454 PV De Meern, The Netherlands who are chartered accountants and are members of the Institute of Chartered Accountants and registered auditors qualified to practice in The Netherlands.

## DESCRIPTION OF THE COLLATERAL ADMINISTRATOR

The information appearing in this section has been prepared by Deutsche Bank AG, London Branch (acting as the Collateral Administrator). Deutsche Bank AG, London Branch confirms that this information has been accurately reproduced and that as far as it is aware and is able to ascertain from information published by Deutsche Bank AG, London Branch, no facts have been omitted which would render the reproduced information inaccurate or misleading.

### Deutsche Bank AG

Deutsche Bank Aktiengesellschaft ("**Deutsche Bank**" or the "**Bank**") originated from the reunification of Norddeutsche Bank Aktiengesellschaft, Hamburg, Rheinisch-Westfälische Bank Aktiengesellschaft, Duesseldorf and Süddeutsche Bank Aktiengesellschaft, Munich; pursuant to the Law on the Regional Scope of Credit Institutions, these had been disincorporated in 1952 from Deutsche Bank which was founded in 1870. The merger and the name were entered in the Commercial Register of the District Court Frankfurt am Main on 2 May 1957. Deutsche Bank is a banking institution and a stock corporation incorporated under the laws of Germany under registration number HRB 30 000. The Bank has its registered office in Frankfurt am Main, Germany. It maintains its head office at Taunusanlage 12, 60325 Frankfurt am Main and branch offices in Germany and abroad including in London, New York, Sydney, Tokyo and an Asia-Pacific Head Office in Singapore which serve as hubs for its operations in the respective regions.

The Bank is the parent company of a group consisting of banks, capital market companies, fund management companies, a real estate finance company, instalment financing companies, research and consultancy companies and other domestic and foreign companies (the "**Deutsche Bank Group**").

### Deutsche Bank AG, London Branch

"**Deutsche Bank AG London**" is the London branch of Deutsche Bank AG. On 12 January 1973, Deutsche Bank AG filed in the United Kingdom the documents required pursuant to section 407 of the Companies Act 1948 to establish a place of business within Great Britain. On 14 January 1993, Deutsche Bank registered under Schedule 21A to the Companies Act 1985 as having established a branch (Registration No. BR000005) in England and Wales. Deutsche Bank AG London is an authorized person for the purposes of section 19 of the Financial Services and Markets Act 2000. In the United Kingdom, it conducts wholesale banking business and through its Private Wealth Management division, it provides holistic wealth management advice and integrated financial solutions for wealthy individuals, their families and selected institutions

As of 30 June 2011, Deutsche Bank's issued share capital amounted to € 2,379,519,078.40 consisting of 929,499,640 ordinary shares without par value. The shares are fully paid up and in registered form. The shares are listed for trading and official quotation on all the German Stock Exchanges. They are also listed on the New York Stock Exchange.

The consolidated financial statements for the fiscal years starting 1 January 2007 are prepared in compliance with International Financial Reporting Standards ("**IFRS**"). As of 30 June 2011, Deutsche Bank Group had total assets of €1,849,695 million, total liabilities of € 1,798,017 million and total equity of €51,678 million on the basis of IFRS (unaudited).

Deutsche Bank's long-term senior debt has been assigned a rating of A+ (outlook stable) by Standard & Poor's, Aa3 (outlook stable) by Moody's Investors Services and AA- (outlook negative) by Fitch Ratings.

The delivery of this Prospectus shall not create any implication that there has been no change in the affairs of Deutsche Bank since the date hereof, or that the information contained or referred to herein is correct as of any time subsequent to such date.

### Responsibilities of the Collateral Administrator

Pursuant to the terms of the Portfolio Servicing Agreement, the Collateral Administrator is responsible for, among other things, the administration of the Portfolio. The duties of the Collateral Administrator include among other things creating and maintaining a collateral database detailing the content of the Portfolio, calculating and determining compliance of the Portfolio with the Principal Deficiency Tests,

assisting the Issuer's accountants, calculating any Collateral Quality Tests, calculating any Redemption Prices payable in accordance with the Priorities of Payment, preparing the Reports, preparing Payment Date instructions, managing and monitoring the Accounts and directing payments into and out of each Account. In respect of certain specified functions, the Collateral Administrator is required to provide assistance to the Portfolio Servicer.

#### **Termination and Resignation of Appointment of the Collateral Administrator**

Pursuant to the terms of the Portfolio Servicing Agreement, the Collateral Administrator may be removed (a) without cause at any time upon 60 days' prior written notice, by (1) the Issuer or (2) the Trustee acting upon the directions of the holders of each Class of Notes, acting independently by Ordinary Resolution, to the Collateral Administrator (and copied to certain other parties), or (b) (i) with cause, or (ii) upon the continuing occurrence of a certain termination event, by (1) the Issuer or (2) the Trustee acting upon the directions of the Controlling Class acting by Extraordinary Resolution, forthwith upon prior written notice to the Collateral Administrator (copied to certain other parties).

In addition, the Collateral Administrator may also resign its appointment at any time upon 120 days' prior written notice to the Issuer and the Trustee (copied to certain other parties).

No termination, resignation or removal of the Collateral Administrator shall be effective unless a successor collateral administrator has been appointed pursuant to the terms of the Portfolio Servicing Agreement.

#### **Appointment of Successor Collateral Administrator**

Upon retirement, resignation or removal of the Collateral Administrator and while any of the Notes are Outstanding, the Issuer (or the Portfolio Servicer on its behalf) shall use its best efforts to appoint a successor collateral administrator, pursuant to the terms of the Portfolio Servicing Agreement. If the Issuer (or the Portfolio Servicer on its behalf) fails to appoint a successor collateral administrator within 50 days of the notice of such resignation or removal, the Collateral Administrator may itself, with the prior written consent of the Trustee, appoint a reputable replacement collateral administrator pursuant to the terms of the Portfolio Servicing Agreement. The appointment of a successor collateral administrator will not be effective until, among other things, Rating Agency Confirmation has been received in respect of it.

## DESCRIPTION OF THE PORTFOLIO SERVICER AND THE INTEREST RATE SWAP COUNTERPARTY

The information relating to the Portfolio Servicer and the Interest Rate Swap Counterparty contained in this section headed "*Description of the Portfolio Servicer and the Interest Rate Swap Counterparty*" has been provided by Banco Español de Crédito S.A., as the Portfolio Servicer and the Interest Rate Swap Counterparty. The Portfolio Servicer and the Interest Rate Swap Counterparty accepts responsibility for this information and to the best of the knowledge and belief of the Portfolio Servicer and the Interest Rate Swap Counterparty, this information is in accordance with the facts and does not omit anything likely to affect the import of such information. The Portfolio Servicer and the Interest Rate Swap Counterparty cannot provide any assurance that the information contained in this section will continue to be correct as at any time subsequent to the date of this Prospectus.

Banco Español de Crédito S.A. is appointed to act for and on behalf of the Issuer as portfolio servicer (the "**Portfolio Servicer**") pursuant to the portfolio servicing agreement (the "**Portfolio Servicing Agreement**"). Banco Español de Crédito S.A., as the Interest Rate Swap Counterparty, has entered into an Interest Rate Swap Transaction with the Issuer pursuant to an Interest Rate Swap Agreement.

Banco Español de Crédito S.A. is a limited liability company (*Sociedad Anónima*), incorporated under the laws of Spain whose business address is Avda Gran Vía de Hortaleza 3, 28043, Madrid. Banco Español de Crédito S.A. is registered in the Trade Register of Madrid at Volume 36 of Companies, folio 177, page number 1,595 with Tax Identification Code: A-28000032 and with entry number 0030 in the Register of Banks and Bankers of the Bank of Spain. Banco Español de Crédito S.A., and its group ("**Grupo Banesto**") belong to the consolidated group of Banco Santander ("**Grupo Santander**"), which is its majority owner and has management control.

As of 30 June 2011 the total assets of Banco Español de Crédito S.A. together with its consolidated subsidiaries (the "**Group**"), were €105,392,000,000. Banco Español de Crédito S.A.'s business consists primarily of providing commercial banking services in Spain, focusing on the individual, small and medium-sized business sectors. Banco Español de Crédito S.A. also engages in wholesale banking and capital and money markets activities. The Group operated through 1717 offices as of 30 June 2011, making it one of the largest commercial bank networks in Spain at the date in terms of number of branches.

Banco Español de Crédito S.A. 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. Banco Español de Crédito S.A. is subject to, among others, *Ley de Sociedades de Capital* (Spanish Corporations' Law).

Banco Español de Crédito S.A.'s registered office is at Gran Vía de Hortaleza 3, Madrid, Spain. The business address of the members of Banco Español de Crédito S.A.'s Board of Directors is the registered office of Banco Español de Crédito S.A., registration number: A28000032.

As of 30 June 2011, Banco Santander S.A. owned 89.64 per cent. of Banco Español de Crédito S.A.'s capital stock which is composed of 687,386,798 shares.

### Description of Operations

Historically, Banco Español de Crédito S.A.'s main activity in Spain has been commercial banking, particularly retail banking and business with small- and medium-sized enterprises (SMEs/MSEs) and shops. Banco Español de Crédito S.A. also conducts wholesale banking and activities in the capital markets.

### Ratings

Banco Español de Crédito S.A. is currently rated "A2/P-1" by Moody's, "AA/A-1" by S&P and "AA/F-1" by Fitch.

## **BOOK-ENTRY CLEARANCE PROCEDURES**

The information set out below has been obtained from sources that the Issuer believes to be reliable, but prospective investors are advised to make their own enquiries as to such procedures. In particular, such information is subject to any change in or interpretation of the rules, regulations and procedures of Euroclear or Clearstream, Luxembourg (together, the "**Clearing Systems**") currently in effect and investors wishing to use the facilities of any of the Clearing Systems are therefore advised to confirm the continued applicability of the rules, regulations and procedures of the relevant Clearing System. None of the Issuer, the Trustee, the Initial Purchaser, the Arranger, the Originator or any Agent party to the Agency Agreement (or any Affiliate of any of the above, or any person by whom any of the above is controlled for the purposes of the Securities Act), will have any responsibility for the performance by the Clearing Systems or their respective direct or indirect participants or accountholders of their respective obligations under the rules and procedures governing their operations or for the sufficiency for any purpose of the arrangements described below.

The Notes of each Class shall be initially represented by Global Certificates and beneficial interests therein shall be subject to the Book-Entry Clearance Procedures described below.

### **Euroclear and Clearstream, Luxembourg**

Euroclear and Clearstream, Luxembourg each hold securities for their customers and facilitate the clearance and settlement of securities transactions through electronic book-entry transfer between their respective accountholders. Indirect access to Euroclear and Clearstream, Luxembourg is available to other institutions which clear through or maintain a custodial relationship with an accountholder of either system. Euroclear and Clearstream, Luxembourg provide various services including safekeeping, administration, clearance and settlement of internationally-traded securities and securities lending and borrowing. Euroclear and Clearstream, Luxembourg also deal with domestic securities markets in several countries through established depository and custodial relationships. Euroclear and Clearstream, Luxembourg have established an electronic bridge between their two systems across which their respective customers may settle trades with each other. Their customers are worldwide financial institutions including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations. Investors may hold their interests in such Global Certificates directly through Euroclear or Clearstream, Luxembourg if they are accountholders ("**Direct Participants**") or indirectly ("**Indirect Participants**" and together with Direct Participants, "**Participants**") through organisations which are accountholders therein.

### **Book-Entry Ownership**

#### ***Euroclear and Clearstream, Luxembourg***

Each Global Certificate will have an ISIN and a Common Code and will be deposited with Deutsche Bank AG, London Branch as common depository for Euroclear and Clearstream, Luxembourg and in respect of the Class A Notes only, registered in the name of a nominee of the common safekeeper (the "**Common Safekeeper**") for Euroclear and Clearstream, Luxembourg.

### **Relationship of Participants with Clearing Systems**

Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a Note represented by a Global Certificate must look solely to Euroclear or Clearstream, Luxembourg (as the case may be) for his share of each payment made by the Issuer to the holder of such Global Certificate, and in relation to all other rights arising under the Global Certificate, subject to and in accordance with the respective rules and procedures of Euroclear or Clearstream, Luxembourg (as the case may be). The Issuer expects that, upon receipt of any payment in respect of Notes represented by a Global Certificate, the Common Safekeeper by whom such Note is held, or nominee in whose name it is registered, will immediately credit the relevant Participants' or accountholders' accounts in the relevant Clearing System with payments in amounts proportionate to their respective beneficial interests in the principal amount of the relevant Global Certificate as shown on the records of the relevant Clearing System or its nominee. The Issuer also expects that payments by Direct Participants in any Clearing System to owners of beneficial interests in any Global Certificate held through such Direct Participants in any Clearing System will be governed by standing instructions and customary practices. Save as aforesaid, such persons shall have no claim directly against the Issuer in respect of

payments due on the Notes for so long as the Notes are represented by such Global Certificate and the obligations of the Issuer will be discharged by payment to the registered holder, as the case may be, of such Global Certificate in respect of each amount so paid. None of the Issuer, the Trustee or any Agent will have any responsibility or liability for any aspect of the records relating to or payments made on account of ownership interests in any Global Certificate or for maintaining, supervising or reviewing any records relating to such ownership interests.

#### ***Settlement and Transfer of Notes***

Subject to the rules and procedures of each applicable Clearing System, purchases of Notes held within a Clearing System must be made by or through Direct Participants, which will receive a credit for such Notes on the Clearing System's records. The ownership interest of each actual purchaser of each such Note (the "**Beneficial Owner**") will in turn be recorded on the Direct and Indirect Participant's records. Beneficial Owners will not receive written confirmation from any Clearing System of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which such Beneficial Owner entered into the transaction. Transfers of ownership interests in Notes held within the Clearing System will be effected by entries made on the books of Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in such Notes, unless and until interests in any Global Certificate held within a Clearing System is exchanged for Definitive Certificates.

No Clearing System has knowledge of the actual Beneficial Owners of the Notes held within such Clearing System and their records will reflect only the identity of the Direct Participants to whose accounts such Notes are credited, which may or may not be the Beneficial Owners. The Participants will remain responsible for keeping account of their holdings on behalf of their customers. Conveyance of notices and other communications by the Clearing Systems to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

#### ***Trading between Euroclear and/or Clearstream, Luxembourg Participants***

Secondary market sales of book-entry interests in the Notes held through Euroclear or Clearstream, Luxembourg to purchasers of book-entry interests in the Notes held through Euroclear or Clearstream, Luxembourg will be conducted in accordance with the normal rules and operating procedures of Euroclear and Clearstream, Luxembourg and will be settled using the procedures applicable to conventional eurobonds.



## TAX CONSIDERATIONS

The following is a summary based on present law of certain Dutch and Spanish tax considerations for prospective purchasers of the Notes. It addresses only purchasers that buy in the original offering at the original offering price and hold the Notes as capital assets. The discussion is a general summary. It is not a substitute for tax advice. The discussion does not consider the circumstances of particular purchasers, some of which (such as banks, insurance companies, dealers, tax exempt organizations or persons holding the Notes as part of a hedge, straddle, conversion, integrated or constructive sale transaction) are subject to special tax regimes. It also does not address purchasers that buy Notes, in an additional issuance or otherwise, after the Issue Date.

### 1. The Netherlands Taxation

The comments below are of a general nature based on taxation law and practice in The Netherlands as at the date of this Prospectus and are subject to any changes therein. They relate only to the position of persons who are absolute beneficial owners of the Notes. The following is a general description of certain tax considerations relating to the Notes. It does not purport to be a complete analysis of all tax considerations relating to the Notes and so should be treated with appropriate caution. In particular, it does not take into consideration any tax implications that may arise on a substitution of the Issuer or on a change of the tax residency of the Issuer to another jurisdiction as a result of which the Issuer would no longer be considered a tax resident of the Netherlands. Prospective investors should consult their own professional advisors concerning the possible tax consequences of purchasing, holding and/or selling Notes and receiving payments of interest, principal and/or other amounts under the Notes under the applicable laws of their country of citizenship, residence or domicile.

Where this summary refers to "The Netherlands" or "Dutch", it refers to the European part of the Kingdom of the Netherlands.

The Issuer has been advised that under the existing laws of The Netherlands:

- (a) all payments of interest and principal by the Issuer under the Notes can be made free of withholding or deduction for any taxes of whatsoever nature imposed, levied, withheld, or assessed by The Netherlands or any political subdivision or taxing authority thereof or therein;
- (b) a holder of a Note who derives income from a Note or who realises a gain on the disposal or redemption of a Note will not be subject to Dutch taxation on such income or capital gain, unless:
  - (i) the holder is, or is deemed to be, resident in The Netherlands or, where the holder is an individual, such holder has elected to be treated as a resident of The Netherlands; or
  - (ii) such income or gain is attributable to an enterprise or part thereof which is either effectively managed in The Netherlands or carried on through a permanent establishment (*vaste inrichting*) or a permanent representative (*vaste vertegenwoordiger*) in The Netherlands; or
  - (iii) the holder is an individual and such income or gain qualifies as income from activities that exceed normal active portfolio management in The Netherlands;
- (c) Dutch gift, estate or inheritance taxes will not be levied on the occasion of the transfer of a Note by way of gift by, or on the death of, a holder unless:
  - (i) the holder is, or is deemed to be, resident in The Netherlands for the purpose of the relevant provisions; or
  - (ii) the transfer is construed as an inheritance or as a gift made by or on behalf of a person who, at the time of the gift or death, is, or is deemed to be, resident in The Netherlands for the purpose of the relevant provisions;
- (d) there is no Dutch registration tax, stamp duty or any other similar tax or duty payable in The Netherlands in respect of or in connection with the execution, delivery and/or enforcement by

legal proceedings (including any foreign judgment in the courts of The Netherlands) of the Notes or the performance of the Issuer's obligations under the Notes;

- (e) there is no Dutch value added tax payable in respect of payments in consideration for the issue of the Notes or in respect of the payment of interest or principal under the Notes or the transfer of a Note, provided that Dutch value added tax may, however, be payable in respect of fees charged for certain services rendered to the Issuer, if for Dutch value added tax purposes such services are rendered, or are deemed to be rendered, in The Netherlands and an exemption from Dutch value added tax does not apply with respect to such services; and
- (f) a holder of a Note will not be treated as a resident of The Netherlands by reason only of the holding of a Note or the execution, performance, delivery and/or enforcement of the Notes.

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## 2. Spanish Taxation

The following is a general description of certain tax considerations relating to the Notes and are of a general nature based on taxation law and practice in Spain as at the date of this Prospectus and are subject to any changes therein. They relate only to the position of persons who are absolute beneficial owners of the Notes. It does not purport to be a complete analysis of all tax considerations relating to the Notes and so should be treated with appropriate caution. In particular, it does not take into consideration any tax implications that may arise on a substitution of the Issuer. Prospective investors should consult their own professional advisors concerning the possible tax consequences of purchasing, holding and/or selling Notes and receiving payments of interest, principal and/or other amounts under the Notes under the applicable laws of their country of citizenship, residence or domicile.

### 2.1 *Direct taxation*

Under the existing Spanish laws, persons resident in Spain for tax purposes will be subject to tax as follows:

#### (a) Individuals

All payments of interest made under the Notes by the Issuer to an individual purchaser resident in Spain and all capital gains recognized on the disposal or redemption of the Notes by an individual Noteholder resident in Spain would be generally subject to Spanish Personal Income Tax ("*Impuesto sobre la Renta de las Personas Físicas*") in accordance to the following rates:

- (i) The amount recognized up to €6,000.00 (including any other income of the same nature for tax purposes earned by the relevant individual within the same tax period), at 19 per cent. rate.
- (ii) The amount recognized exceeding €6,000.00, at 21 per cent. rate.

#### (b) Corporations

All payments of interest made under the Notes by the Issuer to a corporation purchaser resident in Spain and all capital gains recognized on the disposal or redemption of the Notes by a corporate Noteholder resident in Spain will be generally subject to a standard 30 per cent. Corporate Income Tax ("*Impuesto sobre Sociedades*") in Spain. This will also apply to Spanish Permanent Establishment of non Resident in Spain Entities.

However, where a person resident in Spain derives interest which, in accordance with the provisions of the double tax treaty in force between Spain and The Netherlands, may be taxed in The Netherlands and is not exempt from Spanish tax, Spain shall allow a deduction from the tax on the income of that person for an amount equal to the tax paid in The Netherlands. Such deduction shall not, however, exceed that part of the Spanish tax, as computed before the deduction is given, corresponding to the income derived from The Netherlands.

### 2.2 *Indirect taxation*

- (a) There is no Spanish registration tax, stamp duty or any other similar tax or duty payable in Spain in respect of or in connection with the acquisition by a Spanish person of the Notes or with the redemption of the Notes while held by a Spanish Noteholder.
- (b) There is no Spanish value added tax payable in respect of payments in consideration for the issue of the Notes or in respect of the payment of interest or principal under the Notes or the transfer of a Note, provided that Spanish value added tax may, however, be payable in respect of fees charged for certain services rendered to the Noteholder, if for Spanish value added tax purposes such services are rendered, or are deemed to be rendered, in Spain and an exemption from Spain value added tax does not apply with respect to such services.

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### 3. **EU Directive on the Taxation of Savings Income (2003/48/EC)**

On 1 July 2005 an EU directive regarding the taxation of savings income payments came into effect. The directive obliges a Member State to provide to the tax authorities of another Member State details of payments of interest or other similar income payments made by a person within its jurisdiction for the immediate benefit of an individual or to certain non-corporate entities resident in that other Member State (or for certain payments secured for their benefit). However, Austria, Belgium and Luxembourg have opted out of the reporting requirements and are instead applying a special withholding tax for a transitional period in relation to such payments of interest, deducting tax at rates rising over time to 35 per cent.. This transitional period commenced on 1 July 2005 and will terminate at the end of the first fiscal year following agreement by certain non-EU countries to the exchange of information relating to such payments.

Also with effect from 1 July 2005, a number of non-EU countries and certain dependent or associated territories of Member States adopted similar measures (either provision of information or transitional withholding) in relation to payments of interest or other similar income payments made by a person in that jurisdiction for the immediate benefit of an individual or to certain non-corporate entities in any Member State. The Member States have entered into reciprocal provision of information or transitional special withholding tax arrangements with certain of those dependent or associated territories. These apply in the same way to payments by persons in any Member State to individuals or certain non-corporate residents of those territories.

The directive has been the subject of a review which has resulted in a series of proposals being put forward to amend the directive. Any changes could apply to Notes that have already been issued at the date of the amendment of the directive.

**THE DISCUSSION ABOVE IS A GENERAL SUMMARY. IT DOES NOT COVER ALL TAX MATTERS THAT MAY BE OF IMPORTANCE TO A PARTICULAR INVESTOR. EACH PROSPECTIVE INVESTOR IS STRONGLY URGED TO CONSULT ITS OWN TAX ADVISER ABOUT THE TAX CONSEQUENCES OF AN INVESTMENT IN THE NOTES UNDER THE INVESTOR'S OWN CIRCUMSTANCES.**

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### 4. **Application of New U.S. Tax Reporting and Withholding Law**

#### ***Introduction***

It is possible that a recently enacted U.S. tax law, the Hiring Incentives to Restore Employment Act 2010, which includes the Foreign Account Tax Compliance provisions ("FATCA"), could compel the Issuer to subject the Notes held by some Noteholders to a forced sale. It is also possible that FATCA could impose a withholding tax of up to 30 per cent. on payments of interest, principal or certain other income made to Recalcitrant Noteholders (defined below) on or after January 1, 2015, depending on the particular circumstances of the Issuer, the Notes, and the Noteholders and beneficial owners thereof (although it is not currently expected that any such withholding would be material). The determination of whether the Issuer expects to have to withhold on payments to Noteholders will depend not only on whether any such Noteholder is a Recalcitrant Noteholder, but also on the particular assets that the Issuer purchases. Even if the Issuer does not purchase any Collateral Loan Obligations with US source income, if it enters into the FATCA-related IRS Agreement (defined below), it may nevertheless have to withhold on payments to Recalcitrant Noteholders if it owns assets in other foreign financial

institutions that own (or are deemed to own) US assets. Further, there could also be withholding of 30 per cent. on payments to the Issuer (and certain affiliates of the Issuer) of interest and dividends as of January 1, 2014 and of sales proceeds as of January 1, 2015 from Collateral Loan Obligations with US source income held by the Issuer (although it is not currently expected that the issuer will own any such Collateral Loan Obligations).

### ***General Reporting Requirements and Forced Sale under FATCA***

FATCA is particularly complex, is subject to further guidance and interpretive releases from the U.S. Department of the Treasury and the U.S. Internal Revenue Service (the "IRS"), and is dependent on the particular factual circumstances of the Issuer, the Notes and the Noteholders. Broadly, however, FATCA is likely to effectively require the Issuer to enter into an agreement with the IRS (an "**IRS Agreement**") under which it will be required to, among other things, provide certain information to the IRS about its direct and indirect U.S. Noteholders. In order to provide such information, however, the Issuer will be obliged to obtain information from all of the Noteholders (not just from the U.S. Noteholders) because unless it can adequately identify the non-U.S. Noteholders, it will be unable to properly identify (by matter of elimination) the direct and indirect U.S. Noteholders.

Accordingly, the Issuer expects to require each (i) Non-U.S. Noteholder to provide satisfactory documentation (to be determined) that it is not a U.S. person and (ii) U.S. Noteholder to provide its name, address and taxpayer identification number. If a Noteholder is a non-U.S. entity or otherwise not the beneficial owner of the Notes, such Noteholder will generally be required to provide certain information about its owners (or beneficial owners) in order to enable the Issuer to identify and report on certain of such Noteholder's direct and indirect U.S. beneficial owners. Although certain exceptions to these disclosure requirements could apply, each Noteholder should assume that the failure to provide the required information generally will compel the Issuer to force the sale of such Noteholder's Notes (and such sale could be for less than its then fair market value).

### ***Potential Withholding Under FATCA***

In addition, if a Noteholder does not comply with the Issuer's request for information (such a Noteholder, a "**Recalcitrant Noteholder**"), the Issuer may be required under the IRS Agreement to impose a non-refundable 30 per cent. U.S. withholding tax on certain payments made to such Noteholder (although the amount of withholding (if any) generally would be based solely on the percentage of the Issuer's assets that comprise (or are deemed to comprise) US assets). Although the Issuer does not intend to directly own any U.S. assets, it is possible that the Issuer will be deemed to own U.S. assets. For example, an obligation of a non-US entity that is treated as a foreign financial institution for U.S. federal income tax purposes (an "**FFI**") will be treated as a U.S. asset to the extent of (x) the value of such interest multiplied by (y) the percentage of U.S. assets held by such FFI. In very general terms, an FFI is a non-U.S. bank, a non-U.S. custodian, or a non-US entity engaged in the business of investing, reinvesting, or trading in securities, partnership interests, or commodities (or any derivative interest therein).

In addition, obligations of non-U.S. entities engaged in a U.S. trade or business (even if the Issuer is unaware that such entity is engaged in a U.S. trade or business) and obligations of entities pursuant to certain hedges entered into with the Issuer, could be deemed to be US assets. However, in general, obligations (other than equities and certain debt obligations lacking a definitive term (such as saving and demand deposits) that are outstanding on or before March 18, 2012 and that are not (x) modified after March 18, 2012 and (y) treated as reissued for U.S. federal income tax purposes (such obligations, "**Grandfathered Obligations**"), will not be treated as U.S. assets.

If the Issuer is required, pursuant to the IRS Agreement, to withhold on payments to any Recalcitrant Noteholder, it is possible that any withholding that should otherwise be allocable to such Recalcitrant Noteholder may be disproportionately allocable to the Noteholders of a particular Class. The disproportionate allocation may result from the Issuer having less cash to pay Noteholders generally. The Issuer may have less cash to pay Noteholders generally if the Issuer is unable to fulfil its obligation to withhold on its Recalcitrant Noteholders and, in accordance with its IRS Agreement, instructs its withholding agents to withhold on payments to it that are deemed to be allocated to payments made by the Issuer to its Recalcitrant Noteholders.

If any withholding is imposed pursuant to the IRS Agreement on payments to Recalcitrant Noteholders, the Issuer is under no obligation to gross up such payments.

Further, to the extent that the Issuer owns Collateral Loan Obligations, the income in respect of which is U.S. source income, payments to the Issuer (including gross proceeds from such Collateral Loan Obligations) made on or after January 1, 2014 or January 1, 2015, depending on the type of payment, could be subject to a 30 per cent. non-refundable withholding tax if the Issuer fails to enter into an (or is in violation of its) IRS Agreement. U.S. source income would include not only U.S. source dividends, interest and other U.S. source periodic income, but also interest and dividends from non-U.S. entities engaged in a U.S. trade or business, and payments with respect to certain hedges entered into with non-U.S. entities.

Lastly, if the Issuer chooses not to enter into an IRS Agreement, such decision could preclude certain of its FFI affiliates from entering into such an agreement. For this purpose an FFI affiliate generally is an FFI that is deemed to be part of an affiliated group that includes the Issuer (where, in general, such affiliates and the Issuer are deemed related through more than 50 per cent. ownership (by vote and value)). For example, if a person is deemed (for US federal income tax purposes) to own more than 50 per cent. of both (i) the Issuer and (ii) another FFI, such FFI may be treated as an FFI affiliate of the Issuer for this purpose and, thus, if the Issuer does not enter into an IRS Agreement, such failure could subject such other FFI to a prohibitive 30 per cent. withholding tax on its US source income. For these purposes, ownership by a person of the majority of the Class D Notes of the Issuer is likely to constitute the ownership by that person of the Issuer. Similarly ownership by a person of a majority of the ordinary share capital of another FFI or, in the case of another FFI which is a special purpose entity similar to the Issuer, of the most junior class and any other class treated as equity for US federal tax purposes of notes of such other FFI, is likely to constitute the ownership by that person of such other FFI.

#### ***Recalcitrant Noteholders***

If a non-U.S. law prohibits a Noteholder from providing the information requested by the Issuer (or the Issuer from providing such information to the IRS) as described above, such Noteholder generally must execute a waiver of this non-U.S. law (and then provide (or permit the Issuer to provide) such information) or dispose of its Notes (or otherwise have the Issuer cause the disposal of such Notes) within a reasonable period of time. In addition, in complying with the U.S. reporting requirements under FATCA, it may, as described above, be necessary for the Issuer to agree in the IRS Agreement to "close out" any Noteholder (and not just a Noteholder that fails to obtain the foreign law waiver described above) that fails to respond to its reasonable requests for information that will enable the Issuer to comply with such U.S. reporting requirements. If the Issuer does "close out" any Noteholder's interest, it may do so by causing the sale of such Notes.

#### ***Uncertain Application***

FATCA is particularly complex and the full extent of its application to the Issuer is currently uncertain. Thus, it is not clear what actions, if any, will be required to minimize the impact of FATCA on the Issuer and the Noteholders. No assurance can be given that the Issuer will be able to take all necessary actions or that actions taken will be successful to minimize the new forced sale provision or the new withholding tax. Further, the efficacy of the Issuer's actions might not be within the control of the Issuer and, for example, may depend on the actions of Noteholders (and each foreign withholding agent (if any) in the chain of custody). Finally, as noted above, there is no assurance that the Issuer will be able (if necessary) to withhold on payments to its Recalcitrant Noteholders.

Each potential purchaser of Notes should consult its own tax advisor to obtain a more detailed explanation of FATCA and to learn how it might affect such investor in its particular circumstance

## PLAN OF DISTRIBUTION

Banco Español de Crédito S.A. (in its capacity as an initial purchaser, the "**Initial Purchaser**") has, pursuant to the Subscription Agreement dated on or about the Issue Date, agreed with the Issuer, subject to the satisfaction of certain conditions, to purchase the Notes. The Subscription Agreement entitles the Initial Purchaser to terminate its obligations in certain circumstances prior to payment being made to the Issuer.

The Issuer has agreed to indemnify the Initial Purchaser, the Collateral Administrator, the Trustee and certain other participants against certain liabilities or to contribute to payments they may be required to make in respect thereof.

Certain of the Collateral Loan Obligations may have been originally underwritten or placed by the Initial Purchaser. In addition, the Initial Purchaser may have in the past performed and may in the future perform investment banking services or other services for issuers of the Collateral Loan Obligations. In addition, the Initial Purchaser and its Affiliates may from time to time as a principal or through one or more investment funds that it or they manage, make investments in the equity securities of one or more of the issuers of the Collateral Loan Obligations, with a result that one or more of such issuers may be or may become controlled by the Initial Purchaser or its Affiliates.

### **United States of America**

The Notes have not been and will not be registered under the Securities Act and may not be offered, sold or delivered, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. Persons except pursuant to an exemption from, or in a transaction not subject to, the registration requirements under the Securities Act and any applicable state securities laws and under circumstances that would not require the Issuer to register under the Investment Company Act. Each purchaser of a Note agrees to be bound by the foregoing restriction on transfers. Terms used in this paragraph have the meanings given to them by Regulation S.

The Initial Purchaser proposes to offer and sell the Notes outside the United States to non-U.S. Persons in offshore transactions in reliance on Regulation S.

In the Subscription Agreement, the Initial Purchaser will represent and agree that:

- (a) neither it nor any of its Affiliates nor any Persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to the Notes, and it and they have complied and will comply with the offering restrictions requirements of Regulation S; and
- (b) neither it, nor any of its Affiliates nor any Persons acting on its or their behalf has offered, sold or delivered the Notes or will offer, sell or deliver the Notes as part of their distribution except outside the United States to non-U.S. Persons in offshore transactions in accordance with Regulation S;

This Prospectus has been prepared by the Issuer for use in connection with the offer and sale of the Notes outside the United States to non-U.S. Persons in offshore transactions and for the listing of the Notes on the Irish Stock Exchange. Each of the Issuer and the Initial Purchaser reserves the right to reject any offer to purchase, in whole or in part, for any reason, or to sell less than the principal amount of Notes which may be offered. This Prospectus does not constitute an offer to any U.S. Person. Distribution of this Prospectus to any U.S. Person or to any Person within the United States is unauthorised and any disclosure of any of its contents, without the prior written consent of the Issuer, is prohibited.

### **General**

Other than obtaining approval of this Prospectus by the Central Bank of Ireland, no action has been or will be taken in any jurisdiction that would permit a public offering of the Notes, or the possession, circulation or distribution of this Prospectus or any other material relating to the Issuer or the Notes in any jurisdiction where action for such purpose is required. Accordingly, the Notes may not be offered or sold, directly or indirectly, and neither this Prospectus nor any other offering material or advertisements in connection with the Notes may be distributed or published, in or from any country or

jurisdiction except under circumstances that will result in compliance with any applicable rules and regulations of any such country or jurisdiction.

The Initial Purchaser has represented and agreed that it has not, directly or indirectly, offered, sold, transferred or delivered and will not, directly or indirectly, offer, sell, transfer or deliver any Notes in denominations (or, in the case of Notes issued at a discount, issue prices) less than €100,000 (or the equivalent thereof in other currencies) to anyone anywhere in the world.

**Spain:** The Notes may not be listed, offered, sold or distributed in Spain, except in accordance with the requirements set out in Law 24/1988 of 28 July of Securities Markets, as amended and restated (the "**Securities Markets Law**"), and Royal Decree 1310/2005, of 4 November, which develops the Securities Markets Law in relation to admission to listing, public offer of securities and prospectus to be published for such purposes, as amended and restated (the "**Royal Decree 1310/2005**"), or any other regulations that may be in force from time to time. This Prospectus has not been and it is not envisaged to be approved by, registered or filed with, or notified to the Spanish Securities Market Commission (*Comisión Nacional del Mercado de Valores*). It is not intended for the public offering or sale of the Notes in Spain. Investors in the Notes may not sell or offer the securities in Spain other than in compliance with the requirements set out by articles 30bis of the Securities Markets Law and 38 of Royal Decree 1310/2005 so that any sale or offering of the Notes in Spain is not classified as a public offering of securities in Spain.

## TRANSFER RESTRICTIONS

Because of the following restrictions, purchasers are advised to consult legal counsel prior to making any offer, resale, pledge or transfer of the Notes.

Each purchaser of Notes will be deemed to have represented and agreed as follows:

- (a) The purchaser is located outside the United States and is not a U.S. Person.
- (b) The purchaser understands that the Notes have not been and will not be registered under the Securities Act and that the Issuer has not registered and will not register under the Investment Company Act. It agrees, for the benefit of the Issuer, the Arranger, the Originator, the Initial Purchaser and any of their Affiliates, that, if it decides to resell, pledge or otherwise transfer such Notes (or any beneficial interest or participation therein) purchased by it, any offer, sale or transfer of such Notes (or any beneficial interest or participation therein) will be made in compliance with the Securities Act and only to a non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 (as applicable) under Regulation S.
- (c) The purchaser understands that pursuant to the terms of the Trust Deed, the Issuer has agreed that the Notes will bear the legend set forth below, and, on issue, will be represented by one or more Global Certificates. The Notes may not at any time be held by or on behalf or for the account or benefit of U.S. Persons. Before any interest in a Note may be offered, resold, pledged or otherwise transferred to any person, the transferor will be required to provide the Trustee with a written certification (in the form provided in the Trust Deed) as to compliance with the transfer restrictions.

THE NOTES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), AND THE ISSUER HAS NOT BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "**INVESTMENT COMPANY ACT**"). THE HOLDER HEREOF, BY PURCHASING THE NOTES IN RESPECT OF WHICH THIS CERTIFICATE HAS BEEN ISSUED, AGREES FOR THE BENEFIT OF THE ISSUER THAT THE NOTES REPRESENTED BY THIS CERTIFICATE MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (A) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S OF THE SECURITIES ACT IN A PRINCIPAL AMOUNT OUTSTANDING OF NOT LESS THAN €100,000 FOR THE PURCHASER AND FOR EACH ACCOUNT FOR WHICH IT IS ACTING, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION. ANY TRANSFER IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE AND EFFECT, WILL BE VOID AB INITIO AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE, NOTWITHSTANDING ANY INSTRUCTIONS TO THE CONTRARY TO THE ISSUER, THE TRUSTEE OR ANY INTERMEDIARY. EACH TRANSFEROR OF THE NOTES REPRESENTED BY THIS CERTIFICATE WILL PROVIDE NOTICE OF THE TRANSFER RESTRICTIONS SET FORTH HEREIN AND IN THE TRUST DEED TO ITS TRANSFEREE.

EACH PURCHASER OF THE NOTES REPRESENTED BY THIS CERTIFICATE OR ANY BENEFICIAL INTEREST HEREIN UNDERSTANDS THAT THE ISSUER MAY RECEIVE A LIST OF PARTICIPANTS HOLDING POSITIONS IN THE NOTES FROM ONE OR MORE BOOK ENTRY DEPOSITORIES.

TRANSFERS OF THE NOTES REPRESENTED BY THIS CERTIFICATE OR OF PORTIONS OF THE NOTES REPRESENTED BY THIS CERTIFICATE SHOULD BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE TRUST DEED REFERRED TO HEREIN.

PRINCIPAL OF THE NOTES REPRESENTED BY THIS CERTIFICATE IS PAYABLE AS SET FORTH HEREIN. ACCORDINGLY, THE PRINCIPAL AMOUNT OUTSTANDING OF THE NOTES REPRESENTED BY THIS CERTIFICATE AT ANY TIME MAY BE LESS THAN THE AMOUNT SHOWN ON THE FACE HEREOF. ANY PERSON ACQUIRING THE NOTES



REPRESENTED BY THIS CERTIFICATE MAY ASCERTAIN ITS CURRENT PRINCIPAL AMOUNT BY INQUIRY OF THE REGISTRAR.

BY ITS PURCHASE OR HOLDING OF ANY CLASS OF NOTES, OR ANY INTEREST THEREIN, THE PURCHASER AND/OR HOLDER THEREOF AND EACH TRANSFEREE WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED AT THE TIME OF ITS PURCHASE AND THROUGHOUT THE PERIOD THAT IT HOLDS SUCH NOTE THAT EITHER (A) IT IS NOT AN EMPLOYEE BENEFIT PLAN (AS DEFINED IN SECTION 3(3) OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("**ERISA**")) THAT IS SUBJECT TO THE FIDUCIARY RESPONSIBILITY PROVISIONS OF ERISA, A PLAN AS DEFINED IN SECTION 4975(e)(1) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "**CODE**"), THAT IS SUBJECT TO SECTION 4975 OF THE CODE, ANY ENTITY WHOSE UNDERLYING ASSETS INCLUDE "PLAN ASSETS" BY REASON OF ANY SUCH PLAN'S INVESTMENT IN THE ENTITY (INCLUDING AN INSURANCE COMPANY GENERAL ACCOUNT WITHIN THE MEANING OF SECTION V(e) OF PROHIBITED TRANSACTION CLASS EXEMPTION 95-60) OR A "BENEFIT PLAN INVESTOR" AS SUCH TERM IS OTHERWISE DEFINED IN ANY REGULATIONS PROMULGATED BY THE U.S. DEPARTMENT OF LABOR UNDER SECTION 3(42) OF ERISA OR (B) IF IT IS A GOVERNMENTAL, CHURCH, NON-U.S. OR OTHER PLAN WHICH IS SUBJECT TO ANY FEDERAL, STATE, LOCAL OR NON-U.S. LAW THAT IS SUBSTANTIALLY SIMILAR TO THE PROVISIONS OF SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE, ITS PURCHASE AND/OR HOLDING OF SUCH NOTES WILL NOT CONSTITUTE OR RESULT IN A NON-EXEMPT VIOLATION UNDER SUCH SUBSTANTIALLY SIMILAR FEDERAL, STATE, LOCAL OR NON-U.S. LAW. ANY PURPORTED TRANSFER OF ANY CLASS OF NOTES, OR ANY INTEREST THEREIN, TO A PURCHASER OR TRANSFEREE THAT DOES NOT COMPLY WITH THE FOREGOING REQUIREMENTS WILL BE OF NO FORCE AND EFFECT, SHALL BE NULL AND VOID AB INITIO AND THE ISSUER WILL HAVE THE RIGHT TO DIRECT THE PURCHASER TO TRANSFER THE NOTES, OR ANY INTEREST THEREIN, AS APPLICABLE, TO A PERSON WHO MEETS THE FOREGOING CRITERIA.

THE FAILURE TO PROVIDE THE ISSUER, THE TRUSTEE AND ANY PAYING AGENT WITH THE APPLICABLE U.S. FEDERAL INCOME TAX CERTIFICATIONS (GENERALLY, AN INTERNAL REVENUE SERVICE FORM W-9 (OR SUCCESSOR APPLICABLE FORM) IN THE CASE OF A PERSON THAT IS A "UNITED STATES PERSON" WITHIN THE MEANING OF SECTION 7701(A)(30) OF THE CODE OR AN APPLICABLE INTERNAL REVENUE SERVICE FORM W-8 (OR SUCCESSOR APPLICABLE FORM) IN THE CASE OF A PERSON THAT IS NOT A "UNITED STATES PERSON" WITHIN THE MEANING OF SECTION 7701(A)(30) OF THE CODE) MAY RESULT IN U.S. FEDERAL BACK-UP WITHHOLDING FROM PAYMENTS TO THE HOLDER IN RESPECT OF THE NOTES REPRESENTED BY THIS CERTIFICATE.

- (d) The purchaser is not purchasing such Notes with a view to the resale, distribution or other disposition thereof in violation of the Securities Act.
- (e) The purchaser is aware that the sale of Notes to it is being made in reliance on the exemption from registration provided by Regulation S.
- (f) The purchaser understands that the Notes may not, at any time, be held by, or on behalf or for the account or benefit of, U.S. Persons.
- (g) The purchaser understands that an investment in the Notes involves certain risks, including the risk of loss of all or a substantial part of its investment under certain circumstances. The purchaser has had access to such financial and other information concerning the Issuer and the Notes as it deemed necessary or appropriate in order to make an informed investment decision with respect to its acquisition of the Notes, including an opportunity to ask questions of and request information from the Issuer.
- (h) In connection with the purchase of the Notes (provided that no such representation is made with respect to the Portfolio Servicer by any affiliate of the Portfolio Servicer or any purchaser over whose investment account the Portfolio Servicer exercises discretionary authority): (i) none of the Issuer, the Initial Purchaser, the Arranger, the Originator or the Portfolio Servicer is acting as a fiduciary or financial or investment adviser for the purchaser; (ii) the purchaser is

not relying (for purposes of making any investment decision or otherwise) upon any advice, counsel or representations (whether written or oral) of the Issuer, the Initial Purchaser, the Arranger, the Originator or the Portfolio Servicer other than this Prospectus for such Notes and any representations expressly set forth in a written agreement with such party; (iii) none of the Issuer, the Initial Purchaser, the Arranger, the Originator or the Portfolio Servicer has given to the purchaser (directly or indirectly through any other person) any assurance, guarantee, or representation whatsoever as to the expected or projected success, profitability, return, performance, result, effect, consequence, or benefit (including legal, regulatory, tax, financial, accounting, or otherwise) as to an investment in the Notes; (iv) the purchaser has consulted with its own legal, regulatory, tax, business, investment, financial, and accounting advisers to the extent it has deemed necessary, and it has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to the Trust Deed) based upon its own judgement and upon any advice from such advisers as it has deemed necessary and not upon any view expressed by the Issuer, the Initial Purchaser, the Arranger, the Originator or the Portfolio Servicer; (v) the purchaser has evaluated that the rates, prices or amounts and other terms of the purchase and sale of the Notes with a full understanding of all of the risks thereof (economic and otherwise), and it is capable of assuming and willing to assume (financially and otherwise) those risks; and (vi) the purchaser is a sophisticated investor.

- (i) The purchaser will not, at any time, offer to buy or offer to sell the Notes by any form of general solicitation or advertising, including, but not limited to, any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over television or radio or seminar or meeting whose attendees have been invited by general solicitations or advertising.
- (j) The purchaser will provide notice to each person to whom it proposes to transfer any interest in the Notes of the transfer restrictions and representations set forth herein.
- (k) Each holder and beneficial owner of a Note, by acceptance of its Note or its interest in a Note, shall be deemed to understand and acknowledge that failure to provide the Issuer, the Trustee or any Paying Agent with the applicable U.S. federal income tax certifications (generally, an applicable United States Internal Revenue Service Form W-8 (or successor applicable form) in the case of a person that is not a "United States person" within the meaning of Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended (the "**Code**")) may result in U.S. federal back-up withholding from payments in respect of such Note.
- (l) The purchaser acknowledges that the Issuer, the Registrar, the Arranger, the Originator, the Initial Purchaser, the Arranger, the Originator and their Affiliates, and others will rely upon the truth and accuracy of the foregoing acknowledgements, representations and agreements.
- (m) With respect to the purchase, holding and disposition of any Note, or any interest therein, at the time of its purchase and throughout the period that it holds such Note that (A) it is not an employee benefit plan (as defined in Section 3(3) of Title I of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**")) that is subject to the fiduciary responsibilities provisions of ERISA, a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "**Code**"), that is subject to Section 4975 of the Code, any entity whose underlying assets include "plan assets" by reason of any such plan's investment in the entity (including an insurance company general account within the meaning of Section V(e) of prohibited transaction class exemption 95-60) or a "benefit plan investor" as such term is otherwise defined in any regulations promulgated by the U.S. Department of Labor under Section 3(42) of ERISA or (B) if it is a governmental, church, non-U.S. or other plan which is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Section 406 of ERISA or Section 4975 of the Code, its purchase and/or holding of such Notes will not constitute or result in a non-exempt violation under such substantially similar federal, state, local or non-U.S. law. The purchaser acknowledges and agrees that any purported transfer of the Notes, or any interest therein, to a purchaser that does not comply with the foregoing requirements will be of no force and effect, shall be null and void ab initio and the Issuer will have the right to direct the purchaser to transfer the Notes, or any interest therein, as applicable, to a person who meets the foregoing criteria.

- (n) The purchaser agrees to provide the Issuer and Trustee (i) any information as is necessary (in the sole determination of the Issuer or the Trustee, as applicable) for the Issuer and the Trustee to determine whether it or the beneficial owner thereof is a United States person (a "United States person") as defined in Section 7701(a)(30) of the U.S. Internal Revenue Code of 1986 (the "Code") or a United States owned foreign entity as described in Section 1471(d)(3) of the Code (a "United States owned foreign entity") and (ii) any additional information that the Issuer or its agent requests in connection with Sections 1471-1474 of the Code. If it is a United States person or a United States owned foreign entity that is a holder or beneficial owner of a Note or an interest therein it also hereby agrees to (x) provide the Issuer and Trustee its name, address, U.S. taxpayer identification number and any other information requested by the Issuer or its agent upon request or, if such holder or beneficial owner acquires an interest in the Notes after July 1, 2013, by the date it acquires such interest and (y) update any such information provided in clause (x) promptly upon learning that any such information previously provided has become obsolete or incorrect or is otherwise required. It understands and acknowledges that the Issuer may provide such information and any other information concerning its investment in the Notes to the U.S. Internal Revenue Service.
- (o) The purchaser understands and acknowledges that the Issuer has the right, under the Trust Deed, to compel any beneficial owner of an interest in the Notes that fails to comply with the requirements of clause (n) above, to sell its interest in such Notes, or may sell such interest on behalf of such owner.
- (p) The purchaser understands and acknowledges that the Issuer has the right, under the Conditions, to withhold up to 30 per cent. on all payments made to any beneficial owner of an interest in the Notes that fails to comply with the requirements of clause (n) above.

## GENERAL INFORMATION

### 1. Clearing Systems

The Notes of each Class have been accepted for clearance through Euroclear and Clearstream, Luxembourg. The Common Code and the International Securities Identification Number ("ISIN") for the Global Certificates for the Notes of each Class are:

Global Certificates

	<u>Reg S ISIN</u>	<u>Reg S Common Code</u>
Class A Notes	XS0675499296	067549929
Class B Notes	XS0675505951	067550595
Class C Notes	XS0675510951	067551095
Class D Notes	XS0675514276	067551427

The address for Euroclear is 3 Boulevard du Roi Albert II, B.1210, Brussels, Belgium.

The address for Clearstream, Luxembourg is 42 Avenue J.F. Kennedy, L-1855, Luxembourg.

### 2. Listing

This Prospectus has been approved by the Central Bank, as competent authority under the Prospectus Directive. The Central Bank only approves this Prospectus as meeting the requirements imposed under Irish and EU law pursuant to the Prospectus Directive. Application has been made to the Irish Stock Exchange for the Notes to be admitted to the Official List and trading on its regulated market. Deutsche Luxembourg S.A. is acting solely in its capacity as listing agent for the Issuer in connection with the Notes and is not itself seeking admission of the Notes to the Official List of the Irish Stock Exchange or to trading on its regulated market for the purposes of the Prospectus Directive.

### 3. Consents and Authorisations

The Issuer has obtained all necessary consents, approvals and authorisations in The Netherlands (if any) in connection with the issue and performance of the Notes. The issue of the Notes was authorised by a resolution of the board of Managing Directors of the Issuer passed on 26 September 2011.

### 4. No Significant or Material Change

There has been no significant change in the financial or trading position or prospects of the Issuer since its incorporation on 30 June 2011 and there has been no material adverse change in the financial position or prospects of the Issuer since its incorporation.

### 5. Accounts

So long as any Note remains Outstanding, copies of the most recent annual audited financial statements of the Issuer, when published, can be obtained at the specified offices of the Paying Agents during normal business hours. Since the date of incorporation, the Issuer has not commenced any operations and no financial statements of the Issuer have been prepared as of the date of the Prospectus, save as described in this Prospectus. The first audited financial statements of the Issuer are in respect of the period from incorporation to 31 December 2012. The Issuer will not prepare interim financial statements. The auditors of the Issuer are KPMG Accountants N.V. of Rijnzathe 14, 3454 PV De Meern, The Netherlands who are chartered accountants and are members of the Institute of Chartered Accountants and registered auditors qualified to practice in The Netherlands.

The Issuer is not involved nor has it been involved since incorporation in any governmental, legal or arbitration proceedings. There are no governmental, legal or arbitration proceedings threatened or pending which have had a significant effect on the Issuer's financial position or profitability.

**6. Documents Available**

Hard copies of the following documents may be inspected (and, in the case of each of (g) and (h) below, will be available for collection free of charge) at the registered office of the Issuer and at the offices of any Paying Agent during usual business hours on any day (Saturdays, Sundays and public holidays excepted) for the term of the Notes:

- (a) the Articles of Association of the Issuer;
- (b) the Trust Deed (which includes the form of each Note of each Class);
- (c) Portfolio Servicing Agreement;
- (d) the Agency Agreement;
- (e) each Interest Rate Swap Agreement;
- (f) the Management Agreement;
- (g) each Monthly Report;
- (h) each Payment Date Report;
- (i) the ICSD Agreement; and
- (j) the Spanish Accounts Pledge Agreement.

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