

<b>AVVISO n.6443</b>	<b>19 Aprile 2011</b>	<b>SeDeX – INV. CERTIFICATES</b>
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Mittente del comunicato : Borsa Italiana  
Societa' oggetto : BANCA IMI  
dell'Avviso  
Oggetto : Inizio negoziazione 'Investment Certificates –  
Classe B' 'BANCA IMI'

<b><i>Testo del comunicato</i></b>
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Si veda allegato.

<b><i>Disposizioni della Borsa</i></b>
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Strumenti finanziari:	<b>Banca IMI fino a 60.000 Express Certificates su Indice S&amp;P BRIC 40 Eur</b>		
Emittente:	BANCA IMI		
Rating Emittente:	Società di rating	Long term	Data report
	Moody's	Aa3	24/06/2009
	Standard & Poor's	A+	23/04/2010
	Fitch	AA-	09/09/2008
Oggetto:	<b>INIZIO NEGOZIAZIONI IN BORSA</b>		
Data di inizio negoziazioni:	<b>20/04/2011</b>		
Mercato di quotazione:	Borsa - Comparto SEDEX "Investment Certificates - Classe B"		
Orari e modalità di negoziazione:	Negoziazione continua e l'orario stabilito dall'art. IA.5.1.5 delle Istruzioni		
Operatore incaricato ad assolvere l'impegno di quotazione:	Banca IMI S.p.A. Member ID Specialist: MM2599 <b>L'operatore specialista s'impegna ad esporre proposte solo in acquisto, ai sensi dell'articolo 4.2.10, comma 3 del Regolamento.</b>		

### **CARATTERISTICHE SALIENTI DEI TITOLI OGGETTO DI QUOTAZIONE**

#### **Banca IMI fino a 60.000 Express Certificates su Indice S&P BRIC 40 Eur**

Tipo di liquidazione:	monetaria
Modalità di esercizio:	europeo

## **DISPOSIZIONI DELLA BORSA ITALIANA**

Dal giorno 20/04/2011, gli strumenti finanziari "Banca IMI fino a 60.000 Express Certificates su Indice S&P BRIC 40 Eur" (vedasi scheda riepilogativa delle caratteristiche dei securitised derivatives) verranno inseriti nel Listino Ufficiale, sezione Securitised Derivatives.

Allegati:

- Scheda riepilogativa delle caratteristiche dei securitised derivatives;
- Estratto del prospetto di quotazione dei Securitised Derivatives

Num. Serie	Codice Isin	Local Market TIDM	TIDM	Short Name	Long Name	Sottostante	Strike	Data Scadenza	Parità	Quantità	Lotto Negoziazione	EMS	Prima Barriera	Prima Barriera %	Livello Iniziale	Specialista BID
1	XS0576578552	I00412	X8EC	I00412SPBEXP	BI SPBECCXP2468,19AB1604,32E100214	S&P BRIC 40 (Price Ret.) Index in EUR	2468,19	10/02/14	0,405155	60000	1	3	1604,324	65	2468,19	SI



## FINAL TERMS

January 14, 2011

### BANCA IMI S.P.A.

#### Up to 60,000 S&P BRIC 40<sup>®</sup> (Eur) Index Express Certificates

#### under the Warrant and Certificate Programme

The Base Prospectus referred to below (as completed by these Final Terms) has been prepared on the basis that, except as provided in sub-paragraph (ii) below, any offer of Securities in any Member State of the European Economic Area which has implemented the Prospectus Directive (2003/71/EC) (each, a **Relevant Member State**) will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of the Securities. Accordingly any person making or intending to make an offer of the Securities may only do so:

- (i) in circumstances in which no obligation arises for the Issuer or any Manager to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer; or
- (ii) in those Public Offer Jurisdictions mentioned in Paragraph 51 of Part A below, provided such person is one of the persons mentioned in Paragraph 51 of Part A below and that such offer is made during the Offer Period specified for such purpose therein.

Neither the Issuer nor any Manager has authorised, nor do they authorise, the making of any offer of Securities in any other circumstances.

### PART A – CONTRACTUAL TERMS

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions set forth in the Base Prospectus dated 16 August 2010 which constitutes a base prospectus for the purposes of the Prospectus Directive (Directive 2003/71/EC) (the **Prospectus Directive**). This document (which for the avoidance of doubt may be issued in respect of more than one series of Securities) constitutes the Final Terms of the Securities described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with the Base Prospectus. Full information on the Issuer and the offer of the Securities is only available on the basis of the combination of these Final Terms and the Base Prospectus. The Base Prospectus is available for viewing during normal business hours at the registered office of the Issuer and the specified offices of the Principal Security Agent.

References herein to numbered Conditions are to the terms and conditions of the relevant series of Securities and words and expressions defined in such terms and conditions shall bear the same meaning in these Final Terms insofar as they relate to such series of Securities, save as where otherwise expressly provided.

These Final Terms relate to the series of Securities as set out in "Specific Provisions for each Series" below. References herein to "Securities" shall be deemed to be references to the relevant Certificates that are the subject of these Final Terms and references to "Securities" and "Security" shall be construed accordingly.

1. Issuer: Banca IMI S.p.A.

2. Specific provisions for each Series:

Series Number	No. of Securities issued	No. of Securities per Unit	Issue price per Security	Call/Put	Exercise Price	Exercise Date
23	Up to 60,000 Securities	Not Applicable	EUR 1,000	Not Applicable	Not Applicable	See item 7 below

3. Consolidation: Not Applicable
4. Type of Securities and underlying asset: (a) The Securities are Certificates. The Securities are Index Securities.
- (b) The index to which the Securities relate is the S&P BRIC 40<sup>®</sup> (Price Return) Index calculated in EUR, Bloomberg ticker symbol SBE and Reuters ticker symbol .SPBRICE (the **Index**).
5. Averaging: Not applicable
6. Issue Date: The issue date of the Securities is 9 February 2011.
7. Exercise Date: The exercise date of the Securities is:
- where the First Early Termination Event has occurred on the First Observation Date: the First Observation Date;
  - where the Second Early Termination Event has occurred on the Second Observation Date: the Second Observation Date; and
  - where neither the First Early Termination Event has occurred on the First Observation Date nor the Second Early Termination Event has occurred on the Second Observation Date: the Final Valuation Date.
- Terms used herein and not defined have the meaning ascribed to them in Annex 1 attached hereto (the **Annex 1**).
8. Settlement Date: The settlement date for the Securities is:
- where the First Early Termination Event has occurred on the First Observation Date: 9 February 2012 (the **First Early Termination Date**); or
  - where the Second Early Termination Event has occurred on the Second Observation Date: 8 February 2013 (the **Second Early Termination Date**); and
  - where neither the First Early Termination Event has occurred on the First Observation Date nor the Second Early Termination Event has occurred on the Second Observation Date: 10 February 2014 (the **Scheduled Termination Date**).
- For the avoidance of any doubt, should the First Early Termination Event occur on the First Observation Date, the Securities shall be automatically exercised on the First Observation Date and upon payment of the Cash Settlement Amount specified in item 27 below as payable on the First Early Termination Date no further payment shall be due in respect of the Securities.
- For the avoidance of any doubt, should the Second Early Termination Event occur on the Second Observation Date, the Securities shall be automatically exercised on the Second Observation Date and upon payment of the Cash Settlement Amount specified in item 27 below as payable on the Second Early Termination Date, no further payment shall be due in respect of the Securities.
- Terms used herein and not defined have the meaning ascribed to them in Annex 1.

9.	Number of Securities being issued:	The number of Securities being issued is set out in paragraph 2 under "Specific Provisions for each Series", above. The number of Securities being issued will not exceed 60,000 Securities and will be determined at the end of the Offer Period (as defined in item 51 below) and such final amount will be filed with the CSSF as competent authority and published on the website of the Luxembourg Stock Exchange ( <a href="http://www.bourse.lu">www.bourse.lu</a> ) pursuant to Articles 8 and 14(2) of the Prospectus Directive.
10.	Issue Price:	The issue price per Security is set out in paragraph 2 under "Specific Provisions for each Series", above.
11.	Settlement Business Day:	Not Applicable
12.	Exchange Business Day:	Any Scheduled Trading Day on which Exchanges relating to Component Securities whose weight cumulatively comprise 80% or more in the level of the Index are open for their regular trading sessions, notwithstanding any such Exchange closing prior to its Scheduled Closing Time.
13.	Business Day Centre(s):	The applicable Business Day Centre for the purposes of the definition of "Business Day" in Condition 3 is Milan.
14.	Settlement:	Settlement will be by way of cash payment ( <b>Cash Settled Securities</b> ).
15.	Issuer's option to vary settlement:	The Issuer does not have the option to vary settlement in respect of the Securities.
16.	Exchange Rate:	Not Applicable.
17.	Settlement Currency:	The settlement currency for the payment of the Cash Settlement Amount is EUR.
18.	Name and address of Calculation Agent:	The Calculation Agent is Banca IMI S.p.A., with its registered office at Largo Mattioli 3, 20121 Milan.
19.	Exchange(s):	Not Applicable
20.	Exchange(s), Index Sponsor and Designated Multi-Exchange Indices:	<p>For the purposes of Condition 3 and Condition 13(A):</p> <p>(a) Exchange means, in respect of each Component Security of the Index, the principal stock exchange on which such Component Security is principally traded, as determined by the Calculation Agent;</p> <p>(b) the relevant Index Sponsor is as of the Issue Date the Standard &amp; Poor's Financial Services LLC;</p> <p>(c) the relevant Index Currency is EUR.</p> <p>The Index is a Designated Multi-Exchange Index.</p>
21.	Commodity Indices:	Not Applicable
22.	Related Exchange(s):	Not Applicable



23.	Multiplier:	See Annex 1
24.	Nominal Amount and Relevant Screen Page:	Not Applicable
25.	Relevant Asset(s):	Not Applicable
26.	Entitlement:	Not Applicable
27.	Cash Settlement Amount:	<p>Per each Certificate,</p> <p>(I) where the First Early Termination Event has occurred on the First Observation Date, the Cash Settlement Amount payable on the First Early Termination Date will be EUR 1,070; or</p> <p>(II) where the Second Early Termination Event has occurred on the Second Observation Date, the Cash Settlement Amount payable on the Second Early Termination Date will be EUR 1,140; or</p> <p>(III) where neither the First Early Termination Event has occurred on the First Observation Date nor the Second Early Termination Event has occurred on the Second Observation Date, the Cash Settlement Amount payable on the Scheduled Termination Date will be an amount in the Settlement Currency calculated by the Calculation Agent in accordance with the following formula and rounding the resultant figure to nearest EUR cent, 0.005 EUR being rounded upwards:</p> <p>(A) where the Final Level is higher than the Initial Level: Cash Settlement Amount = EUR 1,210</p> <p>(B) where the Final Level is (x) equal to or lower than the Initial Level and (y) higher than the Barrier Level: Cash Settlement Amount = Initial Level * Multiplier</p> <p>(C) where the Final Level is equal to or lower than the Barrier Level: Cash Settlement Amount = Final Level * Multiplier</p> <p>Definitions contained in Annex 1 will apply to the issue of the Certificates described by these Final Terms.</p> <p>Upon occurrence of a Market Disruption Event on the Initial Valuation Date, on the Final Valuation Date or an Observation Date or upon occurrence of any Adjustment Events in respect of the Index (all as defined in Annex 1) or an error of publication, the provisions set forth in Annex 1 will apply.</p>
28.	Settlement Price:	Not Applicable
29.	Adjustments to Valuation Date and/or Averaging Date:	The provisions set forth in Annex 1 will apply
30.	Redemption of Debt Instruments:	Not Applicable
31.	Valuation Time:	See Annex 1.

32.	Currency Securities:	Not Applicable
33.	Fund Securities:	Not Applicable
34.	Tender Offer:	Not Applicable
35.	Additional Disruption Events:	See Annex 1
36.	Failure to Deliver due to Illiquidity:	Not Applicable
37.	Credit Securities:	Not Applicable

#### **PROVISION RELATING TO WARRANTS**

38.	Type of Warrants:	Not Applicable
39.	Exercise Price:	Not Applicable
40.	Exercise Period :	Not Applicable
41.	(i) Automatic Exercise:	Not Applicable
	(ii) Renouncement Notice Cut-off Time:	Not Applicable
42.	Minimum Exercise Number:	Not Applicable
43.	Maximum Exercise Number:	Not Applicable
44.	Units:	Not Applicable

#### **PROVISIONS RELATING REMUNERATION IN RESPECT OF CERTIFICATES**

45.	Notional Amount per Certificate:	Not Applicable
46.	Remuneration Payment Dates:	Not Applicable
47.	Remuneration Amount:	Not Applicable

#### **GENERAL**

48.	Form of Securities:	Temporary Global Security exchangeable for a Permanent Global Security which is exchangeable for Definitive Securities only in the limited circumstances specified in the Permanent Global Security
49.	Other final terms:	Definitions contained in Annex 1 will apply to the issue of the Certificates described by these Final Terms.

## DISTRIBUTION

### 50. Syndication:

- |       |  |                |
|-------|--|----------------|
| (i)   | If syndicated, names and addresses of Managers and underwriting commitments: | Not Applicable |
| (ii)  | Date of Subscription Agreement:  | Not Applicable |
| (iii) | Stabilising Manager (if any):  | Not Applicable |

If non-syndicated, name and address of Manager (if not the Issuer):	See item 51 below
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Total commission and concession:	A commission payable to the Managers (as defined in item 51 below) equal to 2.50 per cent. of the Issue Price in respect of Securities distributed up to an aggregate of 30,000 Securities and in excess determined so that the average aggregate commission will range from 0.70 per cent to 3.00 per cent. of the Issue Price of the aggregate Securities placed.
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### 51. Non exempt Offer:

An offer of the Securities may be made by the Managers other than pursuant to Article 3(2) of the Prospectus Directive in Italy (Public Offer Jurisdiction) during the period from 17 January 2011 to and including 4 February 2011 or, in respect of sales by financial promoters (*promotori finanziari*) only, to and including 28 January 2011 (the offer period, as it may be amended in case of early closure of the Offer, the **Offer Period**), subject as provided in Paragraph 6 of Part B below.

The Securities are being offered to the public in Italy pursuant to Articles 17 and 18 of the Prospectus Directive and the implementing provisions in Italy.

The Issuer reserves the right, in its sole discretion, to close the Offer Period early, also in circumstances where purchases of Securities are not yet equal to the maximum amount offered of 60,000 Securities. Notice of the early closure of the offer period will be given by the Issuer by publication (i) in a leading newspaper having general circulation in Luxembourg (which is expected to be the *Luxemburger Wort*) and in a leading newspaper having general circulation in Italy (which is expected to be the *MF*) or (ii) on the website of the Issuer and the Managers. Early closure of the offer will be effective the first TARGET Settlement Day following publication.

The Issuer reserves the right, in its sole discretion, to revoke or withdraw the Offer and the issue of the Securities at any time prior to the Issue Date. Notice of revocation/withdrawal of the offer will be given by publication (i) in a leading newspaper having general circulation in Luxembourg (which is expected to be the *Luxemburger Wort*) and in a leading newspaper having general circulation in Italy (which is expected to be the *MF*) or (ii) on the website of the Issuer and the Managers.

Revocation/withdrawal of the offer will be effective upon publication. Upon revocation/withdrawal of the offer, all subscription applications will become void and of no effect, without further notice.

The following entities have agreed to place the Securities on a "best efforts" basis:

- Intesa Sanpaolo Private Banking SpA, with registered office at Via Hoepli 10, 20121 Milan, Italy (**ISPB**);
- Cassa di Risparmio di Pistoia e Pescia S.p.A., with registered office at Via Roma, 3 - 51100 Pistoia;
- Cassa di Risparmio di Ascoli Piceno S.p.A., with registered office at Corso Mazzini 190, 63100 Ascoli Piceno;
- Cassa di Risparmio di Città di Castello S.p.A., with registered office at Piazza Matteotti 1, 06012 Città di Castello (Perugia);
- Cassa di Risparmio di Foligno S.p.A., with registered office at Corso Cavour 36, 06034 Foligno (PG);
- Cassa di Risparmio di Rieti S.p.A., with registered office at Via Garibaldi 262, 02100 Rieti;
- Cassa di Risparmio di Spoleto S.p.A., with registered office at Via F. Cavallotti 6, 06049 Spoleto
- Cassa di Risparmio di Terni e Narni S.p.A., with registered office at Corso Tacito 49, 05100 Terni;
- Cassa di Risparmio della Provincia di Viterbo S.p.A., with registered office at Via Mazzini 129, Viterbo

(the **Managers**).

The Issuer will act as lead manager of the placement syndicate (Responsabile del Collocamento as defined under article 93-bis of the Legislative Decree of 24 February 1998, n. 58, as subsequently amended (the "Financial Services Act")) but will not act as Manager and, accordingly, will not place any Securities to the public in Italy.

The Issuer and the Managers have agreed under a placement agreement (the Placement Agreement) the Managers will place the Securities without a firm commitment. The Placement Agreement will be dated on or about January 14, 2011.

See further Paragraph 6 of Part B below.

52. Additional selling restrictions:

Not Applicable

## **PURPOSE OF FINAL TERMS**

These Final Terms comprise the final terms required for issue and public offer in the Public Offer Jurisdiction and admission to trading on the regulated market of the Luxembourg Stock Exchange of the Securities described herein pursuant to the Warrant and Certificate Programme of Banca IMI S.p.A.

## **RESPONSIBILITY**

The Issuer accepts responsibility for the information contained in these Final Terms.

Signed on behalf of the Issuer:

By: .....  
*Duly authorised*

## **PART B – OTHER INFORMATION**

### **1. LISTING AND ADMISSION TO TRADING**

- |      |                       |  |
|------|-----------------------|--|
| (i)  | Listing:              | Luxembourg   |
| (ii) | Admission to trading: | <p>Application is expected to be made by the Issuer (or on its behalf) for the Securities to be admitted to trading on the regulated market of the Luxembourg Stock Exchange with effect from the Issue Date.</p> <p>After the Issue Date, application may be made by the Issuer (or on its behalf) to list the Securities on such further or other stock exchanges or regulated markets or admitted to trading on such other trading venues (including without limitation multilateral trading facilities) as the Issuer may determine.</p> |

### **2. INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE ISSUE**

Banca IMI S.p.A., the issuer of the Securities, is part of the Intesa Sanpaolo group, to which all the Managers belong, therefore participation relationships of the Managers with the Issuer, either directly or indirectly through the parent company Intesa Sanpaolo, result in a conflict of interest.

In addition, and without limiting the generality of the foregoing, the Issuer is expected to enter into hedging arrangements with market counterparties in connection with the issue of the Securities in order to hedge its exposure and it will act as Calculation Agent under the Securities.

Save as discussed above and save for any fees payable to the Managers referred to in item 50 of Part A above, so far as the Issuer is aware, no person involved in the issue of the Securities has an interest material to the offer.

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

- |       |                           |   |
|-------|---------------------------|---|
| (i)   | Reasons for the offer:    | See "Use of Proceeds" wording in Base Prospectus  |
| (ii)  | Estimated net proceeds:   | The net proceeds (net of the commissions referred to in item 50 of Part A above) of the issue of the Securities will be up to EUR 58,500,000 (assuming commissions referred to in item 50 of Part A above will be 2.50 per cent. of the Issue Price in respect of all Securities placed).               |
| (iii) | Estimated total expenses: | The estimated total expenses that can be determined as of the Issue Date are up to EUR 1,645 consisting of Listing Fees, such expenses excluding certain out-of pocket expenses incurred or to be incurred by or on behalf of the Issuer in connection with the admission to trading of the Securities. |

#### 4. PERFORMANCE OF INDEX, EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS AND OTHER INFORMATION CONCERNING THE INDEX

The underlying of the Securities is the S&P BRIC 40<sup>®</sup> (Price Return) Index calculated in EUR. The S&P BRIC 40<sup>®</sup> index is a basket of 40 leading securities, representing the largest and most liquid companies in Brazil, Russia, India and China (BRIC). All constituent companies are members of the S&P/IFC Investable index series that meet minimum market capitalization and liquidity requirements. The index uses a modified market capitalization weighting scheme, with modifications being to market cap weights, if required, to reflect available float, reduce single stock concentration and enhance index basket liquidity. All stocks in the S&P BRIC 40<sup>®</sup> index must trade in developed market exchanges (Hong Kong Stock Exchange, London Stock Exchange, NASDAQ and NYSE).

In respect of the Index, certain historical information in respect of such Index (including past performance thereof) may be found on major information providers, such as Bloomberg and Reuters. Information about the Index may be found at the web sites of the Index Sponsor [www.standardandpoors.com](http://www.standardandpoors.com) and [www2.standardandpoors.com](http://www2.standardandpoors.com).

The Settlement Date of the Securities (and therefore the tenor of the Securities) will vary depending upon the occurrence of the First Early Termination Event on the First Observation Date, or the Second Early Termination Event on the Second Observation Date, so that where neither the First Early Termination Event has occurred on the First Observation Date nor the Second Early Termination Event has occurred on the Second Observation Date, the Settlement Date of the Securities will be 10 February 2014. As the occurrence of the First Early Termination Event on the First Observation Date, or the Second Early Termination Event on the Second Observation Date is depending upon the Relevant Price of the Index on any such Observation Date being higher than or equal to the Initial Level, the actual tenor of the Securities will be dependant from the performance of the Index over the Initial Level on the mentioned Observation Dates.

In addition to the tenor of the Securities, also the Cash Settlement Amount payable thereunder may vary depending upon the official closing level of the Index. In details, under the Securities, holders thereof are entitled to receive on the Settlement Date a Cash Settlement Amount equal to:

- (i) where the First Early Termination Event has occurred on the First Observation Date and therefore the Settlement Date of the Securities is 9 February 2012, EUR 1,070;
- (ii) where the Second Early Termination Event has occurred on the Second Observation Date and therefore the Settlement Date of the Securities is 8 February 2013, EUR 1,140;
- (iii) where neither the First Early Termination Event has occurred on the First Observation Date nor the Second Early Termination Event has occurred on the Second Observation Date and therefore the Settlement Date of the Securities is 10 February 2014, an amount depending whether (x) the Final Level is higher than the Initial Level (in which circumstance the Cash Settlement Amount will be EUR 1,210 per Certificate) or (y) the Final Level is equal to or lower than the Initial Level but higher than the Barrier Level (in which circumstance the Cash Settlement Amount will be the product of Multiplier by Initial Level, i.e. EUR 1,000, which is the Issue Price), or (z) the Final Level is equal to or lower than the Barrier Level (in which circumstance the Cash Settlement Amount will be the product of Multiplier by Final Level, i.e. an amount lower than the Issue Price.)

Holders of the Securities are not entitled to receive any Remuneration Amount in addition to the Cash Settlement Amount.

See for further details Annex 1.

Securityholders and prospective investors in the Securities should therefore be aware and carefully consider that:

- the actual tenor of the Securities and actual Exercise Dates and Settlement Dates thereof will vary depending upon the Relevant Price of the Index on the Observation Dates being higher than or equal to the Initial Level;
- the Cash Settlement Amount payable upon occurrence of the First Early Termination Event on the First Observation Date or upon occurrence of the Second Early Termination Event on the Second Observation Date will be a fixed amount (of EUR 1,070 or of EUR 1,140

respectively). Therefore, whilst, in order for the First Early Termination Event to occur on the First Observation Date or for the Second Early Termination Event to occur on the Second Observation Date, the Relevant Price of the Index on the relevant Observation Date has to be equal to or higher than the Initial Level, the Cash Settlement Amount payable in such circumstances will not reflect the actual performance of the Index.

- where neither the First Early Termination Event has occurred on the First Observation Date nor the Second Early Termination Event has occurred on the Second Observation Date and therefore the Settlement Date of the Securities is 10 February 2014, the Cash Settlement Amount of the Securities may be in certain circumstances (where the Final Level is lower than or equal to the Barrier Level) lower than the Issue Price thereof, and therefore the negative performance of the Index over the tenor of the Securities will result in a loss for the initial subscriber of the Securities;
- upon occurrence of certain disruption events, the Issuer, acting in its capacity as Calculation Agent, will be entitled to replace the Index with a successor index or use, in lieu of a Relevant Price of the Index, a level determined by it or take any other action determination or judgement acting in its sole discretion. All such action, determination or judgements may influence the amounts receivable under the Securities.

**AN INVESTMENT IN THE SECURITIES ENTAILS SIGNIFICANT RISK. SECURITIES ARE COMPLEX FINANCIAL INSTRUMENTS WHICH MAY NOT BE A SUITABLE INVESTMENT FOR ALL INVESTORS.**

The Issuer does not intend to provide any post-issuance information in relation to the Index and performance thereof and/or the market value from time to time of the Securities and/or any other post-issuance information in relation to the Securities, unless required by applicable law or save as otherwise provided in the Conditions.

**5. NOTIFICATION**

The CSSF has provided *inter alios* the *Commissione Nazionale per le Società e la Borsa* (CONSOB) with a certificate of approval attesting that the Base Prospectus has been drawn up in accordance with the Prospectus Directive.

**6. TERMS AND CONDITIONS OF THE OFFER**

Offer Price:

Issue Price

Investors should take into consideration that the Offer Price embeds placement commissions payable by the Issuer to the Managers as described in Paragraph 50 of Part A above. Investors should also take into consideration that when the Securities are sold on the secondary market after the Offer Period, the above mentioned commissions are not taken into consideration in determining the price at which such Securities may be sold on the secondary market.

Conditions to which the offer is subject:

Offer of the Securities is conditional on their issue only.



The time period, including any possible amendments, during which the offer will be open and description of the application process:

The Offer will be open during the Offer Period (as defined in the paragraph 51 of Part A above).

During the Offer Period, prospective investors may subscribe the Securities during normal Italian banking hours at the offices (*filiali*) of the Manager ISPB and at the private banking offices (*punti specializzati private*) of the other Managers by filling in, duly executing (also by appropriate attorneys) and delivering a specific acceptance form (the Acceptance Form) (Scheda di Adesione).

The Acceptance Form is available at each Manager's office/private banking office.

In respect of subscription requests collected by the Manager ISPB only, subscription of the Securities may also be made by means of financial promoters (*promotori finanziari*).

Subscription of the Securities may not be made by means of distance or on line communications techniques.

There is no limit to the subscription application which may be filled in and delivered by the same prospective investor with the same or different Manager.

The subscription requests can be revoked by the potential investors through a specific request made at the office/private banking office of the Manager which has received the relevant subscription forms within the last day of the Offer Period, as amended in the event of an early closure of the Offer Period.

Once the revocation terms are expired, the subscription of the Securities is irrevocable, save as otherwise provided by applicable law.

In addition to what stated above, in respect of subscription of the Securities made by means of financial promoters (*promotori finanziari*), subscription will be effective only after seven days following completion of the subscription form; by this

<p>Details of the minimum and/or maximum amount of application:</p>	<p>deadline investor is fully entitled, at no cost and fees, to revoke its subscription by notice to the relevant Manager and/or financial promoter.</p>
	<p>The Securities may be subscribed in a minimum lot of no. 1 Security (the Minimum Lot) and an integral number of Securities higher than the Minimum Lot and being an integral multiple of 1</p>
<p>Description of possibility to reduce subscriptions and manner for refunding excess amount paid by applicants:</p>	<p>There is no maximum amount of application within the maximum number of Securities offered of 60,000 Securities.</p>
<p>Details of the method and time limits for paying up and delivering the Securities:</p>	<p>Not Applicable</p>
<p>Manner in and date on which results of the offer are to be made public:</p>	<p>The total consideration for the Securities subscribed must be made by the investor on the Issue Date to the Manager's office which has received the relevant subscription form.</p> <p>The Securities will be delivered on the Issue Date, subsequent to the payment of the Offer Price, to potential Securityholders in the deposit accounts held, directly or indirectly, by the Managers at Euroclear and/or Clearstream.</p>
<p>Procedure for exercise of any right of pre-emption, negotiability of subscription rights and treatment of subscription rights not exercised:</p>	<p>Not later than 5 days on which the TARGET2 System is open following the closing of the Offer Period (as amended in the event of early closure of the offer), the Issuer will notify the public of the results of the offer through a notice published on the website of either the Issuer and the Managers.</p>
<p>Categories of potential investors to which the Securities are offered and whether tranche(s) have been reserved for certain countries:</p>	<p>Not Applicable</p>
<p>Process for notification to applicants of the</p>	<p>The Securities will be offered only to the public in Italy.</p> <p>Qualified investors, as defined in Article 2 (i) (e) of the Prospectus Directive 2003/71/EC, are allowed to subscribe the Securities.</p>
	<p>Each Manager shall notify applicants</p>

amount allotted and the indication whether dealing may begin before notification is made:

with amounts allotted.

Subscription applications will be satisfied until reaching the maximum Number of Securities offered of 60,000 Securities and thereafter Managers will immediately suspend receipt of further subscription applications and the Offer Period will be closed early by the Issuer accordingly to the procedure described in paragraph 51 of Part A above.

Upon the close of the Offer Period, in the event that, notwithstanding the above, the aggregate amount of Securities requested to be subscribed exceed the maximum Number of Securities offered of 60,000 Securities, the Issuer will allot the Securities in accordance with allotment criteria so to assure transparency and equal treatment amongst all potential subscribers thereof.

Amount of any expenses and taxes specifically charged to the subscriber or purchaser:

No expenses and duties will be charged by the Issuer to the subscribers of the Securities.

Investors should take into consideration that the Offer Price embeds commissions payable by the Issuer to the Managers as described in Paragraph 50 of Part A above.

## **7. DISTRIBUTORS**

(i) Name(s) and address(es), to the extent known to the Issuer, of the Distributors in the various countries where the offer takes place:

See paragraph 51 of Part A.

(ii) Name and address of the coordinator(s) of the global offer and of single parts of the offer:

The Issuer will act as lead manager of the placement syndicate (Responsabile del Collocamento as defined under article 93-bis of the Financial Services Act)

(iii) Name and address of the any paying agents and depository agents in each country (in addition to the Principal Security Agent):

Not Applicable

(iv) Entities agreeing to underwrite the issue on a firm commitment basis and entities agreeing to place the issue without a firm commitment or under “best efforts” arrangements:

See paragraph 51 of Part A.

(v) Date of signing of the placement agreement:

See paragraph 51 of Part A

## 8. OPERATIONAL INFORMATION

- |       |   |   |
|-------|---|---|
| (i)   | ISIN Code:  | XS0576578552  |
| (ii)  | Common Code:  | 057657855   |
| (iii) | Any clearing system(s) other than Euroclear Bank S.A./N.V. and Clearstream Banking, <i>société anonyme</i> and the relevant identification number(s): | Not Applicable  |
| (iv)  | Names and addresses of initial Security Agents:   | BNP Paribas Securities Services,<br>Luxembourg branch<br>33, rue de Gasperich<br>Howald-Hesperange<br>L-2085 Luxembourg |

## ANNEX 1

*(This Annex 1 forms part of the Final Terms to which it is attached)*

### SECTION I. DEFINITIONS

The following terms will have in these Final Terms the following meaning ascribed to them:

**Barrier Level** means, in respect of the Index, a level equal to 65 per cent. of the Initial Level.

**Component Security** means, in respect of the Index, each component security from time to time of the Index.

**Disrupted Day** means any Scheduled Trading Day on which a Market Disruption Event has occurred.

**Early Closure** means the closure on any Scheduled Trading Day of the Exchange in respect of any Component Security prior to its Scheduled Closing Time unless such earlier closing is announced by such Exchange at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on such Exchange on such Scheduled Trading Day; and (ii) the submission deadline for orders to be entered into the Exchange system for execution at the relevant Valuation Time on such Scheduled Trading Day.

**Exchange Disruption** means any event (other than an Early Closure) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general to effect transactions in, or obtain market values for: any Component Security on the Exchange in respect of such Component Security.

**Final Level** means, in respect of the Index, the Relevant Price of the Index on the Final Valuation Date, subject to the provisions under "Final Valuation Date".

**Final Valuation Date** means 27 January 2014 or if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day, unless, in the opinion of the Calculation Agent, any such day is a Disrupted Day. Where any such day is a Disrupted Day, then the Final Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the eight Scheduled Trading Days immediately following the Scheduled Final Valuation Date is a Disrupted Day and/or the relevant Sunset Date fall earlier than such eighth Scheduled Trading Day. In that case, (i) that eighth Scheduled Trading Day or, if earlier, the relevant Sunset Date shall be deemed to be the Final Valuation Date, notwithstanding the fact that such day is a Disrupted Day. and (ii) the Calculation Agent shall determine the level of the Index as of the Valuation Time on that eighth Scheduled Trading Day (or, if earlier, on the relevant Sunset Date) in accordance with the formula for and the method of calculating the Index last in effect prior to the occurrence of the first Disrupted Day using the Exchanges traded or quoted price as of the Valuation Time on that eighth Scheduled Trading Day (or, if earlier, on the relevant Sunset Date) of each Component Security comprised in the Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant Component Security on that eighth Scheduled Trading Day or, if earlier, on the relevant Sunset Date its good faith estimate of the value for the relevant Component Security as of the Valuation Time on that eighth Scheduled Trading Day or, if earlier, on the relevant Sunset Date).

**First Early Termination Event** means the occurrence on the First Observation Date of the Relevant Price of the Index on such date being higher than or equal to the Initial Level, subject to the provisions under "First Observation Date".

**First Observation Date** means 27 January 2012 or if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day, unless, in the opinion of the Calculation Agent, any such day is a Disrupted Day. Where any such day is a Disrupted Day, then the First Observation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the eight Scheduled Trading Days immediately following the Scheduled First Observation Date is a Disrupted Day and/or the relevant Sunset Date fall earlier than such eighth Scheduled Trading Day. In that case, (i) that eighth Scheduled Trading Day or, if earlier, the relevant Sunset Date shall be deemed to be the First Observation Date, notwithstanding the fact that such day is a Disrupted Day. and (ii) the Calculation Agent shall determine the level of the Index as of the Valuation Time on that eighth Scheduled Trading Day (or, if earlier, on the relevant Sunset Date) in accordance with the formula for and the method of calculating the Index last in effect prior to the occurrence of the first

Disrupted Day using the Exchanges traded or quoted price as of the Valuation Time on that eighth Scheduled Trading Day (or, if earlier, on the relevant Sunset Date) of each Component Security comprised in the Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant Component Security on that eighth Scheduled Trading Day or, if earlier, on the relevant Sunset Date its good faith estimate of the value for the relevant Component Security as of the Valuation Time on that eighth Scheduled Trading Day or, if earlier, on the relevant Sunset Date).

**Initial Level** means, in respect of the Index, the Relevant Price of the Index on the Initial Valuation Date, subject to the provisions under “Initial Valuation Date”.

**Initial Valuation Date** means 9 February 2011 or if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day, unless, in the opinion of the Calculation Agent, any such day is a Disrupted Day. Where any such day is a Disrupted Day, then the Initial Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the eight Scheduled Trading Days immediately following the Scheduled Initial Valuation Date is a Disrupted Day. In that case, (i) that eighth Scheduled Trading Day shall be deemed to be the Initial Valuation Date, notwithstanding the fact that such day is a Disrupted Day. and (ii) the Calculation Agent shall determine the level of the Index as of the Valuation Time on that eighth Scheduled Trading Day in accordance with the formula for and the method of calculating the Index last in effect prior to the occurrence of the first Disrupted Day using the Exchanges traded or quoted price as of the Valuation Time on that eighth Scheduled Trading Day of each Component Security comprised in the Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant Component Security on that eighth Scheduled Trading Day its good faith estimate of the value for the relevant Component Security as of the Valuation Time on that eighth Scheduled Trading Day).

**Market Disruption Event** means the occurrence or existence, in respect of any Component Security, of:

- (1) a Trading Disruption in respect of such Component Security, which the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded;
- (2) an Exchange Disruption in respect of such Component Security, which the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded;
- (3) an Early Closure in respect of such Component Security;

AND

the aggregate of all Component Securities in respect of which a Trading Disruption, an Exchange Disruption or an Early Closure occurs or exists comprises 20 per cent. or more of the level of the Index;

For the purposes of determining whether a Market Disruption Event exists in respect of a Component Security at any time, if a Market Disruption Event occurs in respect of such Component Security at that time, then the relevant percentage contribution of that Component Security to the level of the Index shall be based on a comparison of (x) the portion of the level of the Index attributable to that Component Security to (y) the overall level of the Index, in each case using the official opening weightings as published by the Sponsor as part of the market "opening data".

**Multiplier** means the ratio between the Issue Price (EUR 1,000) and the Initial Level.

**Observation Date** means the First Observation Date or the Second Observation Date, as relevant.

**Relevant Price** means, in respect of the Index and the Initial Valuation Date, the Final Valuation Date or an Observation Date, the official closing level of the Index as of the Valuation Time on such Initial Valuation Date, Final Valuation Date or Observation Date, as the case may be, or, where such Initial Valuation Date, Final Valuation Date or Observation Date is a Disrupted Day, the level of the Index as of the Valuation Time on such Disrupted Day as determined by the Calculation Agent, all as specified under “Initial Valuation Date”, “Final Valuation Date”, “First Observation Date” or “Second Observation Date”.

**Scheduled Closing Time** has the meaning ascribed to it in Condition 3.

**Scheduled First Observation Date** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been the First Observation Date.

**Scheduled Final Valuation Date** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been the Final Valuation Date.

**Scheduled Initial Valuation Date** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been the Initial Valuation Date.

**Scheduled Second Observation Date** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been the Second Observation Date.

**Scheduled Trading Day** means any day on which: (i) the Index Sponsor is scheduled to publish the level of the Index; and (ii) the Exchanges relating to Component Securities whose weight cumulatively comprises 80% or more in the level of the Index are scheduled to be open for their regular trading sessions.

**Second Early Termination Event** means the occurrence on the Second Observation Date of the Relevant Price of the Index on such date being higher than or equal to the Initial Level, subject to the provisions under “Second Observation Date”.

**Second Observation Date** means 28 January 2013 or if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day, unless, in the opinion of the Calculation Agent, any such day is a Disrupted Day. Where any such day is a Disrupted Day, then the Second Observation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the eight Scheduled Trading Days immediately following the Scheduled Second Observation Date is a Disrupted Day and/or the relevant Sunset Date fall earlier than such eighth Scheduled Trading Day. In that case, (i) that eighth Scheduled Trading Day or, if earlier, the relevant Sunset Date shall be deemed to be the Second Observation Date, notwithstanding the fact that such day is a Disrupted Day. and (ii) the Calculation Agent shall determine the level of the Index as of the Valuation Time on that eighth Scheduled Trading Day (or, if earlier, on the relevant Sunset Date) in accordance with the formula for and the method of calculating the Index last in effect prior to the occurrence of the first Disrupted Day using the Exchanges traded or quoted price as of the Valuation Time on that eighth Scheduled Trading Day (or, if earlier, on the relevant Sunset Date) of each Component Security comprised in the Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant Component Security on that eighth Scheduled Trading Day or, if earlier, on the relevant Sunset Date its good faith estimate of the value for the relevant Component Security as of the Valuation Time on that eighth Scheduled Trading Day or, if earlier, on the relevant Sunset Date).

**Sunset Date** means

- (i) in respect of the First Observation Date, 7 February 2012;
- (ii) in respect of the Second Observation Date, 6 February 2013; and
- (iii) in respect of the Final Valuation Date, 6 February 2014.

**TARGET Settlement Day** means a day on which the TARGET2 System or any successor thereto is open.

**Trading Disruption** means any suspension of or limitation imposed on trading by the relevant Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or otherwise relating to any Component Security on the Exchange in respect of such Component Security.

**Valuation Time** has the meaning ascribed to it in Condition 3.

## **SECTION II. INDEX ADJUSTMENT EVENTS**

If the Index is (i) not calculated or announced by the Index Sponsor but is calculated and announced by a successor provider acceptable to the Calculation Agent, or (ii) replaced by a successor index using, in the determination of the Calculation Agent, the same or a substantially similar formula for and method of calculation as used in the calculation of the Index, then the Index will be deemed to be the index so calculated and announced by that successor index sponsor or that successor index, as the case may be (in each case the “**Successor Index**”).

If (i) on or prior to the Initial Valuation Date, the Final Valuation Date or an Observation Date, as the case may be, the Index Sponsor makes or announces that it will make a material change in the formula for or the method

of calculating the Index or in any other way materially modifies the Index (other than a modification prescribed in that formula or method to maintain the Index in the event of changes in Component Securities and capitalization and other routine events) (an “**Index Modification**”) or permanently cancels the Index and no Successor Index exists (an “**Index Cancellation**”) or (ii) on the Initial Valuation Date, Final Valuation Date or an Observation Date, the Index Sponsor fails to calculate and announce the Relevant Price (an “**Index Disruption**”) and together with an Index Modification and an Index Cancellation, each an “**Index Adjustment Event**”), then the Calculation Agent shall determine if such Index Adjustment Event has a material effect on the issue of the Securities and, if so, shall calculate the Relevant Price for such Initial Valuation Date, Final Valuation Date or Observation Date, as the case may be, using, in lieu of a published level for the Index, the level for the Index on such Initial Valuation Date, Final Valuation Date or Observation Date, as the case may be, as determined by the Calculation Agent in accordance with the formula for and method of calculating the Index last in effect prior to that change, failure or cancellation, but using only those Component Securities that comprised the Index immediately prior to that Index Adjustment Event.

### SECTION III. CORRECTION TO INDEX

If the level of the Index published on a given day by the Index Sponsor and used or to be used by the Calculation Agent to determine the occurrence of the First Early Termination Event or the Second Early Termination Event or however the Cash Settlement Amount payable on the relevant Settlement Date is subsequently corrected and the correction is published by the Index Sponsor or a successor Index Sponsor within one Settlement Cycle after the original publication and in no event later than the close of business on the immediately following Sunset Date, the Calculation Agent shall give notice as soon as practicable of that correction and, in determining whether the First Early Termination Event or the Second Early Termination Event has occurred or however the Cash Settlement Amount payable on the relevant Settlement Date, will use the level of the Index as corrected by the Index Sponsor.

For the purposes of this proviso, the following terms will have the following meaning:

**Clearance System** means, in respect of each Component Security, the principal domestic clearance system customarily used for settling trades in the relevant Component Security as determined by the Calculation Agent;

**Clearance System Business Day** means, in respect of a Clearance System, any day on which such Clearance System is (or, but for the occurrence of a Settlement Disruption Event, would have been) open for acceptance and execution of settlement instructions;

**Settlement Cycle** means the period of Clearance System Business Days following a trade in the Component Securities on the Exchange in which settlement will customarily occur according to the rules of such Exchange, and where there are multiples Exchanges, the longest such period;

**Settlement Disruption Event** means, in respect of a Component Security, an event beyond the control of anyone as a result of which the relevant Clearance System cannot clear the transfer of a Component Security.

### SECTION IV. INDEX DISCLAIMER

Neither the Issuer nor the Calculation Agent shall have any liability to the holders of the Certificates for any act or failure to act by the Index Sponsor in connection with the calculation, adjustment or maintenance of the Index. Although the Calculation Agent will obtain information concerning the Index from publicly available sources it believes reliable, it will not independently verify this information. Accordingly, no representation, warranty or undertaking (express or implied) is made and no responsibility is accepted by the Issuer, its affiliates or the Calculation Agent as to the accuracy, completeness and timeliness of information concerning the Index.

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## FORM OF RENOUNCEMENT NOTICE

*(The Renouncement Notice will be substantially in the form below and is to be completed by the beneficial owner of the Securities for the valid renouncement of any Automatic Exercise of the Securities)*

**BANCA IMI S.p.A. (the Issuer)**

*[Details of Securities]*

ISIN: [            ]

(the **Securities**)

[To:    Financial Intermediary

We the undersigned beneficial owners of the Securities hereby communicate that we are renouncing the automatic exercise prior to the Renouncement Notice Cut-off Time of the rights granted by the Securities in accordance with the terms and conditions of the Securities.

The undersigned understands that if this Renouncement Notice is not completed and delivered prior to the Renouncement Notice Cut-off Time or is determined to be incomplete or not in proper form (in the determination of the financial intermediary) it will be treated as null and void. Terms defined herein have the same meaning ascribed to them in the terms and conditions of the Securities.

ISIN Code [/Series number] of the Securities: [    ]

Number of Securities the subject of this notice: [    ]

Name of beneficial owner of the Securities

\_\_\_\_\_  
\_\_\_\_\_

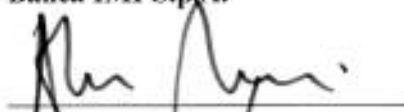
Signature

La sottoscritta Banca IMI S.p.A. (di seguito brevemente la “Società” o l’“Emittente”), con sede legale in Milano, banca iscritta all’Albo delle Banche ed appartenente al Gruppo Bancario Intesa Sanpaolo iscritto all’Albo Gruppi Creditizi, capitale sociale Euro 962.464.000, interamente versato e sottoscritto, aderente al Fondo Interbancario di Tutela dei Depositi, iscritta nel Registro delle Imprese di Milano, C.F. e partita IVA n. 04377700150, soggetta all’attività di direzione e coordinamento del socio unico Intesa Sanpaolo, in persona del legale rappresentante Direttore Generale Dott. Andrea Munari, munito dei necessari poteri,

#### DICHIARA

che gli strumenti finanziari denominati “**Banca IMI fino a 60.000 Express Certificates su Indice S&P BRIC 40® EUR**” emessi a valere sul Prospetto di Warrant e Certificates del 16 agosto 2010 approvato dall’autorità competente (CSSF) e trasmesso alla CONSOB in data 16 agosto 2010, di cui è stata richiesta l’ammissione a negoziazione sul mercato SeDeX mediante la procedura di cui all’articolo 2.4.2 del Regolamento possono essere regolati nelle procedure di liquidazione di Monte Titoli S.p.A. attraverso i conti di deposito accesi presso la società di gestione accentrata.

**Banca IMI S.p.A.**



Dott. Andrea Munari  
Direttore Generale

## TERMS AND CONDITIONS OF THE SECURITIES

*The following is the text of the Terms and Conditions of the Securities which, as supplemented and/or amended in accordance with the applicable Final Terms, will apply to each issue of Securities and be incorporated by reference into each Global Security. The applicable Final Terms in relation to any issue of Securities may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the following Terms and Conditions, be deemed to be incorporated into and thereby supplement, replace or modify the Terms and Conditions, for the purposes of such Securities.*

The Securities of this series (such Securities being hereinafter referred to as the **Securities**) are issued by Banca IMI S.p.A. (the **Issuer**) pursuant to an Amended and Restated Agency Agreement dated 16 August 2010 (as amended and/or supplemented and/or restated from time to time, the **Agency Agreement**) between the Issuer and BNP Paribas Securities Services, Luxembourg Branch as principal security agent (the **Principal Security Agent**, which expression shall include any successor principal security agent and, together with any additional security agents appointed pursuant to Clause 15 of the Agency Agreement, the **Security Agents**, which expression shall include any additional or successor security agents).

The Issuer shall undertake the duties of calculation agent (in this capacity, the **Calculation Agent**) in respect of the Securities unless another entity is so specified as the calculation agent in the applicable Final Terms. The expression Calculation Agent shall, in relation to the relevant Securities, include such other specified Calculation Agent.

The applicable Final Terms for the Securities is attached to the Global Security and supplements these Terms and Conditions (the **Conditions**) and may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with these Conditions, be deemed to be incorporated into and thereby supplement, replace or modify these Conditions for the purposes of the Securities. Securities will be either warrants (**Warrants**) or certificates (**Certificates**), as specified in the applicable Final Terms, and references in these Conditions to **Security** and **Securities** will be construed accordingly. Conditions 16, 17 and 18 apply only to Warrants and Conditions 19 and 20 apply only to Certificates. Other Conditions apply to Warrants or Certificates, as applicable. References herein to the **applicable Final Terms** are to Part A of the Final Terms or each Final Terms (in the case of any further securities issued pursuant to Condition 10 and forming a single series with the Securities) (which for the avoidance of doubt may be issued in respect of more than one series of Securities) attached to the Global Security insofar as it relates to the Securities.

Each series of Securities will on issue be constituted by either (a) in the case of Securities with a maturity of more than one year, a temporary global security in bearer form (the **Temporary Global Security**) or (b) in the case of Securities with a maturity of one year or less, a permanent global security in bearer form (the **Permanent Global Security** and together with the Temporary Global Security, the **Global Securities** and each a **Global Security**) as indicated in the applicable Final Terms which, in either case, will be deposited with a depositary (the **Common Depositary**) common to Euroclear Bank S.A./N.V. (**Euroclear**) and Clearstream Banking, *société anonyme* (**Clearstream, Luxembourg**).

On or after the 40th day following the Issue Date of the Securities (the **Exchange Date**) the Temporary Global Security will be exchangeable (a) for a Permanent Global Security or (b) for securities in definitive form (**Definitive Securities**, and the expressions **Definitive Warrants** and **Definitive Certificates** shall be construed accordingly), as indicated in the applicable Final Terms and in each case only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in such Security are not United States persons or persons who have purchased for resale to any United States person, as required by U.S. Treasury regulations, has been received by Euroclear and/or Clearstream, Luxembourg and Euroclear and/or Clearstream, Luxembourg, as applicable, has given a like certification (based on the certification received) to the Principal Security Agent. A Permanent Global Security will be exchangeable (free of charge), in whole but not in part,

for Definitive Securities only upon the occurrence of an Exchange Event. For these purposes, **Exchange Event** means that (i) the Issuer has been notified that both Euroclear and Clearstream, Luxembourg have been closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or have announced an intention permanently to cease business or have in fact done so and no successor clearing system is available or (ii) the Issuer has or will become subject to adverse tax consequences which would not be suffered were the Securities represented by the Permanent Global Security in definitive form. The Issuer will promptly give notice to Securityholders in accordance with Condition 8 if an Exchange Event occurs. No Definitive Security delivered in exchange for a Temporary Global Security or a Permanent Global Security, as the case may be, will be mailed or otherwise delivered to any location in the United States or its possessions.

The following legend will appear on all Securities with a maturity of more than one year:

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

The applicable Final Terms for the Securities is attached to the relevant Global Security or the relevant Definitive Security, if applicable, and supplements these Conditions and may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with these Conditions, supplement, replace or modify these Conditions for the purposes of the Securities. References herein to the "applicable Final Terms" are to Part A of the Final Terms attached to the Global Securities or to the Definitive Security, if applicable.

Copies of the Agency Agreement (which contains the form of the Final Terms) and the applicable Final Terms are obtainable at the specified office of the Principal Security Agent, save that if the Securities are neither admitted to trading on a regulated market in the European Economic Area nor offered in the European Economic Area in circumstances where a prospectus is required to be published under the Prospectus Directive, the applicable Final Terms will only be obtainable by a Securityholder holding one or more Securities (as detailed below) and such Securityholder must produce evidence satisfactory to the Issuer or the relevant Security Agent as to its holding of such Securities and identity.

Words and expressions defined in the Agency Agreement or used in the applicable Final Terms shall have the same meanings where used in these Conditions unless the context otherwise requires or unless otherwise stated.

The Securityholders (as defined in Condition 1(B)) are entitled to the benefit of and are deemed to have notice of and are bound by all the provisions of the Agency Agreement (insofar as they relate to the Securities) and the applicable Final Terms, which are binding on them.

## **1. Type, Title and Transfer**

### **(A) Type**

The Securities are Index Securities, Share Securities, Debt Securities, Currency Securities, Commodity Securities, Fund Securities, Credit Securities, Dual Currency Securities (or a combination of Dual Currency Securities and any of the foregoing) or any other or further type of Securities as is specified in the applicable Final Terms. Certain terms which will, unless otherwise varied in the applicable Final Terms, apply to Index Securities, Share Securities, Debt Securities or Commodity Securities are set out in Condition 13.

The applicable Final Terms will indicate:

#### **(1) for all Securities:**

- (i) whether settlement shall be by way of cash payment (**Cash Settled Securities**) or physical delivery (**Physical Delivery Securities**);**

- (ii) whether Averaging (**Averaging**) will apply to the Securities; and
  - (iii) if Averaging is specified as applying in the applicable Final Terms, the relevant Averaging Dates and, in respect of Shares Securities or Index Securities other than Index Securities relating to a Commodity Index if an Averaging Date is a Disrupted Day (as defined in Condition 3), whether Omission, Postponement or Modified Postponement (each as defined in Condition 3 below) applies;
- (2) in the case of Warrants only:
  - (i) whether the Warrants are American style Warrants, being Warrants which are exercisable during a specified period (**American Style Warrants**) or European style Warrants, being Warrants which are exercisable on a specified date (**European Style Warrants**) or such other type as may be specified in the applicable Final Terms and whether automatic exercise (**Automatic Exercise**) applies to the Warrants;
  - (ii) whether the Warrants are call Warrants (**Call Warrants**) or put Warrants (**Put Warrants**) or such other type as may be specified in the applicable Final Terms and whether the Warrants may only be exercisable in Units. If Units are specified in the applicable Final Terms, Warrants must be exercised in Units and any Exercise Notice which purports to exercise Warrants in breach of this provision shall be void and of no effect; and
- (3) in the case of Certificates only, whether remuneration shall be payable in respect of the Securities.

References in these Conditions, unless the context otherwise requires, to Cash Settled Securities shall be deemed to include references to Physical Delivery Securities, which include an option (as set out in the applicable Final Terms) at the Issuer's election to request cash settlement of such Security and where settlement is to be by way of cash payment, and references in these Conditions, unless the context otherwise requires, to Physical Delivery Securities shall be deemed to include references to Cash Settled Securities which include an option (as set out in the applicable Final Terms) at the Issuer's election to request physical delivery of the relevant underlying asset in settlement of such Security and where settlement is to be by way of physical delivery.

Securities may, if so specified and provided for in the applicable Final Terms, allow holders to elect for settlement by way of cash payment or by way of physical delivery or by such other method of settlement as is specified in the applicable Final Terms. Those Securities where the holder has elected for cash payment will be Cash Settled Securities and those Securities where the holder has elected for physical delivery will be Physical Delivery Securities. The rights of a holder as described in this paragraph may be subject to the Issuer's right to vary settlement if so indicated in the applicable Final Terms.

(B) *Title to Securities*

Except as set out below, each person who is for the time being shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a particular number of Securities (in which regard any certificate or other document issued by Euroclear or Clearstream, Luxembourg as to the number of Securities standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest error) shall be treated by the Issuer, the Security Agents and the Calculation Agent as the holder of such number of Securities for all purposes (and the expressions **Securityholder** and **holder of Securities** and related expressions shall be construed accordingly).

(C) *Transfers of Securities*

For so long as the Securities are represented by Definitive Securities, title to the Securities will pass by delivery.

For so long as the Securities are represented by a Global Security, all transactions (including transfers of Securities) in the open market or otherwise must be effected through an account at Euroclear or Clearstream, Luxembourg, subject to and in accordance with the rules and procedures for the time being of Euroclear or Clearstream, Luxembourg (as the case may be).

Any reference herein to Euroclear and/or Clearstream, Luxembourg shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system approved by the Issuer and the Principal Security Agent from time to time and notified to the Securityholders in accordance with Condition 8.

Any transfer or attempted transfer within the United States or to, or for the account or benefit of, a United States person shall be null and void *ab initio* and shall vest no rights in the purported transferee (the **Disqualified Transferee**) and the last preceding holder that was not a Disqualified Transferee shall be restored to all rights as a Securityholder thereof retroactively to the date of transfer of such interest by the relevant Securityholder.

**2. Status of the Securities**

The Securities constitute direct, unsubordinated, unconditional and unsecured obligations of the Issuer and rank *pari passu* among themselves and (save for certain obligations required to be preferred by law) equally with all other unsecured obligations other than subordinated obligations, if any, of the Issuer from time to time outstanding.

**3. Definitions**

For the purposes of these Conditions, the following general definitions will apply:

**Actual Exercise Date**, in respect of an American Style Warrant, is defined in Condition 16(A)(i) or, in respect of a European Style Warrant, is defined in Condition 16(A)(ii), in each case subject to Condition 18(A)(ii);

**Affiliate** means in relation to any entity (the **First Entity**), any entity controlled, directly or indirectly, by the First Entity, any entity that controls, directly or indirectly, the First Entity or any entity directly or indirectly under common control with the First Entity. For these purposes **control** means ownership of a majority of the voting power of an entity;

**Averaging Date** means, in respect of an Actual Exercise Date (in the case of Warrants) or an Exercise Date (in the case of Certificates):

- (a) in the case of Share Securities or Index Securities other than Index Securities relating to a Commodity Index, Share Securities or Index Securities, each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Scheduled Trading Day, the immediately following Scheduled Trading Day unless, in the opinion of the Calculation Agent, any such day is a Disrupted Day. If any such day is a Disrupted Day:
  - (i) if **Omission** is specified as applying in the applicable Final Terms, then such date will be deemed not to be an Averaging Date for the purposes of determining the relevant Settlement Price provided that, if through the operation of this provision there would not be an Averaging Date in respect of such Actual Exercise Date or

Exercise Date, as the case may be, then the provisions of the definition of Valuation Date will apply for purposes of determining the relevant level, price or amount on the final Averaging Date with respect to that Actual Exercise Date or Exercise Date, as the case may be, as if such Averaging Date were a Valuation Date that was a Disrupted Day; or

(ii) if **Postponement** is specified as applying in the applicable Final Terms, then the provisions of the definition of Valuation Date will apply for the purposes of determining the relevant level, price or amount on that Averaging Date as if such Averaging Date were a Valuation Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date; or

(iii) if **Modified Postponement** is specified as applying in the applicable Final Terms:

(A) where the Securities are Index Securities relating to a single Index or Share Securities relating to a single Share, the Averaging Date shall be the first succeeding Valid Date (as defined below). If the first succeeding Valid Date has not occurred as of the Valuation Time on the eighth Scheduled Trading Day immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in relation to such Actual Exercise Date or Exercise Date, as the case may be, then (A) that eighth Scheduled Trading Day shall be deemed the Averaging Date (irrespective of whether that eighth Scheduled Trading Day is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (a)(i)(y) of the definition of Valuation Date below; and

(B) where the Securities are Index Securities relating to a Basket of Indices or Share Securities relating to a Basket of Shares, the Averaging Date for each Index or Share not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (the **Scheduled Averaging Date**) and the Averaging Date for an Index or Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date (as defined below) in relation to such Index or Share. If the first succeeding Valid Date in relation to such Index or Share has not occurred as of the Valuation Time on the eighth Scheduled Trading Day immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in relation to such Actual Exercise Date or Exercise Date, as the case may be, then (A) that eighth Scheduled Trading Day shall be deemed the Averaging Date (irrespective of whether that eighth Scheduled Trading Day is already an Averaging Date) in respect of such Index or Share, and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (a)(ii)(y) of the definition of Valuation Date below; or

(b) in the case of Index Securities relating to a Commodity Index, Debt Securities, Commodity Securities or Currency Securities or Fund Securities, each date specified as such in the applicable Final Terms;

**Business Day** means (i) a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the relevant Business Day Centre(s) and on which



each of Euroclear and Clearstream, Luxembourg is open for business and (ii) for the purposes of making payments in euro, a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System (the **TARGET2 System**) or any successor thereto is open;

**Cash Settlement Amount** means, in relation to a Cash Settled Security, the amount which the Securityholder is entitled to receive on the Settlement Date in the Settlement Currency in relation to each such Security, or in relation to Warrants and if Units are specified in the applicable Final Terms, each Unit, in each case as determined by the Calculation Agent pursuant to the provisions in the applicable Final Terms. The Cash Settlement Amount shall be rounded to the nearest sub-unit of the relevant Settlement Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Securities exercised or redeemed, as the case may be, at the same time by the same Securityholder will be aggregated for the purpose of determining the aggregate Cash Settlement Amount payable;

**Clearing System** shall mean Euroclear or Clearstream, Luxembourg or such other clearing system as may be specified in the applicable Final Terms;

**Commodity Index** means each index specified as such in the applicable Final Terms;

**Commodity Index Reference Price** has the meaning given in the applicable Final Terms;

**Disrupted Day** means (a) in relation to Securities other than Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred; or (b) in relation to Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor fails to publish the level of the Index, (ii) the Related Exchange fails to open for trading during its regular trading session or (iii) a Market Disruption Event has occurred;

**Entitlement** means, in relation to a Physical Delivery Security, the quantity of the Relevant Asset or the Relevant Assets, as the case may be, which a Securityholder is entitled to receive on the Settlement Date in respect of each such Security following payment of any sums payable, including the Exercise Price (in the case of a Warrant) and Expenses rounded down as provided in Condition 16(C) or 19(C), as determined by the Calculation Agent including any documents evidencing such Entitlement;

**Exchange** means:

- (a) in respect of Index Securities and in relation to an Index which is not specified in the applicable Final Terms as being a Designated Multi-Exchange Index, each exchange or quotation system specified as such for such Index in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the securities/commodities comprising such Index has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to the securities/commodities comprising such Index on such temporary substitute exchange or quotation system as on the original Exchange); and
- (b) in respect of Index Securities and in relation to an Index which is specified in the applicable Final Terms as being a Designated Multi-Exchange Index, in respect of each component security of that Index (each a **Component Security**), the principal stock exchange on which such Component Security is principally traded, as determined by the Calculation Agent; and
- (c) in respect of Share Securities and in relation to a Share, each exchange or quotation system specified as such for such Share in the applicable Final Terms, any successor to such

exchange or quotation system or any substitute exchange or quotation system to which trading in the Share has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to such Share on such temporary substitute exchange or quotation system as on the original Exchange);

**Exchange Business Day** means (a) in respect of Securities other than Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any Scheduled Trading Day on which each Exchange and each Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time; or (b) in relation to Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor publishes the level of the Index and (ii) the Related Exchange is open for trading during its regular trading session, notwithstanding any Exchange or the Related Exchange closing prior to its Scheduled Closing Time;

**Exercise Business Day** means:

- (a) in the case of Cash Settled Securities, a day that is a Business Day; and
- (b) in the case of Physical Delivery Securities, a day that is a Business Day and a Scheduled Trading Day;

**In-The-Money** means:

- (a) in the case of a Warrant (a **Cash Settled Warrant**) which is a Cash Settled Security, the Cash Settlement Amount in respect of such Warrant is greater than zero; and
- (b) in the case of a Warrant (a **Physical Delivery Warrant**) which is a Physical Delivery Security, the value of the Entitlement on the Actual Exercise Date for such Warrant is greater than the Exercise Price as determined by the Calculation Agent;

**Italian Listed Securities** means Securities in respect of which the applicable Final Terms state that an application will be made to list and admit such Securities to trading on the Italian Stock Exchange and the expressions **Italian Listed Warrants** and **Italian Listed Certificates** shall be construed accordingly;

**Italian Stock Exchange** means the electronic "Securitised Derivatives Market" (the **SeDeX**), organised and managed by Borsa Italiana S.p.A.;

**Price Source** has the meaning given in the applicable Final Terms;

**Related Exchange** means, in respect of Index Securities and in relation to an Index or in respect of Share Securities and in relation to a Share, each exchange or quotation system specified as such in relation to such Index or Share in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in futures or options contracts relating to such Index or Share has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to the futures or options contracts relating to such Index or such Share on such temporary substitute exchange or quotation system as on the original Related Exchange), provided that where **All Exchanges** is specified as the Related Exchange in the applicable Final Terms, **Related Exchange** shall mean each exchange or quotation system where trading has a material effect (as determined by the Calculation Agent) on the overall market for futures or options contracts relating to such Index or such Share;

**Relevant Price** means for any Valuation Date or Averaging Date, the price of the Index, determined with respect to such date for the specified Commodity Index Reference Price calculated as provided in the Conditions and the applicable Final Terms;

**Scheduled Closing Time** means, in respect of an Exchange or Related Exchange and a Scheduled Trading Day, the scheduled weekday closing time of such Exchange or Related Exchange on such Scheduled Trading Day, without regard to after hours or any other trading outside of the regular trading session hours;

**Scheduled Trading Day** means (a) in relation to Securities other than Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any day on which each Exchange and each Related Exchange are scheduled to be open for trading for their respective regular trading sessions or (b) in relation to Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any day on which (i) the Index Sponsor is scheduled to publish the level of that Index, and (ii) the Related Exchange is scheduled to be open for trading for its regular trading session;

**Valid Date** means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date in relation to the Actual Exercise Date or Exercise Date, as the case may be, does not or is not deemed to occur;

**Scheduled Valuation Date** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Valuation Date;

**Settlement Date** means, unless specified otherwise in the applicable Final Terms:

- (a) in relation to Cash Settled Securities:
  - (i) where Averaging is not specified in the applicable Final Terms, the fifth Business Day following the Valuation Date provided that if the Securities are Index Securities relating to a Basket of Indices other than Index Securities relating to a Commodity Index, Share Securities relating to a Basket of Shares, and the occurrence of a Disrupted Day has resulted in a Valuation Date for one or more Indices or Shares, as the case may be, being adjusted as set out in the definition of **Valuation Date** below, the Settlement Date shall be the fifth Business Day next following the last occurring Valuation Date in relation to any Index or Share, as the case may be; or
  - (ii) where Averaging is specified in the applicable Final Terms, the fifth Business Day following the last occurring Averaging Date provided that where the Securities are Index Securities relating to a Basket of Indices other than Index Securities relating to a Commodity Index or Share Securities relating to a Basket of Shares, and the occurrence of a Disrupted Day has resulted in an Averaging Date for one or more Indices or Shares, as the case may be, being adjusted as set out in the definition of Averaging Date above, the Settlement Date shall be the fifth Business Day next following the last occurring Averaging Date in relation to any Index or Share, as the case may be, or such other date as is specified in the applicable Final Terms; and
- (b) in relation to Physical Delivery Securities, the date specified as such in the applicable Final Terms;

**Settlement Price** means, in relation to each Cash Settled Security and, in relation to Warrants, if Units are specified in the applicable Final Terms, each Unit:

- (a) in respect of Index Securities other than Index Securities relating to a Commodity Index, subject to Condition 13(A) and as referred to in Valuation Date below or Averaging Date above, as the case may be:
  - (i) in the case of Index Securities relating to a Basket of Indices and in respect of each Index comprising the Basket, an amount (which shall be deemed to be a monetary amount in the Index Currency) equal to the official closing level for such Index as determined by the Calculation Agent or, if so specified in the applicable Final Terms, the level of such Index determined by the Calculation Agent as set out in the applicable Final Terms at the Valuation Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date and, in either case, without regard to any subsequently published correction, multiplied by the relevant Multiplier; and
  - (ii) in the case of Index Securities relating to a single Index, an amount (which shall be deemed to be a monetary amount in the Index Currency) equal to the official closing level of the Index as determined by the Calculation Agent or, if so specified in the applicable Final Terms, the level of the Index determined by the Calculation Agent as set out in the applicable Final Terms at the Valuation Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date and, in either case, without regard to any subsequently published correction;
- (b) in respect of Share Securities, subject to Condition 13(B) and as referred to in Valuation Date below or Averaging Date above, as the case may be:
  - (i) in the case of Share Securities relating to a Basket of Shares and in respect of each Share comprising the Basket, an amount equal to the official closing price (or the price at the Valuation Time on the Valuation Date or an Averaging Date, as the case may be, if so specified in the applicable Final Terms) quoted on the relevant Exchange for such Share (as defined in Condition 13(B)) on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date and, in either case, without regard to any subsequently published correction (or, if in the opinion of the Calculation Agent, any such official closing price (or the price at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) cannot be so determined and the Valuation Date or Averaging Date, as the case may be, is not a Disrupted Day, an amount determined by the Calculation Agent to be equal to the arithmetic mean of the closing fair market buying price (or the fair market buying price at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) and the closing fair market selling price (or the fair market selling price at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) for the relevant Share whose official closing price (or the price at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) cannot be determined based, at the Calculation Agent's discretion, either on the arithmetic mean of the foregoing prices or middle market quotations provided to it by two or more financial institutions (as selected by the Calculation Agent) engaged in the trading of the relevant Share or on such other factors as the Calculation Agent shall decide), multiplied by the relevant Multiplier, each such value to be converted,

if so specified in the applicable Final Terms, into the Settlement Currency at the Exchange Rate and the sum of such converted amounts to be the Settlement Price, all as determined by or on behalf of the Calculation Agent; and

- (ii) in the case of Share Securities relating to a single Share, an amount equal to the official closing price (or the price at the Valuation Time on the Valuation Date or an Averaging Date, as the case may be, if so specified in the applicable Final Terms) quoted on the relevant Exchange for such Share (as defined in Condition 13(B)) on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date and, in either case, without regard to any subsequent published correction (or, if in the opinion of the Calculation Agent, any such official closing price, (or the price at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) cannot be so determined and the Valuation Date or Averaging Date, as the case may be, is not a Disrupted Day, an amount determined by the Calculation Agent to be equal to the arithmetic mean of the closing fair market buying price (or the fair market buying price at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) and the closing fair market selling price (or the fair market selling price at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) for the Share based, at the Calculation Agent's discretion, either on the arithmetic mean of the foregoing prices or middle market quotations provided to it by two or more financial institutions (as selected by the Calculation Agent) engaged in the trading of the Share or on such other factors as the Calculation Agent shall decide), such amount to be converted, if so specified in the applicable Final Terms, into the Settlement Currency at the Exchange Rate and such converted amount to be the Settlement Price, all as determined by or on behalf of the Calculation Agent;
- (c) in respect of Debt Securities, subject as referred to in Valuation Date below or Averaging Date above:
  - (i) in the case of Debt Securities relating to a Basket of Debt Instruments, an amount equal to the sum of the values calculated for each Debt Instrument at the bid price for such Debt Instrument as determined by or on behalf of the Calculation Agent by reference to the bid price for such Debt Instrument appearing on the Relevant Screen Page at the Valuation Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date, or if such price is not available, the arithmetic mean of the bid prices for such Debt Instrument at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, as received by it from two or more market-makers (as selected by the Calculation Agent) in such Debt Instrument, such bid prices to be expressed as a percentage of the nominal amount of such Debt Instrument, multiplied by the relevant Multiplier; and
  - (ii) in the case of Debt Securities relating to a single Debt Instrument, an amount equal to the bid price for the Debt Instrument as determined by or on behalf of the Calculation Agent by reference to the bid price for such Debt Instrument appearing on the Relevant Screen Page at the Valuation Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date, or if such price is not available, the arithmetic mean of the bid prices for such Debt Instrument at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, as received by it

from two or more market-makers (as selected by the Calculation Agent) in such Debt Instrument, such bid prices to be expressed as a percentage of the nominal amount of the Debt Instrument;

- (d) in respect of Currency Securities:
  - (i) in the case of Currency Securities relating to a Basket of Subject Currencies, an amount equal to the sum of the values calculated for each Subject Currency at the spot rate of exchange appearing on the Relevant Screen Page at the Valuation Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date, for the exchange of such Subject Currency into the Base Currency (expressed as the number of units (or part units) of such Base Currency for which one unit of the Subject Currency can be exchanged) or, if such rate is not available, the arithmetic mean (rounded, if necessary, to four decimal places (with 0.00005 being rounded upwards)) as determined by or on behalf of the Calculation Agent of the bid and offer Subject Currency/Base Currency exchange rates (expressed as aforesaid) at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, of two or more leading dealers (as selected by the Calculation Agent) on a foreign exchange market (as selected by the Calculation Agent), multiplied by the relevant Multiplier; and
  - (ii) in the case of Currency Securities relating to a single Subject Currency, an amount equal to the spot rate of exchange appearing on the Relevant Screen Page at the Valuation Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date, for the exchange of such Subject Currency into the Base Currency (expressed as the number of units (or part units) of the Base Currency for which one unit of the Subject Currency can be exchanged) or, if such rate is not available, the arithmetic mean (rounded, if necessary, to four decimal places (with 0.00005 being rounded upwards)) as determined by or on behalf of the Calculation Agent of the bid and offer Subject Currency/Base Currency exchange rates (expressed as aforesaid) at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, of two or more leading dealers (as selected by the Calculation Agent) on a foreign exchange market (as selected by the Calculation Agent);
- (e) in respect of Commodity Securities or Fund Securities, the provisions relating to the calculation of the Settlement Price will be set out in the applicable Final Terms;
- (f) in respect of Index Securities relating to a Commodity Index and subject to Condition 13(A);
  - (i) in the case of Index Securities relating to a Basket of Indices and in respect of each Index comprising the Basket, an amount equal to the Relevant Price for such Index as determined by the Calculation Agent in respect of (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date and, in either case, multiplied by the relevant Multiplier; and
  - (ii) in the case of Index Securities relating to a single Index, an amount equal to the Relevant Price of the Index as determined by the Calculation Agent in respect of (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date;

**Valuation Date** means:

- (a) (in the case of Share Securities or Index Securities other than Index Securities relating to a Commodity Index) (I) in the case of Warrants, the Actual Exercise Date of the relevant Warrant or (II) in the case of Certificates, the Exercise Date, or if that is not a Scheduled Trading Day the first Scheduled Trading Day thereafter unless, in the opinion of the Calculation Agent, such day is a Disrupted Day. If such day is a Disrupted Day, then:
  - (i) where the Securities are Index Securities relating to a single Index or Share Securities relating to a single Share, the Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the eight Scheduled Trading Days immediately following the Scheduled Valuation Date is a Disrupted Day. In that case, (i) that eighth Scheduled Trading Day shall be deemed to be the Valuation Date, notwithstanding the fact that such day is a Disrupted Day, and (ii) the Calculation Agent shall determine the Settlement Price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the Settlement Price:
    - (x) in the case of Index Securities, by determining the level of the Index as of the Valuation Time on that eighth Scheduled Trading Day in accordance with (subject to Condition 13(A)(2)) the formula for and method of calculating the Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on that eighth Scheduled Trading Day of each security/commodity comprised in the Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant security/commodity on that eighth Scheduled Trading Day, its good faith estimate of the value for the relevant security/commodity as of the Valuation Time on that eighth Scheduled Trading Day); or
    - (y) in the case of Share Securities, in accordance with its good faith estimate of the Settlement Price as of the Valuation Time on that eighth Scheduled Trading Day; or
  - (ii) where the Securities are Index Securities relating to a Basket of Indices or Share Securities relating to a Basket of Shares, the Valuation Date for each Index or Share, as the case may be, not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date, and the Valuation Date for each Index or Share, as the case may be, affected by the occurrence of a Disrupted Day (each an **Affected Item**) shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Item unless each of the eight Scheduled Trading Days immediately following the Scheduled Valuation Date is a Disrupted Day relating to the Affected Item. In that case, (i) that eighth Scheduled Trading Day shall be deemed to be the Valuation Date for the Affected Item, notwithstanding the fact that such day is a Disrupted Day, and (ii) the Calculation Agent shall, acting in good faith, determine the Settlement Price using, in relation to the Affected Item, the level or value as applicable, determined in the manner set out in the applicable Final Terms, and, in the case of a Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using:
    - (x) in the case of an Index, the level of that Index as of the Valuation Time on that eighth Scheduled Trading Day in accordance with (subject to Condition 13(A)(2)) the formula for and method of calculating that Index last in effect prior to the occurrence of the first Disrupted Day using the

Exchange traded or quoted price as of the Valuation Time on that eighth Scheduled Trading Day of each security/commodity comprised in that Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant security/commodity on that eighth Scheduled Trading Day, its good faith estimate of the value for the relevant security/commodity as of the Valuation Time on that eighth Scheduled Trading Day); or

- (y) in the case of a Share, Debt Instrument, Fund or Commodity, its good faith estimate of the value for the Affected Item as of the Valuation Time on that eighth Scheduled Trading Day, and otherwise in accordance with the above provisions; or
- (b) in respect of Index Securities relating to a Commodity Index, Debt Securities, Currency Securities, Commodity Securities or Fund Securities, (i) in the case of Warrants, the Actual Exercise Date of the relevant Warrant or (ii) in the case of Certificates, the Valuation Date specified in the applicable Final Terms, in each case subject as set out in the applicable Final Terms; and

**Valuation Time** means (a) in respect of Securities other than Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, the Valuation Time specified in the applicable Final Terms or, in the case of Index Securities or Share Securities, if no Valuation Time is specified, the Scheduled Closing Time on the relevant Exchange on the relevant Valuation Date or Averaging Date, as the case may be, in relation to each Index or Share to be valued. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Valuation Time is after the actual closing time for its regular trading session, then the Valuation Time shall be such actual closing time; or (b) in relation to Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, the Valuation Time specified in the applicable Final Terms or if no Valuation Time is specified (i) for the purposes of determining whether a Market Disruption Event has occurred (x) in respect of any Component Security, the Scheduled Closing Time on the relevant Exchange and (y) in respect of any options contracts or futures contracts on the Index, the close of trading on the relevant Related Exchange, and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor.

#### **4. Physical Delivery Provisions**

##### **(A) Settlement Disruption**

If, following the exercise of Physical Delivery Securities, in the opinion of the Calculation Agent, delivery of the Entitlement using the method of delivery specified in the applicable Final Terms is not practicable by reason of a Settlement Disruption Event (as defined below) having occurred and continuing on any Settlement Date, then such Settlement Date for such Securities shall be postponed to the first following Settlement Business Day in respect of which there is no such Settlement Disruption Event, provided that the Issuer may elect in its sole discretion to satisfy its obligations in respect of the relevant Security by delivering the Entitlement using such other commercially reasonable manner as it may select and in such event the Settlement Date shall be such day as the Issuer deems appropriate in connection with delivery of the Entitlement in such other commercially reasonable manner. For the avoidance of doubt, where a Settlement Disruption Event affects some but not all of the Relevant Assets comprising the Entitlement, the Settlement Date for the Relevant Assets not affected by the Settlement Disruption Event will be the originally designated Settlement Date. For so long as delivery of the Entitlement is not practicable by reason of a Settlement Disruption Event, then in lieu of physical settlement and notwithstanding any other provision hereof, the Issuer may elect in its sole discretion to satisfy and discharge its obligations in respect of the relevant Security by payment to the relevant Securityholder of the Settlement Disruption Amount (as defined below) on the third Business Day



following the date that notice of such election is given to the Securityholders in accordance with Condition 8. Payment of the Settlement Disruption Amount will be made in such manner as shall be notified to the Securityholders in accordance with Condition 8. The Calculation Agent shall give notice as soon as practicable to the Securityholders in accordance with Condition 8 that a Settlement Disruption Event has occurred provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Settlement Disruption Event. No Securityholder shall be entitled to any payment in respect of the relevant Security in the event of any delay in the delivery of the Entitlement due to the occurrence of a Settlement Disruption Event and no liability in respect thereof shall attach to the Issuer.

For the purposes hereof:

**Settlement Disruption Amount** in respect of any relevant Security shall be the fair market value of such Security (taking into account, where the Settlement Disruption Event affected some but not all of the Relevant Assets comprising the Entitlement and such non-affected Relevant Assets have been duly delivered as provided above, the value of such Relevant Assets), less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), all as determined by the Issuer in its sole and absolute discretion plus, if already paid, in the case of Warrants, the Exercise Price (or, where as provided above some Relevant Assets have been delivered and a *pro rata* portion thereof has been paid, such *pro rata* portion); and

**Settlement Disruption Event** means, in the opinion of the Calculation Agent, an event beyond the control of the Issuer as a result of which the Issuer cannot make delivery of the Relevant Asset(s) using the method specified in the applicable Final Terms.

(B) *Failure to Deliver due to Illiquidity*

If "Failure to Deliver due to Illiquidity" is specified as applicable in the applicable Final Terms and, following the exercise of Physical Delivery Securities, in the opinion of the Calculation Agent, it is impossible or impracticable to deliver, when due, some or all of the Relevant Assets (the **Affected Relevant Assets**) comprising the Entitlement, where such failure to deliver is due to illiquidity in the market for the Relevant Assets (a **Failure to Deliver due to Illiquidity**), then:

- (a) subject as provided elsewhere in these Conditions as amended by the applicable Final Terms, any Relevant Assets which are not Affected Relevant Assets, will be delivered on the originally designated Settlement Date in accordance with Condition 16(C) or Condition 19(C), as applicable, and, in the case of Warrants, the Calculation Agent shall determine the appropriate *pro rata* portion of the Exercise Price to be paid by the relevant Securityholder in respect of that partial settlement; and
- (b) in respect of any Affected Relevant Assets, in lieu of physical settlement and notwithstanding any other provision hereof, the Issuer may elect in its sole discretion to satisfy its obligations in respect of the relevant Security by payment to the relevant Securityholder of the Failure to Deliver Settlement Price (as defined below) on the fifth Business Day following the date that notice of such election is given to the Securityholders in accordance with Condition 8. Payment of the Failure to Deliver Settlement Price will be made in such manner as shall be notified to the Securityholders in accordance with Condition 8. The Calculation Agent shall give notice as soon as practicable to the Securityholders in accordance with Condition 8 that the provisions of this Condition 4(B) apply.

For the purposes hereof:

**Failure to Deliver Settlement Price** means, in respect of any relevant Security, the fair market value of such Security (taking into account, the Relevant Assets comprising the Entitlement which have been duly delivered as provided above), less the cost to the Issuer and/or its Affiliates of unwinding any underlying related hedging arrangements, all as determined by the Issuer in its sole and absolute discretion plus, in the case of Warrants and if already paid, the Exercise Price (or, where as provided above some Relevant Assets have been delivered, and a *pro rata* portion thereof has been paid, such *pro rata* portion).

(C) *Issuer's Option to Vary Settlement*

If the applicable Final Terms indicates that the Issuer has an option to vary settlement in respect of the Securities, upon a valid exercise of Securities in accordance with these Conditions, the Issuer may, at its sole and unfettered discretion, in respect of each such Security, elect not to pay the relevant Securityholders the Cash Settlement Amount or not to deliver or procure delivery of the Entitlement to the relevant Securityholders, as the case may be, but, *in lieu* thereof to deliver or procure delivery of the Entitlement or make payment of the Cash Settlement Amount on the Settlement Date to the relevant Securityholders, as the case may be. Notification of such election will be given to Securityholders no later than 10.00 a.m. (Luxembourg time) on the second Business Day following (a) the Actual Exercise Date for Warrants or (b) the Exercise Date for Certificates in accordance with Condition 8 and/or, at the option of the Issuer, if applicable, in accordance with the contact details for a Securityholder specified in its Exercise Notice (in the case of a Warrant) or Physical Delivery Confirmation Notice (in the case of a Certificate).

(D) *Intervening Period*

If the Entitlement in respect of Physical Delivery Securities comprises Relevant Assets which are shares or debt instruments, for such period of time after the Settlement Date as any person other than the relevant Securityholder shall continue to be the legal owner of such securities (the **Intervening Period**), neither the Issuer nor any other person shall (i) be under any obligation to deliver or procure delivery to the relevant Securityholder or any subsequent beneficial owner of such securities or any other person any letter, certificate, notice, circular or any other document or payment whatsoever received by that person in its capacity as the holder of such securities or (ii) be under any obligation to exercise or procure exercise of any or all rights (including voting rights) attaching to such securities during the Intervening Period.

(E) *General*

None of the Issuer, the Security Agents and the Calculation Agent shall have any responsibility for any errors or omissions in the calculation of any Cash Settlement Amount or of any Entitlement.

The purchase of Securities does not confer on any holder of such Securities any rights (whether in respect of voting, distributions or otherwise) attaching to any Relevant Asset.

The Issuer shall be under no obligation to register or procure the registration of any Securityholder or any other person as the registered holder in respect of any shares comprised in any Entitlement in the register of members of the relevant Share Company (as defined in Condition 13(B)).

## 5. **Illegality**

If the Issuer determines that the performance of its obligations under the Securities or that any arrangements made to hedge the Issuer's obligations under the Securities have become illegal in whole

or in part for any reason, the Issuer may cancel the Securities by giving notice to Securityholders in accordance with Condition 8.

Should any one or more of the provisions contained in these Conditions be or become invalid, the validity of the remaining provisions shall not in any way be affected thereby.

If the Issuer cancels the Securities then the Issuer will, if and to the extent permitted by applicable law, pay an amount to each Securityholder in respect of each Security or, in the case of Warrants, if Units are specified in the applicable Final Terms, each Unit, as the case may be, held by such holder, which amount shall be the fair market value of a Security or Unit, as the case may be, notwithstanding such illegality, less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements) plus, in the case of Warrants and if already paid by or on behalf of a Securityholder, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion. Payment will be made in such manner as shall be notified to the Securityholders in accordance with Condition 8.

## **6. Purchases and Cancellation**

The Issuer may, but is not obliged to, at any time purchase Securities at any price in the open market or by tender or private treaty. Any Securities so purchased may be held or resold or surrendered for cancellation.

## **7. Agents, Determinations, Meetings of Securityholders and Modifications**

### **(A) *Security Agents***

The specified offices of the Security Agents are as set out at the end of these Conditions.

The Issuer reserves the right at any time to vary or terminate the appointment of any Security Agent and to appoint further or additional Security Agents, provided that no termination of appointment of the Principal Security Agent shall become effective until a replacement Principal Security Agent shall have been appointed and provided that, so long as any of the Securities are listed on any stock exchange or admitted to trading or listing by any other relevant authority, there shall be a Security Agent having a specified office in each location required by the rules and regulations of the relevant stock exchange or other relevant authority. Notice of any termination of appointment and of any changes in the specified office of any Security Agent will be given to Securityholders in accordance with Condition 8 provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such termination or changes. In acting under the Agency Agreement, each Security Agent acts solely as agent of the Issuer and does not assume any obligation or duty to, or any relationship of agency or trust for or with, the Securityholders and any Security Agent's determinations and calculations in respect of the Securities shall (save in the case of manifest error) be final, conclusive and binding on the Issuer and the Securityholders.

The Agency Agreement may be amended by the parties thereto, but without the consent of the Securityholders, for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective provision contained therein or in any manner which the parties may mutually deem necessary or desirable and which shall not be materially prejudicial to the interests of the Securityholders.

### **(B) *Calculation Agent***

In relation to each issue of Securities, the Calculation Agent (whether it be the Issuer or another entity) acts solely as agent of the Issuer and does not assume any obligation or duty to, or any relationship of agency or trust for or with, the Securityholders. All calculations and determinations made in respect of the Securities by the Calculation Agent shall be made in good faith and in a commercially reasonable

manner and shall (save in the case of manifest error) be final, conclusive and binding on the Issuer and the Securityholders.

The Calculation Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

(C) *Determinations by the Issuer*

Any determination made by the Issuer pursuant to these Conditions shall be made in good faith and in a commercially reasonable manner and shall (save in the case of manifest error) be final, conclusive and binding on the Issuer and the Securityholders.

(D) *Meetings of Securityholders and Modifications*

The Agency Agreement contains provisions for convening meetings of the Securityholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of the Securities or any of the provisions of the Agency Agreement. Such a meeting may be convened by the Issuer. The quorum at any such meeting for passing an Extraordinary Resolution is two or more persons holding or representing a clear majority of the Securities for the time being outstanding or at any adjourned meeting two or more persons being or representing Securityholders whatever the number or Securities so held or represented, except that at any meeting the business of which includes the modification of certain provisions of the Securities (including modifying the date of exercise of the Securities, reducing or cancelling the Cash Settlement Amount or the Entitlement in respect of the Securities or altering the currency of payment of the Securities other than pursuant to Condition 14), the quorum shall be two or more persons holding or representing not less than two-thirds of the Securities for the time being outstanding or at any adjourned such meeting one or more persons holding or representing not less than one-third of the Securities for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Securityholders shall be binding on all the Securityholders, whether or not they are present at the meeting save, in the case of American Style Warrants, for those Warrants remaining outstanding but for which an Exercise Notice shall have been submitted prior to the date of the meeting.

The Principal Security Agent and the Issuer may agree, without the consent of the Securityholders to:

- (a) any modification (except as mentioned above) of the Securities or the Agency Agreement which is not prejudicial to the interests of the Securityholders; or
- (b) any modification of the Securities or the Agency Agreement which is of a formal, minor or technical nature or is made to correct a manifest error or proven error or to comply with mandatory provisions of law.

Any such modification shall be binding on the Securityholders and any such modification shall be notified to the Securityholders in accordance with Condition 8 as soon as practicable thereafter.

## **8. Notices**

All notices to Securityholders shall be valid if (i) until such time as any Definitive Securities are issued, the notice is delivered to Euroclear and/or Clearstream, Luxembourg, for communication by them to the Securityholders; (ii) if and so long as the Securities are admitted to trading on the Luxembourg Stock Exchange's regulated market and listed on the Official List of the Luxembourg Stock Exchange, the notice is published in accordance with the rules and regulations of the Luxembourg Stock Exchange (which shall include publication on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu))) and (iii) if and so long as the Securities are admitted to trading on the Italian Stock Exchange, the notice is published in accordance with the rules and regulations of the Italian Stock Exchange (which

shall include publication on the website of the Italian Stock Exchange ([www.borsaitaliana.it](http://www.borsaitaliana.it)). The Issuer shall also ensure that notices are duly published in a manner which complies with the rules of any other stock exchange (or any other relevant authority) on which the Securities are for the time being listed or by which they have been admitted to trading. If Definitive Securities are issued, notices to Securityholders will be deemed validly given if published in a leading English language daily newspaper of general circulation in London. It is expected that such publication will be made in the *Financial Times*. Any such notice shall be deemed to have been given on the date of delivery to Euroclear and/or Clearstream, Luxembourg or the date of publication, as the case may be, or, if published more than once, on the date of the first publication.

## **9. Expenses and Taxation**

- (A) A holder of Securities must pay all taxes, duties and/or expenses, including any applicable depository charges, transaction or exercise charges, sale commissions, stamp duty, stamp duty reserve tax, issue, registration, securities transfer and/or other taxes or duties arising from the exercise and settlement of such Securities and/or the delivery or transfer of the Entitlement (as applicable) pursuant to the terms of such Securities (**Expenses**) relating to such Securities as provided above.
- (B) The Issuer shall not be liable for or otherwise obliged to pay any tax, duty, withholding or other payment which may arise as a result of the ownership, transfer, exercise or enforcement of any Security by any person and all payments made by the Issuer shall be made subject to any such tax, duty, withholding or other payment which may be required to be made, paid, withheld or deducted.

## **10. Further Issues**

The Issuer shall be at liberty from time to time without the consent of Securityholders to create and issue further Securities so as to be consolidated with and form a single series with the outstanding Securities.

## **11. Substitution of the Issuer**

### **(A) *Substitution of Issuer***

Unless otherwise indicated in the relevant Final Terms, the Issuer (or any previously substituted company from time to time) shall, without the consent of the Securityholders, be entitled at any time to substitute for the Issuer any other company (the **Substitute**) as principal debtor in respect of all obligations arising from or in connection with the Securities provided that (i) all action, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) to ensure that the Securities represent valid, legally binding and enforceable obligations of the Substitute have been taken, fulfilled and done and are in full force and effect; (ii) the Substitute shall have assumed all obligations arising from or in connection with the Securities and shall have become a party to the Agency Agreement, with any consequential amendments; (iii) the obligations of the Substitute in respect of the Securities shall be unconditionally and irrevocably guaranteed by the Issuer; (iv) each stock exchange or listing authority on which the Securities are listed shall have confirmed that following the proposed substitution of the Substitute the Securities would continue to be listed on such stock exchange; and (v) the Issuer shall have given at least 30 days' prior notice of the date of such substitution to the Securityholders in accordance with Condition 8.

### **(B) *Modification of Conditions as a result of Substitution of Issuer***

After any substitution or change of branch pursuant to Condition 11(A) above, the Conditions will be modified in all consequential respects including, but not limited to, replacement of references to the Republic of Italy in the Conditions where applicable, by references to the country of incorporation,

domicile and/or residence for tax purposes of the Substitute or the new branch, as the case may be. Such modifications shall be notified to Securityholders in accordance with Condition 8.

## 12. Governing Law and Jurisdiction

The Securities, the Global Security and the Agency Agreement (and any non-contractual obligations arising out of or in connection with the Securities, the Global Security and the Agency Agreement) are governed by and shall be construed in accordance with English law.

In relation to any legal action or proceedings arising out of or in connection with the Securities and the Global Security (including any legal action or proceedings relating to any non-contractual obligations arising out of or in connection with the Securities, the Global Security and the Agency Agreement) (**Proceedings**), the Issuer irrevocably submits to the jurisdiction of the courts of England and hereby waives any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. These submissions are for the benefit of each of the Securityholders 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).

The Issuer hereby appoints Banca IMI S.p.A., London Branch at its office for the time being in London, as its agent for service of process and undertakes that, in the event of Banca IMI S.p.A., London Branch ceasing so to act, it will appoint another person as its agent for service of process in England in respect of any Proceedings. Nothing herein shall affect the right to serve process in any other manner permitted by law.

## 13. Terms for Index Securities, Share Securities, Debt Securities, Commodity Securities, Fund Securities and Credit Securities

### (A) *Index Securities*

For the purposes of this Condition 13(A):

**Indices** and **Index** mean, subject to adjustment in accordance with this Condition 13(A), the indices or index specified in the applicable Final Terms and related expressions shall be construed accordingly; and

**Index Sponsor** means, in relation to an Index, the corporation or other entity that (a) is responsible for setting and reviewing the rules and procedures and the methods of calculation and adjustments, if any, related to such Index and (b) announces (directly or through an agent) the level of such Index on a regular basis during each Scheduled Trading Day, which as of the Issue Date is the index sponsor specified for such Index in the applicable Final Terms.

### (1) **Market Disruption**

**Market Disruption Event** means, in relation to Securities relating to a single Index or Basket of Indices other than Securities relating to a Commodity Index, in respect of an Index:

(a) in respect of an Index other than a Designated Multi-Exchange Index:

(i) the occurrence or existence at any time during the one hour period that ends at the Valuation Time:

(A) of any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of

movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise:

- (I) on any relevant Exchange(s) in securities/commodities that comprise 20 per cent. or more of the level of the relevant Index; or
  - (II) in futures or options contracts relating to the relevant Index on any relevant Related Exchange;
- (B) of any event (other than an event described in (ii) below) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general (A) on any relevant Exchange(s) to effect transactions in, or obtain market values for, securities/commodities that comprise 20 per cent. or more of the level of the relevant Index, or (B) to effect transactions in, or obtain market values for, futures or options contracts relating to the relevant Index on any relevant Related Exchange,

which in either case the Calculation Agent determines is material; or

- (ii) the closure on any Exchange Business Day of any relevant Exchange(s) in securities/commodities that comprise 20 per cent. or more of the level of the relevant Index or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or such Related Exchange(s), as the case may be, at least one hour prior to (A) the actual closing time for the regular trading session on such Exchange(s) or such Related Exchange(s) on such Exchange Business Day or, if earlier, (B) the submission deadline for orders to be entered into the Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day; or

- (b) in respect of an Index which is a Designated Multi-Exchange Index either:

- (i) (x) the occurrence or existence, in respect of any Component Security, of:
  - (A) a Trading Disruption in respect of such Component Security, which the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded;
  - (B) an Exchange Disruption in respect of such Component Security, which the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded; or
  - (C) an Early Closure in respect of such Component Security; and
- (y) the aggregate of all Component Securities in respect of which a Trading Disruption, an Exchange Disruption or an Early Closure occurs or exists, comprises 20 per cent. or more of the level of the Index; or
- (ii) the occurrence or existence, in respect of futures or options contracts relating to the Index, of: (A) a Trading Disruption, (B) an Exchange Disruption which in either case the Calculation Agent determines is material, at any time during the one hour period

that ends at the Valuation Time in respect of the Related Exchange or (C) an Early Closure, in each case in respect of such futures or options contracts.

As used above:

**Trading Disruption** means any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise (i) relating to any Component Security on the Exchange in respect of such Component Security or (ii) in futures or options contracts relating to the Index on the Related Exchange.

**Exchange Disruption** means any event (other than an Early Closure) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general to effect transactions in, or obtain market values for (i) any Component Security on the Exchange in respect of such Component Security or (ii) futures or options contracts relating to the Index on the Related Exchange.

**Early Closure** means the closure on any Exchange Business Day of the Exchange or Related Exchange in respect of any Component Security prior to its Scheduled Closing Time unless such earlier closing is announced by such Exchange or Related Exchange, as the case may be, at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on such Exchange or Related Exchange, as the case may be, on such Exchange Business Day and (ii) the submission deadline for orders to be entered into on the relevant Exchange or Related Exchange system for execution at the relevant Valuation Time on such Exchange Business Day.

For the purposes of determining whether a Market Disruption Event in respect of an Index or a Component Security exists at any time, if a Market Disruption Event occurs in respect of a security/commodity included in the Index or such Component Security at any time, then the relevant percentage contribution of that security/commodity or Component Security, as the case may be, to the level of the Index shall be based on a comparison of (i) the portion of the level of the Index attributable to that security/commodity or Component Security, as the case may be, and (ii) the overall level of the Index, in each case either (a) except where the Index is a Designated Multi-Exchange Index, immediately before the occurrence of such Market Disruption Event or (b) where that Index is a Designated Multi-Exchange Index, using the official opening weightings as published by the Index Sponsor as part of the market "opening data".

The Calculation Agent shall give notice as soon as practicable to the Securityholders in accordance with Condition 8 of the occurrence of a Disrupted Day on any day that, but for the occurrence of a Disrupted Day, would have been an Averaging Date or a Valuation Date provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Disrupted Day.

(2) **Adjustments to an Index and Commodity Index Disruption Events**

(a) **Successor Index Sponsor Calculates and Reports an Index**

If a relevant Index is (i) not calculated and announced by the Index Sponsor but is calculated and announced by a successor sponsor (the **Successor Index Sponsor**) acceptable to the Issuer, or (ii) replaced by a successor index using, in the determination of the Calculation Agent, the same or a substantially similar formula for and method of calculation as used in the calculation of that Index, then in each case that index (the **Successor Index**) will be deemed to be the Index.



(b) Modification and Cessation of Calculation of an Index

*The following paragraph applies in respect of an Index which is not a Commodity Index.*

If (i) on or prior to a Valuation Date or an Averaging Date the relevant Index Sponsor makes or announces that it will make a material change in the formula for or the method of calculating a relevant Index or in any other way materially modifies that Index (other than a modification prescribed in that formula or method to maintain that Index in the event of changes in constituent stock and capitalisation, contracts or commodities and other routine events) (an **Index Modification**), or permanently cancels a relevant Index and no Successor Index exists (an **Index Cancellation**), or (ii) on a Valuation Date or an Averaging Date the Index Sponsor or, if applicable, the Successor Index Sponsor fails to calculate and announce a relevant Index (an **Index Disruption** and, together with an Index Modification and an Index Calculation, each an **Index Adjustment Event**), then the Issuer may take the action described in (i) or (ii) below:

- (i) require the Calculation Agent to determine if such Index Adjustment Event has a material effect on the Securities and, if so, to calculate the relevant Settlement Price using, in lieu of a published level for that Index, the level for that Index as at the Valuation Time on that Valuation Date or that Averaging Date, as the case may be, as determined by the Calculation Agent in accordance with the formula for and method of calculating that Index last in effect prior to the change, failure or cancellation, but using only those securities/commodities that comprised that Index immediately prior to that Index Adjustment Event; or
- (ii) cancel the Securities by giving notice to Securityholders in accordance with Condition 8. If the Securities are so cancelled the Issuer will pay an amount to each Securityholder in respect of each Security held by him which amount shall be the fair market value of a Security, taking into account the Index Adjustment Event, less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Securityholders in accordance with Condition 8.

*The following paragraph applies in respect of an Index which is a Commodity Index*

If on or prior to any Valuation Date or an Averaging Date (i) the relevant Index Sponsor makes a material change in the formula for or the method of calculating a relevant Index or in any other way materially modifies that Index (other than a modification prescribed in that formula or method to maintain that Index in the event of changes in constituent commodities and weightings and other routine events), or (ii) the Index Sponsor permanently cancels a relevant Index or (iii) the Index Sponsor fails to calculate and announce a relevant Index and there is no Successor Index Sponsor or Successor Index, then the Calculation Agent, acting in good faith and in a commercially reasonable manner, may at its option (in the case of (i)) and shall (in case of (ii) and (iii)) (such events (i), (ii) and (iii) to be collectively referred to as **Index Adjustment Events**) calculate the relevant Settlement Price using in lieu of the published level for that Index, the level for that Index as at the relevant determination date as determined by the Calculation Agent in accordance with the formula for and method of calculating that Index last in effect prior to the relevant Index Adjustment Event, but using only those futures contracts that comprised that Index immediately prior to the relevant Index Adjustment Event (other than those futures contracts that have ceased to be listed on any relevant exchange).

(c) Commodity Index Disruption Events

*The following paragraph applies in respect of an Index which is a Commodity Index.*

If, in the opinion of the Calculation Agent, a Commodity Index Disruption Event has occurred and is continuing on any Valuation Date or Averaging Date (or, if different, the day on which prices for the Valuation Date or that Averaging Date, as the case may be, would, in the ordinary course, be published by the Price Source), the Relevant Price for that Valuation Date or Averaging Date, as the case may be, will be determined by the Calculation Agent:

- (i) using:
  - (x) with respect to each futures contract included in the Index which is not affected by the Commodity Index Disruption Event, the closing prices of each such contract on the applicable determination date; and
  - (y) with respect to each futures contract included in the Index which is affected by the Commodity Index Disruption Event, the closing prices of each such contract on the first day following the applicable determination date on which no Commodity Index Disruption Event is occurring with respect to such contract; or
- (ii) as specified in the applicable Final Terms.

Subject as provided below, the Calculation Agent shall determine the Relevant Price by reference to the closing prices determined in (i)(x) and (i)(y) above or as provided in (ii) above using the then-current method for calculating the Index.

Where a Commodity Index Disruption Event with respect to one or more futures contracts included in the Index has occurred on an applicable determination date and continues to exist as of the Commodity Index Cut-Off Date for such applicable determination date, the Calculation Agent shall determine the Relevant Price on such Commodity Index Cut-Off Date. In calculating the Relevant Price as set out herein, the Calculation Agent shall use the formula for calculating the Index last in effect prior to the Commodity Index Disruption Event.

As used above:

**Commodity Index Cut-Off Date** means, in respect of an applicable determination date:

- (i) in respect of Certificates and European Style Warrants, the second Business Day immediately preceding the Settlement Date;
- (ii) in respect of American Style Warrants, the fifth Trading Day immediately succeeding such applicable determination date; or
- (iii) as specified in the applicable Final Terms.

**Commodity Index Disruption Event** means:

- (i) a temporary or permanent failure by the applicable exchange or other price source to announce or publish (x) the final settlement price for the Index or (y) the closing price for any futures contract included in the Index;

- (ii) a material limitation, suspension or disruption of trading in one or more of the futures contracts included in the Index which results in a failure by the exchange on which each applicable futures contract is traded to report a closing price for such contract on the day on which such event occurs or any succeeding day on which it continues; or
- (iii) the closing price for any futures contract included in the Index is a **limit price**, which means that the closing price for such contract for a day has increased or decreased from the previous day's closing price by the maximum amount permitted under applicable exchange rules.

**Trading Day** shall mean a day when the exchanges for all futures contracts included in the relevant Index are scheduled to be open for trading.

(d) Notice

The Calculation Agent shall, as soon as practicable after receipt of any written request to do so, notify a Securityholder of any determination made by it pursuant to paragraph (b) above, as at the date of receipt of such request. The Issuer shall make available for inspection by Securityholders during normal office hours copies of any such determinations.

(B) *Share Securities*

For the purposes of this Condition 13(B):

**Basket Company** means a company whose shares are included in the Basket of Shares and **Basket Companies** means all such companies;

**Shares** and **Share** mean, subject to adjustment in accordance with this Condition 13(B), the shares or a share of the relevant Basket Company and, in the case of an issue of Securities relating to a single Share, such share, and related expressions shall be construed accordingly; and

**Share Company** means, in the case of an issue of Securities relating to a single share, the company that has issued such share.

(1) **Market Disruption**

**Market Disruption Event** means, in relation to Securities relating to a single Share or Basket of Shares, in respect of a Share:

- (a) the occurrence or existence at any time during the one hour period that ends at the Valuation Time for such Share:
  - (i) of any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or any Related Exchange or otherwise:
    - (A) relating to the Share on the Exchange; or
    - (B) in futures or options contracts relating to the Share on any relevant Related Exchange; or
  - (ii) of any event (other than as described in (b) below) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general (A) to effect transactions in or obtain market values for, the Share on the Exchange or

(B) to effect transactions in, or obtain market values for, futures or options contracts on or relating to the Share on any relevant Related Exchange,

which in either case the Calculation Agent determines is material; or

- (b) the closure on any Exchange Business Day of the relevant Exchange or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or such Related Exchange(s), as the case may be, at least one hour prior to (A) the actual closing time for the regular trading session on such Exchange(s) or such Related Exchange(s) on such Exchange Business Day or, if earlier, (B) the submission deadline for orders to be entered into the Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day.

The Calculation Agent shall give notice as soon as practicable to the Securityholders in accordance with Condition 8 of the occurrence of a Disrupted Day on any day that, but for the occurrence of a Disrupted Day, would have been an Averaging Date or a Valuation Date provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Disrupted Day.

(2) **Potential Adjustment Events, Merger Event, Tender Offer, De-listing, Nationalisation and Insolvency**

(a) **Potential Adjustment Event** means any of the following:

- (i) a subdivision, consolidation or reclassification of relevant Shares (unless resulting in a Merger Event) or a free distribution or dividend of any such Shares to existing holders by way of bonus, capitalisation or similar issue;
- (ii) a distribution, issue or dividend to existing holders of the relevant Shares of (a) such Shares or (b) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of the Basket Company or Share Company, as the case may be, equally or proportionately with such payments to holders of such Shares or (c) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the Basket Company or Share Company, as the case may be, as a result of a spin-off or other similar transaction or (d) any other type of securities, rights, certificates or warrants or other assets, in any case for payment (in cash or otherwise) at less than the prevailing market price as determined by the Calculation Agent;
- (iii) an extraordinary dividend as determined by the Calculation Agent;
- (iv) a call by a Basket Company or Share Company, as the case may be, in respect of relevant Shares that are not fully paid;
- (v) a repurchase by the Basket Company or any of its subsidiaries or Share Company or any of its subsidiaries, as the case may be, of relevant Shares whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise; or
- (vi) in respect of a Basket Company or Share Company, as the case may be, an event that results in any shareholder rights being distributed or becoming separated from shares of common stock or other shares of the capital stock of such Basket Company or Share Company, as the case may be, pursuant to a shareholder rights plan or arrangement directed against hostile takeovers that provides upon the occurrence of certain events for a distribution of preferred stock, warrants, debt instruments or

stock rights at a price below their market value as determined by the Calculation Agent, provided that any adjustment effected as a result of such an event shall be readjusted upon any redemption of such rights; or

- (vii) any other event having, in the opinion of the Calculation Agent, a diluting or concentrative effect on the theoretical value of the relevant Shares.

Following the declaration by the Basket Company or Share Company, as the case may be, of the terms of any Potential Adjustment Event, the Calculation Agent will, in its sole and absolute discretion, determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the Shares and, if so, will (i) make the corresponding adjustment, if any, to any one or more of any Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate to account for that diluting or concentrative effect (provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Share) and (ii) determine the effective date of that adjustment. The Calculation Agent may, but need not, determine the appropriate adjustment by reference to the adjustment in respect of such Potential Adjustment Event made by an options exchange to options on the Shares traded on that options exchange.

Upon the making of any such adjustment, the Calculation Agent shall give notice as soon as practicable to the Securityholders in accordance with Condition 8, stating the adjustment to any Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Conditions and/or the applicable Final Terms and giving brief details of the Potential Adjustment Event provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such adjustment.

- (b) **De-listing** means, in respect of any relevant Shares, the Exchange announces that pursuant to the rules of such Exchange, such Shares cease (or will cease) to be listed, traded or publicly quoted on the Exchange for any reason (other than a Merger Event or Tender Offer) and are not immediately re-listed, re-traded or re-quoted on an exchange or quotation system located in the same country as the Exchange (or, where the Exchange is within the European Union, in a member state of the European Union).

**Insolvency** means that by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of or any analogous proceeding affecting the Basket Company or Share Company, as the case may be, (i) all the Shares of that Basket Company or Share Company, as the case may be, are required to be transferred to a trustee, liquidator or other similar official or (ii) holders of the Shares of that Basket Company or Share Company, as the case may be, become legally prohibited from transferring them.

**Merger Date** means the closing date of a Merger Event or, where a closing date cannot be determined under the local law applicable to such Merger Event, such other date as determined by the Calculation Agent.

**Merger Event** means, in respect of any relevant Shares, any (i) reclassification or change of such Shares that results in a transfer of or an irrevocable commitment to transfer all of such Shares outstanding to another entity or person, (ii) consolidation, amalgamation, merger or binding share exchange of a Basket Company or Share Company, as the case may be, with or into another entity or person (other than a consolidation, amalgamation, merger or binding share exchange in which such Basket Company or Share Company, as the case may be, is the continuing entity and which does not result in a reclassification or change of all of such Shares

outstanding), (iii) takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person to purchase or otherwise obtain 100 per cent. of the outstanding Shares of the Basket Company or Share Company, as the case may be, that results in a transfer of or an irrevocable commitment to transfer all such Shares (other than such Shares owned or controlled by such other entity or person), or (iv) consolidation, amalgamation, merger or binding share exchange of the Basket Company or its subsidiaries or the Share Company or its subsidiaries, as the case may be, with or into another entity in which the Basket Company or Share Company, as the case may be, is the continuing entity and which does not result in a reclassification or change of all such Shares outstanding but results in the outstanding Shares (other than Shares owned or controlled by such other entity) immediately prior to such event collectively representing less than 50 per cent. of the outstanding Shares immediately following such event, in each case if the Merger Date is on or before (a) in the case of Cash Settled Securities, the last occurring Valuation Date or where Averaging is specified in the applicable Final Terms, the final Averaging Date in respect of the relevant Security or (b) in the case of Physical Delivery Securities, the relevant Settlement Date.

**Nationalisation** means that all the Shares or all or substantially all the assets of the Basket Company or Share Company, as the case may be, are nationalised, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof.

**Tender Offer** means a takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person that results in such entity or person purchasing, or otherwise obtaining or having the right to obtain, by conversion or other means, greater than 10 per cent. and less than 100 per cent. of the outstanding voting shares of the Basket Company or Share Company, as the case may be, as determined by the Calculation Agent, based upon the making of filings with governmental or self-regulatory agencies or such other information as the Calculation Agent deems relevant.

If (x) a Merger Event, De-listing, Nationalisation or Insolvency and/or (y) Tender Offer is specified as applying in the applicable Final Terms, a Tender Offer occurs in relation to a Share, the Issuer in its sole and absolute discretion may take the action described in (i), (ii) or (iii) below:

- (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any one or more of any Relevant Assets and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Conditions and/or the applicable Final Terms to account for the Merger Event, Tender Offer, De-listing, Nationalisation or Insolvency, as the case may be, and determine the effective date of that adjustment. The relevant adjustments may, in the case of adjustments following a Merger Event or a Tender Offer, include (without limitation) adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relevant to the Shares or the Securities. The Calculation Agent may (but need not) determine the appropriate adjustment by reference to the adjustment in respect of the Merger Event, Tender Offer, De-listing, Nationalisation or Insolvency made by any options exchange to options on the Shares traded on that options exchange; or
- (ii) cancel the Securities by giving notice to Securityholders in accordance with Condition 8. If the Securities are so cancelled the Issuer will pay an amount to each Securityholder in respect of each Security or, in the case of Warrants and where Units are specified in the applicable Final Terms, each Unit, held by him which amount shall be the fair market value of a Security or a Unit, as the case may be, taking into account the Merger Event, Tender Offer, De-listing, Nationalisation or

Insolvency, as the case may be, except for Italian Listed Securities, less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements) plus, in the case of Warrants, the Exercise Price (if already paid), all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Securityholders in accordance with Condition 8; or

- (iii) following such adjustment to the settlement terms of options on the Shares traded on such exchange(s) or quotation system(s) as the Issuer in its sole discretion shall select (the **Options Exchange**), require the Calculation Agent to make a corresponding adjustment to any one or more of any Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Conditions and/or the applicable Final Terms, which adjustment will be effective as of the date reasonably determined by the Calculation Agent to be the effective date of the corresponding adjustment made by the Options Exchange. If options on the Shares are not traded on the Options Exchange, the Calculation Agent will make such adjustment, if any, to any one or more of any Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate, with reference to the rules and precedents (if any) set by the Options Exchange to account for the Merger Event, Tender Offer, De-listing, Nationalisation or Insolvency, as the case may be, that in the determination of the Calculation Agent would have given rise to an adjustment by the Options Exchange if such options were so traded.

- (c) Upon the occurrence of a Merger Event, Tender Offer, De-listing, Nationalisation or Insolvency, the Issuer shall give notice as soon as practicable to the Securityholders in accordance with Condition 8 stating the occurrence of the Merger Event, Tender Offer, Nationalisation or Insolvency, as the case may be, giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Merger Event, Tender Offer, De-listing, Nationalisation or Insolvency, as the case may be.

(C) *Debt Securities*

For the purposes of this Condition 13(C):

**Market Disruption Event** shall mean the suspension of or limitation imposed on trading either on any exchange on which the Debt Instruments or any of them (in the case of a Basket of Debt Instruments) are traded or on any exchange on which options contracts or futures contracts with respect to the Debt Instruments or any of them (in the case of a Basket of Debt Instruments) are traded if, in the determination of the Calculation Agent, such suspension or limitation is material.

The Issuer shall give notice as soon as reasonably practicable to the Securityholders in accordance with Condition 8 that a Market Disruption Event has occurred.

(D) *Commodity Securities*

For the purposes of this Condition 13(D):

**Market Disruption Event** shall mean the suspension of or limitation imposed on trading on either any exchange on which the Commodity or any of the Commodities (in the case of a Basket of Commodities) are traded or on any exchange on which options contracts or futures contracts with

respect to the Commodity or any of the Commodities (in the case of a Basket of Commodities) are traded if, in the determination of the Calculation Agent, such suspension or limitation is material.

The Issuer shall give notice as soon as practicable to the Securityholders in accordance with Condition 8 that a Market Disruption Event has occurred.

(E) *Additional Disruption Events*

**Additional Disruption Event** means any of Change in Law, Hedging Disruption, Increased Cost of Hedging, Increased Cost of Stock Borrow, Insolvency Filing and/or Loss of Stock Borrow, in each case if specified in the applicable Final Terms.

**Change in Law** means that, on or after the Trade Date (as specified in the applicable Final Terms) (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines in its sole and absolute discretion that (X) it has become illegal for it or any of its Affiliates or agents acting on its behalf to hold, acquire or dispose of any relevant Share (in the case of Share Securities) or any relevant security/commodity comprised in an Index (in the case of Index Securities) or (Y) it will incur a materially increased cost in performing its obligations in relation to the Securities (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on the tax position of the Issuer and/or any of its Affiliates or agents acting on its behalf).

**Hedging Disruption** means that the Issuer and/or any of its Affiliates or agents acting on its behalf is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Securities, or (B) realise, recover or remit the proceeds of any such transaction(s) or asset(s).

**Hedging Shares** means the number of Shares that the Issuer deems necessary to hedge the equity or other price risk of entering into and performing its obligations with respect to the Securities.

**Increased Cost of Hedging** means that the Issuer and/or any of its Affiliates or agents acting on its behalf would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Securities, or (B) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer and/or any of its Affiliates or agents acting on its behalf shall not be deemed an Increased Cost of Hedging.

**Increased Cost of Stock Borrow** means that the Issuer and/or any of its Affiliates would incur a rate to borrow Shares that is greater than the Initial Stock Loan Rate.

**Initial Stock Loan Rate** means, in respect of a Share, the initial stock loan rate specified in relation to such Share in the applicable Final Terms.

**Insolvency Filing** means that a Share Company or Basket Company institutes or has instituted against it by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, or it consents to a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or affecting creditors' rights, or a petition is



presented for its winding-up or liquidation by it or such regulator, supervisor or similar official or it consents to such a petition, provided that proceedings instituted or petitions presented by creditors and not consented to by the Share Company or Basket Company shall not be deemed an Insolvency Filing.

**Loss of Stock Borrow** means that the Issuer and/or any of its Affiliates is unable, after using commercially reasonable efforts, to borrow (or maintain a borrowing of) any Share in an amount equal to the Hedging Shares at a rate equal to or less than the Maximum Stock Loan Rate.

**Maximum Stock Loan Rate** means, in respect of a Share, the Maximum Stock Loan Rate specified in the applicable Final Terms.

If an Additional Disruption Event occurs, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:

- (i) require the Calculation Agent to determine, in its sole and absolute discretion, the appropriate adjustment, if any, to be made to any one or more of any Relevant Assets and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
- (ii) cancel the Securities by giving notice to Securityholders in accordance with Condition 8. If the Securities are so cancelled the Issuer will pay an amount to each Securityholder in respect of each Security held by him which amount shall be the fair market value of such Security, taking into account the Additional Disruption Event, except for Italian Listed Securities, less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Securityholders in accordance with Condition 8.

Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Securityholders in accordance with Condition 8 stating the occurrence of the Additional Disruption Event, as the case may be, giving details thereof and the action proposed to be taken in relation thereto, provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.

(F) *Fund Securities*

Any market disruption, general disruption, adjustment and/or termination provisions relating to Fund Securities will be set out in the applicable Final Terms.

(G) *Credit Securities*

Except as set out below, any market disruption, general disruption, adjustment and/or termination provisions relating to Credit Securities will be set out in the applicable Final Terms.

(1) **Settlement or Expiration absent Satisfaction of Conditions to Settlement**

Subject to the provisions of this Condition 13(G) as are applicable to the Credit Securities or as otherwise specified in the applicable Final Terms, the Issuer will settle each Credit Certificate on the Settlement Date (as such date may be extended in accordance with the definition thereof) by payment of an amount equal to the Cash Settlement Amount of such Certificate (together with Remuneration, if any, payable thereon) unless:

- (a) the Credit Certificates have been previously settled or purchased and cancelled in full; or
- (b) the Conditions to Settlement have been satisfied, in which event, subject as set out herein, the Issuer shall settle the Credit Certificates in accordance with Condition 13(G)(2).

Subject to the provisions of this Condition 13(G) as are applicable to the Credit Securities or as otherwise specified in the applicable Final Terms, each Credit Warrant will become void on the related Settlement Date (as such date may be extended in accordance with the definition thereof) unless:

- (c) the Credit Warrants have been previously settled or purchased and cancelled in full; or
- (d) the Conditions to Settlement have been satisfied, in which event, subject as set out herein, the Credit Warrants shall be settled in accordance with Condition 13(G)(2).

**(2) Settlement following Satisfaction of Conditions to Settlement**

Upon the satisfaction of the Conditions to Settlement, subject as set out in the applicable Final Terms, each Credit Certificate and each Credit Warrant will be deemed to have been automatically exercised on the Event Determination Date and will be settled, subject to the provisions of this Condition 13(G) as are applicable to the Credit Securities or as otherwise specified in the applicable Final Terms:

- (a) if the applicable Settlement Method is Auction Settlement, by payment of the Auction Credit Event Settlement Amount on the Auction Settlement Date or, as appropriate, in accordance with the applicable Fallback Settlement Method (if any); and
- (b) if the applicable Settlement Method is Cash Settlement, by payment of the Credit Event Cash Settlement Amount on the Settlement Date.

**(3) Suspension of Obligations**

If, following the determination of an Event Determination Date in accordance with sub paragraph (i) of the definition of Event Determination Date but prior to the relevant Settlement Date or, to the extent applicable, a Valuation Date, the Calculation Agent determines that a Suspension Event has occurred, the timing requirements of Condition 13(G) relating to Settlement Dates, Valuation Dates, Credit Event Settlement Date(s), such other dates as may be specified in the applicable Final Terms, as applicable, or any other provision that pertains to settlement of the Credit Securities, shall toll and remain suspended until the Suspension Event Cessation Date. The relevant timing requirements and redemption and settlement provisions, as applicable, that have previously tolled or been suspended shall resume on the Business Day following the relevant Suspension Event Cessation Date with the benefit of the full day notwithstanding when the tolling or suspension began in accordance with this Condition 13(G)(3). Without prejudice to any amounts payable pursuant to Condition 13(G)(7), no additional amounts shall be payable by the Issuer in connection with any such suspension.

**(4) Repudiation/Moratorium Extension**

Where "Repudiation/Moratorium" is specified as a Credit Event in the applicable Final Terms, the provisions of this Condition 13(G)(4) shall apply.

Where Conditions to Settlement have not been satisfied on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date but the Repudiation/Moratorium Extension Condition has been satisfied on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date or, Condition 13(G)(6) applies, and the Repudiation/Moratorium Evaluation Date in respect of such

Potential Repudiation Moratorium may or will, in the sole determination of the Calculation Agent, fall after the Exercise Date in the case of Credit Certificates or European Style Credit Warrants or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date, then the Calculation Agent shall notify the Securityholders in accordance with Condition 8 that a Potential Repudiation/Moratorium has occurred. If the Repudiation/Moratorium Extension Condition is satisfied and an Event Determination Date does not occur on or prior to the final day of the Notice Delivery Period:

- (i) provided that there are no other Extension Events outstanding as at the Repudiation/Moratorium Evaluation Date, each Credit Certificate shall be settled in accordance with Condition 13(G)(1) on the second Business Day following the Repudiation/Moratorium Evaluation Date; and
- (ii) in the case of remuneration bearing Credit Certificates, the Issuer shall be obliged to pay remuneration calculated as provided herein, accruing from (and including) the Remuneration Payment Date immediately preceding the Exercise Date (or if none, the Remuneration Commencement Date) to (but excluding) the Settlement Date but shall only be obliged to make such payment of remuneration on the second Business Day following the Repudiation/Moratorium Evaluation Date and no further or other amount in respect of remuneration shall be payable and no additional amount shall be payable in respect of such delay.

**(5) Grace Period Extension**

If "Grace Period Extension" is specified as Applicable in the applicable Final Terms, the provisions of this Condition 13(G)(5) shall apply.

Where Conditions to Settlement have not been satisfied on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date but a Potential Failure to Pay has occurred with respect to one or more Obligation(s) in respect of which a Grace Period is applicable on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date (and such Grace Period(s) is/are continuing as at the Exercise Date in the case of Credit Certificates or European Style Credit Warrants or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date), then:

- (i) where an Event Determination Date in respect of the Failure to Pay does not occur on or prior to the last day of the Notice Delivery Period:
  - (A) provided that there are no other Extension Events outstanding as at the Grace Period Extension Date, each Credit Certificate will be shall be settled in accordance with Condition 13(G)(1) on the second Business Day following the Repudiation/Moratorium Evaluation Date on the Grace Period Extension Date; and
  - (B) in the case of remuneration bearing Credit Certificates, the Issuer shall be obliged to pay remuneration calculated as provided herein, accruing from (and including) the Remuneration Payment Date immediately preceding the Exercise Date (or if none, the Remuneration Commencement Date) to (but excluding) the Grace Period Extension Date but shall only be obliged to make such payment of remuneration on the Grace Period Extension Date and no further or other amount in respect of remuneration shall be payable and no additional amount shall be payable in respect of such delay; or

- (ii) where a Failure to Pay has occurred on or prior to the last day of the Notice Delivery Period the provisions of Condition 13(G)(2) shall apply to the Credit Securities.

(6) **Extension**

If on the Exercise Date in the case of Credit Certificates or European Style Credit Warrants or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date the Calculation Agent determines that on or prior to such date:

- (i) a Potential Repudiation/Moratorium may have occurred;
- (ii) a Potential Failure to Pay may have occurred;
- (iii) an Applicable Request has been made on or prior to such date in respect of which an Applicable Resolution has not been published; or
- (iv) without duplication, in the opinion of the Calculation Agent, a Credit Event may have occurred in relation to which the Conditions to Settlement have not been satisfied (such Credit Event, a **Postponement Credit Event**), and

in each case, in respect of which an Event Determination Date has not occurred as at the Exercise Date in the case of Credit Certificates or European Style Credit Warrants or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date (each such event an **Extension Event**), the Calculation Agent may notify the Securityholders in accordance with Condition 8. In such circumstances, each Credit Certificate shall be settled as follows:

- (A) with respect to a Potential Repudiation/Moratorium, in accordance with Condition 13(G)(4), unless an Event Determination Date occurs on or prior to the last day of the Notice Delivery Period and is not reversed pursuant to Condition 13(G)(7), in which case each Credit Certificate will be shall be settled in accordance with Condition 13(G)(2);
- (B) with respect to a Potential Failure to Pay, in accordance with Condition 13(G)(5), unless an Event Determination Date occurs on or prior to the last day of the Notice Delivery Period and is not reversed pursuant to Condition 13(G)(7), in which case each Credit Certificate will be shall be settled in accordance with Condition 13(G)(2); or
- (C) with respect to an Applicable Request or a Postponement Credit Event, if an Event Determination Date occurs on or prior to the Observation Cut-Off Date and is not reversed pursuant to Condition 13(G)(7), in which case each Credit Certificate will be shall be settled in accordance with Condition 13(G)(2); or
- (D) with respect to an Applicable Request or a Postponement Credit Event, if an Event Determination Date does not occur on or prior the Observation Cut-Off Date or an Event Determination Date is reversed pursuant to Condition 13(G)(7), subject to Condition 13(G)(15) and provided that there are no other Extension Events outstanding as at the Observation Cut-Off Date, each Credit Certificate will be shall be settled in accordance with Condition 13(G)(1) on the second Business Day following the Observation Cut-Off Date (the **Postponed Settlement Date**); and
- (E) in the case of remuneration bearing Credit Certificates only, the Issuer shall, without duplication and without prejudice to Condition 13(G)(7), be obliged to pay remuneration calculated as provided herein accruing from (and including) the Remuneration Payment Date immediately preceding the Exercise Date (or if none the Remuneration Commencement Date) to (but excluding) the Postponed Settlement Date but shall only be obliged to make such

payment of remuneration on the Postponed Settlement Date and no further or other amount in respect of remuneration shall be payable and no additional amount shall be payable in respect of such delay.

An Extension Event will be deemed to be outstanding on any date, if the period specified in (A), (B)(C) or (D)(E) in respect of the relevant Extension Event in which an Event Determination Date may occur has not expired as at such date.

(7) **Reversals and adjustments to Event Determination Dates**

- (i) Notwithstanding anything to the contrary herein, no Event Determination Date will occur, and any Event Determination Date previously determined with respect to an event shall be deemed not to have occurred, if, or to the extent that, ISDA publicly announces prior to the Auction Final Price Determination Date in respect of an Applicable Auction, a Valuation Date, the Settlement Date, or the Observation Cut-Off Date, as applicable, that the relevant Credit Derivatives Determinations Committee has Resolved that an event does not constitute a Credit Event with respect to the relevant Reference Entity or Obligation thereof and the Calculation Agent determines that such Resolution is an Applicable Resolution.
- (ii) Notwithstanding anything to the contrary in these Conditions, but subject as set out in the applicable Final Terms, following the determination of an Event Determination Date, if, in accordance with Condition 13(G)(7)(i):
  - (A) such Event Determination Date is deemed to have occurred on a date that is earlier than the date originally determined to be the Event Determination Date, an amount equal to the relevant EDD Adjustment Amount (if any) shall be deducted to the fullest extent possible from the Credit Event Settlement Amount or Auction Credit Event Settlement Amount, as applicable; or
  - (B) such Event Determination Date is deemed not to have occurred, notwithstanding Condition 21(B) each Credit Certificate, where relevant, shall recommence to accrue remuneration (in accordance with Condition 21) from the Remuneration Payment Date (the **Remuneration Recommencement Date**) immediately following the announcement of the Resolution described in Condition 13(G)(7)(i) and an amount equal to the Additional EDD Remuneration Amount shall be payable on such Remuneration Recommencement Date.

(8) **Settlement following a Merger Event**

If "Settlement following a Merger Event" is specified as Applicable in the applicable Final Terms, the relevant provisions shall be set out in the applicable Final Terms.

(9) **Definitions applicable to Credit Securities**

The definitions applicable to Credit Securities are set out in the Annex to these Terms and Conditions.

(10) **Credit Event Notice after Restructuring Credit Event**

If "Credit Event Notice after Restructuring Credit Event" is specified as Applicable in the applicable Final Terms, the relevant provisions shall be set out in the applicable Final Terms.

(11) **Provisions relating to Multiple Holder Obligation**

If "Provisions relating to Multiple Holder Obligation" is specified as Applicable in the applicable Final Terms, notwithstanding anything to the contrary in the definition of Restructuring and related provisions, the occurrence of, agreement to, or announcement of, any of the events described in sub-paragraphs (a) to (e) of the definition of "Restructuring" shall not be a Restructuring unless the Obligation in respect of any such events is a Multiple Holder Obligation.

**Multiple Holder Obligation** means an Obligation that (i) at the time of the event which constitutes a Restructuring Credit Event is held by more than three holders that are not Affiliates of each other and (ii) with respect to which a percentage of holders (determined pursuant to the terms of the Obligation as in effect on the date of such event) at least equal to sixty-six and two-thirds is required to consent to the event which constitutes a Restructuring Credit Event; provided that any Obligation that is a Bond shall be deemed to satisfy the requirement in (ii).

(12) **Provisions taken from the ISDA supplement titled "Additional Provisions - Monoline Insurer as Reference Entity (May 2003)"**

If Condition 13(G)(12) is specified as Applicable in the applicable Final Terms, the relevant provisions shall be set out in the applicable Final Terms.

(13) **Provisions taken from the ISDA supplement titled "Additional Provisions - Monoline Insurer as Reference Entity (May 2005)"**

If Condition 13(G)(13) is specified as Applicable in the applicable Final Terms, the relevant provisions shall be set out in the applicable Final Terms.

(14) **Calculation Agent and Calculation Agent Notices**

The determination by the Calculation Agent of any amount or of any state of affairs, circumstance, event or other matter, or the formation of any opinion or the exercise of any discretion required or permitted to be determined, formed or exercised by the Calculation Agent pursuant to this Condition 13(G)(14) shall (in the absence of manifest error) be final and binding on the Issuer and the Securityholders. Whenever the Calculation Agent is required to make any determination it may, inter alia, decide issues of construction and legal interpretation. In performing its duties pursuant to the Credit Securities, the Calculation Agent shall act in its sole and absolute discretion. Any delay, deferral or forbearance by the Calculation Agent in the performance or exercise of any of its obligations or its discretion under the Credit Securities including, without limitation, the giving of any notice by it to any person, shall not affect the validity or binding nature of any later performance or exercise of such obligation or discretion, and neither the Calculation Agent nor the Issuer shall, in the absence of wilful misconduct and gross negligence, bear any liability in respect of, or consequent upon, any such delay, deferral or forbearance.

(15) **Adherence to ISDA Protocols in relation to alternative settlement or valuation method**

In the event that a protocol setting out an alternative settlement or valuation method is published by the International Swaps and Derivatives Association (a Protocol) in relation to a Reference Entity, the Calculation Agent may in its sole discretion determine whether or not to follow some or all of the terms of such Protocol for purposes of this Condition 13(G).

Notwithstanding any other provisions in this Condition 13(G), in the event that the Calculation Agent decides to adhere to a Protocol, the Calculation Agent may adjust such terms of this Condition 13(G) as

it deems appropriate to reflect some or all of the relevant settlement, valuation and other provisions of the Protocol. Nothing in this Condition 13(G)(15) should be taken as requiring the Calculation Agent to follow the terms of the Protocol.

#### 14. Adjustments for European Monetary Union

The Issuer may, without the consent of the Securityholders, on giving notice to the Securityholders in accordance with Condition 8:

- (i) elect that, with effect from the Adjustment Date specified in the notice, certain terms of the Securities shall be redenominated in euro;

The election will have effect as follows:

- (A) where the Settlement Currency of the Securities is the National Currency Unit of a country which is participating in the third stage of European Economic and Monetary Union, such Settlement Currency shall be deemed to be an amount of euro converted from the original Settlement Currency into euro at the Established Rate, subject to such provisions (if any) as to rounding as the Calculation Agent may decide and as may be specified in the notice, and after the Adjustment Date, all payments of the Cash Settlement Amount in respect of the Securities will be made solely in euro as though references in the Securities to the Settlement Currency were to euro;
  - (B) where the Exchange Rate and/or any other terms of these Conditions (as amended or supplemented in the applicable Final Terms) are expressed in or, in the case of the Exchange Rate, contemplate the exchange from or into, the currency (the **Original Currency**) of a country which is participating in the third stage of European Economic and Monetary Union, such Exchange Rate and/or any other terms of these Conditions shall be deemed to be expressed in or, in the case of the Exchange Rate, converted for or, as the case may be into, euro at the Established Rate; and
  - (C) such other changes shall be made to these Conditions (as amended or supplemented in the applicable Final Terms) as the Issuer may decide, in its sole and absolute discretion to conform them to conventions then applicable to instruments expressed in euro; and/or
- (ii) require that the Calculation Agent make such adjustments to the Multiplier and/or the Exercise Price and/or the Settlement Price and/or any other terms of these Conditions and/or the applicable Final Terms as the Calculation Agent, in its sole and absolute discretion, may determine to be appropriate to account for the effect of the third stage of European Economic and Monetary Union on the Multiplier and/or the Exercise Price and/or the Settlement Price and/or such other terms of these Conditions and/or the applicable Final Terms).

Notwithstanding the foregoing, none of the Issuer, any of its Affiliates, the Calculation Agent or any of the Security Agents shall be liable to any Securityholder or other person for any commissions, costs, losses or expenses in relation to or resulting from the transfer of euro or any currency conversion or rounding effected in connection therewith.

In this Condition, the following expressions have the following meanings:

**Adjustment Date** means a date specified by the Issuer in the notice given to the Securityholders pursuant to this Condition which falls on or after the date on which the country of the Original Currency first participates in the third stage of European Economic and Monetary Union pursuant to the Treaty;

**Established Rate** means the rate for the conversion of the Original Currency (including compliance with rules relating to rounding in accordance with applicable European Community regulations) into euro established by the Council of the European Union pursuant to first sentence of Article 1091(4) of the Treaty;

**euro** means the currency introduced at the start of the third stage of European Economic and Monetary Union pursuant to the Treaty;

**National Currency Unit** means the unit of the currency of a country, as those units are defined on the date on which the country of the Original Currency first participates in European Economic and Monetary Union; and

**Treaty** means the treaty establishing the European Community, as amended.

## 15. **Contracts (Rights of Third Parties) Act 1999**

Subject as provided in the Agency Agreement, the Securities do not confer on any third party any rights under the Contracts (Rights of Third Parties) Act 1999 (the **Act**) to enforce any term of the Securities, but this does not affect any right or remedy of a third party which exists or is available apart from the Act.

## 16. **Exercise Rights for Warrants**

*Conditions 16, 17 and 18 shall apply only to Warrants*

### (A) *Exercise Period*

#### (i) American Style Warrants

American Style Warrants are exercisable on any Exercise Business Day during the Exercise Period by the delivery of an Exercise Notice in the manner set out in Condition 17(A).

If Automatic Exercise is not specified in the applicable Final Terms, any such American Style Warrant with respect to which no Exercise Notice (as defined below) has been delivered in the manner set out in Condition 17(A), at or prior to 10.00 a.m., Brussels or Luxembourg time, as the case may be, on the last Exercise Business Day of the Exercise Period (the **Expiration Date**), shall become void.

If Automatic Exercise is specified in the applicable Final Terms, any such American Style Warrant with respect to which no Exercise Notice has been delivered in the manner set out in Condition 17(A), at or prior to 10.00 a.m., Brussels or Luxembourg time, as the case may be, on the Expiration Date and which is in the determination of the Calculation Agent "In-The-Money" shall be automatically exercised on the Expiration Date and the provisions of Condition 17(G) shall apply, provided the relevant Warrant is not a Definitive Warrant. The expressions **exercise**, **due exercise** and related expressions shall be construed to apply to any Warrants which are automatically exercised on the Expiration Date in accordance with this provision.

With respect to an American Style Warrant, the **Actual Exercise Date** means (a) the Exercise Business Day during the Exercise Period on which an Exercise Notice in respect of an American Style Warrant is delivered to Euroclear and/or Clearstream, Luxembourg with a copy to the Issuer and the Principal Security Agent as provided in Condition 17(A), at or prior to 10.00 a.m. Brussels or Luxembourg time, as appropriate, or (b) if Automatic Exercise is specified in the applicable Final Terms and no Exercise Notice has been delivered in accordance with the preceding paragraph (a), the Expiration Date. If any Exercise Notice in respect of an American Style Warrant is received by Euroclear and/or Clearstream, Luxembourg, or a copy thereof is delivered to the Issuer or the Principal Security Agent after 10.00



a.m. Brussels or Luxembourg time, as appropriate, on any Exercise Business Day during the Exercise Period, such Exercise Notice will be deemed to have been delivered on the next Exercise Business Day, which Exercise Business Day shall be deemed to be the Actual Exercise Date, provided that any such Warrant in respect of which no Exercise Notice has been delivered in the manner set out in Condition 17(A) at or prior to 10.00 a.m. Brussels or Luxembourg time (as appropriate) on the Expiration Date shall (i) if Automatic Exercise is not specified in the applicable Final Terms, become void or (ii) if Automatic Exercise is specified in the applicable Final Terms, be automatically exercised on the Expiration Date as provided above.

In respect of Italian Listed Warrants, prior to the Renouncement Notice Cut-off Time indicated in the relevant Final Terms, the Securityholder may renounce any Automatic Exercise of such Warrant by the delivery or the sending by authenticated swift message (confirmed in writing) of a duly completed Renouncement Notice, which shall be substantially in the form set out in the Agency Agreement and copies of which may be obtained from the specified office of the Security Agents and the registered office of the Issuer (a **Renouncement Notice**), to the relevant Clearing System, with a copy to the Principal Security Agent and the Issuer, in compliance with the laws and regulation, including the regulations of the Italian Stock Exchange, applicable from time to time. If a duly completed Renouncement Notice is delivered or sent in compliance with the above, the relevant Security Holder will not be entitled to receive any amounts payable by the Issuer in respect of the relevant Italian Listed Warrants and the Issuer shall have no further liabilities in respect of such amounts.

Once delivered a Renouncement Notice shall be irrevocable. Any determination as to whether a Renouncement Notice is duly completed and in proper form shall be made by the relevant Clearing System in consultation with the Principal Security Agent and shall be conclusive and binding on the Issuer, the Security Agents, the Calculation Agent and the relevant Securityholder. Subject as set out below, any Renouncement Notice so determined to be incomplete or not in proper form or which is not duly delivered shall be null and void. If such Renouncement Notice is subsequently corrected to the satisfaction of the relevant Clearing System, in consultation with the Issuer and the Principal Security Agent, it shall be deemed to be a new Renouncement Notice submitted at the time such correction was delivered to the relevant Clearing System and copied to the Issuer and the Principal Security Agent.

(ii) European Style Warrants

European Style Warrants are only exercisable on the Exercise Date or if such day is not an Exercise Business Day the immediately succeeding Exercise Business Day (the **Actual Exercise Date** and the **Expiration Date**).

If Automatic Exercise is not specified in the applicable Final Terms, any European Style Warrant with respect to which no Exercise Notice has been delivered in the manner set out in Condition 17(A), at or prior to 10.00 a.m., Brussels or Luxembourg time (as appropriate) on the Actual Exercise Date, shall become void.

If Automatic Exercise is specified in the applicable Final Terms, any such European Style Warrant with respect to which no Exercise Notice has been delivered in the manner set out in Condition 17(A), at or prior to 10.00 a.m., Brussels or Luxembourg time, as the case may be, on the Actual Exercise Date and which is in the determination of the Calculation Agent "In-The-Money", shall be automatically exercised on the Actual Exercise Date and the provisions of Condition 17(G) shall apply, provided the relevant Warrant is not a Definitive Warrant. The expressions **exercise**, **due exercise** and related expressions shall be construed to apply to any Warrants which are automatically exercised on the Actual Exercise Date in accordance with this provision.

In respect of Italian Listed Warrants, prior to the Renouncement Notice Cut-off Time indicated in the relevant Final Terms, the Securityholder may renounce any Automatic Exercise of such Warrant by the delivery or the sending by authenticated swift message (confirmed in writing) of a duly completed

Renouncement Notice to the relevant Clearing System, with a copy to the Issuer and the Principal Security Agent, in compliance with the laws and regulation, including the regulations of the Italian Stock Exchange, applicable from time to time. If a duly completed Renouncement Notice is delivered or sent in compliance with the above, the relevant Security Holder will not be entitled to receive any amounts payable by the Issuer in respect of the relevant Italian Listed Warrants and the Issuer shall have no further liabilities in respect of such amounts.

Once delivered a Renouncement Notice shall be irrevocable. Any determination as to whether a Renouncement Notice is duly completed and in proper form shall be made by the relevant Clearing System in consultation with the Principal Security Agent and shall be conclusive and binding on the Issuer, the Security Agents, the Calculation Agent and the relevant Securityholder. Subject as set out below, any Renouncement Notice so determined to be incomplete or not in proper form or which is not duly delivered shall be null and void. If such Renouncement Notice is subsequently corrected to the satisfaction of the relevant Clearing System, in consultation with the Issuer and the Principal Security Agent, it shall be deemed to be a new Renouncement Notice submitted at the time such correction was delivered the relevant Clearing System and copied to the Issuer and the Principal Security Agent.

(B) *Cash Settlement*

If the Warrants are Cash Settled Warrants, each such Warrant or, if Units are specified in the applicable Final Terms, each Unit entitles its holder, upon due exercise in accordance with Condition 17(A) to receive from the Issuer on the Settlement Date the Cash Settlement Amount.

(C) *Physical Settlement*

If the Warrants are Physical Delivery Securities, each such Warrant or, if Units are specified in the applicable Final Terms, each Unit, as the case may be, entitles its holder, upon due exercise and subject as provided in Condition 4, to receive the Entitlement from the Issuer on the Settlement Date, subject to payment of the relevant Exercise Price, any Expenses and any other sums payable. The method of delivery of the Entitlement is set out in the applicable Final Terms.

Warrants or Units, as the case may be, exercised at the same time by the same Securityholder will be aggregated for the purpose of determining the aggregate Entitlements in respect of such Warrants or Units, as the case may be, provided that the aggregate Entitlements in respect of the same Securityholder will be rounded down to the nearest whole unit of the Relevant Asset or each of the Relevant Assets, as the case may be, in such manner as the Calculation Agent shall determine. Therefore, fractions of the Relevant Asset or of each of the Relevant Assets, as the case may be, will not be delivered and a cash adjustment amount calculated by the Calculation Agent will be paid in lieu of such fractions of the Relevant Asset. Any such cash adjustment amount will be paid to the account specified in the relevant Exercise Notice.

Following exercise of a Share Security which is a Physical Delivery Warrant, all dividends on the Shares to be delivered will be payable to the party that would receive such dividend according to market practice for a sale of the Shares executed on the relevant Actual Exercise Date and to be delivered in the same manner as such relevant Shares, all as determined by the Calculation Agent. Any such dividends to be paid to a Securityholder will be paid to the account specified by the Securityholder in the relevant Exercise Notice as referred to in Condition 17(A)(v).

## **17. Exercise Procedure**

(A) *Exercise Notice*

Warrants may only be exercised by the delivery or the sending by authenticated swift message (confirmed in writing) to Euroclear or Clearstream, Luxembourg, as the case may be, with a copy to

the Principal Security Agent and the Issuer, of a duly completed exercise notice (an **Exercise Notice**) in the form set out in the Agency Agreement (copies of which form may be obtained from Euroclear, Clearstream, Luxembourg and the Security Agents) in accordance with the provisions set out in Condition 16 and this Condition. If the relevant Warrant is in definitive form, such Warrant must be delivered, together with the Exercise Notice, to the Issuer and with a copy to the Principal Security Agent.

(1) An Exercise Notice shall:

- (i) specify the series of the Warrants and the number of Warrants or Units the subject of such Notice;
- (ii) except in the case of Definitive Warrants, specify the number of the Securityholder's account at Euroclear or Clearstream, Luxembourg, as the case may be, to be debited with the Warrants the subject of such Exercise Notice;
- (iii) except in the case of Definitive Warrants, irrevocably instruct Euroclear or Clearstream, Luxembourg, as the case may be, to debit on or before the Settlement Date the Securityholder's account with the Warrants the subject of such Exercise Notice;
- (iv) include (A) an undertaking to pay all Expenses and, in the case of Physical Delivery Warrants, the aggregate Exercise Price in respect of the relevant Warrants or Units (together with any other amounts payable); and (B) an authorisation to the Issuer to deduct any Expenses from the Cash Settlement Amount, in the case of Cash Settled Warrants, or, in the case of Physical Delivery Warrants, an irrevocable instruction to Euroclear or Clearstream, Luxembourg, as the case may be (or to the Principal Security Agent, in the case of Definitive Warrants), to debit a specified account of the Securityholder at Euroclear or Clearstream, Luxembourg (or such other specified account of the Securityholder, in the case of Definitive Warrants) with the aggregate Exercise Price and any Expenses (together with any other amounts payable);
- (v) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Securityholder's account with Euroclear or Clearstream, Luxembourg, as the case may be, or, in the case of a Definitive Warrant, at a bank in the principal financial centre of the relevant Settlement Currency to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any cash adjustment amount paid in lieu of fractions of the Relevant Asset or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or, if applicable, a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Settlement Disruption Amount or Failure to Deliver Settlement Price;
- (vi) in the case of Currency Warrants only, specify the number of the Securityholder's account at Euroclear or Clearstream, Luxembourg, as the case may be, or, in the case of a Definitive Warrant, at a bank in the principal financial centre of the relevant Settlement Currency to be credited with the amount due upon exercise of the Warrants;
- (vii) in the case of Cash Settled Warrants which are Definitive Warrants only, specify the details of an account in the principal financial centre of the relevant Settlement Currency to be credited with the Cash Settlement Amount for each Warrant or Unit, as the case may be, being exercised;

- (viii) certify, *inter alia*, that the beneficial owner of each Warrant the subject of such Exercise Notice is not a U.S. person (as defined in the Exercise Notice), the Warrant was not held on behalf of a U.S. person and no cash, securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a U.S. person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
- (ix) authorise the production of such certification in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

- (2) If Condition 4(C) applies, the form of Exercise Notice required to be delivered may be different from that set out above. Copies of such Exercise Notice may be obtained from Euroclear, Clearstream, Luxembourg and the Security Agents.

(B) *Verification of the Securityholder*

Except in the case of an Exercise Notice submitted in respect of a Definitive Warrant, upon receipt of an Exercise Notice, Euroclear or Clearstream, Luxembourg, as the case may be, shall verify that the person exercising the Warrant is the holder thereof according to the books of Euroclear or Clearstream, Luxembourg, as the case may be. Subject thereto, Euroclear or Clearstream, Luxembourg, as the case may be, will confirm to the Principal Security Agent the series and the number of Warrants being exercised, the relevant account details (if applicable) for payment of the Cash Settlement Amount or the details for the delivery of the Entitlement, as the case may be, in respect of each Warrant or Unit the subject of the relevant Exercise Notice. Upon receipt of such confirmation, the Principal Security Agent will inform the Issuer thereof. Euroclear or Clearstream, Luxembourg, as the case may be, will on or before the Settlement Date debit the account of the relevant Securityholder with the Warrants the subject of the relevant Exercise Notice.

(C) *Cash Settled Warrants*

Subject as provided in this Condition 17, the Issuer shall pay or cause to be paid the Cash Settlement Amount (if any) for each duly exercised Warrant or Unit, as the case may be, by credit or transfer to the Securityholder's account with Euroclear or Clearstream Luxembourg, as the case may be, for value on the Settlement Date less any Expenses not already paid, such payment to be made in accordance with the rules of Euroclear or Clearstream, Luxembourg (as appropriate).

The Issuer's obligations will be discharged by payment to, or to the order of, Euroclear or Clearstream, Luxembourg (as the case may be) of the amount so paid. Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a particular number of Warrants must look solely to Euroclear or Clearstream, Luxembourg, as the case may be, for his share of each such payment.

Payments will be subject in all cases to any fiscal or any other laws and regulations applicable thereto in the place of payment.

(D) *Physical Delivery Warrants*

Subject to payment of the aggregate Exercise Price and any Expenses with regard to the relevant Warrants or Units, as the case may be, the Issuer shall on the Settlement Date deliver, or procure the delivery of, the Entitlement for each duly exercised Warrant or Unit, subject as provided in

Condition 4(C). The Entitlement shall be delivered and evidenced in such manner as set out in the applicable Final Terms.

(E) *Determinations*

Any determination as to whether an Exercise Notice is duly completed and in proper form shall be made by the Principal Security Agent, and shall be conclusive and binding on the Issuer, the Security Agents, the Calculation Agent and the relevant Securityholder. Subject as set out below, any Exercise Notice so determined to be incomplete or not in proper form or which is not duly delivered to Euroclear and/or Clearstream, Luxembourg (as the case may be) and copied to the Issuer and the Principal Security Agent (or, in the case of Definitive Warrants, is not duly delivered to the Issuer together with the relevant Definitive Warrant(s) and copied to the Principal Security Agent), shall be null and void.

If such Exercise Notice is subsequently corrected to the satisfaction of Euroclear and/or Clearstream, Luxembourg (as appropriate), in consultation with the Issuer and the Principal Security Agent (or, in the case of Definitive Warrants, to the satisfaction of the Issuer in consultation with the Principal Security Agent), it shall be deemed to be a new Exercise Notice submitted at the time such correction was delivered to Euroclear and/or Clearstream, Luxembourg, as the case may be, and copied to the Issuer and the Principal Security Agent (or, in the case of Definitive Warrants, to the Issuer and copied to the Principal Security Agent).

**If Automatic Exercise is not specified in the applicable Final Terms, any Warrants with respect to which the Exercise Notice has not been duly completed and delivered in the manner set out above by the cut-off time specified in Condition 16(A)(i), in the case of American Style Warrants, or Condition 16(A)(ii), in the case of European Style Warrants, shall become void.**

Euroclear and/or Clearstream, Luxembourg, as applicable (or, in the case of Definitive Warrants, the Issuer) shall use its best efforts promptly to notify the Securityholder submitting an Exercise Notice if, in consultation with the Issuer and/or the Principal Security Agent (as applicable), it has determined that such Exercise Notice is incomplete or not in proper form. In the absence of negligence or wilful misconduct on its part, none of the Issuer, the Security Agents, Euroclear, Clearstream, Luxembourg and the Calculation Agent shall be liable to any person with respect to any action taken or omitted to be taken by it in connection with such determination or the notification of such determination to a Securityholder.

(F) *Delivery of an Exercise Notice*

Delivery of an Exercise Notice shall constitute an irrevocable election by the relevant Securityholder to exercise the Warrants specified. After the delivery of such Exercise Notice, such exercising Securityholder may not transfer such Warrants.

(G) *Failure to deliver an Exercise Notice*

This paragraph only applies if (i) Automatic Exercise is specified in the applicable Final Terms and Warrants are automatically exercised as provided in Condition 16(A)(i) or Condition 16(A)(ii); and (ii) provided the relevant Warrant is not a Definitive Warrant.

(i) *Cash Settled Warrants*

In the event that a Warrantholder does not, in respect of a Cash Settled Warrant to which this Condition 17(G) applies, deliver an Exercise Notice in accordance with Condition 17(A) above on or prior to 10.00 a.m., Brussels or Luxembourg time, as the case may be, on the Expiration Date, the

provisions of Condition 17(C) shall nevertheless apply as if such Warrant or Unit had been duly exercised on such date.

(ii) *Physical Delivery Warrants*

In the event that a Warrantholder does not, in respect of a Physical Delivery Warrant to which this Condition 17(G) applies, deliver an Exercise Notice in accordance with Condition 17(A) above on or prior to 10.00 a.m., Brussels or Luxembourg time, as the case may be, on the Expiration Date, the Issuer shall as soon as reasonably practicable determine the Assessed Value Payment Amount and in respect of the relevant Warrant or Unit, as the case may be, shall pay or cause to be paid the Assessed Value Payment Amount by credit or transfer to the relevant Securityholder's account with Euroclear or Clearstream, Luxembourg (such payment to be made in accordance with the rules of Euroclear or Clearstream, Luxembourg, as the case may be) as soon as reasonably practicable following the determination of the Assessed Value Payment Amount. Upon payment of the Assessed Value Payment Amount as aforesaid, the Issuer's obligations in respect of such Warrant or Unit shall be discharged. Payments will be subject in all cases to any fiscal or any other laws and regulations applicable thereto in the place of payment. As used herein, **Assessed Value Payment Amount** means an amount determined by the Calculation Agent to be the fair market value of the Relevant Assets comprised in the Entitlement in respect of the relevant Warrant or Unit, less any Expenses and any other amounts payable.

(H) *Settlement provisions for Definitive Warrants*

In the event that any Definitive Warrants have been issued prior to the Expiration Date, the Issuer shall, on or prior to the Expiration Date, notify Securityholders in accordance with Condition 8 of the procedure to be followed in order to receive any Cash Settlement Amount or Assessed Value Payment Amount that may be payable upon Automatic Exercise.

(I) *Exercise Risk*

Exercise of the Warrants is subject to all applicable laws, regulations and practices in force on the relevant Exercise Date and none of the Issuer, any of its Affiliates, the Security Agents and the Calculation Agent shall incur any liability whatsoever if it is unable to effect the transactions contemplated, after using all reasonable efforts, as a result of any such laws, regulations or practices. None of the Issuer, any of its Affiliates, the Security Agents and the Calculation Agent shall under any circumstances be liable for any acts or defaults of Euroclear or Clearstream, Luxembourg in relation to the performance of their duties in relation to the Warrants.

## **18. Minimum and Maximum Number of Warrants Exercisable**

(A) *American Style Warrants*

This paragraph (A) applies only to American Style Warrants.

- (i) The number of Warrants exercisable by any Securityholder on any Actual Exercise Date, as determined by the Issuer, must not be less than the Minimum Exercise Number specified in the applicable Final Terms and, if specified in the applicable Final Terms, if a number greater than the Minimum Exercise Number, must be an integral multiple of the number specified in the applicable Final Terms. Any Exercise Notice which purports to exercise Warrants in breach of this provision shall be void and of no effect.
- (ii) If the Issuer determines that the number of Warrants being exercised on any Actual Exercise Date by any Securityholder or a group of Securityholders (whether or not acting in concert) exceeds the Maximum Exercise Number (a number equal to the Maximum Exercise Number being the **Quota**), the

Issuer may deem the Actual Exercise Date for the first Quota of such Warrants, selected at the discretion of the Issuer, to be such day and the Actual Exercise Date for each additional Quota of such Warrants (and any remaining number thereof) to be each of the succeeding Business Days until all such Warrants have been attributed with an Actual Exercise Date, provided, however, that the deemed Actual Exercise Date for any such Warrants which would thereby fall after the Expiration Date shall fall on the Expiration Date. In any case where more than the Quota of Warrants are exercised on the same day by Securityholder(s), the order of settlement in respect of such Warrants shall be at the sole discretion of the Issuer.

(B) *European Style Warrants*

This paragraph (B) applies only to European Style Warrants.

The number of Warrants exercisable on behalf of any Securityholder on any Exercise Date, as determined by the Issuer, must be equal to the Minimum Exercise Number specified in the applicable Final Terms and, if specified in the applicable Final Terms, if a number greater than the Minimum Exercise Number, must be an integral multiple of the number specified in the applicable Final Terms. Any exercise which purports to exercise Warrants in breach of this provision shall be void and of no effect.

## 19. **Exercise of Certificates**

*Conditions 19, 20 and 21 shall only apply to Certificates*

(A) *Exercise Date*

Each Certificate shall be automatically exercised on the Exercise Date.

In respect of Italian Listed Certificates, prior to the Renouncement Notice Cut-off Time indicated in the relevant Final Terms, the Securityholder may renounce any Automatic Exercise of such Certificate by the delivery or sending by authenticated swift message (confirmed in writing) of a duly completed Renouncement Notice to the relevant Clearing System, with a copy to the Principal Security Agent and the Issuer, in compliance with the laws and regulation, including the regulations of the Italian Stock Exchange, applicable from time to time. If a duly completed Renouncement Notice is delivered or sent in compliance with the above, the relevant Security Holder will not be entitled to receive any amounts payable by the Issuer in respect of the relevant Italian Listed Certificates and the Issuer shall have no further liabilities in respect of such amounts.

Once delivered a Renouncement Notice shall be irrevocable. Any determination as to whether a Renouncement Notice is duly completed and in proper form shall be made by the relevant Clearing System in consultation with the Principal Security Agent and shall be conclusive and binding on the Issuer, the Security Agents, the Calculation Agent and the relevant Securityholder. Subject as set out below, any Renouncement Notice so determined to be incomplete or not in proper form or which is not duly delivered shall be null and void. If such Renouncement Notice is subsequently corrected to the satisfaction of the relevant Clearing System, in consultation with the Issuer and the Principal Security Agent, it shall be deemed to be a new Renouncement Notice submitted at the time such correction was delivered to the relevant Clearing System and copied to the Issuer and the Principal Security Agent.

(B) *Cash Settlement*

If the Certificates (**Cash Settled Certificates**) are Cash Settled Securities, each such Certificate entitles its holder to receive from the Issuer on the Settlement Date the Cash Settlement Amount, less any Expenses not already paid.

(C) *Physical Settlement*

If the Certificates (**Physical Delivery Certificates**) are Physical Delivery Securities, each such Certificate entitles its holder, subject to the provisions of Condition 20(A), to receive from the Issuer on the Settlement Date the Entitlement, subject to payment of any Expenses. The method of delivery of the Entitlement is set out in the applicable Final Terms.

Unless otherwise specified in the applicable Final Terms, Certificates of the same Securityholder automatically exercised and in respect of which a Physical Delivery Confirmation Notice (as defined below) has been duly given as provided in Condition 20(A), will be aggregated for the purpose of determining the aggregate Entitlements in respect of such Certificates, provided that the aggregate Entitlements in respect of the same Securityholder will be rounded down to the nearest whole unit of the Relevant Asset or each of the Relevant Assets, as the case may be, in such manner as the Calculation Agent shall determine. Therefore, fractions of the Relevant Asset or of each of the Relevant Assets, as the case may be, will not be delivered and a cash adjustment amount calculated by the Calculation Agent will be paid in lieu of such fractions of the Relevant Asset. Any such cash adjustment amount will be paid to the account specified in the relevant Exercise Notice.

Following exercise of a Share Security which is a Physical Delivery Certificate, all dividends on the relevant Shares to be delivered will be payable to the party that would receive such dividend according to market practice for a sale of the Shares executed on the Exercise Date and to be delivered in the same manner as such relevant Shares, all as determined by the Calculation Agent. Any such dividends to be paid to a Securityholder will be paid to the account specified by the Securityholder in the relevant Physical Delivery Confirmation Notice as referred to in Condition 20(A)(1)(v).

## 20. **Physical Delivery Confirmation Notices and Settlement**

(A) *Physical Delivery Confirmation Notice Requirement*

In the case of Physical Delivery Certificates, in order to obtain delivery of the Entitlement the relevant Securityholder must deliver or send by authenticated swift message (confirmed in writing) to Euroclear or Clearstream, Luxembourg, as the case may be, with a copy to the Principal Security Agent and the Issuer not later than 10.00 a.m. Brussels or Luxembourg time (as appropriate) on the Exercise Date a duly completed physical delivery confirmation notice (a **Physical Delivery Confirmation Notice**) in the form set out in the Agency Agreement (copies of which form may be obtained from Euroclear or Clearstream, Luxembourg or the Security Agents) in accordance with the provisions set out in this Condition. If the relevant Certificate is in definitive form, such Certificate must be delivered, together with the Physical Delivery Confirmation Notice, to the Issuer and with a copy to the Principal Security Agent.

(1) The Physical Delivery Confirmation Notice shall:

- (i) specify the series of the Certificates and the number of Certificates the subject of such Physical Delivery Confirmation Notice;
- (ii) except in the case of Definitive Certificates, specify the number of the Securityholder's account at Euroclear or Clearstream, Luxembourg, as the case may be, to be debited with the Certificates the subject of such Physical Delivery Confirmation Notice;
- (iii) except in the case of Definitive Certificates, irrevocably instruct Euroclear or Clearstream, Luxembourg, as the case may be, to debit on or before the Settlement Date the Securityholder's account with the Certificates the subject of such Physical Delivery Confirmation Notice;



- (iv) include an undertaking to pay all Expenses and, except in the case of Definitive Certificates, an authority to Euroclear or Clearstream, Luxembourg, as the case may be, to debit a specified account of the Securityholder at Euroclear or Clearstream, Luxembourg, in respect thereof;
- (v) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Securityholder's account with Euroclear or Clearstream, Luxembourg, as the case may be, or, in the case of a Definitive Certificate, at a bank in the principal financial centre of the relevant Settlement Currency to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any cash adjustment amount paid in lieu of fractions of the Relevant Asset or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Settlement Disruption Amount or Failure to Deliver Settlement Price, as the case may be;
- (vi) in the case of Currency Certificates only, specify the number of the Securityholder's account at Euroclear or Clearstream, Luxembourg, as the case may be, or, in the case of a Definitive Certificate, at a bank in the principal financial centre of the relevant Settlement Currency to be credited with the amount due upon exercise of the Certificates;
- (vii) certify, inter alia, that the beneficial owner of each Certificate the subject of such Physical Delivery Confirmation Notice is not a U.S. person (as defined in the Physical Delivery Confirmation Notice), the Certificate was not held on behalf of a U.S. person and no cash, securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a U.S. person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
- (viii) authorise the production of the Physical Delivery Confirmation Notice in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

- (2) If Condition 4(C) applies, the form of Physical Delivery Confirmation Notice required to be delivered may be different from that set out above. Copies of such Physical Delivery Confirmation Notice may be obtained from Euroclear, Clearstream, Luxembourg and the Security Agents.

(B) *Verification of the Securityholder*

Except in the case of a Physical Delivery Confirmation Notice submitted in respect of a Definitive Certificate, upon receipt of a Physical Delivery Confirmation Notice, Euroclear or Clearstream, Luxembourg, as the case may be, shall verify that the person exercising the Certificates is the holder thereof according to the books of Euroclear or Clearstream, Luxembourg, as the case may be. Subject thereto, Euroclear or Clearstream, Luxembourg, as the case may be, will confirm to the Principal Security Agent the series and the number of Certificates being exercised and the details for the delivery of the Entitlement in respect of each Certificate the subject of the relevant Physical Delivery Confirmation Notice. Upon receipt of such confirmation, the Principal Security Agent will inform the Issuer thereof. Euroclear or Clearstream, Luxembourg, as the case may be, will on or before the Settlement Date debit the account of the relevant Securityholder with the Certificates the subject of the relevant Physical Delivery Confirmation Notice.

(C) *Cash Settled Certificates*

Subject as provided in this Condition 20, the Issuer shall pay or cause to be paid the Cash Settlement Amount (if any) for each Certificate by credit or transfer to the Securityholder's account with Euroclear or Clearstream, Luxembourg, as the case may be, for value on the Settlement Date, less any Expenses not already paid, such payment to be made in accordance with the rules of Euroclear or Clearstream, Luxembourg, as the case may be.

The Issuer's obligations will be discharged by payment to, or to the order of, Euroclear or Clearstream, Luxembourg (as the case may be) of the amount so paid. Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a particular amount of the Certificates must look solely to Euroclear or Clearstream, Luxembourg, as the case may be, for his share of each such payment.

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment.

(D) *Physical Delivery Certificates*

Subject to payment of any Expenses with regard to the relevant Certificates, the Issuer shall, on the Settlement Date, deliver, or procure the delivery of, the Entitlement for each Certificate in respect of which a valid Physical Delivery Confirmation Notice has been delivered as provided in Condition 20(A) pursuant to the details specified in the Physical Delivery Confirmation Notice, subject as provided in Condition 4(C). The Entitlement shall be delivered and evidenced in such manner as set out in the applicable Final Terms.

In the event that no valid Physical Delivery Confirmation Notice has been duly delivered at or prior to 10.00 a.m. (Brussels or Luxembourg time, as the case may be) on the Exercise Date, the provisions of Condition 20(G) below shall apply.

(E) *Determinations*

Any determination as to whether a Physical Delivery Confirmation Notice is duly completed and in proper form shall be made by the Principal Security Agent, and shall be conclusive and binding on the Issuer, the Security Agents, the Calculation Agent and the relevant Securityholder. Subject as set out below, any Physical Delivery Confirmation Notice so determined to be incomplete or not in proper form or which is not duly delivered to Euroclear and/or Clearstream, Luxembourg (as the case may be) and copied to the Issuer and the Principal Security Agent (or, in the case of Definitive Certificates, which is not duly delivered to the Issuer together with the relevant Definitive Certificate(s) and copied to the Principal Security Agent) shall be null and void.

If such Physical Delivery Confirmation Notice is subsequently corrected to the satisfaction of Euroclear and/or Clearstream, Luxembourg, in consultation with the Issuer and the Principal Security Agent (or, in the case of Definitive Certificates, to the satisfaction of the Issuer in consultation with the Principal Security Agent), it shall be deemed to be a new Physical Delivery Confirmation Notice submitted at the time such correction was delivered to Euroclear or Clearstream, Luxembourg, as the case may be, and copied to the Issuer and the Principal Security Agent (or, in the case of Definitive Certificates, to the Issuer and copied to the Principal Security Agent).

Euroclear and/or Clearstream, Luxembourg, as applicable, (or, in the case of Definitive Certificates, the Issuer) shall use its best efforts promptly to notify the Securityholder submitting a Physical Delivery Confirmation Notice if, in consultation with the Issuer and/or the Principal Security Agent (as applicable), it has determined that such Physical Delivery Confirmation Notice is incomplete or not in proper form. In the absence of negligence or wilful misconduct on its part, none of the Issuer, the

Security Agents, Euroclear, Clearstream, Luxembourg and the Calculation Agent shall be liable to any person with respect to any action taken or omitted to be taken by it in connection with such determination or the notification of such determination to a Securityholder.

(F) *Delivery of a Physical Delivery Confirmation Notice*

After the delivery of a Physical Delivery Confirmation Notice, the relevant Securityholder may not transfer Certificates the subject of such notice.

(G) *Failure to deliver a Physical Delivery Confirmation Notice*

Provided that the relevant Certificates are not Definitive Certificates, in which case the provisions of Condition 20(H) will apply, in the event that a Certificateholder does not, in respect of a Physical Delivery Certificate, deliver or procure delivery of a Physical Delivery Confirmation Notice as set out above, prior to 10.00 a.m., Brussels or Luxembourg time, on the Exercise Date, the Issuer shall as soon as reasonably practicable determine the Assessed Value Payment Amount and in respect of such Certificate shall pay or cause to be paid the Assessed Value Payment Amount by credit or transfer to the Securityholder's account with Euroclear or Clearstream, Luxembourg as soon as reasonably practicable following the determination of the Assessed Value Payment Amount. Upon payment of the Assessed Value Payment Amount as aforesaid, the Issuer's obligations in respect of such Certificate shall be discharged. Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment. As used herein, **Assessed Value Payment Amount** means an amount determined by the Calculation Agent to be the fair market value of the Relevant Assets comprised in the Entitlement in respect of the relevant Certificate, less any Expenses.

(H) *Settlement provisions for Definitive Certificates*

In the event that any Definitive Certificates have been issued prior to the Exercise Date, the Issuer shall, on or prior to the Exercise Date, notify Securityholders in accordance with Condition 8 of the procedure to be followed in order to receive any Cash Settlement Amount or Assessed Value Payment Amount that may be payable upon exercise of the Certificates.

(I) *Exercise Risk*

Exercise of the Certificates is subject to all applicable laws, regulations and practices in force on the Exercise Date and none of the Issuer, any of its Affiliates, the Security Agents and the Calculation Agent shall incur any liability whatsoever if it is unable to effect the transactions contemplated, after using all reasonable efforts, as a result of any such laws, regulations or practices. None of the Issuer, any of its Affiliates, the Security Agents and the Calculation Agent shall under any circumstances be liable for any acts or defaults of Euroclear or Clearstream, Luxembourg in relation to the performance of their duties in relation to the Certificates.

## **21. Remuneration**

(A) *Remuneration Amount*

If so specified in the applicable Final Terms, each Certificate pays remuneration from and including the Issue Date payable in arrear on each Remuneration Payment Date. The amount of remuneration payable in respect of each Certificate on each Remuneration Payment Date will amount to the Remuneration Amount, which shall be determined in the manner specified in the applicable Final Terms (including in the case of Certificates which are Dual Currency Securities).

If remuneration is required to be calculated for a period ending other than on (but excluding) an Remuneration Payment Date, it will be calculated as specified in the applicable Final Terms.

(B) *Accrual of Remuneration*

Each Certificate will cease to accrue remuneration from and including the Settlement Date or, if earlier, the date on which the Certificates are cancelled (the **Cancellation Date**), if applicable, in accordance with these Conditions unless payment of the amount and/or delivery of any Entitlement due on the Settlement Date or Cancellation Date, as the case may be, is improperly withheld or refused or unless default is otherwise made in respect of the payment or delivery in which case additional remuneration shall accrue from the date such amount or delivery of such Entitlement was due until such amount or delivery of such Entitlement is paid or delivered, as the case may be, provided that, if the Securities are Credit Securities and if:

- (A) **Accrual of Remuneration upon Credit Event** is specified as Not Applicable in the applicable Final Terms, each Credit Certificate shall cease to bear remuneration from the Remuneration Payment Date immediately preceding the Event Determination Date, or if the Event Determination Date is an Remuneration Payment Date such Remuneration Payment Date or, if the Credit Event Determination Date falls prior to the first Remuneration Payment Date, no remuneration shall accrue on the Credit Certificates; or
- (B) **Accrual of Remuneration upon Credit Event** is specified as being Applicable in the applicable Final Terms, each Credit Certificate shall cease to bear remuneration from the Event Determination Date.

For the avoidance of doubt, no remuneration on the Certificates shall accrue beyond the Settlement Date in the event that delivery of any Entitlement is postponed due to the occurrence of a Settlement Disruption Event.

(C) *Payment of Remuneration Amount*

Where the Certificates pay remuneration, subject as provided below, the Issuer shall pay or cause to be paid the Remuneration Amount for each Certificate in respect of each Remuneration Payment Date by credit or transfer to the Securityholder's account with Euroclear or Clearstream, Luxembourg, as the case may be, for value on the relevant Remuneration Payment Date, such payment to be made in accordance with the rules of Euroclear or Clearstream, Luxembourg as the case may be.

The Issuer will be discharged by payment to, or to the order of, Euroclear or Clearstream, Luxembourg as the case may be, in respect of the amount so paid. Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the case may be, as the holder of a particular amount of the Certificates must look solely to Euroclear or Clearstream, Luxembourg as the case may be, for his share of each such payment so made to, or to the order of, Euroclear or Clearstream, Luxembourg as the case may be.

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment.

(D) *Definitions*

"30/360 (Floating)" or "360/360" or "Bond Basis" means the number of days in the Remuneration Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

"30E/360" or "Eurobond Basis" means the number of days in the Remuneration Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

"30E/360 (ISDA)" means the number of days in the Remuneration Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

"Actual/360" means the actual number of days in the Remuneration Period divided by 360.

"Actual/Actual (ISDA)" means the actual number of days in the Remuneration Period divided by 365 (or, if any portion of that Remuneration Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Remuneration Period falling in a leap year divided by 366; and (B) the actual number of days in that portion of the Remuneration Period falling in a non-leap year divided by 365).

"Actual/365 (Fixed)" means the actual number of days in the Remuneration Period divided by 365.

"Remuneration Amount" means, in respect of each Certificate and each Remuneration Period, an amount calculated by the Calculation Agent as follows:

Notional Amount per Certificate x Remuneration Rate x Remuneration Rate Day Count Fraction.

"Remuneration Period" means the period commencing on (and including) the Issue Date to (but excluding) the first Remuneration Payment Date and each period commencing on (and including) an Remuneration Payment Date to (but excluding) the next following Remuneration Payment Date.

## ANNEX TO THE TERMS AND CONDITIONS

### Definitions applicable to Credit Securities

**Accreted Amount** means, with respect to an Accreting Obligation, an amount equal to (a) the sum of (i) the original issue price of such obligation and (ii) the portion of the amount payable at maturity that has accreted in accordance with the terms of the obligation (or as otherwise described below), less (b) any cash payments made by the obligor thereunder that, under the terms of such obligation, reduce the amount payable at maturity (unless such cash payments have been accounted for in (a)(ii) above), in each case calculated as of the earlier of (A) the date on which any event occurs that has the effect of fixing the amount of a claim in respect of principal and (B) the Delivery Date or applicable Valuation Date, as the case may be. Such Accreted Amount shall include any accrued and unpaid periodic cash interest payments (as determined by the Calculation Agent in its sole and absolute discretion) only if "Include Accrued Interest" is specified as applicable in the applicable Final Terms. If an Accreting Obligation is expressed to accrete pursuant to a straight-line method or if such Obligation's yield to maturity is not specified in, nor implied from, the terms of such Obligation, then, for the purposes of (a)(ii) above, the Accreted Amount shall be calculated using a rate equal to the yield to maturity of such Obligation. Such yield shall be determined on a semi-annual bond equivalent basis using the original issue price of such obligation and the amount payable at the scheduled maturity of such obligation, and shall be determined as of the earlier of (A) the date on which any event occurs that has the effect of fixing the amount of a claim in respect of principal and (B) the applicable Valuation Date, as the case may be. The Accreted Amount shall exclude, in the case of an Exchangeable Obligation, any amount that may be payable under the terms of such obligation in respect of the value of the Equity Securities for which such obligation is exchangeable.

**Accreting Obligation** means any obligation (including, without limitation, a Convertible Obligation or an Exchangeable Obligation), the terms of which expressly provide for an amount payable upon acceleration equal to the original issue price (whether or not equal to the face amount thereof) plus an additional amount or amounts (on account of original issue discount or other accruals of interest or principal not payable on a periodic basis) that will or may accrete, whether or not (a) payment of such additional amounts is subject to a contingency or determined by reference to a formula or index, or (b) periodic cash interest is also payable.

**Additional EDD Remuneration Amount** means an amount in the Specified Currency determined by the Calculation Agent in respect of each Credit Security equal to the sum of:

- (a) each amount of remuneration that would have been payable per Credit Security, but for the operation of Condition 21(B) and the original determination of the Event Determination Date, on each Remuneration Payment Date falling after the date originally determined to be the Event Determination Date, to and including the Remuneration Recommencement Date; and
- (b) remuneration on each such amount of remuneration, determined by the Calculation Agent using:
  - (i) a rate (expressed as a percentage) calculated by the Calculation Agent in its sole and absolute discretion equal to the average of the Overnight Rates for each day in the period from and including the Remuneration Payment Date on which the relevant Remuneration Amount would have been paid but for the operation of Condition 21(B) and the original determination of the Event Determination Date to but excluding the Interest Recommencement Date; and
  - (ii) the number of days in the period from and including the Remuneration Payment Date on which the relevant amount of interest would have been paid but for the operation

of Condition 21(B) and the original determination of the Event Determination Date to but excluding the Remuneration Recommencement Date divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (i) the last day of such period is the 31st day of a month but the first day of such period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month or (ii) the last day of such period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)).

**Applicable Auction** means an Auction which the Calculation Agent determines is relevant to a Credit Event with respect to a Reference Entity and Obligations thereof and which relates to deliverable obligations which would constitute Reference Obligation(s) under the Credit Securities (for which purpose the Calculation Agent may take into account (i) the credit derivatives transaction(s), credit event, reference entity, obligations and deliverable obligations to which the Auction relates and (ii) any hedging transaction that the Issuer has or may enter into in connection with the Credit Securities).

**Applicable Credit Derivatives Auction Settlement Terms** means with respect to a Reference Entity, a Credit Event and an Applicable Auction, the Credit Derivatives Auction Settlement Terms (if any) which the Calculation Agent determines are relevant to the Credit Securities (for which purpose the Calculation Agent may take into account (i) the credit derivatives transaction(s), credit event, reference entity and obligation(s) and deliverable obligations which are the subject of the relevant Credit Derivatives Auction Settlement Terms and the Credit Events, Reference Entities and Obligations under the Credit Securities and (ii) any hedging transaction that the Issuer has or may enter into in connection with the Credit Securities). The Calculation Agent shall, as soon as practicable after the relevant Applicable Credit Derivatives Auction Settlement Terms are published, notify the Issuer that Applicable Credit Derivatives Auction Settlement Terms have been published with respect to a Reference Entity and a Credit Event and make a copy thereof available for inspection by Securityholders at the specified office of the Agent.

**Applicable Request** means a request that a Credit Derivatives Determinations Committee be convened to Resolve the matters described in the definition of Credit Event Resolution Request Date, which the Calculation Agent determines is relevant to the Credit Securities (for which purpose the Calculation Agent may take into account (i) the credit derivatives transaction(s), credit event, reference entity and obligation(s) thereof which are the subject of the request and the Credit Events, Reference Entities and Obligations thereof under the Credit Securities and (ii) any hedging transaction that the Issuer has or may enter into in connection with the Credit Securities).

**Applicable Resolution** means a Resolution of a Credit Derivatives Determinations Committee which the Calculation Agent determines is relevant to the Credit Securities (for which purpose the Calculation Agent may take into account (i) the credit derivatives transaction(s), credit event, succession event, reference entity and obligation(s) thereof and any other factor to which the Resolution relates and the terms of the Credit Securities and (ii) any hedging transaction that the Issuer has or may enter into in connection with the Credit Securities).

**Auction** means, with respect to a Reference Entity and a Credit Event, an auction pursuant to which an Auction Final Price is to be determined in accordance with an auction procedure set out in the relevant Credit Derivatives Auction Settlement Terms.

**Auction Cancellation Date** means, with respect to an Auction, the date on which such Auction was deemed to have been cancelled as announced by ISDA (and/or the administrators specified in the relevant Credit Derivatives Auction Settlement Terms) on its website or such other date as determined and announced in accordance with the relevant Credit Derivatives Auction Settlement Terms.



**Auction Credit Event Settlement Amount** means the amount specified as such in the applicable Final Terms.

**Auction Credit Event Settlement Date** means, the Business Day following the Auction Settlement Date determined in accordance with the Applicable Credit Derivatives Auction Settlement Terms or such other date specified in the applicable Final Terms, as determined by the Calculation Agent.

**Auction Final Price** means, with respect to an Auction, the price (expressed as a percentage) in respect of the deliverable obligations which would constitute Reference Obligation(s) under the Credit Securities determined to be the Auction Final Price in accordance with the relevant Credit Derivatives Auction Settlement Terms. The Calculation Agent shall as soon as practicable after publication of the Auction Final Price in respect of an Applicable Auction, make available for inspection by Securityholders at the specified office of the Agent a copy of the relevant Applicable Credit Derivatives Auction Settlement Terms and copies of the relevant publication of the Auction Final Price.

**Auction Final Price Determination Date** means with respect to an Auction, the day, if any, on which the Auction Final Price is determined.

**Auction Settlement Date** has the meaning given to it in the relevant Credit Derivatives Auction Settlement Terms.

**Bankruptcy** means a Reference Entity:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding or filing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (ii) is not dismissed, discharged, stayed or restrained in each case within thirty calendar days of the institution or presentation thereof;
- (e) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty calendar days thereafter; or

- (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has any analogous effect to any of the events specified in clauses (a) to (g) (inclusive).

**Best Available Information** means:

- (a) in the case of a Reference Entity which files information with its primary securities regulator or primary stock exchange that includes unconsolidated, pro forma financial information which assumes that the relevant Succession Event has occurred or which provides such information to its shareholders, creditors or other persons whose approval of the Succession Event is required, that unconsolidated, pro forma financial information and, if provided subsequently to the provision of unconsolidated, pro forma financial information but before the Calculation Agent makes its determination for the purposes of the definition of "Successor", other relevant information that is contained in any written communication provided by the Reference Entity to its primary securities regulator, primary stock exchange, shareholders, creditors or other persons whose approval of the Succession Event is required; or
- (b) in the case of a Reference Entity which does not file with its primary securities regulators or primary stock exchange, or which does not provide to shareholders, creditors or other persons whose approval of the Succession Event is required, the information contemplated in (i) above, the best publicly available information at the disposal of the Calculation Agent to allow it to make a determination for the purposes of the definition of "Successor".

Information which is made available more than fourteen calendar days after the legally effective date of the Succession Event shall not constitute "Best Available Information".

**Conditions to Settlement** means such conditions as may be set out in the applicable Final Terms, provided that all Conditions to Settlement shall be deemed to be satisfied by the occurrence of an Event Determination Date to the extent that such Event Determination Date is not subsequently reversed prior to the Auction Final Price Determination Date in respect of an Applicable Auction, a Valuation Date, the Exercise Date in the case of Credit Certificates or European Style Credit Warrants or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date or such other date as may be specified in the applicable Final Terms, as applicable. For the avoidance of doubt, if an Event Determination Date is subsequently reversed, the Conditions to Settlement shall not be deemed to have been satisfied in respect of that Event Determination Date for the purposes of Condition 13(G).

**Convertible Obligation** means any obligation that is convertible, in whole or in part, into Equity Securities solely at the option of holders of such obligation or a trustee or similar agent acting for the benefit only of holders of such obligation (or the cash equivalent thereof, whether the cash settlement option is that of the issuer or of (or for the benefit of) the holders of such obligation).

**Credit Derivatives Auction Settlement Terms** means, with respect to a Reference Entity and a Credit Event, the Credit Derivatives Auction Settlement Terms published by ISDA in accordance with the Rules with respect to such Reference Entity and Credit Event, as amended in accordance with the Rules from time to time.

**Credit Derivatives Determinations Committees** means the committees established by ISDA for purposes of reaching certain DC Resolutions in connection with credit derivative transactions.

**Credit Event** means the occurrence of any one or more of the Credit Events specified in the applicable Final Terms which may include Bankruptcy, Failure to Pay, Obligation Acceleration, Obligation Default, Repudiation/Moratorium or Restructuring, or any additional Credit Event specified in the applicable Final Terms, as determined by the Calculation Agent.

If an occurrence would otherwise constitute a Credit Event, such occurrence will constitute a Credit Event whether or not such occurrence arises directly or indirectly from, or is subject to a defence based upon:

- (a) any lack or alleged lack of authority or capacity of a Reference Entity to enter into any Obligation or, as applicable, an Underlying Obligor to enter into any Underlying Obligation;
- (b) any actual or alleged unenforceability, illegality, impossibility or invalidity with respect to any Obligation or, as applicable, any Underlying Obligation, however described;
- (c) any applicable law, order, regulation, decree or notice, however described, or the promulgation of, or any change in, the interpretation by any court, tribunal, regulatory authority or similar administrative or judicial body with competent or apparent jurisdiction of any applicable law, order, regulation, decree or notice, however described; or
- (d) the imposition of, or any change in, any exchange controls, capital restrictions or any other similar restrictions imposed by any monetary or other authority, however described.

**Credit Event Backstop Date** means:

- (a) if Credit Event Backstop Date is specified as "Applicable" in the applicable Final Terms, the date determined by the Calculation Agent:
  - (i) for the purposes of any DC Resolution by the relevant Credit Derivatives Determinations Committee as to whether an event that constitutes a Credit Event (or with respect to Repudiation/Moratorium, the event described in sub-paragraph (ii) of the definition thereof) has occurred with respect to the relevant Reference Entity or Obligation thereof, the date that is 60 calendar days prior to the Credit Event Resolution Request Date, provided that the Calculation Agent determines that the DC Resolution is an Applicable Resolution and the Credit Event Resolution Request Date relates to an Applicable Request; or
  - (ii) the date that is 60 calendar days prior to the earlier of:
    - (A) the first date on which the Credit Event Notice and, if Notice of Publicly Available Information is specified as a Condition to Settlement in the applicable Final Terms, the Notice of Publicly Available Information are delivered by the Calculation Agent to the Issuer and are effective during the Notice Delivery Period; and
    - (B) in circumstances where (A) the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in sub-paragraphs (a) and (b) of the definition of Credit Event Resolution Request Date are satisfied in accordance with the Rules in relation to an Applicable Request, (B) the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters, provided that such Resolution is an Applicable Resolution and (C) the Credit Event Notice and, if Notice of Publicly Available Information is specified as a Condition to Settlement in the applicable Final Terms, the Notice of Publicly Available Information are delivered by the Calculation Agent to the Issuer and are effective not more than fourteen calendar days after the day on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters, the Credit Event Resolution Request Date; or

- (b) if Credit Event Backstop Date is specified as "Not Applicable" in the applicable Final Terms, the Credit Event Backstop Date shall be deemed to be the Business Day following the Trade Date.

The Credit Event Backstop Date shall not be subject to adjustment in accordance with any Business Day Convention.

**Credit Event Notice** means an irrevocable notice from the Calculation Agent (which may be in writing (including by facsimile and/or email) and/or by telephone) to the Issuer (which the Calculation Agent has the right but not the obligation to deliver) that describes a Credit Event that occurred on or after the applicable Credit Event Backstop Date and on or prior to the Extension Date. A Credit Event Notice must contain a description in reasonable detail of the facts relevant to the determination that a Credit Event has occurred. The Credit Event that is the subject of the Credit Event Notice need not be continuing on the date the Credit Event Notice is effective. A Credit Event Notice shall be subject to the requirements regarding notices set out in Condition 13(G)(14).

**Credit Event Cash Settlement Amount** means the amount specified as such in the applicable Final Terms.

**Credit Event Settlement Date** means the day falling the number of Business Days specified in the applicable Final Terms after the calculation of the Final Price or if Cash Settlement is applicable pursuant to the Fallback Settlement Method in accordance with Condition 13(G)(2), following any Auction Cancellation Date or No Auction Announcement Date in respect of the relevant Applicable Auction, if later.

**Credit Event Resolution Request Date** means, with respect to a notice to ISDA, delivered in accordance with the Rules, requesting that a Credit Derivatives Determinations Committee be convened to Resolve:

- (a) whether an event that constitutes a credit event for purposes of certain credit derivative transaction(s) has occurred with respect to a particular reference entity or obligation thereof; and
- (b) if the relevant Credit Derivatives Determinations Committee Resolves that such event has occurred, the date of the occurrence of such event,

the date, as publicly announced by ISDA, that the relevant Credit Derivatives Determinations Committee Resolves to be the first date on which such notice was effective and on which the relevant Credit Derivatives Determinations Committee was in possession, in accordance with the Rules, of Publicly Available Information with respect to the DC Resolutions referred to in (a) and (b) above.

**DC Resolution** has the meaning given to that term in the definition of Resolve below.

**Default Requirement** means the amount specified as such in the applicable Final Terms or its equivalent in the relevant Obligation Currency or, if a Default Requirement is not specified in the applicable Final Terms, U.S.\$10,000,000, or its equivalent as calculated by the Calculation Agent in the relevant Obligation Currency, in either case, as of the occurrence of the relevant Credit Event.

**Deliver** means to deliver, novate, transfer (including, in the case of a Qualifying Guarantee, transfer of the benefit of the Qualifying Guarantee), assign or sell, as appropriate, in the manner customary for the settlement of the applicable obligations (which shall include executing all necessary documentation and taking any other necessary actions), in order to convey all right, title and interest in the applicable obligation free and clear of any and all liens, charges, claims or encumbrances (including without limitation any counterclaim, defence (other than a counterclaim or defence based on the factors set out

in (a) to (d) in the definition of "Credit Event" above or right of set-off by or of the Reference Entity or, as applicable, an Underlying Obligor) provided that if all or a portion consists of Direct Loan Participations, **Deliver** means to create (or procure the creation) of a participation in favour of and to the extent that the Deliverable Obligations consist of Qualifying Guarantees, **Deliver** means to Deliver both the Qualifying Guarantee and the Underlying Obligation. **Delivery** and **Delivered** will be construed accordingly.

**Direct Loan Participation** means a Loan in respect of which, pursuant to a participation agreement, the Issuer is capable of creating, or procuring the creation of, a contractual right in favour of each Securityholder that provides each Securityholder with recourse to the participation seller for a specified share in any payments due under the relevant Loan which are received by such participation seller, any such agreement to be entered into between each Securityholder and either (A) the Issuer (to the extent that the Issuer is then a lender or a member of the relevant lending syndicate), or (B) a Qualifying Participation Seller (if any) (to the extent such Qualifying Participation Seller is then a lender or a member of the relevant lending syndicate).

**Domestic Currency** means the currency specified as such in the applicable Final Terms and any successor currency. If no currency is specified in the applicable Final Terms, the Domestic Currency shall be the lawful currency and any successor currency of (a) the relevant Reference Entity, if the Reference Entity is a Sovereign, or (b) the jurisdiction in which the relevant Reference Entity is organised, if the Reference Entity is not a Sovereign. In no event shall Domestic Currency include any successor currency if such successor currency is the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro (or any successor currency to any such currency).

**Downstream Affiliate** means an entity, whose outstanding Voting Shares were, at the date of issuance of the Qualifying Guarantee, more than 50 per cent. owned, directly or indirectly, by the Reference Entity. **Voting Shares** shall mean those shares or other interests that have the power to elect the board of directors or similar governing body of an entity.

**EDD Adjustment Amount** means, means an amount in the Specified Currency determined by the Calculation Agent in respect of each Calculation Amount equal to the sum of:

- (a) each amount of interest per Calculation Amount that would not have been paid (if any) on any Remuneration Payment Date to Securityholders had the earlier Event Determination Date been the date originally determined as the Event Determination Date; and
- (b) interest on each such amount determined by the Calculation Agent using:
  - (i) a rate (expressed as a percentage) calculated by the Calculation Agent in its sole and absolute discretion equal to the average of the Overnight Rates for each day in the period from and including the Remuneration Payment Date on which the relevant interest amount was paid to but excluding the date on which the Credit Certificates are settled; and
  - (ii) the number of days in the period from and including the Remuneration Payment Date on which the relevant interest amount was paid to but excluding the date on which the Credit Certificates are settled divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30 day months (unless (i) the last day of such period is the 31st day of a month but the first day of such period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month or (ii) the last day of such period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)).

**Equity Securities** means:

- (a) in the case of a Convertible Obligation, equity securities (including options and warrants) of the issuer of such obligation or depositary receipts representing equity securities of the issuer of such obligation together with any other property distributed to or made available to holders of those equity securities from time to time; and
- (b) in the case of an Exchangeable Obligation, equity securities (including options and warrants) of a person other than the issuer of such obligation or depositary receipts representing those equity securities of a person other than the issuer of such obligation together with any other property distributed to or made available to holders of those equity securities from time to time.

**Event Determination Date** means:

- (a) subject to sub-paragraph (b) of this definition, the first date on which the Calculation Agent determines that both the Credit Event Notice and, if Notice of Publicly Available Information is specified as a Condition to Settlement in the applicable Final Terms, the Notice of Publicly Available Information are delivered by the Calculation Agent to the Issuer and are effective during:
  - (i) the Notice Delivery Period; or
  - (ii) the period from, and including, the day on which ISDA publicly announces that either:
    - (A) the relevant Credit Derivatives Determinations Committee has Resolved the matters described in ((d)) of the definition of Event Determination Date Conditions (with such provision interpreted for the purposes of this definition as if the words "other than Restructuring" did not appear therein) and the Calculation Agent determines such Resolution is an Applicable Resolution; or
    - (B) the relevant Credit Derivatives Determinations Committee has Resolved not to determine the matters described in ((a)) and ((b)) of the definition of Credit Event Resolution Request Date,in either case relating to a Credit Event Resolution Request Date in respect of an Applicable Request that occurred on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date) to, and including, the date that is 14 calendar days thereafter; or
- (b) notwithstanding sub-paragraph (i) of this definition, the relevant Credit Event Resolution Request Date in respect of the relevant Applicable Request as determined by the Calculation Agent, if:
  - (i) each of the Event Determination Date Conditions is satisfied; or
  - (ii) if "Additional Event Determination Date Definitions" is specified as Applicable in the applicable Final Terms:
    - (A) the Credit Event Notice and, if Notice of Publicly Available Information is specified as a Condition to Settlement in the applicable Final Terms, the Notice of Publicly Available Information are delivered by the Calculation

Agent to the Issuer and are effective during the Notice Delivery Period and prior to the Auction Final Price Determination Date;

- (B) each of the Event Determination Date Conditions is satisfied; and
- (C) ISDA publicly announces (including prior to the Trade Date) that, as a result of the DC Resolution of the relevant Credit Derivatives Determinations Committee that an event that constitutes a Credit Event has occurred with respect to the relevant Reference Entity or Obligation thereof, the relevant Credit Derivatives Determinations Committee has resolved that an Auction will be held in accordance with the Credit Derivatives Auction Settlement Terms and the Calculation Agent determines that such Resolutions and Auction constitute Applicable Resolutions and an Applicable Auction,

provided that, in the case of this sub-paragraph (ii):

- (1) no Settlement Date has occurred on or prior to the date on which each of the Event Determination Date Conditions is satisfied; and
- (2) no Event Determination Date has already been determined under sub-paragraph (i) in circumstances where Restructuring is the only Credit Event specified in a Credit Event Notice delivered by the Calculation Agent.

**Event Determination Date Conditions** means, the Calculation Agent determines that the following conditions have been satisfied:

- (a) "Auction Settlement" is specified as the Settlement Method in the applicable Final Terms;
- (b) the Trade Date occurs on or prior to the Auction Final Price Determination Date, No Auction Announcement Date or Auction Cancellation Date in respect of the relevant Applicable Auction, as applicable;
- (c) the Credit Event Resolution Request Date relating to an Applicable Request occurs on or prior to the last day of the Notice Delivery Period (including prior to the Trade Date); and
- (d) ISDA publicly announces (including prior to the Trade Date) that the relevant Credit Derivatives Determinations Committee has Resolved that an event that constitutes a Credit Event, other than a Restructuring, has occurred with respect to the relevant Reference Entity or Obligation thereof and that such event has occurred on or after the applicable Credit Event Backstop Date and on or prior to the relevant Extension Date and such Resolution is an Applicable Resolution.

**Exchangeable Obligation** means any obligation that is exchangeable, in whole or in part, for Equity Securities solely at the option of holders of such obligation or a trustee or similar agent acting for the benefit only of holders of such obligation (or the cash equivalent thereof, whether the cash settlement option is that of the issuer or of (or for the benefit of) the holders of such obligation).

**Excluded Obligation** means any obligation of a Reference Entity specified as such or of a type described in the applicable Final Terms.

**Extension Date** means the latest of:

- (a) in the case of Credit Certificates or European Style Credit Warrants, the Exercise Date, in the case of American style Credit Warrants, the Expiration Date or such other date as is specified in the applicable Final Terms;
- (b) the Grace Period Extension Date if (a) Grace Period Extension is specified as applicable in the applicable Final Terms, (b) the Credit Event that is the subject of the Credit Event Notice or Credit Event Resolution Request Date in respect of an Applicable Request, as applicable, is a Failure to Pay that occurs after the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date and (c) the Potential Failure to Pay with respect to such Failure to Pay occurs on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date; and
- (c) the Repudiation/Moratorium Evaluation Date if (a) Repudiation/Moratorium is specified as applicable in the applicable Final Terms, (b) the Credit Event that is the subject of the Credit Event Notice or Credit Event Resolution Request Date in respect of an Applicable Request, as applicable, is a Repudiation/Moratorium for which the event described in sub paragraph (b) of the definition of Credit Event Resolution Request Date occurs after the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date, (c) the Potential Repudiation/Moratorium with respect to such Repudiation/Moratorium occurs on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date and (d) the Repudiation/Moratorium Extension Condition is satisfied.

**Failure to Pay** means after the expiration of any applicable Grace Period (after the satisfaction of any conditions precedent to the commencement of such Grace Period), the failure by a Reference Entity to make, when and where due, any payments in an aggregate amount of not less than the Payment Requirement under one or more Obligations in accordance with the terms of such Obligations at the time of such failure.

**Fallback Settlement Method** means, with respect to Credit Securities for which "Auction Settlement" is specified as the Settlement Method in the applicable Final Terms, the Fallback Settlement Method specified in such Final Terms.

**Final Price** means the price of the Reference Obligation, expressed as a percentage, determined in accordance with the Valuation Method specified in the applicable Final Terms. The Calculation Agent shall as soon as practicable after obtaining all Quotations for a Valuation Date, make available for inspection by Securityholders at the specified office of the Agent and, for so long as the Credit Securities are listed on the Luxembourg Stock Exchange at the office of the Paying Agent in Luxembourg (i) each such Quotation that it receives in connection with the calculation of the Final Price and (ii) a written computation showing its calculation of the Final Price.

**Full Quotation** means, in accordance with the Quotation Method each firm quotation obtained from a Quotation Dealer at the Valuation Time, to the extent reasonably practicable, for an amount of the Reference Obligation with an Outstanding Principal Balance equal to the Quotation Amount.

**Governmental Authority** means any de facto or de jure government (or any agency, instrumentality, ministry or department thereof), court, tribunal, administrative or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) of a Reference Entity or of the jurisdiction of organisation of a Reference Entity.

**Grace Period** means:



- (a) subject to paragraphs (b) and (c) below, the applicable grace period with respect to payments under the relevant Obligation under the terms of such Obligation in effect as of the later of the Trade Date and the date as of which such Obligation is issued or incurred;
- (b) if Grace Period Extension is specified as applying in the applicable Final Terms, a Potential Failure to Pay has occurred on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date and the applicable grace period cannot, by its terms, expire on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date, the Grace Period shall be deemed to be the lesser of such grace period and the period specified as such in the applicable Final Terms or, if no period is specified in the applicable Final Terms, thirty calendar days; and
- (c) if as at the date as of which an Obligation is issued or incurred, no grace period with respect to payments or a grace period with respect to payments of less than three Grace Period Business Days is applicable under the terms of such Obligation, a Grace Period of three Grace Period Business Days shall be deemed to apply to such Obligation; provided that, unless Grace Period Extension is specified as applying in the applicable Final Terms, such deemed Grace Period shall expire no later than the in the case of Credit Certificates or European Style Credit Warrants, the Exercise Date, in the case of American style Credit Warrants, the Expiration Date.

**Grace Period Business Day** means a day on which commercial banks and foreign exchange markets are generally open to settle payments in the place or places and on the days specified for that purpose in the relevant Obligation and if a place or places are not so specified, in the jurisdiction of the Obligation Currency.

**Grace Period Extension Date** means, if:

- (a) Grace Period Extension is specified as applying in the applicable Final Terms; and
- (b) a Potential Failure to Pay occurs on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date,

the day that is five Business Days following the day falling the number of days in the Grace Period after the date of such Potential Failure to Pay.

**ISDA** means the International Swaps and Derivatives Association, Inc. or any successor thereto as determined by the Calculation Agent.

**Market Value** means, with respect to a Reference Obligation on a Valuation Date:

- (a) if more than three Full Quotations are obtained, the arithmetic mean of such Full Quotations, disregarding the Full Quotations having the highest and lowest values (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded);
- (b) if exactly three Full Quotations are obtained, the Full Quotation remaining after disregarding the highest and lowest Full Quotations (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded);

- (c) if exactly two Full Quotations are obtained, the arithmetic mean of such Full Quotations;
- (d) if fewer than two Full Quotations and a Weighted Average Quotation is obtained, such Weighted Average Quotation;
- (e) if fewer than two Full Quotations are obtained and no Weighted Average Quotation is obtained, subject as provided in the definition of Quotation, an amount as determined by the Calculation Agent on the next Business Day on which two or more Full Quotations or a Weighted Average Quotation is obtained; and
- (f) if two or more Full Quotations or a Weighted Average Quotation are not obtained on or prior to the tenth Business Day following the applicable Valuation Date, the Market Value shall be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day, or if no Full Quotation is obtained, the weighted average of any firm quotations for the Reference Obligation obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations were not obtained on such day.

**Merger Event** means that at any time during the period from (and including) the Trade Date to (but excluding) the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date the Issuer or a Reference Entity consolidates or amalgamates with, or merges into, or transfers all or substantially all of its assets to, a Reference Entity or the Issuer, as applicable, or the Issuer and a Reference Entity become Affiliates.

**Minimum Quotation Amount** means the amount specified as such in the applicable Final Terms (or its equivalent in the relevant Obligation Currency) or, if no amount is so specified, the lower of (a) U.S.\$1,000,000 (or its equivalent in the relevant Obligation Currency) and (b) the Quotation Amount.

**No Auction Announcement Date** means, with respect to Credit Securities for which Auction Settlement is specified as the Settlement Method in the applicable Final Terms, a Reference Entity and a Credit Event, the date on which the Calculation Agent determines that ISDA first publicly announces that:

- (a) no Credit Derivatives Auction Settlement Terms will be published with respect to such Reference Entity and Credit Event; or
- (b) Credit Derivatives Auction Settlement Terms will be published with respect to such Reference Entity and Credit Event and the Calculation Agent determines that such terms will not constitute Applicable Credit Derivatives Auction Settlement Terms; or
- (c) the relevant Credit Derivatives Determinations Committee has Resolved that no Auction will be held with respect to such Reference Entity and Credit Event such that the Calculation Agent determines that no Applicable Auction will be held following an Applicable Resolution and prior public announcement by ISDA to the contrary.

**Notice Delivery Period** means the period from and including the Trade Date to and including the second Business Day after the Notice Delivery Period End Date.

**Notice Delivery Period End Date** means the date that is fourteen calendar days after the Extension Date.

**Notice of Publicly Available Information** means an irrevocable notice from the Calculation Agent (which may be in writing (including by facsimile and/or email and/or by telephone) to the Issuer (which the Calculation Agent has the right but not the obligation to deliver) that cites Publicly Available Information confirming the occurrence of the Credit Event or Potential Repudiation/Moratorium, as applicable, described in the Credit Event Notice or Repudiation/Moratorium Extension Notice. In relation to a Repudiation/Moratorium Credit Event, the Notice of Publicly Available Information must cite Publicly Available Information confirming the occurrence of both clauses (i) and (ii) of the definition of Repudiation/Moratorium. The notice given must contain a copy or description in reasonable detail, of the relevant Publicly Available Information. If Notice of Publicly Available Information is specified as applying in the applicable Final Terms and a Credit Event Notice or Repudiation/Moratorium Extension Notice, as applicable, contains Publicly Available Information, such Credit Event Notice or Repudiation/Moratorium Extension Notice will also be deemed to be a Notice of Publicly Available Information. A Notice of Publicly Available Information shall be subject to the requirements regarding notices in Condition 13(G)(14).

**Obligation** means:

- (a) any obligation of a Reference Entity (either directly, as a provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) determined pursuant to the method described in "Method for Determining Obligations" below (but excluding any Excluded Obligation);
- (b) each Reference Obligation specified in the applicable Final Terms, unless specified as an Excluded Obligation; and
- (c) any Additional Obligation of a Reference Entity specified as such in the applicable Final Terms.

**Method for Determining Obligations.** For the purposes of paragraph (a) of the definition of "Obligation", the term "Obligation" may be defined as each obligation of each Reference Entity described by the Obligation Category specified in the applicable Final Terms, and having each of the Obligation Characteristics (if any) specified in the applicable Final Terms, in each case, as of the date of the event which constitutes the Credit Event which either is the subject of the Credit Event Notice or as of the Credit Event Resolution Request Date, as applicable. The following terms shall have the following meanings:

- (a) **Obligation Category** means Payment, Borrowed Money, Reference Obligations Only, Bond, Loan, or Bond or Loan, only one of which shall be specified in the applicable Final Terms, where:
  - (i) **Payment** means any obligation (whether present or future, contingent or otherwise) for the payment or repayment of money, including, without limitation, Borrowed Money;
  - (ii) **Borrowed Money** means any obligation (excluding an obligation under a revolving credit arrangement for which there are no outstanding unpaid drawings in respect of principal) for the payment or repayment of borrowed money (which term shall include, without limitation, deposits and reimbursement obligations arising from drawings pursuant to letters of credit);
  - (iii) **Reference Obligations Only** means any obligation that is a Reference Obligation and no Obligation Characteristics shall be applicable to Reference Obligations Only;

- (iv) **Bond** means any obligation of a type included in the "Borrowed Money" Obligation Category that is in the form of, or represented by, a bond, note (other than notes delivered pursuant to Loans), certificated debt security or other debt security and shall not include any other type of Borrowed Money;
  - (v) **Loan** means any obligation of a type included in the "Borrowed Money" Obligation Category that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement and shall not include any other type of Borrowed Money; and
  - (vi) **Bond or Loan** means any obligation that is either a Bond or a Loan.
- (b) **Obligation Characteristics** means any one or more of Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency, Not Domestic Law, Listed and Not Domestic Issuance specified in the applicable Final Terms, where:
- (i) (A) **Not Subordinated** means an obligation that is not Subordinated to (I) the most senior Reference Obligation in priority of payment or, (II) if no Reference Obligation is specified in the applicable Final Terms, any unsubordinated Borrowed Money obligation of the Reference Entity provided that, if any of the events set forth under sub paragraph (a) of the definition of Substitute Reference Obligation below has occurred with respect to all of the Reference Obligations or if with respect to the Reference Obligation one or more Successors to the Reference Entity have been identified and any one or more such Successors have not assumed the Reference Obligation (each, in each case, a **Prior Reference Obligation**) and no Substitute Reference Obligation has been identified for any of the Prior Reference Obligations at the time of the determination of whether an obligation satisfies the "Not Subordinated" Obligation Characteristic, as applicable, "Not Subordinated" shall mean an obligation that would not have been Subordinated to the most senior such Prior Reference Obligation in priority of payment. For purposes of determining whether an obligation satisfies the "Not Subordinated" Obligation Characteristic, the ranking in priority of payment of each Reference Obligation or each Prior Reference Obligation, as applicable, shall be determined as of the date as of which the relevant Reference Obligation or Prior Reference Obligation, as applicable, was issued or incurred and shall not reflect any change to such ranking in priority of payment after such date;
  - (B) **Subordination** means, with respect to an obligation (the **Subordinated Obligation**) and another obligation of the Reference Entity to which such obligation is being compared (the **Senior Obligation**), a contractual, trust or other similar arrangement providing that (i) upon the liquidation, dissolution, reorganisation or winding up of the Reference Entity, claims of the holders of the Senior Obligation will be satisfied prior to the claims of the holders of the Subordinated Obligation or (ii) the holders of the Subordinated Obligation will not be entitled to receive or retain payments in respect of their claims against the Reference Entity at any time that the Reference Entity is in payment arrears or is otherwise in default under the Senior Obligation. "Subordinated" will be construed accordingly. For purposes of determining whether Subordination exists or whether an obligation is Subordinated with respect to another obligation to which it is being compared, the existence of preferred creditors arising by operation of law or of collateral, credit support or other credit enhancement arrangements

shall not be taken into account, except that, notwithstanding the foregoing, priorities arising by operation of law shall be taken into account where the Reference Entity is a Sovereign;

- (ii) **Specified Currency** means an obligation that is payable in the currency or currencies specified as such in the applicable Final Terms (or, if Specified Currency is specified in the applicable Final Terms and no currency is so specified, any of the lawful currencies of Canada, Japan, Switzerland, the United Kingdom and the United States of America and the euro and any successor currency to any of the aforementioned currencies, which currencies shall be referred to collectively in the applicable Final Terms as the **Standard Specified Currencies**);
- (iii) **Not Sovereign Lender** means any obligation that is not primarily owed to a Sovereign or Supranational Organisation, including, without limitation, obligations generally referred to as "Paris Club debt";
- (iv) **Not Domestic Currency** means any obligation that is payable in any currency other than the Domestic Currency;
- (v) **Not Domestic Law** means any obligation that is not governed by the laws of (a) the relevant Reference Entity, if such Reference Entity is a Sovereign, or (b) the jurisdiction of organisation of the relevant Reference Entity, if such Reference Entity is not a Sovereign;
- (vi) **Listed** means an obligation that is quoted, listed or ordinarily purchased and sold on an exchange; and
- (vii) **Not Domestic Issuance** means any obligation other than an obligation that was, at the time the relevant obligation was issued (or reissued, as the case may be) or incurred, intended to be offered for sale primarily in the domestic market of the relevant Reference Entity. Any obligation that is registered or qualified for sale outside the domestic market of the relevant Reference Entity (regardless of whether such obligation is also registered or qualified for sale within the domestic market of the relevant Reference Entity) shall be deemed not to be intended for sale primarily in the domestic market of the Reference Entity.

**Obligation Acceleration** means one or more Obligations in an aggregate amount of not less than the Default Requirement have become due and payable before they would otherwise have been due and payable as a result of, or on the basis of, the occurrence of a default, event or default or other similar condition or event (however described), other than a failure to make any required payment, in respect of a Reference Entity under one or more Obligations.

**Obligation Currency** means the currency or currencies in which the Obligation is denominated.

**Obligation Default** means one or more Obligations in an aggregate amount of not less than the Default Requirement have become capable of being declared due and payable before they would otherwise have been due and payable as a result of, or on the basis of, the occurrence of a default, event of default, or other similar condition or event (however described), other than a failure to make any required payment, in respect of a Reference Entity under one or more Obligations.

**Observation Cut-Off Date** means the later of (i) the last day of the Notice Delivery Period and (ii) the last day of the period described in subparagraph (a)(ii) of the definition of Event Determination Date.

**Outstanding Principal Balance** means:

- (a) with respect to any Accreting Obligation, the Accreted Amount thereof; and
- (b) with respect to any other obligation, the outstanding principal balance of such obligation,

provided that with respect to any Exchangeable Obligation that is not an Accreting Obligation, "Outstanding Principal Balance" shall exclude any amount that may be payable under the terms of such obligation in respect of the value of the Equity Securities for which such obligation is exchangeable.

**Payment Requirement** means the amount specified as such in the applicable Final Terms or its equivalent in the relevant Obligation Currency or, if a Payment Requirement is not specified in the applicable Final Terms, U.S.\$1,000,000, or its equivalent as calculated by the Calculation Agent in the relevant Obligation Currency, in either case, as of the occurrence of the relevant Failure to Pay or Potential Failure to Pay, as applicable.

**Permitted Currency** means (i) the legal tender of any Group of 7 country (or any country that becomes a member of the Group of 7 if such Group of 7 expands its membership), or (ii) the legal tender of any country which, as of the date of such change, is a member of the Organisation for Economic Co-operation and Development and has a local currency long term debt rating of either AAA or higher assigned to it by Standard & Poor's, a division of the McGraw-Hill Companies, Inc. or any successor to the rating business thereof, Aaa or higher assigned to it by Moody's Investors Service, Inc. or any successor to the rating business thereof or AAA or higher assigned to it by Fitch Ratings Ltd or any successor to the rating business thereof.

**Potential Failure to Pay** means the failure by a Reference Entity to make, when and where due, any payments in an aggregate amount of not less than the Payment Requirement under one or more Obligations, without regard to any grace period or any conditions precedent to the commencement of any grace period applicable to such Obligations, in accordance with the terms of such Obligations at the time of such failure.

**Potential Repudiation/Moratorium** means the occurrence of an event described in paragraph (a) of the definition of Repudiation/Moratorium.

**Publicly Available Information** means:

- (a) information that reasonably confirms any of the facts relevant to the determination that the Credit Event or a Potential Repudiation/Moratorium, as applicable, described in a Credit Event Notice or Repudiation/Moratorium Extension Notice has occurred and which:
  - (i) has been published in or on not less than the Specified Number of Public Sources, regardless of whether the reader or user thereof pays a fee to obtain such information provided that, if either the Calculation Agent or the Issuer or any of their respective Affiliates is cited as the sole source of such information, then such information shall not be deemed to be Publicly Available Information unless either the Calculation Agent or the Issuer or any of their Affiliates is acting in its capacity as trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation;
  - (ii) is information received from or published by (A) a Reference Entity or, as the case may be, a Sovereign Agency in respect of a Reference Entity which is a Sovereign or (B) a trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation; or
  - (iii) is information contained in any petition or filing instituting a proceeding described in paragraph (d) of the definition of Bankruptcy against or by a Reference Entity; or

- (iv) is information contained in any order, decree, notice or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body.
- (b) In the event that the Calculation Agent is (i) the sole source of information in its capacity as trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation with respect to which a Credit Event has occurred and (ii) a holder of such Obligation, the Calculation Agent shall be required to deliver to the Issuer a certificate signed by a Managing Director (or other substantially equivalent title) of the Calculation Agent, which shall certify the occurrence of a Credit Event with respect to such Obligation.
- (c) In relation to any information of the type described in paragraphs (a)(ii), (iii) and (iv) above, the Calculation Agent may assume that such information has been disclosed to it without violating any law, agreement or understanding regarding the confidentiality of such information and that the entity disclosing such information has not taken any action or entered into any agreement or understanding with the Reference Entity or any Affiliate of the Reference Entity that would be breached by, or would prevent, the disclosure of such information to third parties.
- (d) Publicly Available Information need not state:
  - (i) in relation to the definition of "Downstream Affiliate", the percentage of Voting Shares owned, directly or indirectly, by the Reference Entity; and
  - (ii) that such occurrence:
    - (A) has met the Payment Requirement or Default Requirement;
    - (B) is the result of exceeding any applicable Grace Period; or
    - (C) has met the subjective criteria specified in certain Credit Events.

**Public Source** means each source of Publicly Available Information specified as such in the applicable Final Terms (or if a source is not specified in the applicable Final Terms, each of Bloomberg Service, Dow Jones Telerate Service, Reuter Monitor Money Rates Services, Dow Jones News Wire, Wall Street Journal, New York Times, Nihon Keizai Shinbun, Asahi Shinbun, Yomiuri Shinbun, Financial Times, La Tribune, Les Echos and The Australian Financial Review (and successor publications), the main source(s) of business news in the country in which the Reference Entity is organised and any other internationally recognised published or electronically displayed news sources).

**Qualifying Affiliate Guarantee** means a Qualifying Guarantee provided by a Reference Entity in respect of an Underlying Obligation of a Downstream Affiliate of that Reference Entity.

**Qualifying Guarantee** means an arrangement evidenced by a written instrument pursuant to which a Reference Entity irrevocably agrees (by guarantee of payment or equivalent legal arrangement) to pay all amounts due under an obligation (the **Underlying Obligation**) for which another party is the obligor (the **Underlying Obligor**). Qualifying Guarantees shall exclude any arrangement structured (i) as a surety bond, financial guarantee insurance policy, letter of credit or equivalent legal arrangement or (ii) pursuant to the terms of which the payment obligations of the Reference Entity can be discharged, reduced, assigned or otherwise altered or assigned (other than by operation of law) as a result of the occurrence or non-occurrence of an event or circumstance (other than payment). The benefit of a Qualifying Guarantee must be capable of being Delivered together with the Delivery of the Underlying Obligation.

**Quotation** means each Full Quotation and the Weighted Average Quotation obtained and expressed as a percentage with respect to a Valuation Date in the manner that follows:

- (a) The Calculation Agent shall attempt to obtain Full Quotations with respect to each Valuation Date from five or more Quotation Dealers. If the Calculation Agent is unable to obtain two or more such Full Quotations on the same Business Day within three Business Days of a Valuation Date, then on the next following Business Day (and, if necessary, on each Business Day thereafter until the tenth Business Day following the relevant Valuation Date) the Calculation Agent shall attempt to obtain Full Quotations from five or more Quotation Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation. If the Calculation Agent is unable to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date the Quotations shall be deemed to be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day, or if no Full Quotation is obtained, the weighted average of any firm quotations for the Reference Obligation obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations were not obtained on such day.
- (b)
  - (i) if "Include Accrued Interest" is specified in the applicable Final Terms in respect of Quotations, such Quotations shall include accrued but unpaid interest;
  - (ii) if "Exclude Accrued Interest" is specified in the applicable Final Terms in respect of Quotations, such Quotations shall not include accrued but unpaid interest; and
  - (iii) if neither "Include Accrued Interest" nor "Exclude Accrued Interest" is specified in the applicable Final Terms in respect of Quotations, the Calculation Agent shall determine based on then current market practice in the market of the Reference Obligation, whether such Quotations shall include or exclude accrued but unpaid interest. All Quotations shall be obtained in accordance with this specification or determination.
- (c) If any Quotation obtained with respect to an Accreting Obligation is expressed as a percentage of the amount payable in respect of such obligation at maturity, such Quotation will instead be expressed as a percentage of the Outstanding Principal Balance for the purposes of determining the Final Price.

**Quotation Amount** means the amount specified as such in the applicable Final Terms (which may be specified by reference to an amount in a currency or by reference to a Representative Amount) or, if no amount is specified in the applicable Final Terms, the Aggregate Nominal Amount (or, in either case, its equivalent in the relevant Obligation Currency converted by the Calculation Agent in a commercially reasonable manner by reference to exchange rates in effect at the time that the relevant Quotation is being obtained).

**Quotation Dealer** means a dealer in obligations of the type of Obligation(s) for which Quotations are to be obtained, other than Banca IMI S.p.A., including each Quotation Dealer specified in the applicable Final Terms. If no Quotation Dealers are specified in the applicable Final Terms, the Calculation Agent shall select the Quotation Dealers in its sole and absolute discretion. Upon a Quotation Dealer no longer being in existence (with no successors), or not being an active dealer in the obligations of the type for which Quotations are to be obtained, the Calculation Agent may substitute any other Quotation Dealer(s) for such Quotation Dealer(s).



**Quotation Method** means the applicable Quotation Method specified in the applicable Final Terms by reference to one of the following terms:

- (a) **Bid** means that only bid quotations shall be requested from Quotation Dealers;
- (b) **Offer** means that only offer quotations shall be requested from Quotation Dealers; or
- (c) **Mid-market** means that bid and offer quotations shall be requested from Quotation Dealers and shall be averaged for purposes of determining a relevant Quotation Dealer's quotation.

If a Quotation Method is not specified in the applicable Final Terms, Bid shall apply.

**Reference Entity** means the entity or entities specified as such in the applicable Final Terms. Any Successor to a Reference Entity either (a) identified by the Calculation Agent pursuant to the definition of "Successor" below on or following the Trade Date or (b) identified by the Calculation Agent by reference to a public announcement by ISDA on or following the Trade Date that the relevant Credit Derivatives Determinations Committee has Resolved, in respect of a Succession Event Resolution Request Date, a Successor in accordance with the Rules, shall, in each case, be the Reference Entity for the purposes of the relevant Series.

**Reference Obligation** means each obligation specified or of a type described as such in the applicable Final Terms (if any are so specified or described) and any Substitute Reference Obligation.

**Relevant Obligations** means the Obligations constituting Bonds and Loans of the Reference Entity outstanding immediately prior to the effective date of the Succession Event, excluding any debt obligations outstanding between the Reference Entity and any of its Affiliates, as determined by the Calculation Agent. The Calculation Agent will determine the entity which succeeds to such Relevant Obligations on the basis of the Best Available Information. If the date on which the Best Available Information becomes available or is filed precedes the legally effective date of the relevant Succession Event, any assumptions as to the allocation of obligations between or among entities contained in the Best Available Information will be deemed to have been fulfilled as of the legally effective date of the Succession Event, whether or not this is in fact the case.

**Representative Amount** means an amount that is representative for a single transaction in the relevant market and at the relevant time, such amount to be determined by the Calculation Agent.

**Repudiation/Moratorium** means the occurrence of both of the following events:

- (a) an authorised officer of a Reference Entity or a Governmental Authority:
  - (i) disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, one or more Obligations in an aggregate amount of not less than the Default Requirement; or
  - (ii) declares or imposes a moratorium, standstill, roll-over or deferral, whether de facto or de jure, with respect to one or more Obligations in an aggregate amount of not less than the Default Requirement; and
- (b) a Failure to Pay, determined without regard to the Payment Requirement, or a Restructuring, determined without regard to the Default Requirement, with respect to any such Obligation occurs on or prior to the Repudiation/Moratorium Evaluation Date.

**Repudiation/Moratorium Evaluation Date** means, if a Potential Repudiation/Moratorium occurs on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as

appropriate, in the case of American Style Credit Warrants, the Expiration Date, (i) if the Obligations to which such Potential Repudiation/Moratorium relates include Bonds, the date that is the later of (A) the date that is 60 days after the date of such Potential Repudiation/Moratorium and (B) the first payment date under any such Bond after the date of such Potential Repudiation/Moratorium (or, if later, the expiration date of any applicable Grace Period in respect of such payment date) and (ii) if the Obligations to which such Potential Repudiation/Moratorium relates do not include Bonds, the date that is 60 days after the date of such Potential Repudiation/Moratorium provided that, in either case, the Repudiation/Moratorium Evaluation Date shall occur no later than the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date unless the Repudiation/Moratorium Extension Condition is satisfied.

**Repudiation/Moratorium Extension Condition** is satisfied if:

- (a) the Calculation Agent determines that ISDA has publicly announced pursuant to a valid request that was made, in accordance with the Rules, and effectively received on or prior to the date that is fourteen calendar days after the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date that the relevant Credit Derivatives Determinations Committee has Resolved that an event that constitutes a Potential Repudiation/Moratorium has occurred with respect to an Obligation of the relevant Reference Entity and that such event occurred on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date and such Resolution constitutes an Applicable Resolution; or
- (b) by delivery by the Calculation Agent to the Issuer of a Repudiation/Moratorium Extension Notice and, if Notice of Publicly Available Information is specified as a Condition to Settlement in the applicable Final Terms, a Notice of Publicly Available Information, each of which is effective on or prior to the date that is fourteen calendar days after the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date.

In all cases, the Calculation Agent may determine that the Repudiation/Moratorium Extension Condition has not been satisfied, or is not capable of being satisfied, if, or to the extent that, ISDA publicly announces, pursuant to a valid request that was delivered in accordance with the Rules and effectively received on or prior to the date that is fourteen calendar days after the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date, that the relevant Credit Derivatives Determinations Committee has Resolved that either (A) an event does not constitute a Potential Repudiation/Moratorium with respect to an Obligation of the relevant Reference Entity or (B) an event that constitutes a Potential Repudiation/Moratorium for purposes of the relevant Credit Derivative Transaction has occurred with respect to an Obligation of the relevant Reference Entity but that such event occurred after the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date.

Sub-paragraph (a) and the immediately preceding paragraph of this definition shall not apply unless the Calculation Agent determines that the relevant Resolution referred to therein constitutes an Applicable Resolution.

**Repudiation/Moratorium Extension Notice** means an irrevocable notice (which may be in writing (including by facsimile and/or email) and/or by telephone) from the Calculation Agent to the Issuer (which the Calculation Agent has the right but not the obligation to deliver) that describes a Potential Repudiation/Moratorium that occurred on or prior to the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants,

the Expiration Date. A Repudiation/Moratorium Extension Notice must contain a description in reasonable detail of the facts relevant to the determination that a Potential Repudiation/Moratorium has occurred and indicate the date of the occurrence. The Potential Repudiation/Moratorium that is the subject of the Repudiation/Moratorium Extension Notice need not be continuing on the date the Repudiation/Moratorium Extension Notice is effective.

**Resolve, Resolved, Resolves and Resolving** means, with respect to a Credit Derivatives Determinations Committee, the making of a specific determination in accordance with the relevant Rules (and each such determination, a **DC Resolution**).

**Restructured Bond or Loan** means an Obligation which is a Bond or Loan and in respect of which the Restructuring that is the subject of a Credit Event Notice has occurred.

**Restructuring** means, with respect to one or more Obligations and in relation to an aggregate amount of not less than the Default Requirement, any one or more of the following events occurs in a form that binds all holders of such Obligation, is agreed between a Reference Entity or a Governmental Authority and a sufficient number of holders of the Obligation to bind all the holders of such Obligation or is announced (or otherwise decreed) by a Reference Entity or a Governmental Authority in a form that binds all holders of such Obligation, and such event is not expressly provided for under the terms of such Obligation in effect as of the later of (i) the Credit Event Backstop Date with respect to the relevant Credit Derivative Transaction and (ii) the date as of which such Obligation is issued or incurred:

- (a) a reduction in the rate or amount of interest payable or the amount of scheduled interest accruals;
- (b) a reduction in the amount of principal or premium payable at maturity or at scheduled redemption dates;
- (c) a postponement or other deferral of a date or dates for either (a) the payment or accrual of interest or (b) the payment of principal or premium;
- (d) a change in the ranking in priority of payment of any Obligation, causing the Subordination of such Obligation to any other Obligation; or
- (e) any change in the currency or composition of any payment of interest or principal to any currency which is not a Permitted Currency.

Notwithstanding the above provisions, none of the following shall constitute a Restructuring:

- (i) the payment in euro of interest or principal in relation to an Obligation denominated in a currency of a Member State of the European Union that adopts or has adopted the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union;
- (ii) the occurrence of, agreement to or announcement of any of the events described in (a) to (e) above due to an administrative adjustment, accounting adjustment or tax adjustment or other technical adjustment occurring in the ordinary course of business; and
- (iii) the occurrence of, agreement to or announcement of any of the events described in (a) to (e) above in circumstances where such event does not directly or indirectly result from a deterioration in the creditworthiness or financial condition of the Reference Entity.

For purposes of the definition of Restructuring and Condition 13(G)(11), the term Obligation shall be deemed to include Underlying Obligations for which the Reference Entity is acting as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee. In the case of a Qualifying Guarantee and an Underlying Obligation, references to the Reference Entity in the initial paragraph and sub-paragraphs (a) to (e) of the definition of Restructuring shall be deemed to refer to the Underlying Obligor and the reference to the Reference Entity in the second paragraph of this definition of Restructuring shall continue to refer to the Reference Entity.

**Restructuring Date** means, with respect to a Restructured Bond or Loan, the date on which a Restructuring is legally effective in accordance with the terms of the documentation governing such Restructuring.

**Restructuring Maturity Limitation Date** means the date that is the earlier of (x) thirty months following the Restructuring Date and (y) the latest final maturity date of any Restructured Bond or Loan, provided, however, that under no circumstances shall the Restructuring Maturity Limitation Date be earlier than the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date or later than thirty months following the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date and if it is, it shall be deemed to be the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date or thirty months following the Exercise Date in the case of Credit Certificates or European Style Credit Warrants, or, as appropriate, in the case of American Style Credit Warrants, the Expiration Date, as the case may be.

**Rules** means, with respect to a Credit Derivatives Determinations Committee, the Credit Derivatives Determinations Committees Rules published by ISDA, as amended from time to time in accordance with the terms thereof.

**Settlement Currency** means the currency specified as such in the applicable Final Terms, or if no currency is specified in the applicable Final Terms, the Specified Currency of the Credit Securities.

**Settlement Date** means the later to occur of the Settlement Date (as defined in Condition 3), the Credit Event Settlement Date, the Auction Credit Event Settlement Date and, if applicable, the Repudiation/Moratorium Evaluation Date, the Postponed Settlement Date and the Grace Period Extension Date.

**Settlement Method** means Cash Settlement or Auction Settlement, as specified in the applicable Final Terms.

**Sovereign** means any state, political subdivision or government, or any agency, instrumentality, ministry, department or other authority (including without limiting the foregoing, the central bank) thereof.

**Sovereign Agency** means any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) of a Sovereign.

**Specified Number** means the number of Public Source(s) specified in the applicable Final Terms, or if no number is specified in the applicable Final Terms, two.

**Substitute Reference Obligation** means one or more obligations of the Reference Entity (either directly or as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) that will replace one

or more Reference Obligations, identified by the Calculation Agent in accordance with the following procedures:

- (a) In the event that:
  - (i) a Reference Obligation is redeemed in whole; or
  - (ii) in the opinion of the Calculation Agent (A) the aggregate amounts due under any Reference Obligation have been materially reduced by redemption or otherwise (other than due to any scheduled redemption, amortisation or prepayments), (B) any Reference Obligation is an Underlying Obligation with a Qualifying Guarantee of a Reference Entity and, other than due to the existence or occurrence of a Credit Event, the Qualifying Guarantee is no longer a valid and binding obligation of such Reference Entity enforceable in accordance with its terms or (C) for any other reason, other than due to the existence or occurrence of a Credit Event, any Reference Obligation is no longer an obligation of a Reference Entity,

the Calculation Agent shall identify one or more Obligations to replace such Reference Obligation.

- (b) Any Substitute Reference Obligation or Substitute Reference Obligations shall be an Obligation that (1) ranks *pari passu* (or, if no such Obligation exists, then, at the Issuer's option, an Obligation that ranks senior) in priority of payment with such Reference Obligation (with the ranking in priority of payment of such Reference Obligation being determined as of the later of (A) the Trade Date and (B) the date on which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such later date), (2) preserves the economic equivalent, as closely as practicable as determined by the Calculation Agent of the delivery and payment obligations of the Issuer and (3) is an obligation of a Reference Entity (either directly or as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee). The Substitute Reference Obligation or Substitute Reference Obligations identified by the Calculation Agent shall, without further action, replace such Reference Obligation or Reference Obligations.
- (c) If more than one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to one or more but not all of the Reference Obligations, and the Calculation Agent determines that no Substitute Reference Obligation is available for one or more of such Reference Obligations, each Reference Obligation for which no Substitute Reference Obligation is available shall cease to be a Reference Obligation.
- (d) If more than one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to all of the Reference Obligations, and the Calculation Agent determines that at least one Substitute Reference Obligation is available for any such Reference Obligation, then each such Reference Obligation shall be replaced by a Substitute Reference Obligation and each Reference Obligation for which no Substitute Reference Obligation is available will cease to be a Reference Obligation.
- (e) If:
  - (i) more than one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to all of the Reference Obligations and the Calculation Agent determines

that no Substitute Reference Obligation is available for any of the Reference Obligations; or

- (ii) only one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to such Reference Obligation and the Calculation Agent determines that no Substitute Reference Obligation is available for that Reference Obligation,

then the Calculation Agent shall continue to attempt to identify a Substitute Reference Obligation until the until the Extension Date.

- (f) For the purposes of identification of a Reference Obligation, any change in the Reference Obligation's CUSIP or ISIN number or other similar identifier will not, in and of itself, convert such Reference Obligation into a different Obligation.

**Succession Event** means (i) with respect to a Reference Entity that is not a Sovereign, an event such as a merger, de-merger, consolidation, amalgamation, transfer of assets or liabilities, spin off or other similar event in which one entity succeeds to the obligations of another entity, whether by operation of law or pursuant to any agreement or (ii) with respect to a Reference Entity that is a Sovereign, an event such as an annexation, unification, secession, partition, dissolution, consolidation, reconstitution or other event that results in any direct or indirect successor(s) to such Reference Entity. Notwithstanding the foregoing, "Succession Event" shall not include an event (A) in which the holders of obligations of the Reference Entity exchange such obligations for the obligations of another entity, unless such exchange occurs in connection with a merger, demerger, consolidation, amalgamation, transfer of assets or liabilities, spin-off or other similar event or (B) with respect to which the legally effective date (or, in the case of a Reference Entity that is a Sovereign, the date of occurrence) has occurred prior to the applicable Succession Event Backstop Date.

**Succession Event Backstop Date** means:

- (a) if Succession Event Backstop Date is specified as "Applicable" in the applicable Final Terms, the date determined by the Calculation Agent:
  - (i) for purposes of any DC Resolution of the relevant Credit Derivatives Determinations Committee with respect to whether or not a Succession Event has occurred, the date that is 90 calendar days prior to the relevant Succession Event Resolution Request Date (determined by reference to Greenwich Mean Time); or
  - (ii) otherwise, the date that is 90 calendar days prior to the earlier of (A) the date on which the Succession Event Notice is effective and (B) in circumstances where (I) the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in sub-paragraphs (a) and (b) of the definition of Succession Event Resolution Request Date are satisfied in accordance with the Rules, (II) the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters and (III) the Succession Event Notice is delivered by the Calculation Agent to the Issuer not more than fourteen calendar days after the day on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters, the Succession Event Resolution Request Date; or
  - (iii) if Succession Event Backstop Date is specified as "Not Applicable" in the applicable Final Terms, the Succession Event Backstop Date shall be deemed to be the Business Day following the Trade Date.

The Succession Event Backstop Date shall not be subject to adjustment in accordance with any Business Day Convention unless otherwise specified in the applicable Final Terms.

**Succession Event Notice** means an irrevocable notice from the Calculation Agent (which may be in writing (including by facsimile and/or email) and/or by telephone) to the Issuer that describes a Succession Event that occurred on or after the relevant Succession Event Backstop Date.

**Succession Event Resolution Request Date** means, with respect to a notice to ISDA, delivered in accordance with the Rules, requesting that a Credit Derivatives Determinations Committee be convened to Resolve:

- (a) whether an event that constitutes a Succession Event for purposes of the relevant Credit Derivative Transaction has occurred with respect to the relevant Reference Entity; and
- (b) if the relevant Credit Derivatives Determinations Committee Resolves that such event has occurred, (A) with respect to a Reference Entity that is not a Sovereign, the legally effective date of such event or (B) with respect to a Reference Entity that is a Sovereign, the date of the occurrence of such event,

the date, as publicly announced by ISDA, that the relevant Credit Derivatives Determinations Committee Resolves to be the date on which such notice is effective.

**Successor** means:

- (a) in relation to a Reference Entity that is not a Sovereign, the entity or entities, if any, determined as set forth below:
  - (i) if one entity directly or indirectly succeeds to seventy-five per cent. or more of the Relevant Obligations of the Reference Entity by way of a Succession Event, that entity will be the sole Successor;
  - (ii) if only one entity directly or indirectly succeeds to more than twenty-five per cent. (but less than seventy-five per cent.) of the Relevant Obligations of the Reference Entity by way of a Succession Event, and not more than twenty-five per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, the entity that succeeds to more than twenty-five per cent. of the Relevant Obligations will be the sole Successor;
  - (iii) if more than one entity each directly or indirectly succeed to more than twenty-five per cent. of the Relevant Obligations of the Reference Entity by way of a Succession Event, and not more than twenty-five per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, the entities that succeed to more than twenty-five per cent. of the Relevant Obligations will each be a Successor and these Terms and Conditions and/or the applicable Final Terms will be adjusted as provided below;
  - (iv) if one or more entity each directly or indirectly succeed to more than twenty-five per cent. of the Relevant Obligations of the Reference Entity by way of a Succession Event, and more than twenty-five per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, each such entity and the Reference Entity will each be a Successor and these Terms and Conditions and/or the applicable Final Terms will be adjusted as provided below;

- (v) if one or more entities directly or indirectly succeed to a portion of the Relevant Obligations of the Reference Entity by way of a Succession Event, but no entity succeeds to more than twenty-five per cent. of the Relevant Obligations of the Reference Entity and the Reference Entity continues to exist, there will be no Successor and the Reference Entity will not be changed in any way as a result of the Succession Event; and
  - (vi) if one or more entities directly or indirectly succeed to a portion of the Relevant Obligations of the Reference Entity by way of a Succession Event, but no entity succeeds to more than twenty-five per cent. of the Relevant Obligations of the Reference Entity and the Reference Entity ceases to exist, the entity which succeeds to the greatest percentage of Relevant Obligations (or, if two or more entities succeed to an equal percentage of Relevant Obligations, the entity from among those entities which succeeds to the greatest percentage of obligations of the Reference Entity) will be the sole Successor; and
- (b) in relation to a Sovereign Reference Entity, each entity which becomes a direct or indirect successor to such Reference Entity by way of Succession Event, irrespective of whether any such successor assumes any of the obligations of such Reference Entity.

In the case of (a) above, the Calculation Agent will be responsible for determining, as soon as reasonably practicable after it becomes aware of the relevant Succession Event (but no earlier than fourteen calendar days after the legally effective date of the relevant Succession Event), and with effect from the legally effective date of the Succession Event, whether the relevant thresholds set forth above have been met, or which entity qualifies under (a)(vi) above, as applicable provided that the Calculation Agent will not make such determination if, at such time, either (A) ISDA has publicly announced that the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in this definition and sub-paragraphs (a) and (b)(A) of the definition of Succession Event Resolution Request are satisfied in accordance with the Rules (until such time, if any, as ISDA subsequently publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine a Successor) or (B) ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has Resolved that no event that constitutes a Succession Event has occurred and the Calculation Agent determines that such Resolution is an Applicable Resolution. In calculating the percentages used to determine whether the relevant thresholds set forth above have been met, or which entity qualifies under (a)(vi) above, as applicable, the Calculation Agent shall use, in respect of each applicable Relevant Obligation included in such calculation, the amount of the liability in respect of such Relevant Obligation listed in the Best Available Information and shall, as soon as practicable after such calculation, make such calculation available for inspection by Securityholder(s) at the specified office of the Agent and, for so long as the Credit Securities are listed on the Luxembourg Stock Exchange, at the office of the Paying Agent in Luxembourg.

Where pursuant to this definition and/or any Applicable Resolution relating to a succession Event Resolution Request, more than one Successor has been identified, the Calculation Agent shall adjust such of the Terms and Conditions and/or the applicable Final Terms as it in its sole and absolute discretion acting in a commercially reasonable manner shall determine to be appropriate to reflect that the relevant Reference Entity has been succeeded by more than one Successor and shall determine the effective date of that adjustment. The Calculation Agent shall be deemed to be acting in a commercially reasonable manner if it adjusts such of the Terms and Conditions and/or the applicable Final Terms in such a manner as to reflect the adjustment to and/or division of any credit derivative transaction(s) related to or underlying the Credit Securities under the provisions of the 2003 ISDA Credit Derivatives Definitions.



Upon the Calculation Agent making such adjustment, the Issuer shall give notice as soon as practicable to Securityholders in accordance with Condition 8, stating the adjustment to the Terms and Conditions and/or the applicable Final Terms and giving brief details of the relevant Succession Event.

In the case of (b) above, the Calculation Agent will be responsible for determining, as soon as reasonably practicable after it becomes aware of the relevant Succession Event (but no earlier than fourteen calendar days after the date of the occurrence of the relevant Succession Event), and with effect from the date of the occurrence of the Succession Event, each Sovereign and/or entity, if any, that qualifies under paragraph (b) above; provided that the Calculation Agent will not make such determination if, at such time, either (A) ISDA has publicly announced that the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in sub paragraphs (a) and (b)(A) of the definition of Succession Event Resolution Request are satisfied in accordance with the Rules (until such time, if any, as ISDA subsequently publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine a Successor) or (B) ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has Resolved that no event that constitutes a Succession Event has occurred and the Calculation Agent determines that such Resolution is an Applicable Resolution.

For the purposes of this definition of "Successor", **succeed** means, with respect to a Reference Entity and its Relevant Obligations (or, as applicable, obligations), that a party other than such Reference Entity (i) assumes or becomes liable for such Relevant Obligations (or, as applicable, obligations) whether by operation of law or pursuant to any agreement or (ii) issues Bonds that are exchanged for Relevant Obligations (or, as applicable, obligations), and in either case such Reference Entity is no longer an obligor (primarily or secondarily) or guarantor with respect to such Relevant Obligations (or, as applicable, obligations). The determinations required pursuant to paragraph (a) of this definition of "Successor" shall be made, in the case of an exchange offer, on the basis of the Outstanding Principal Balance of Relevant Obligations tendered and accepted in the exchange and not on the basis of the Outstanding Principal Balance of Bonds for which Relevant Obligations have been exchanged.

Where:

- (A) a Reference Obligation is specified in the applicable Final Terms; and
- (B) one or more Successors to the Reference Entity have been identified; and
- (C) any one or more such Successors have not assumed the Reference Obligation, a Substitute Reference Obligation will be determined in accordance with the definition of "Substitute Reference Obligation" above.

**Supranational Organisation** means any entity or organisation established by treaty or other arrangement between two or more Sovereigns or the Sovereign Agencies of two or more Sovereigns, and includes, without limiting the foregoing, the International Monetary Fund, European Central Bank, International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development.

**Suspension Event** means the Calculation Agent determines that a public announcement has been made by ISDA that the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in sub-paragraphs (a) and (b) of the definition of Credit Event Resolution Request Date are satisfied in accordance with the Rules and such announcement relates to a Reference Entity and Credit Event under the Credit Securities.

**Suspension Event Cessation Date** means, with respect to a Suspension Event, the date on which the Calculation Agent determines that ISDA has publicly announced that the relevant Credit Derivatives

Determinations Committee has Resolved (i) the matters described in the definition of Suspension Event or (ii) not to determine such matters.

**TARGET Settlement Day** means any day on which the TARGET System is open for the settlement of payments in euro.

**Trade Date** means the date specified as such in the applicable Final Terms.

**Unwind Costs** means the amount specified in the applicable Final Terms or if **Standard Unwind Costs** are specified in the applicable Final Terms, an amount determined by the Calculation Agent equal to the sum of (without duplication) all costs, expenses (including loss of funding), tax and duties incurred by the Issuer in connection with the settlement of the Credit Securities and the related termination, settlement or re-establishment of any hedge or related trading position, such amount to be apportioned *pro rata* amongst the Credit Securities.

**Valuation Date** means where Cash Settlement is specified as applying in the applicable Final Terms, if "Single Valuation Date" is specified in the applicable Final Terms, subject to Condition 13(G)(3) the date that is the number of Business Days specified in the Final Terms (or, if the number of Business Days is not so specified, five Business Days) following the satisfaction of all Conditions to Settlement (or, if "Cash Settlement" is applicable pursuant to the Fallback Settlement Method in accordance with Condition 13(G)(2), any Auction Cancellation Date or any No Auction Announcement Date, if later), and if "Multiple Valuation Dates" is specified in the applicable Final Terms, subject to Condition 13(G)(3), each of the following dates:

- (a) the date that is the number of Business Days specified in the applicable Final Terms (or, if the number of Business Days is not specified, five Business Days) following the satisfaction of all Conditions to Settlement (or, if "Cash Settlement" is applicable pursuant to the Fallback Settlement Method in accordance with Condition 13(G)(2), any Auction Cancellation Date or No Auction Announcement Date, if later); and
- (b) each successive date that is the number of Business Days specified in the applicable Final Terms (or if the number of Business Days is not so specified, five Business Days) after the date on which the Calculation Agent obtains a Market Value with respect to the immediately preceding Valuation Date.

When "Multiple Valuation Dates" is specified in the applicable Final Terms, the total number of Valuation Dates shall be equal to the number of Valuation Dates specified in the applicable Final Terms (or, if the number of Valuation Dates is not so specified, five Valuation Dates).

If neither Single Valuation Date nor Multiple Valuation Dates is specified in the applicable Final Terms, Single Valuation Date shall apply.

**Valuation Method:**

- (a) The following Valuation Methods may be specified in the applicable Final Terms for a Series with only one Reference Obligation and only one Valuation Date:
  - (i) **Market** means the Market Value determined by the Calculation Agent with respect to the Valuation Date; or
  - (ii) **Highest** means the highest Quotation obtained by the Calculation Agent with respect to the Valuation Date.

If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Highest.

- (b) The following Valuation Methods may be specified in the applicable Final Terms for a Series with only one Reference Obligation and more than one Valuation Date:

- (i) **Average Market** means the unweighted arithmetic mean of the Market Values determined by the Calculation Agent with respect to each Valuation Date; or
- (ii) **Highest** means the highest Quotation obtained by the Calculation Agent with respect to any Valuation Date; or
- (iii) **Average Highest** means the unweighted arithmetic mean of the highest Quotations obtained by the Calculation Agent with respect to each Valuation Date.

If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Average Highest.

- (c) The following Valuation Methods may be specified in the applicable Final Terms for a Series with more than one Reference Obligation and only one Valuation Date:

- (i) **Blended Market** means the unweighted arithmetic mean of the Market Value for each Reference Obligation determined by the Calculation Agent with respect to the Valuation Date; or
- (ii) **Blended Highest** means the unweighted arithmetic mean of the highest Quotations obtained by the Calculation Agent for each Reference Obligation with respect to the Valuation Date.

If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Blended Highest.

- (d) The following Valuation Methods may be specified in the applicable Final Terms for a Series with more than one Reference Obligation and more than one Valuation Date:

- (i) **Average Blended Market** means, using values with respect to each Valuation Date determined by the Calculation Agent in accordance with the Blended Market Valuation Method, the unweighted arithmetic mean of the values so determined with respect to each Valuation Date; or
- (ii) **Average Blended Highest** means, using values with respect to each Valuation Date determined by the Calculation Agent in accordance with the Blended Highest Valuation Method, the unweighted arithmetic mean of the values so determined with respect to each Valuation Date.

If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Average Blended Highest.

- (e) Notwithstanding paragraphs (a) to (d) above, if Quotations include Weighted Average Quotations or fewer than two Full Quotations, the Valuation Method shall be Market, Average Market, Blended Market or Average Blended Market, as the case may be.

**Valuation Time** means the time specified as such in the applicable Final Terms or, if no time is so specified, 11.00 a.m. in the principal trading market for the Reference Obligation.

**Weighted Average Quotation** means in accordance with the Quotation Method, the weighted average of firm quotations obtained from Quotation Dealers at the Valuation Time, to the extent reasonably practicable, each for an amount of the Reference Obligation with an Outstanding Principal Balance of as large a size as available but less than the Quotation Amount (but, if a Minimum Quotation Amount is specified in the applicable Final Terms, of a size equal to the Minimum Quotation Amount or, if quotations of a size equal to the Minimum Quotation Amount are not available, quotations as near in size as practicable to the Minimum Quotation Amount) that in aggregate are approximately equal to the Quotation Amount.

## **USE OF PROCEEDS**

The Issuer intends to use the net proceeds from each issue of Securities for general corporate purposes, including making a profit. A substantial portion of the proceeds may be used to hedge market risks with respect to the Securities. If in respect of any particular issue of Securities, there is a particular identified use of proceeds, this will be stated in the applicable Final Terms.

## **DESCRIPTION OF THE ISSUER**

The Registration Document referred to in "*Documents Incorporated By Reference*" on page 7 of this Base Prospectus is deemed incorporated in, and to form part of, this Base Prospectus as more fully described on page 7. The Registration Document contains information *inter alia* regarding the Issuer, its business, administration and management, and shareholders.

## TAXATION

### 1. General

Transactions involving Securities may be subject to stamp taxes and give rise to certain other tax consequences for potential purchasers which may depend, amongst other things, upon the status of the potential purchaser and laws relating to transfer and registration taxes. Paragraphs 2 and 3 below summarise, for information purposes only, certain aspects of the Italian and Luxembourg tax treatment of transactions involving Securities. However, such transactions may have tax consequences in other jurisdictions. Potential purchasers who are in any doubt about the tax position of any aspect of transactions involving Securities should consult their own tax advisers.

The following summary does not take into account taxation which may be imposed by way of withholding or otherwise in the Republic of Italy or the Grand Duchy of Luxembourg or in any other jurisdiction, on income and capital gains in any form, on any of the underlying assets to which a Certificate may relate.

Condition 9 ("Expenses and Taxation") on page 66 should be considered carefully by all potential purchasers of any Securities.

### 2. Taxation in the Republic of Italy

*The following is a summary of current Italian law and practise relating to the taxation of the Securities.*

*The statements herein regarding taxation are based on the laws in force in Italy as at the date of this Base Prospectus and are subject to any changes in law occurring after such date, which changes could be made on a retroactive basis. The following summary does not purport to be a comprehensive description of all the tax considerations which may be relevant to a decision to subscribe for, purchase, own or dispose of the Securities and does not purport to deal with the tax consequences applicable to all categories of investors, some of which (such as dealers in Securities or commodities) may be subject to special rules.*

*Prospective investors of the Securities are advised to consult their own tax advisers concerning the overall tax consequences of their interest in the Securities.*

#### **Italian taxation of the Securities**

Pursuant to Article 67 of Presidential Decree No. 917 of 22 December 1986 and Legislative Decree No. 461 of 21 November 1997, as subsequently amended, where the Italian resident Securityholder is (i) an individual not engaged in an entrepreneurial activity to which the Securities are connected, (ii) a non-commercial partnership, (iii) a non-commercial private or public institution, or (iv) an investor exempt from Italian corporate income taxation, capital gains accrued under the sale or the exercise of the Securities are subject to a 12.5% substitute tax (*imposta sostitutiva*). The recipient may opt for three different taxation criteria:

- (1) Under the tax declaration regime (*regime della dichiarazione*), which is the default regime for Italian resident individuals not engaged in an entrepreneurial activity to which the Securities are connected, the *imposta sostitutiva* on capital gains will be chargeable, on a cumulative basis, on all capital gains, net of any incurred capital loss, realised by the Italian resident individual holding the Securities not in connection with an entrepreneurial activity pursuant to all sales or redemptions of the Securities carried out during any given tax year. Italian

resident individuals holding the Securities not in connection with an entrepreneurial activity must indicate the overall capital gains realised in any tax year, net of any relevant incurred capital loss, in the annual tax return and pay *imposta sostitutiva* on such gains together with any balance income tax due for such year. Capital losses in excess of capital gains may be carried forward against capital gains realised in any of the four succeeding tax years.

- (2) As an alternative to the tax declaration regime, Italian resident individuals holding the Securities not in connection with an entrepreneurial activity may elect to pay the *imposta sostitutiva* separately on capital gains realised on each sale or redemption of the Securities (the "*risparmio amministrato*" regime). Such separate taxation of capital gains is allowed subject to (i) the Securities being deposited with Italian banks, SIMs or certain authorised financial intermediaries and (ii) an express election for the *risparmio amministrato* regime being timely made in writing by the relevant Securityholder. The depository is responsible for accounting for *imposta sostitutiva* in respect of capital gains realised on each sale or redemption of the Securities (as well as in respect of capital gains realised upon the revocation of its mandate), net of any incurred capital loss, and is required to pay the relevant amount to the Italian tax authorities on behalf of the taxpayer, deducting a corresponding amount from the proceeds to be credited to the Securityholder or using funds provided by the Securityholder for this purpose. Under the *risparmio amministrato* regime, where a sale or redemption of the Securities results in a capital loss, such loss may be deducted from capital gains subsequently realised, within the same Securities management, in the same tax year or in the following tax years up to the fourth. Under the *risparmio amministrato* regime, the Securityholder is not required to declare the capital gains in the annual tax return.
- (3) Any capital gains realised by Italian resident individuals holding the Securities not in connection with an entrepreneurial activity who have entrusted the management of their financial assets, including the Securities, to an authorised intermediary and have opted for the so-called "*risparmio gestito*" regime will be included in the computation of the annual increase in value of the managed assets accrued, even if not realised, at year end, subject to a 12.5 per cent. substitute tax, to be paid by the managing authorised intermediary. Under this *risparmio gestito* regime, any depreciation of the managed assets accrued at year end may be carried forward against increase in value of the managed assets accrued in any of the four succeeding tax years. Under the *risparmio gestito* regime, the Securityholder is not required to declare the capital gains realised in the annual tax return.

Where an Italian resident Securityholder is a company or similar commercial entity, or the Italian permanent establishment of a foreign commercial entity to which the Securities are effectively connected, capital gains arising from the Securities will not be subject to *imposta sostitutiva*, but must be included in the relevant Securityholder's income tax return and are therefore subject to Italian corporate tax.

Capital gains realised by non-Italian resident Securityholders are not subject to Italian taxation, provided that the Securities (i) are transferred on regulated markets, or (ii) are held outside of Italy.

### **Atypical securities**

According to a certain interpretation of Italian fiscal law there is a possibility that, on the basis of certain features of the Securities, the Securities would be qualified for tax purposes as atypical securities and will be subject to the provisions of Article 5 of Law Decree No. 512 of 30 September 1983. As a consequence, payments relating to these Securities shall be subject to withholding tax levied at a rate of 27 per cent. (final or on account depending on the "status" and tax residence of the Securityholder). Where the Security holder is (i) an Italian individual engaged in an entrepreneurial activity to which the Securities are connected, (ii) an Italian company or a similar commercial entity, (iii) a permanent establishment in Italy of a foreign entity to which the Securities are effectively



connected, (iv) an Italian commercial partnership or (v) an Italian commercial private or public institution, such withholding tax is a provisional withholding tax. In all other cases the withholding tax is a final withholding tax.

### **Implementation in Italy of the EU Savings Directive**

Italy has implemented the EU Savings Directive through Legislative Decree No. 84 of 18 April 2005 (**Decree No. 84**). Under Decree No. 84, subject to a number of important conditions being met, in the case of interest paid to individuals which qualify as beneficial owners of the interest payment and are resident for tax purposes in another Member State, Italian paying agents (i.e. banks, *società di intermediazione mobiliare* (SIM), fiduciary companies, *società di gestione del risparmio* (SGR) resident for tax purposes in Italy, Italian permanent establishments of non-Italian resident persons and any other Italian entity paying interest for professional or business reasons) shall not apply the withholding tax and shall report to the Italian Tax Authorities details of the relevant payments and personal information on the individual beneficial owner. Such information is transmitted by the Italian Tax Authorities to the competent foreign tax authorities of the State of residence of the beneficial owner.

### **3. Taxation in France**

*The following is a summary of certain French taxation matters and is (i) based on the laws and practice in force as of the date of this Base Prospectus and subject to any changes in law and the interpretation and application thereof, which changes could be made with retroactive effect and (ii) prepared on the assumption that the Issuer is not a French resident for French tax purposes and is not acting from a French branch or permanent establishment in connection with the Securities. Investors should be aware that the statements below are of a general nature and do not constitute legal or tax advice and should not be understood as such. Prospective investors should consult their professional advisers so as to determine, in the light of their individual situation, the tax consequences of the purchase, holding, redemption or sale of the Securities.*

#### *Withholding tax*

All payments by the Issuer in respect of the Securities will be made free of any compulsory withholding or deduction for or on account of any taxes of whatsoever nature imposed, levied, withheld, or assessed by France or any political subdivision or taxing authority thereof or therein.

#### *EU Savings Directive*

The Directive 2003/48/EC on the taxation of savings income has been implemented into French law under article 242 *ter* of the French *Code général des impôts*.

### **4. Taxation in Germany**

*The following is a general discussion of certain German tax consequences of the acquisition, holding and disposal of Securities. It does not purport to be a comprehensive description of all German tax considerations that may be relevant to a decision to purchase Securities, and, in particular, does not consider any specific facts or circumstances that may apply to a particular purchaser. This summary is based on the tax laws of Germany currently in force and as applied on the date of this Base Prospectus, which are subject to change, possibly with retroactive or retrospective effect.*

*As each Series of Securities may be subject to a different tax treatment due to the specific terms of such Series of Securities as set out in the respective Final Terms, the following section only provides some general information on the possible tax treatment.*

*Prospective purchasers of Securities are advised to consult their own tax advisors as to the tax consequences of the purchase, ownership and disposal of Securities, including the effect of any state, local or church taxes, under the tax laws of Germany and any country of which they are resident or whose tax laws apply to them for other reasons.*

## **Tax Residents**

The section “Tax Residents” refers to persons who are tax residents of Germany (*i.e.* persons whose residence, habitual abode, statutory seat, or place of effective management and control is located in Germany).

### *Withholding tax on capital gains*

Capital gains (*i.e.* the difference between the proceeds from the disposal, redemption, repayment or assignment after deduction of expenses directly related to the disposal, redemption, repayment or assignment and the cost of acquisition) derived by an individual holder of Securities will be subject to German withholding tax if the Securities are kept in a custodial account with a German branch of a German or non-German bank or financial services institution, a German securities trading company or a German securities trading bank (each, a **Disbursing Agent**, *auszahlende Stelle*), provided the Securities have been held in a custodial account with the same Disbursing Agent since the time of their acquisition. The tax rate is 25 per cent. (plus solidarity surcharge at a rate of 5.5 per cent. thereon, the total withholding being 26.375 per cent.). If the individual holder of Securities is subject to church tax, upon application a church tax surcharge will also be withheld.

Where Securities are issued in a currency other than Euro any currency gains or losses are part of the capital gains.

If Securities qualifying as a forward/futures transaction (*Termingeschäft*) according to sec. 20 para. 2 sent. 1 no. 3 German Income Tax Act (**ITA**, *Einkommensteuergesetz*) are settled by a cash payment, capital gains realised upon exercise (*i.e.* the cash amount received minus directly related costs and expenses, *e.g.* the acquisition costs) are subject to withholding tax. In the event of physical delivery, the acquisition costs of such Securities plus any additional sum paid upon exercise are generally regarded as acquisition costs of the underlying assets received upon physical settlement. Withholding tax may then apply to any gain resulting from the subsequent disposal, redemption, repayment or assignment of the assets received. In case of certain assets being the underlying (*e.g.* commodities or currencies) a subsequent sale of the underlying received may not be subject to German withholding tax as outlined in this section but any disposal gain may be fully taxable at the personal income tax rate of the individual holder.

In case of a physical settlement of certain Securities (not qualifying as forward/futures transactions) which grant the Issuer or the holder of the Securities the right to opt for a physical delivery of a predetermined number of underlying securities assets instead of a (re)payment of the nominal amount, the acquisition costs of the Securities may be regarded as proceeds from the disposal, redemption, repayment or assignment of the Securities and hence as acquisition costs of the underlying securities received by the individual holder of the Securities upon physical settlement. To the extent the provision mentioned above is applicable, generally no withholding tax has to be withheld by the Disbursing Agent upon physical settlement as such exchange of the Securities into the underlying securities assets does not result in a taxable gain for the individual holder of the Securities. However, withholding tax may then apply to any gain resulting from the disposal, redemption, repayment or assignment of the securities assets received in exchange for the Securities. In this case, the gain will be the difference between the proceeds from the disposal, redemption, repayment or assignment of the securities assets received and the acquisition costs of the Securities (after deduction of expenses related directly to the disposal, if any).

To the extent the Securities have not been kept in a custodial account with the same Disbursing Agent since the time of their acquisition or if the Securities have been transferred into the custodial account of the Disbursing Agent only after their acquisition, upon the disposal, redemption, repayment or assignment withholding tax applies at a rate of 26.375 per cent. (including solidarity surcharge) on 30 per cent. of the disposal proceeds (plus interest accrued on the Securities (**Accrued Interest**, *Stückzinsen*), if any), unless the current Disbursing Agent has been notified of the actual acquisition costs of the Securities by the previous Disbursing Agent or by a statement of a bank or financial services institution within the European Economic Area or certain other countries in accordance with art. 17 para. 2 of the EU Savings Directive (*e.g.* Switzerland or Andorra).

In computing any German tax to be withheld, the Disbursing Agent may generally deduct from the basis of the withholding tax negative investment income realised by the individual holder of Securities via the Disbursing Agent (*e.g.* losses from sale of other securities with the exception of shares). The Disbursing Agent may also deduct Accrued Interest on other securities paid separately upon the acquisition of the respective security via the Disbursing Agent. In addition, subject to certain requirements and restrictions the Disbursing Agent may credit foreign withholding taxes levied on investment income in a given year regarding securities held by the individual holder of Securities in the custodial account with the Disbursing Agent.

Individual holder of Securities may be entitled to an annual allowance (*Sparer-Pauschbetrag*) of €801 (€1,602 for married couples filing jointly) for all investment income received in a given year. Upon the individual holder of Securities filing an exemption certificate (*Freistellungsauftrag*) with the Disbursing Agent, the Disbursing Agent will take the allowance into account when computing the amount of tax to be withheld. No withholding tax will be deducted if the holder of Securities has submitted to the Disbursing Agent a certificate of non-assessment (*Nichtveranlagungsbescheinigung*) issued by the competent local tax office.

German withholding tax will not apply to gains from the disposal, redemption, repayment or assignment of Securities held by a corporation as holder of Securities. The same may apply where the Securities form part of a trade or business or are related to income from letting and leasing of property, subject to further requirements being met.

#### *Taxation of capital gains*

The personal income tax liability of an individual holder of Securities deriving income from capital investments under the Securities is, in principle, settled by the tax withheld. To the extent withholding tax has not been levied, such as in the case of Securities kept in custody abroad or if no Disbursing Agent is involved in the payment process, the individual holder of Securities must report his or her income and capital gains derived from the Securities on his or her tax return and then will also be taxed at a rate of 25 per cent. (plus solidarity surcharge and church tax thereon, where applicable). Further, an individual holder of Securities may request that all investment income of a given year is taxed at his or her lower individual tax rate based upon an assessment to tax with any amounts over-withheld being refunded. In each case, the deduction of expenses (other than transaction costs) on an itemised basis is not permitted.

Losses incurred with respect to Securities can only be off-set with investment income of the individual holder of Securities realised in the same or the following years. Any losses realised upon the disposal of shares in stock corporations received in exchange for the Securities can only be offset against capital gains deriving from the disposal of shares. Losses from Securities qualifying as forward/futures transactions that expire worthless shall – according to the administrative directive of the German tax authorities – be non-deductible for individual holders.

Where Securities form part of a trade or business or the income from the Securities qualifies as income from the letting and leasing of property the withholding tax, if any, will not settle the personal or

corporate income tax liability. Where Securities form part of a trade or business, interest (accrued on the Securities) must be taken into account as income. The respective holder of Securities will have to report income and related (business) expenses on the tax return and the balance will be taxed at the holder's applicable tax rate. Withholding tax levied, if any, will be credited against the personal or corporate income tax of the holder of Securities. Where Securities form part of a German trade or business the gains from the disposal, redemption, repayment or assignment of the Securities may also be subject to German trade tax.

If Securities form part of a trade or business, the deductibility of losses derived from the exercise, disposal or expiration of Securities which qualify for tax purposes as forward/futures transactions is generally limited. These losses may only be applied against profits from other forward/futures transactions derived in the same or, subject to certain restrictions, the previous year. Otherwise these losses may be carried forward indefinitely and applied against profits from forward/futures transactions in subsequent years. This generally does not apply to futures transactions hedging the investor's ordinary business. Further special rules apply to credit institutions, financial service companies and finance companies within the meaning of the German Banking Act.

In the case of physically settled Securities further limitations may apply to losses from the disposal of underlying securities assets which are shares in corporations.

#### *German Investment Tax Act*

German tax consequences different from those discussed above would arise if the respective Securities or the underlying securities delivered upon physical delivery were to be regarded as investment fund units within the meaning of the German Investment Tax Act. In such case, the withholding tax requirements for the Disbursing Agent as well as the taxation of the holder of Securities would depend on whether the disclosure and reporting requirements of the German Investment Tax Act were fulfilled. The holder of Securities may be subject to tax on unrealised income or, in case the reporting and disclosure requirements are not fulfilled, on income deemed received on a lump-sum basis (so-called penalty taxation). Such income may be offset against any capital gains realised upon disposal of the Securities or the underlying securities received, respectively, subject to certain requirements.

#### **Non-residents**

Capital gains derived from the Securities are not subject to German taxation, unless (i) the Securities form part of the business property of a permanent establishment, including a permanent representative, or a fixed base maintained in Germany by the holder of Securities; or (ii) the income otherwise constitutes German-source income. In cases (i) and (ii) a tax regime similar to that explained above under "*Tax Residents*" applies.

Non-residents of Germany are, in general, exempt from German withholding tax on interest and the solidarity surcharge thereon. However, where the interest is subject to German taxation as set forth in the preceding paragraph and the Securities are held in a custodial account with a Disbursing Agent, withholding tax may be levied under certain circumstances. Where Securities are not kept in a custodial account with a Disbursing Agent and interest or proceeds from the disposal, assignment or redemption of a Security are paid by a Disbursing Agent to a non-resident, withholding tax generally will also apply. The withholding tax may be refunded based on an assessment to tax or under an applicable tax treaty.

#### **Inheritance and Gift Tax**

No inheritance or gift taxes with respect to any Securities will arise under the laws of Germany, if, in the case of inheritance tax, neither the deceased nor the beneficiary, or, in the case of gift tax, neither the donor nor the donee, is a resident of Germany and such Security is not attributable to a German

trade or business for which a permanent establishment is maintained, or a permanent representative has been appointed, in Germany. Exceptions from this rule apply to certain German expatriates.

### **Other Taxes**

No stamp, issue or registration taxes or such duties will be payable in Germany in connection with the issuance, delivery or execution of the Securities. Currently, net assets tax is not levied in Germany.

### **EU Savings Directive**

By legislative regulations dated 26 January 2004 the German Federal Government enacted provisions implementing the EU Savings Tax Directive into German law. These provisions apply from 1 July 2005.

For further information about the EU Savings Directive please refer to pages 27 to 28.

### **No gross-up for taxes withheld**

Purchasers of the Securities should note that according to the Terms and Conditions neither the Issuer nor any other person will assume any liability for taxes withheld from payments under the Securities, nor make any additional payments in regard of these taxes, *i.e.* no gross-up will apply if a withholding tax is imposed.

## **5. Luxembourg Taxation**

The following summary is of a general nature and is included herein solely for information purposes. It is based on the laws presently in force in Luxembourg, though it is not intended to be, nor should it be construed to be, legal or tax advice. Prospective investors in the Securities should therefore consult their own professional advisers as to the effects of state, local or foreign laws, including Luxembourg tax law, to which they may be subject.

### *Withholding tax*

#### *Non-Residents*

Under Luxembourg general tax laws currently in force and subject to the laws of 21st June, 2005 (the **Laws**) mentioned below, there is no withholding tax on payments of principal, premium or interest made to non-resident holders of Securities, nor on accrued but unpaid interest in respect of the Securities, nor is any Luxembourg withholding tax payable upon settlement or repurchase of the Securities held by non-resident holders of Securities.

Under the Laws implementing the EC Council Directive 2003/48/EC of 3 June, 2003 on taxation of savings income in the form of interest payments and ratifying the treaties entered into by Luxembourg and certain dependent and associated territories of EU Member States (the **Territories**), payments of interest or similar income made or ascribed by a paying agent established in Luxembourg to or for the immediate benefit of an individual beneficial owner or a residual entity, as defined by the Laws, which is a resident of, or established in, an EU Member State (other than Luxembourg) or one of the Territories will be subject to a withholding tax unless the relevant recipient has adequately instructed the relevant paying agent to provide details of the relevant payments of interest or similar income to the fiscal authorities of his/her/its country of residence or establishment, or, in the case of an individual beneficial owner, has provided a tax certificate issued by the fiscal authorities of his/her/its country of residence in the required format to the relevant paying agent. Where withholding tax is applied, it is currently levied at a rate of 20 per cent. and will be levied at a rate of 35 per cent. as of 1st July, 2011. Responsibility for the withholding of the tax will be assumed by the Luxembourg paying agent.

Payments of interest or similar income under the Securities coming within the scope of the Laws would at present be subject to withholding tax of 20 per cent.

#### *Residents*

Under Luxembourg general tax laws currently in force and subject to the law of 23rd December, 2005 as amended (the **Law**) mentioned below, there is no withholding tax on payments of principal, premium or interest made to Luxembourg resident holders of Securities, nor on accrued but unpaid interest in respect of Securities, nor is any Luxembourg withholding tax payable upon settlement or repurchase of Securities held by Luxembourg resident holders of Securities.

Under the Law payments of interest or similar income made or ascribed by a paying agent established in Luxembourg to or for the benefit of an individual beneficial owner who is a resident of Luxembourg will be subject to a withholding tax of 10 per cent. Such withholding tax will be in full discharge of income tax if the beneficial owner is an individual acting in the course of the management of his/her private wealth. Responsibility for the withholding of the tax will be assumed by the Luxembourg paying agent. Payments of interest under the Securities coming within the scope of the Law would be subject to withholding tax of 10 per cent.

## **6. Portuguese Taxation**

The following is a summary of the current Portuguese tax treatment at the date hereof in relation to certain aspects of the Portuguese taxation of payments in respect of the Securities. The statements do not deal with other Portuguese tax aspects regarding the Securities and relate only to the position of persons who are absolute beneficial owners of the Securities. The following is a general guide, does not constitute tax or legal advice and should be treated with appropriate caution. Securityholders who are in any doubt as to their tax position should consult their own professional advisers.

### **Security holders income tax**

As a rule, the income arising from the Securities are qualified as capital gains for Portuguese tax purposes. However, regarding the Securities that qualified as Certificates the positive difference, if any, between the minimum amount guaranteed and the subscription price of the certificates is qualified as investment income subject to Income Tax in Portugal.

### **Personal Income Tax (“PIT”)**

#### **(i) Investment income**

The positive difference, if any, between the minimum amount guaranteed and the subscription price of the Certificates is qualified as investment income subject to Personal Income Tax in Portugal.

As regards to investment income on the Certificates made to Portuguese tax resident individuals, they are subject to personal income tax which shall be withheld at the current final withholding rate of 21.5 per cent. if there is a Portuguese resident paying agent as from the moment the correspondent amounts are made available to the individual resident in Portugal for tax purposes, unless the individuals elects to include the income in their taxable income, subject to tax at the current progressive rates of up to 45.88 per cent. (being already foreseen that after 31 December 2010 said rate should be increased to 46.5 per cent.). In this case, the tax withheld is deemed to be a payment on account of the final tax due.

**(ii) Capital gains**

The annual positive balance arising from the difference between capital gains and capital losses resulting from transactions in connection with the Securities will be taxed at the special tax rate of 20 per cent., unless the individuals resident in Portugal elects to include the income in their taxable income, subject to tax at progressive rates of up to 45,88 per cent. (being already foreseen that after 31 December 2010 said rate should be increased to 46.5 per cent.).

There is no Portuguese withholding tax on capital gains.

**Corporate Income Tax (CIT)**

**Investment income and capital gains**

Investment income arising from Certificates, if any, and capital gains obtained by Portuguese corporate resident entities in relation to the Securities will be included in their taxable income and are subject to progressive corporate income tax rate according to which a 12.5 per cent. tax rate will be applicable on the first €12,500 of taxable income and a 25 per cent. tax rate will be applicable on taxable income exceeding €12,500, which may be subject to a municipal surcharge (“*derrama*”) of up to 1.5 per cent., over the Securityholders taxable profits. Corporate taxpayers with a taxable income of more than €2,000,000 are also subject to State surcharge (“*derrama estadual*”) of 2.5 per cent. on the part of its taxable income that exceeds €2,000,000.

There is (i) no Portuguese withholding tax on capital gains and (ii) no withholding tax on investment income arising from the Certificates, if any, even if there is a Portuguese paying agent that made available such income to the corporate entities resident in Portugal for tax purposes.

**7. Spanish Taxation**

*The following summary is of a general nature and is included herein solely for information purposes. It is based on the laws presently in force in Spain, though it is not intended to be, nor should it be construed to be, legal or tax advice. This section does not constitute a complete description of all the tax issues that may be relevant in making the decision to invest in the Securities or of all the tax consequences that may derive from the subscription, acquisition, holding, transfer, redemption or reimbursement of the Securities and does not purport to describe the tax consequences applicable to categories of investors subject to special tax rules. Prospective investors in the Securities should therefore consult their own professional advisers as to the effects of state, regional or local law in Spain, to which they may be subject.*

**Individuals with Tax Residence in Spain**

**Certificates**

*Personal Income Tax*

Personal Income Tax is levied on an annual basis on the worldwide income obtained by Spanish resident individuals, whatever the source is and wherever the relevant payer is established. Therefore any income that Spanish holders of the Certificates may receive under the Certificates will be subject to Spanish taxation.

Both interest periodically received and income arising on the disposal, redemption or reimbursement of the Certificates obtained by individuals who are tax resident in Spain will be regarded as financial income for tax purposes (i.e. a return on investment derived from the transfer of own capital to third parties).

Both types of income will be included in the savings part of the taxable income subject to Personal Income Tax at two new tax rates. Financial income up to €6,000 will be taxed at a rate of 19 per cent and the excess over such threshold will be subject to a tax rate of 21 per cent.

Spanish holders of the Certificates shall compute the gross interest obtained in the savings part of the taxable base of the tax period in which it is due, including amounts withheld, if any.

Income arising on the disposal, redemption or reimbursement of the Certificates will be calculated as the difference between: (a) their disposal, redemption or reimbursement value; and (b) their acquisition or subscription value. Costs and expenses effectively borne by the holder on the acquisition and transfer of the Certificates may be taken into account for calculating the relevant taxable income, provided that they can be duly justified.

Likewise, expenses relating to the management and deposit of the Certificates, if any, will be tax-deductible, excluding those pertaining to discretionary or individual portfolio management.

Losses that may derive from the transfer of the Certificates cannot be offset if the investor acquires homogeneous Certificates within the two-month period prior or subsequent to the transfer of the Certificates, until he/she transfers such homogeneous Certificates.

Additionally, tax credits for the avoidance of international double taxation may apply in respect of taxes paid outside Spain on income deriving from the Certificates, if any.

#### *Wealth Tax*

Individuals who are Spanish tax residents are subject to an annual Wealth Tax on 31 December on their total net wealth, regardless of the location of their assets (such as the Securities) or of where their rights may be exercised. However, according to Law 4/2008 of 23 December, taxpayers benefit from a 100 per cent. tax credit on their Wealth Tax liability as from 2008. This tax credit in practical terms means that taxpayers are effectively tax exempt from Wealth Tax. Taxpayers do not have the obligation to file the annual tax return as a result of this change.

#### *Inheritance and Gift Tax*

Inheritance and Gift Tax is levied on individuals' heirs and donees resident in Spain for tax purposes. It is calculated taking into account several circumstances, such as the age and previous net worth of the heir or donee and the kinship with the deceased person or donor. The applicable tax rate currently ranges between 7.65 and 34 per cent. depending on the particular circumstances, although the final tax payable may increase up to 81.6 per cent. This is nevertheless subject to the specific rules passed by the relevant Spanish regions with respect to this tax.

### **Warrants**

#### *Personal Income Tax*

The premium or amount paid for the subscription of the Warrants would not be considered as a deductible expense, but as the acquisition value, which would include the expenses and commissions, inherent to the acquisition, paid by the acquirer.

Income obtained by the holders of the Warrants covered by this Prospectus on their transfer before the expiration date, will be considered as capital gains or losses in accordance with the provisions of the Spanish Personal Income Tax Law. The gain or loss shall be calculated as a difference between the transfer value, once any expenses and commissions paid by the taxpayer have been deducted, and the acquisition value, as defined above.



Upon the exercise of the Warrants, income obtained would be considered as a capital gain or loss, which will be calculated as the difference between (i) the Settlement Price or the value of the Physical Delivery Securities, once any expenses and commissions paid by the taxpayer have been deducted, and (ii) the acquisition value, as defined above.

Failure to exercise any Warrants on the expiration date would give rise to a capital loss on the acquisition value.

Income derived from the transfer or exercise of the Warrants will be included in the savings part of the taxable income subject to Personal Income Tax at two new tax rates. Financial income up to €6,000 will be taxed at a rate of 19 per cent and the excess over such threshold will be subject to a tax rate of 21 per cent.

#### *Wealth Tax*

Individuals who are Spanish tax residents are subject to an annual Wealth Tax on 31 December on their total net wealth, regardless of the location of their assets (such as the Securities) or of where their rights may be exercised. However, according to Law 4/2008 of 23 December, taxpayers benefit from a 100 per cent. tax credit on their Wealth Tax liability as from 2008. This tax credit in practical terms means that taxpayers are effectively tax exempt from Wealth Tax. Taxpayers do not have the obligation to file the annual tax return as a result of this change.

#### *Inheritance and Gift Tax*

Inheritance and Gift Tax is levied on individuals' heirs and donees resident in Spain for tax purposes. It is calculated taking into account several circumstances, such as the age and previous net worth of the heir or donee and the kinship with the deceased person or donor. The applicable tax rate currently ranges between 7.65 and 34 per cent. depending on the particular circumstances, although the final tax payable may increase up to 81.6 per cent. This is nevertheless subject to the specific rules passed by the relevant Spanish regions with respect to this tax.

### **Legal Entities with Tax Residence in Spain**

#### **Certificates**

##### *Corporate Income Tax*

Both interest periodically received and income arising on the disposal, redemption or reimbursement of the Certificates obtained by entities which are resident for tax purposes in Spain shall be computed as taxable income of the tax period in which they accrue.

The general tax rate for limited liability companies is currently 30 per cent. However, small sized companies (those companies whose net business income is lower than €3,000,000) can benefit from the reduced tax rate of 25 per cent. on the first €120,202.41 of their taxable profits. In addition to this, during the tax periods 2010 and 2011, companies with a net business income lower than €5,000,000 and an average staff of 25 employees could benefit from the reduced rate of 20 per cent. on the first €120,202.41 of their taxable profits, being the rest of the taxable profits subject to a tax rate of 25 per cent. Special rates apply in respect of certain types of entities (such as qualifying collective investment institutions).

Tax credits for the avoidance of international double taxation may apply in respect of taxes paid outside Spain on income deriving from the Securities, if any.

#### **Warrants**

As a general rule, income obtained either through the transfer or the exercise of the Warrants and obtained by taxpayers subject to Corporate Income Tax will be included in their taxable income under the general provisions described for Certificates.

### **Individuals and legal entities with no Tax Residence in Spain**

#### **Certificates**

A non-resident holder of Certificates, who has a permanent establishment in Spain to which such Certificates are effectively connected with, is subject to Spanish Non-Residents' Income Tax on any income under the Certificates, including both interest periodically received and income arising on the disposal, redemption or reimbursement of the Certificates. In general terms, the tax rules applicable to individuals and legal entities with no tax residence in Spain but acting through a permanent establishment in Spain are the same as those applicable to Corporate Income taxpayers (explained above).

#### **Warrants**

As a general rule, income obtained by a permanent establishment located in Spain of a non-resident would be subject to taxation in a similar way than that applicable to Spanish tax resident corporate income taxpayers.

#### **Spanish withholding tax**

Where a financial institution (either resident in Spain or acting through a permanent establishment in Spain) acts as depositary of the Certificates or intervenes as manager in the collection of any income under the Certificates, such financial institution will be responsible for making the relevant withholding on account of Spanish tax on any income deriving from the Certificates (income from Warrants will always be not subject to withholding tax in Spain). The current withholding tax rate in Spain is 19 per cent.

Amounts withheld in Spain, if any, can be credited against the final Spanish Personal Income Tax liability, in the case of Spanish tax resident individuals, or against final Spanish Corporate Income Tax liability, in the case of Spanish corporate, or against final Non-Residents' Income Tax, in the case of a Spanish permanent establishment of a non-resident holder of the Certificates. However, holders of the Certificates who are Corporate Income Taxpayers or Non-Residents' Income Taxpayers acting through a permanent establishment in Spain to which the Certificates are effectively connected with can benefit from a withholding tax exemption when the Certificates are listed in an OECD official stock exchange. This will be the case as the Certificates are expected to trade on the Luxembourg Stock Exchange's Regulated Market.

Furthermore, such financial institution may become obliged to comply with the formalities set out in the Regulations on Spanish Personal Income Tax (Royal Decree 439/2007, of 30 March) and Corporate Income Tax (Royal Decree 1777/2004, of 30 July) when intervening in the transfer or reimbursement of the Certificates.

#### **Indirect taxation**

The acquisition, transfer, redemption, reimbursement and exchange of the Securities will be exempt from Transfer Tax and Stamp Duty as well as Value Added Tax.

## **7. Taxation in the United Kingdom**

*The following applies only to persons who are the beneficial owners of Securities and is a summary of the Issuer's understanding of current law and practice in the United Kingdom relating only to United Kingdom withholding tax treatment of payments in respect of the Securities and United Kingdom stamp duty and stamp duty reserve tax only. It does not deal with any other United Kingdom taxation implications of acquiring, holding or disposing of Securities. The United Kingdom tax treatment of prospective Securityholders depends on their individual circumstances and may be subject to change in the future. Prospective Securityholders who are in any doubt as to their tax position or who may be subject to tax in a jurisdiction other than the United Kingdom should seek their own professional advice.*

### **Withholding Tax**

Payments made in relation to a Security (including payments made on the exercise of Securities) may be made without deduction or withholding on account of United Kingdom income tax where such payments are not regarded as arising in the United Kingdom for United Kingdom tax purposes.

### **Stamp Duty and Stamp Duty Reserve Tax (SDRT)**

References in section (i) below to "Securities" include a Global Security.

#### *(i) Issue of a Global Security into Euroclear or Clearstream, Luxembourg*

A charge to stamp duty at 1.5 per cent. by reference to the amount of consideration given for the Securities or, in the case of a Global Security, 1.5 per cent. of the consideration given for the Securities represented by that Global Security, will arise if such Securities are issued in the United Kingdom and are denominated in sterling. No stamp duty liability will arise on the issue of sterling denominated Securities if issued outside the United Kingdom. However, in relation to sterling denominated Securities originally issued outside the United Kingdom, on the first transfer by delivery in the United Kingdom of any such Security, a stamp duty liability at 1.5 per cent. will arise.

No SDRT is payable on the issue, into Euroclear or Clearstream, Luxembourg, of a Security.

#### *(ii) Transfer within Euroclear or Clearstream*

No United Kingdom stamp duty should be required to be paid on the transfer of any Securities within Euroclear or Clearstream, Luxembourg provided no instrument is used to complete the transfer.

No United Kingdom SDRT should be payable on the transfer of any Securities within Euroclear or Clearstream, Luxembourg provided that no election has been made under which the alternative system of charge (as provided for in section 97A Finance Act 1986) applies to the Securities.

#### *(iii) Exercise*

No United Kingdom stamp duty or SDRT should be payable on the exercise of Cash Settled Securities. However, United Kingdom stamp duty and SDRT may be payable in relation to the exercise of a Physical Delivery Security.

### **Reporting of information**

In relation to any Security under which any amounts which are characterised as interest are payable, Securityholders may wish to note that, in certain circumstances, HMRC has power to obtain information (including the name and address of the beneficial owner) from any person in the United

Kingdom who either pays or credits interest to or receives interest for the benefit of a Securityholder. Any information obtained may, in certain circumstances, be exchanged by HMRC with the tax authorities of the jurisdiction in which the Securityholder is resident for tax purposes.

## **9. 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, or collected by such person for, an individual resident or certain limited types of entity established 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).

On 15 September 2008 the European Commission issued a report to the Council of the European Union on the operation of the Directive, which included the Commission's advice on the need for changes to the Directive. On 13 November 2008 the European Commission published a more detailed proposal for amendments to the Directive, which included a number of suggested changes. The European Parliament approved an amended version of this proposal on 24 April 2009. If any of the proposed changes are made in relation to the Directive, they may amend or broaden the scope of the requirements described above.

## OFFERING AND SALE

No action has been or will be taken by the Issuer that would permit a public offering of any Securities or possession or distribution of any offering material in relation to any Securities in any jurisdiction where action for that purpose is required. No offers, sales, resales or deliveries of any Securities, or distribution of any offering material relating to any Securities, may be made in or from any jurisdiction except in circumstances which will result in compliance with any applicable laws and regulations and which will not impose any obligation on the Issuer.

### United States

No Securities of any series nor, in the case of Physical Delivery Securities, the Entitlement to be delivered upon the exercise of such Securities have been, or will be, registered under the United States Securities Act of 1933, as amended (the **Securities Act**) or under any state securities laws and trading in the Securities has not been approved by the Commodity Futures Trading Commission under the United States Commodity Exchange Act, as amended. The Securities are only being offered and sold pursuant to the registration exemption contained in Regulation S under the Securities Act. No Securities of any series, or interests therein, may at any time be offered, sold, resold, traded, pledged, exercised, redeemed, transferred or delivered, directly or indirectly, in the United States of America (including the states and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction (the **United States**) or directly or indirectly offered, sold, resold, traded, pledged, exercised, redeemed, transferred or delivered to, or for the account or benefit of, any "U.S. person" as such term may be defined in Regulation S under the Securities Act. Consequently, any offer, sale, resale, trade, pledge, exercise, redemption, transfer or delivery made, directly or indirectly, within the United States or to, or for the account or benefit of, a U.S. person will not be recognised.

Each Manager of an issue of Securities will be required to agree that it, its affiliates and any person acting on its or their behalf will not at any time offer, sell, resell, trade, pledge, exercise, redeem, transfer or deliver, directly or indirectly, Securities of such series in the United States or to, or for the account or benefit of, any U.S. person or to others for offer, sale, resale, trade, pledge, exercise, redemption, transfer or delivery, directly or indirectly, in the United States or to, or for the account or benefit of, any such U.S. person. Each Manager of an issue of Securities will be required to agree that it, its affiliates, and any person acting on its or their behalf will not offer or sell the Securities at any time except in accordance with Rule 903 of Regulation S under the Securities Act, and that neither it, its affiliates, nor any persons acting on its or their behalf will engage in any directed selling efforts with respect to the Securities and it and they will comply with the offering restrictions requirements of Regulation S under the Securities Act. The terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act. Any person purchasing Securities of any series must agree with the Manager or the seller of such Securities that (i) it is not a U.S. person and it is not located in the United States and was not solicited to purchase the Securities while present in the United States, (ii) it will not at any time offer, sell, resell, trade, pledge, exercise, redeem, transfer or deliver, directly or indirectly, any Securities of such series so purchased in the United States or to, or for the account or benefit of, any U.S. person or to others for offer, sale, resale, trade, pledge, exercise, redemption, transfer or delivery, directly or indirectly, in the United States or to, or for the account or benefit of any, U.S. person, (iii) it is not purchasing any Securities of such series for the account or benefit of any U.S. person and (iv) it will not make offers, sales, resales, trades, pledges, exercises, redemptions, transfers or deliveries of any Securities of such series (otherwise acquired), directly or indirectly, in the United States or to, or for the account or benefit of, any U.S. person. Each Manager of an issue of Securities will also be required to agree, and any person purchasing Securities of any series must agree, to send each person who purchases any Securities of such series from it at or prior to confirmation of sale of any Securities, a written confirmation (which shall include the definitions of "United States" and "U.S. persons" set forth herein) stating that the Securities have not been registered under the Securities Act or any state securities laws, and trading in the Securities has not been approved by the Commodity Futures Trading Commission under the United States Commodity Exchange Act, as amended, and stating that such purchaser agrees that it will not at any time offer, sell, resell, trade, pledge, exercise, redeem, transfer or deliver Securities, directly or indirectly, in the United States or to, or for the account or benefit of, any U.S. person. Prior to the

delivery of the Entitlement in respect of a Physical Delivery Security the holder thereof will be required to represent that, *inter alia*, he is not a U.S. person, the Security was not exercised on behalf of a U.S. person and in the case of Physical Delivery Securities, no securities or other property have been or will be delivered within the United States or to, or the account or benefit of, a U.S. person in connection with any exercise thereof. See Condition 17(A) in respect of Warrants and Condition 20(A) in respect of Certificates.

The Securities are also subject to U.S. tax law requirements and, except in certain transactions permitted by U.S. Treasury regulations, may not be offered, sold or delivered within the United States or its possessions or to United States persons. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code of 1986 and the U.S. Treasury regulations promulgated thereunder.

#### **Public Offer Selling Restriction under the Prospectus Directive**

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a **Relevant Member State**), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the **Relevant Implementation Date**) the Securities which are the subject of the offering contemplated by this Base Prospectus as completed by the final terms in relation thereto may not be offered to the public in that Relevant Member State, except that, with effect from and including the Relevant Implementation Date, such Securities may be offered to the public in that Relevant Member State:

- (a) if the final terms in relation to the Securities specify that an offer of those Securities may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State (a **Non-exempt Offer**), following the date of publication of a prospectus in relation to such Securities which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, provided that any such prospectus has subsequently been completed by the final terms contemplating such Non-exempt Offer, in accordance with the Prospectus Directive, in the period beginning and ending on the dates specified in such prospectus or final terms, as applicable;
- (b) at any time to legal entities which are authorised or regulated to operate in the financial markets or, if not so authorised or regulated, whose corporate purpose is solely to invest in securities;
- (c) at any time to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than €43,000,000 and (3) an annual net turnover of more than €50,000,000, as shown in its last annual or consolidated accounts;
- (d) at any time to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to the prior consent of the relevant Manager(s) nominated by the Issuer for any such offer having been obtained; or
- (e) at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Securities referred to in (b) to (e) above shall require the publication by the Issuer or any Manager of a prospectus pursuant to Article 3 of the Prospectus Directive or the supplementing by the Issuer or any Manager of a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression an **offer of Securities to the public** in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Securities to be offered so as to enable an investor to decide to purchase or subscribe the Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State.

## Republic of Italy

The offering of the Securities has not been registered pursuant to Italian securities legislation and, accordingly, no Securities may be offered, sold or delivered, nor may copies of the Base Prospectus or of any other document relating to the Securities be distributed in the Republic of Italy, except:

- (i) to qualified investors (*investitori qualificati*), as defined pursuant to Article 100 of Legislative Decree No. 58 of 24 February 1998, as amended (the **Financial Services Act**) and Article 34-ter, first paragraph, letter *b*) of CONSOB Regulation No. 11971 of 14 May, 1999, as amended from time to time (**Regulation No. 11971**); or
- (ii) in other circumstances which are exempted from the rules on public offerings pursuant to Article 100 of the Financial Services Act and Article 34-ter of Regulation No. 11971.

Any offer, sale or delivery of the Securities or distribution of copies of the Base Prospectus or any other document relating to the Securities in the Republic of Italy under (i) or (ii) above must be:

- (a) made by an investment firm, bank or financial intermediary permitted to conduct such activities in the Republic of Italy in accordance with the Financial Services Act, CONSOB Regulation No. 16190 of 29 October 2007 (as amended from time to time) and Legislative Decree No. 385 of 1 September 1993, as amended (the **Banking Act**);
- (b) in compliance with Article 129 of the Banking Act, as amended, and the implementing guidelines of the Bank of Italy, as amended from time to time, pursuant to which the Bank of Italy may request information on the issue or the offer of securities in the Republic of Italy; and
- (c) in compliance with any other applicable laws and regulations or requirement imposed by CONSOB or any other Italian authority.

*Please note that in accordance with Article 100-bis of the Financial Services Act, where no exemption from the rules on public offerings applies under (i) or (ii) above, the subsequent distribution of the Securities on the secondary market in Italy must be made in compliance with the public offer and the prospectus requirement rules provided under the Financial Services Act and Regulation No. 11971. Failure to comply with such rules may result in the sale of such Securities being declared null and void and in the liability of the intermediary transferring the financial instruments for any damages suffered by the investors.*

## United Kingdom

Any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (the **FSMA**)) may only be communicated or caused to be communicated in connection with the issue or sale of any Securities in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer.

Securities which have a maturity of less than one year (i) will only be sold by a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business and (ii) will not be offered or sold other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of the Securities would otherwise constitute a contravention of Section 19 of the FSMA by the Issuer.

All applicable provisions of the FSMA must be complied with in respect to anything done in relation to any Securities in, from or otherwise involving, the United Kingdom.

## The Grand Duchy of Luxembourg

In addition to the cases described in the Public Offer Selling Restriction under the Prospectus Directive (above) in which the Manager or, as the case may be, the Managers can make an offer of Securities to the public in an EEA Member State (including the Grand Duchy of Luxembourg (**Luxembourg**)), the Manager or, as the case may be, the Managers can also make an offer of Securities to the public in Luxembourg:

- (a) at any time, to national and regional governments, central banks, international and supranational institutions (such as the International Monetary Fund, the European Central Bank, the European Investment Bank) and other similar international organisations;
- (b) at any time, to legal entities which are authorised or regulated to operate in the financial markets (including, credit institutions, investment firms, other authorised or regulated financial institutions, undertakings for collective investment and their management companies, pension and investment funds and their management companies, insurance undertakings and commodity dealers) as well as entities not so authorised or regulated whose corporate purpose is solely to invest in securities; and
- (c) at any time, to certain natural persons or small and medium-sized enterprises (as defined in the Luxembourg act dated 10 July 2005 on prospectuses for securities implementing the Prospectus Directive into Luxembourg law) recorded in the register of natural persons or small and medium-sized enterprises considered as qualified investors as held by the *Commission de surveillance du secteur financier* as competent authority in Luxembourg in accordance with the Prospectus Directive.

## Portuguese Republic

The Manager or, as the case may be, each Manager, and each further Manager appointed under the Programme and each other purchaser will be required to represent and agree, that the Securities might be offered to the public in Portugal under circumstances which are deemed to be a public offer (*oferta pública*) under the Portuguese Securities Code (*Código dos Valores Mobiliários* (the **CVM**)) enacted by Decree Law no. 486/99 of November 13, as amended, subject to the fulfilment of the requirements and provisions applicable to public offerings in Portugal. Each Manager has represented that (i) no document, circular, advertisement or any offering material in relation to the Securities has been or will be subject to approval by the Portuguese Securities Market Commission (*Comissão do Mercado de Valores Mobiliários* (the **CMVM**)); (ii) it has not directly or indirectly taken any action or offered, advertised, marketed, invited to subscribe, gathered investment intentions, sold or delivered and will not directly or indirectly take any action, offer, advertise, market, invite to subscribe, gather investment intentions, sell, re-sell, re-offer or deliver any Securities in circumstances which could qualify as a public offer (*oferta pública*) of securities pursuant to the Portuguese Securities Code and other applicable securities legislation and regulations, notably in circumstances which could qualify as a public offer addressed to individuals or entities resident in Portugal or having permanent establishment located in Portugal, as the case may be; (iii) it has not, directly or indirectly, distributed, made available or caused to be distributed and will not, directly or indirectly, distribute, make available or cause to be distributed the Base Prospectus or any document, circular, advertisements or any offering material in Portugal, unless the requirements and provisions applicable to public offerings and private placements in Portugal, as the case may be, are met. Each Manager further represents and agrees, and each further Manager appointed under the Programme shall represent and agree, that (i) all offers, sales and distributions by it of the Securities have been and will only be made in Portugal in circumstances that, pursuant to the CVM, qualify as a private placement of Securities (*oferta particular*), all in accordance with the CVM, unless the requirements and provisions applicable to public offerings in Portugal are met; and (ii) pursuant to the CVM the private placement in Portugal or with Portuguese residents of Securities by public companies (*sociedades abertas*) or by companies that are issuers of securities listed on a market needs to be notified to the CMVM for statistical purposes; and (iii) it will comply with all applicable provisions of the CVM and any applicable CMVM Regulations and all relevant Portuguese laws and regulations, in any such case that may be applicable to it in respect of any offer, placement or sales of Securities by it in Portugal. Each Manager has agreed that it shall comply with all applicable laws and regulations in force in Portugal, including (without limitation) the CVM, the CMVM Regulations and the Prospectus Regulation implementing the



Prospectus Directive, regarding the offering, advertisement, distribution, submission to an investment-gathering procedure, sale, re-sale, re-offering or delivering of the Securities in Portugal or to individuals or entities resident in Portugal or having a permanent establishment located in Portuguese territory, as the case may be, and that such actions shall only be authorised and performed to the extent that there is full compliance with such laws and regulations.

### **Germany**

The Securities may only be offered in Germany in compliance with the Securities Prospectus Act (*Wertpapierprospektgesetz*) and any other applicable German laws.

### **General**

With regard to each issue of Securities, the relevant Manager will be required to comply with such other additional restrictions as the Issuer shall determine as shall be set out in the applicable Final Terms.

## GENERAL INFORMATION

### (1) Authorisation

The establishment and operation of the Programme has been duly authorised by a resolution of the Board of Directors of the Issuer dated 8 June 2010.

### (2) Listing, Approval and Admission to Trading

Application has been made to the CSSF to approve this document as a base prospectus. Application has also been made to the Luxembourg Stock Exchange for Securities issued under the Programme to be admitted to trading on the Luxembourg Stock Exchange's regulated market and to be listed on the Official List of the Luxembourg Stock Exchange.

The Luxembourg Stock Exchange's regulated market is a regulated market for the purposes of the Markets in Financial Instruments Directive (Directive 2004/39/EC).

The Issuer may also list Securities on the Italian Stock Exchange and admit such Securities to trading on the electronic "Securitised Derivatives Market" organised and managed by Borsa Italiana S.p.A. (the **SeDeX**).

### (3) Documents Available

For the period of 12 months following the date of this Base Prospectus, copies and, where appropriate, English translations of the following documents may be inspected during normal business hours at the specified offices of the Principal Security Agent in Luxembourg and the registered office of the Issuer:

- (i) the Registration Document;
- (ii) the constitutional documents of the Issuer;
- (iii) the audited non-consolidated financial statements of the Issuer in respect of the financial years ended 31 December 2009 and 2008 and the consolidated financial statements of the Issuer in respect of the financial year ended 31 December 2009;
- (iv) the most recently published audited annual consolidated and non-consolidated financial statements and the most recently published interim consolidated and non-consolidated financial statements (if any) of the Issuer;
- (v) the Amended and Restated Agency Agreement and the forms of the Global Securities;
- (vi) a copy of this Base Prospectus;
- (vii) any future offering circulars, prospectuses, information memoranda, supplements and Final Terms (save that a Final Terms relating to a Security which is neither admitted to trading on a regulated market in the European Economic Area nor offered in the European Economic Area in circumstances where a prospectus is required to be published under the Prospectus Directive will only be available for inspection by a holder of such Security and such holder must produce evidence satisfactory to the Issuer and the relevant Security Agent as to its holding of Securities and identity) and any other documents incorporated herein or therein by reference; and
- (viii) in the case of each issue of listed Securities subscribed pursuant to a subscription agreement, the subscription agreement (or equivalent document).

A copy of this Base Prospectus (and the information incorporated by reference therein) and any Final Terms that are listed on the Luxembourg Stock Exchange will be published on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). Any Final Terms that are not listed on the Luxembourg Stock Exchange but which relate to a Security which is offered in the European Economic Area in

circumstances where a prospectus is required to be published under the Prospectus Directive will be published on the website of the Issuer ([www.bancaimi.com](http://www.bancaimi.com)).

**(4) Clearing Systems**

Securities to be represented by a Global Security have been accepted for clearance through Euroclear and Clearstream, Luxembourg. The common code and ISIN for each issue of Securities allocated by Euroclear and Clearstream, Luxembourg, as applicable, will be specified in the applicable Final Terms. If the Securities of any series are to clear through an additional or alternative clearing system the appropriate information will be specified in the applicable Final Terms.

The address of Euroclear is Euroclear Bank SA/NV, 1 Boulevard du Roi Albert II, B-1210 Brussels and the address of Clearstream, Luxembourg is Clearstream Banking, 42 Avenue JF Kennedy, L-1855 Luxembourg.

**(5) Conditions for determining price**

The price and amounts of Securities to be issued under the Programme will be determined by the Issuer and any Manager(s) at the time of issue in accordance with prevailing market conditions.

**(6) Significant or Material Change**

There has been no significant change in the financial position of the Issuer since 31 December 2009 and there has been no material adverse change in the financial position or prospects of the Issuer since 31 December 2009.

**(7) Litigation**

Save as disclosed in this Base Prospectus at page 7, the Issuer has not been involved in any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer is aware) in the 12 months preceding the date of this document which may have or have in such period had a significant effect on the financial position or profitability of the Issuer.

**(8) Post-issuance Information**

Save as set out in any Final Terms, the Issuer does not intend to provide any post-issuance information in relation to any index (or basket of indices), share (or basket of shares), commodity (or basket of commodities), debt instrument (or basket of debt instruments), currency (or basket of currencies), fund (or basket of funds) reference entity or reference entities or any other asset or basis of reference in relation to any issue of Securities constituting Derivative Securities (as such term is used in the Commission Regulation (EC) No. 809/2004).

**(9) External Auditors**

Reconta Ernst and Young S.p.A., with registered office at Via Po 32, 00198 Rome, is the independent auditor of the Issuer and is registered at No. 2 on the Special Register (*Albo Speciale*) maintained by CONSOB and set out in Article 161 of Legislative Decree No. 58 of 24 February 1998 (Unified Text of the Rules for the Capital Markets) and in the Register of Accountancy Auditors (*Registro dei Revisori Contabili*), in compliance with the provisions of Legislative Decree No. 88 of 27 January 1992. Reconta Ernst and Young S.p.A. have been appointed by the Issuer to audit its financial statements for the period 2007-2011. Reconta Ernst & Young S.p.A. is also a member of Assirevi, the Italian association of auditing firms.



**THE ISSUER**

**Banca IMI S.p.A.**  
Largo Mattioli, 3  
20121 Milan

**PRINCIPAL SECURITY AND LUXEMBOURG LISTING AGENT**

**BNP Paribas Securities Services, Luxembourg Branch**  
33, rue de Gasperich  
Howald-Hesperange  
L-2085 Luxembourg  
Luxembourg

**CALCULATION AGENT**

**Banca IMI S.p.A.**  
Largo Mattioli, 3  
20121 Milan  
Italy

**LEGAL ADVISERS TO THE ISSUER**

*as to English law and Italian law*

**Allen & Overy**  
Via Manzoni 41-43  
20121 Milan  
Italy