



**BANCA IMI S.p.A.**

*(incorporated with limited liability in the Republic of Italy)*

## **WARRANT AND CERTIFICATE PROGRAMME**

Under the terms of its Warrant and Certificate Programme (the **Programme**), Banca IMI S.p.A. (the **Issuer**) may from time to time issue warrants (**Warrants**) or certificates (**Certificates** and, together with the Warrants, **Securities**) of any kind including, but not limited to, Warrants or Certificates relating to a specified index or a basket of indices (**Index Securities**), a specified share or a basket of shares (**Share Securities**), a specified debt instrument or a basket of debt instruments (**Debt Securities**), a specified currency or a basket of currencies (**Currency Securities**), a specified fund or a basket of funds (**Fund Securities**), a specified commodity or a basket of commodities (**Commodity Securities**) or the credit of a specified entity or entities (**Credit Securities**). Each issue of Securities will be made on the terms set out herein which are relevant to such Securities under "*Terms and Conditions of the Securities*" (the **Conditions**) and on such additional terms as will be set out in a final terms document (the **Final Terms**).

Application has been made to the *Commission de Surveillance du Secteur Financier* (the **CSSF**) in its capacity as competent authority under the Luxembourg Act dated 10 July 2005 on prospectuses for securities (the **Luxembourg Act**) 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 regulated market of the Luxembourg Stock Exchange is a regulated market for the purposes of the Markets in Financial Instruments Directive (Directive 2004/39/EC).

The Programme provides that Securities may be listed or admitted to trading, as the case may be, on such further or other stock exchanges or markets as the Issuer may determine. In particular, the Issuer may list the Securities on the Italian Stock Exchange and admit the Securities to trading on the electronic "Securitized Derivatives Market" organised and managed by Borsa Italiana S.p.A. (the **SeDeX**). The applicable Final Terms will specify whether or not Securities are to be listed on the Luxembourg Stock Exchange and/or any other stock exchange(s). The Issuer may also issue unlisted Securities and/or Securities not admitted to trading on any market.

**Prospective purchasers of Securities should ensure that they understand the nature of the relevant Securities and the extent of their exposure to risks and that they consider the suitability of the relevant Securities as an investment in the light of their own circumstances and financial condition. Securities involve a high degree of risk, including the risk of their expiring worthless. Potential investors should be prepared to sustain a loss of all or part of the purchase price of their Securities. It is the responsibility of prospective purchasers to ensure that they have sufficient knowledge, experience and professional advice to make their own legal, financial, tax, accounting and other business evaluation of the merits and risks of investing in the Securities and are not relying on the advice of the Issuer or, if relevant, any Manager in that regard. See "*Risk Factors*" on pages 19 to 32. In addition, the applicable Final Terms may contain specific risk factors relating to the relevant Securities.**

The Securities and, in the case of Physical Delivery Securities, the Entitlement (as defined herein) to be delivered upon the exercise of such Securities, have not been, and will not be registered under the U.S. Securities Act of 1933, as amended (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. 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 or to, or for the account or benefit of, any U.S. person (as defined in Regulation S under the Securities Act) and 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. The Securities may not be legally or beneficially owned at any time by any U.S. person. For a description of certain further restrictions on offers and sales of the Securities and on the distribution of this Base Prospectus, see "*Offering and Sale*" below.

The date of this Base Prospectus is 2 August 2011.

## IMPORTANT NOTICES

This Base Prospectus comprises a base prospectus for the purposes of Article 5.4 of Directive 2003/71/EC (the Prospectus Directive) as amended (which includes the amendments made by Directive 2010/71/EC (the 2010 PD Amending Directive) to the extent that such amendments have been implemented in a relevant Member State of the European Economic Area).

The Issuer (the Responsible Person) accepts responsibility for the information contained in this Base Prospectus. To the best of the knowledge of the Issuer (having taken all reasonable care to ensure that such is the case), the information contained in this Base Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.

Subject as provided in the applicable Final Terms, the only persons authorised to use this Base Prospectus in connection with an offer of Securities are the Issuer, the persons named in the applicable Final Terms as the relevant Manager(s) and the persons named in or identifiable following the applicable Final Terms as the Financial Intermediaries, as the case may be.

This Base Prospectus is to be read and construed in conjunction with all documents which are deemed to be incorporated herein by reference (see "*Documents Incorporated by Reference*" below) and, in relation to any Securities, should be read and construed together with the applicable Final Terms. This Base Prospectus shall be read and construed on the basis that such documents are incorporated and form part of this Base Prospectus.

A description of the Final Terms is set out herein on page 33 and will specify with respect to the issue of Securities to which it relates, *inter alia*, the specific designation of the Securities, the aggregate number and type of the Securities, the date of issue of the Securities, the issue price, the underlying asset, index or other item(s) to which the Securities relate, certain other terms relating to the offering and sale of the Securities including, in the case of Certificates, whether they bear remuneration and the exercise date and, in the case of Warrants, the exercise price and the exercise period or date.

The applicable Final Terms will (if applicable) contain information relating to the underlying asset, index or other item(s) (each a Reference Item) to which the Securities relate and which is contained in such Final Terms. However, unless otherwise expressly stated in the applicable Final Terms, any information contained therein relating to a Reference Item will only consist of extracts from, or summaries of, information contained in financial and other information released publicly by the issuer, owner or sponsor, as the case may be, of such Reference Item. The Issuer will, unless otherwise expressly stated in the applicable Final Terms, confirm that such extracts or summaries have been accurately reproduced and that, so far as it is aware and is able to ascertain from information published by the issuer, owner or sponsor, as the case may be, of such Reference Item, no facts have been omitted that would render the reproduced inaccurate or misleading, but the Issuer does not accept any further or other responsibility in respect of such information.

As specified in the applicable Final Terms, each issue of Securities will entitle the holder thereof either to receive a cash amount from the Issuer calculated in accordance with the Conditions and/or to receive delivery of specified securities or other asset(s) on such terms as are set out in the Conditions, all as set forth in the Conditions.

Upon exercise of Physical Delivery Securities, in order to receive the relevant Entitlement, each Securityholder will be required to certify (in accordance with the provisions outlined in "*Offering and Sale*" below) that it is not a U.S. person or a person who has purchased such Security for resale to, or for the account or benefit of, U.S. persons and that it is not exercising such Security on behalf, or for the account or benefit, of a U.S. person.

Copies of Final Terms will be available from the registered office of the Issuer and the specified offices set out below of the Security Agents (as defined below).

No person is or has been authorised by the Issuer to give any information or to make any representation not contained in or not consistent with this Base Prospectus or any other information supplied in connection with the Programme or the Securities and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer or any other manager of an issue of Securities (each a Manager).

No Manager has independently verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility is accepted by any Manager as to the accuracy or completeness of the information contained or incorporated in this Base Prospectus or any other information provided by the Issuer in connection with the Programme.

Neither this Base Prospectus nor any other information supplied in connection with the Programme or the Securities (i) is intended to provide the basis of any credit or other evaluation or (ii) should be considered as a recommendation by the Issuer that any recipient of this Base Prospectus or any other information supplied in connection with the Programme or any Securities should purchase any Securities. Each investor contemplating purchasing any Securities should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of the Issuer. Neither this Base Prospectus nor any other information supplied in connection with the Programme or the issue of any Securities constitutes an offer or an invitation by or on behalf of the Issuer to any person to subscribe for or to purchase any Securities.

Neither the delivery of this Base Prospectus or any Final Terms nor the offering, sale or delivery of any Securities shall in any circumstances imply that the information contained herein concerning the Issuer is correct at any time subsequent to the date hereof or that any other information supplied in connection with the Programme is correct as of any time subsequent to the date indicated in the document containing the same or that there has been no material adverse change in the prospects of the Issuer since the date thereof or, if later, the date upon which this Base Prospectus has been most recently amended or supplemented. Investors should review, inter alia, the most recently published documents incorporated by reference into this Base Prospectus when deciding whether or not to purchase any Securities.

The Securities are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to United States persons, except in certain transactions permitted by U.S. Treasury regulations. 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.

This Base Prospectus does not constitute an offer to sell or the solicitation of an offer to buy any Securities in any jurisdiction to any person to whom it is unlawful to make the offer or solicitation in such jurisdiction. The distribution of this Base Prospectus and the offer or sale of Securities may be restricted by law in certain jurisdictions. The Issuer does not represent that this Base Prospectus may be lawfully distributed, or that any Securities may be lawfully offered, in compliance with any applicable registration or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder, or assume any responsibility for facilitating any such distribution or offering. In particular, unless specifically indicated to the contrary in the applicable Final Terms, no action has been taken by the Issuer which is intended to permit a public offering of any Securities or distribution of this document in any jurisdiction where action for that purpose is required. Accordingly, no Securities may be offered or sold, directly or indirectly, and neither this Base Prospectus nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations. Persons into whose possession this Base Prospectus or any Securities may come must inform themselves about, and observe, any such restrictions on the distribution of this Base Prospectus and the offering and sale of Securities. In particular, there are restrictions on the distribution of this Base Prospectus and the offer or sale of Securities in the United

States and the European Economic Area (including the Republic of Italy, the United Kingdom, Germany, the Grand Duchy of Luxembourg and the Portuguese Republic) (see "*Offering and Sale*" on page 148).

Warrants create options which are exercisable by the relevant holder and/or will be automatically exercised as provided herein. There is no obligation on the Issuer to pay any amount to any holder of a Warrant or to deliver any asset to any holder of a Warrant unless the relevant holder duly exercises such Warrant or such Securities are automatically exercised and, in certain circumstances, an Exercise Notice is duly delivered. Securities will be exercised or exercisable in the manner set forth herein and in the applicable Final Terms.

The Securities of each issue may be sold by the Issuer and/or any Manager at such time and at such prices as the Issuer and/or the Manager(s) may select. There is no obligation upon the Issuer or any Manager to sell all of the Securities of any issue. The Securities of any issue may be offered or sold from time to time in one or more transactions in the over-the-counter market or otherwise at prevailing market prices or in negotiated transactions, at the discretion of the Issuer.

This Base Prospectus has been prepared on the basis that, except to the extent sub-paragraph (ii) below may apply, any offer of Securities in any Member State of the European Economic Area which has implemented the Prospectus Directive (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 Securities. Accordingly any person making or intending to make an offer in that Relevant Member State of Securities which are the subject of an offering contemplated in this Base Prospectus as completed by final terms in relation to the offer of those 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 publish a supplement to a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer, or (ii) if a prospectus for such offer has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State and (in either case) published, all in accordance with the Prospectus Directive, provided that any such prospectus has subsequently been completed by final terms which specify that offers may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State, such offer is made in the period beginning and ending on the dates specified for such purpose in such prospectus or final terms, as applicable and the Issuer has consented in writing to its use for the purpose of such offer. Except to the extent sub-paragraph (ii) above may apply, neither the Issuer nor any Manager have authorised, nor do they authorise, the making of any offer of Securities in circumstances in which an obligation arises for the Issuer or any Manager to publish or supplement a prospectus for such offer.

**TO ENSURE COMPLIANCE WITH U.S. INTERNAL REVENUE SERVICE CIRCULAR 230, PROSPECTIVE INVESTORS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES CONTAINED OR REFERRED TO IN THIS BASE PROSPECTUS IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED BY, PROSPECTIVE INVESTORS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON THEM UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING OF THE ISSUER BY THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) PROSPECTIVE INVESTORS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISER.**

All references to "USD", "U.S.\$", "\$", "US Dollars", "US dollars" and "U.S. dollars" are to United States dollars and references to "euro", "EUR" and "€" are to the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty on the Functioning of the European Union, as amended.

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**In connection with the issue of any Securities, the person or persons (if any) named as the Stabilising Manager(s) (or persons acting on behalf of any Stabilising Manager(s)) in the applicable Final Terms may over-allot Securities or effect transactions with a view to supporting the market price of the Securities at a level higher than that which might otherwise prevail. However, there is no assurance that the Stabilising Manager(s) (or persons acting on behalf of a Stabilising Manager) will undertake stabilisation action. Any stabilisation action may begin on or after the date on which adequate public disclosure of the final terms of the offer of the relevant Securities is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 days after the issue date of the relevant Securities and 60 days after the date of the allotment of the relevant Securities. Any stabilisation action or over-allotment must be conducted by the relevant Stabilising Manager(s) (or persons acting on behalf of any Stabilising Manager(s)) in accordance with all applicable laws and rules.**

## SUMMARY OF THE PROGRAMME

**This summary must be read as an introduction to this Base Prospectus and any decision to invest in any Securities should be based on a consideration of this Base Prospectus as a whole, including the documents incorporated by reference. Following the implementation of the relevant provisions of the Prospectus Directive in each Member State of the European Economic Area, no civil liability will attach to the Responsible Person in any such Member State in respect of this Summary, including any translation thereof, unless it is misleading, inaccurate or inconsistent when read together with the other parts of this Base Prospectus. Where a claim relating to information contained in this Base Prospectus is brought before a court in a Member State of the European Economic Area, the plaintiff may, under the national legislation of the Member State where the claim is brought, be required to bear the costs of translating the Base Prospectus before the legal proceedings are initiated.**

*Words and expressions defined in the Terms and Conditions of the Securities and in the remainder of this Base Prospectus shall have the same meanings in this summary.*

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| <b>Issuer:</b>  | Banca IMI S.p.A.   |
| <b>Information about the Issuer:</b>                          | The Issuer is a bank organised and existing under the laws of the Republic of Italy engaged in investment banking activities. The Issuer is registered with the Companies' Register of Milan under No. 04377700150. Its registered office is at Largo Mattioli 3, 20121 Milan, with telephone number +39 02 72611. The Issuer is a wholly-owned subsidiary of Intesa Sanpaolo S.p.A., the parent company of the Intesa Sanpaolo banking group.   |
| <b>Principal Security Agent and Luxembourg Listing Agent:</b> | BNP Paribas Securities Services, Luxembourg Branch   |
| <b>Calculation Agent:</b>                                     | The Issuer or such other calculation agent specified in the applicable Final Terms.  |
| <b>Description:</b>   | Warrant and Certificate Programme  |
| <b>Certain Restrictions</b>                                   | Each issue of Securities denominated in a currency in respect of which particular laws, guidelines, regulations, restrictions or reporting requirements apply will only be issued in circumstances which comply with such laws, guidelines, regulations, restrictions or reporting requirements from time to time (see " <i>Offering and Sale</i> ").  |
| <b>Risk Factors:</b>  | <p>There are certain factors that may affect the Issuer's ability to fulfil its obligations under Securities issued under the Programme. These are set out at page 19 under "<i>Risk Factors</i>" below and include credit risk, risks connected to the general performance of the economy, risks connected to fiscal and monetary policies, risk connected to the liquidity and prospects of the capital markets, counterparty risk and litigation risk.</p> <p>In addition, there are certain factors which are material for the purpose of assessing the market risks associated with Securities issued under the Programme. These are set out at pages 19 to 32 under "<i>Risk Factors</i>" below and include exposure to an underlying asset or basis of reference, factors affecting the value and trading price of Securities, certain considerations regarding hedging, specific risks in relation to each of Share Securities, Currency Securities, Fund Securities and Credit Securities, option to vary settlement, market disruption, settlement disruption, expenses and taxation, illegality and cancellation, change of law, potential conflicts of interest (including between the Calculation Agent and the Securityholders, where the Issuer acts as Calculation Agent),</p> |

physical delivery requirements and settlement risk, time lag after exercise (in the case of Warrants), minimum exercise amount (in the case of Warrants), limitations on exercise (in the case of Warrants), possible illiquidity of the Securities in the secondary market and exchange rate risks and exchange controls.

Investors should consider that an investment in Index Securities, Share Securities, Debt Securities, Currency Securities, Fund Securities, Commodity Securities, Credit Securities or other Securities linked to other assets or bases of reference, may entail significant risks not associated with investments in conventional securities such as debt or equity securities. Purchasers should be prepared to sustain a partial or total loss of the purchase price of their Securities.

In certain circumstances, the Calculation Agent may make certain determinations in respect of the Securities, which could affect the amount payable or deliverable by the Issuer on the Securities.

Before making any decision to purchase Securities, prospective investors must review the applicable Final Terms to determine the relevant underlying instrument or base of reference, how the Cash Settlement Amount or Entitlement (as the case may be) is determined, how any remuneration payable is determined (in the case of Certificates) and when such amounts are payable and/or deliverable, as the case may be.

Prospective investors should also consider all information provided in the Registration Document referred to in "*Documents Incorporated by Reference*" on page 17 of this Base Prospectus.

**Prospective investors should ensure that they understand the nature of the relevant Securities and the suitability of the relevant Securities as an investment in light of their own circumstances and financial condition.**

**Distribution:**

Securities may be issued on a continuous basis and may be distributed by way of private or public placement as specified in the applicable Final Terms. If distributed by way of public placement, the placement activities will be carried out by distributors appointed from time to time as indicated in the relevant Final Terms. If the applicable Final Terms so specify, Securities may be distributed to one or more Managers.

**Settlement Currencies:**

Euro, U.S. dollars or any other currency or currencies selected by the Issuer or any Manager, subject to compliance with all applicable legal and/or regulatory and/or central bank requirements. The Issuer may issue Securities in respect of which the Cash Settlement Amount and/or Remuneration Amount may be payable, as specified in the applicable Final Terms, in one or more currencies which may be different from the currency in which the Issue Price was denominated (**Dual Currency Securities**).

**Issue Price:**

Securities may be issued at such price as shall be determined by the Issuer or any Manager appointed in respect of the issue subject to compliance with all applicable legal and/or regulatory and/or central bank requirements.

**Form of Securities:**

Each issue of Securities will on issue be represented by either a Temporary Global Security or a Permanent Global Security as

indicated in the applicable Final Terms. The Temporary Global Security will be exchangeable either, in accordance with its terms, for a Permanent Global Security or for Definitive Securities. The Permanent Global Security will be exchangeable in limited circumstances for Definitive Securities. Each Temporary Global Security and each Permanent Global Security will be held by a common depository on behalf of Euroclear and Clearstream, Luxembourg.

**Clearing Systems:** Euroclear and/or Clearstream, Luxembourg and also through any additional or alternative Clearing Systems indicated in the applicable Final Terms.

**Type of Securities:** The Issuer may issue Warrants or Certificates (together, **Securities**) of any kind, including but not limited to Index Securities, Share Securities, Debt Securities, Currency Securities, Fund Securities, Commodities Securities and Credit Securities, as specified below.

Remuneration may be payable in respect of Certificates, if so specified in the applicable Final Terms.

Warrants may be European Style Warrants, American Style Warrants or such other style specified in the applicable Final Terms.

**Settlement:** Settlement will be by way of cash payment (**Cash Settled Securities**) or physical delivery (**Physical Delivery Securities**).

**Index Securities:** The Cash Settlement Amount in respect of Index Securities will be calculated by reference to a single index or basket of indices.

**Share Securities:** The Cash Settlement Amount in respect of Cash Settled Share Securities will be calculated by reference to a single share or basket of shares.

The Entitlement in respect of Physical Delivery Share Securities will be a specified amount of shares of one or more companies, as applicable, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

**Currency Securities:** The Cash Settlement Amount in respect of Cash Settled Currency Securities will be calculated by reference to a single currency or basket of currencies.

The Entitlement in respect of Physical Delivery Currency Securities will be a specified amount of the relevant currency or currencies as applicable, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

**Debt Securities:** The Cash Settlement Amount in respect of Cash Settled Debt Securities will be calculated by reference to a single debt instrument or basket of debt instruments.

The Entitlement in respect of Physical Delivery Debt Securities will be a specified amount of debt instruments of one or more issuers, as applicable, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

**Commodity Securities:** The Cash Settlement Amount in respect of Cash Settled Commodity Securities will be calculated by reference to a single commodity or basket of commodities.

The Entitlement in respect of Physical Delivery Commodity Securities will be a specified amount of commodities, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

**Fund Securities:**

The Cash Settlement Amount in respect of Cash Settled Fund Securities will be calculated by reference to units or shares in a single fund or basket of funds.

The Entitlement in respect of Physical Delivery Fund Securities will be a specified amount of fund shares or units, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

**Credit Securities:**

The Cash Settlement Amount in respect of Credit Securities will be calculated by reference to the credit of a specified entity or entities.

**Other Securities:**

Securities relating to other underlying instruments, baskets or bases of reference may be issued on such terms as may be determined by the Issuer and specified in the applicable Final Terms.

**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 **Expiration Date**).

American Style Warrants are exercisable on any Exercise Business Day during the Exercise Period (with the last Exercise Business Day of the Exercise Period being the **Expiration Date**).

If Automatic Exercise is not specified in the applicable Final Terms, any Warrant which has not been duly exercised by the relevant Securityholder, at or prior to 10.00 a.m., Brussels or Luxembourg time, as the case may be, on the Expiration Date shall become void.

If Automatic Exercise is specified in the applicable Final Terms, any Warrant which has not been duly exercised by the relevant Securityholder, 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. In the case of Italian Listed Warrants, automatic exercise can be waived by serving a Renouncement Notice, which shall be substantially in the form set out in the Amended and Restated Agency Agreement, copies of which may be obtained from the specified office of the Principal Security Agent and the registered office of the Issuer.

**Certificates:**

Each Certificate shall be automatically exercised on the Exercise Date. In the case of Italian Listed Certificates, automatic exercise can be waived by serving a Renouncement Notice, which shall be substantially in the form set out in the Amended and Restated Agency Agreement, copies of which may be obtained from the specified office of the Principal Security Agent and the registered office of the Issuer.

**Physical Delivery Securities and Assessed Value Payment Amount:**

In the case of Physical Delivery Securities, in order to receive the relevant Entitlement the relevant Securityholder must deliver to the Principal Security Agent an Exercise Notice (in the case of Warrants) or a Physical Delivery Confirmation Notice (in the case of Certificates) prior to 10.00 a.m. Brussels or Luxembourg time, as

the case may be, on the Expiration Date (in the case of Warrants) or the Exercise Date (in the case of Certificates) and pay any Expenses and any other amounts payable and, in the case of Warrants, the relevant Exercise Price. If a Securityholder does not deliver an Exercise Notice or a Physical Delivery Confirmation Notice, as applicable, prior to 10.00 a.m. Brussels or Luxembourg time, as the case may be, on the Expiration Date or the Exercise Date, as applicable, no delivery of the Entitlement will be made and in lieu thereof the Issuer shall determine and pay the Assessed Value Payment Amount.

**Status of Securities:**

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) rank equally with all other unsecured obligations (other than subordinated obligations, if any) of the Issuer from time to time outstanding.

**Expenses and Taxation:**

All payments made by the Issuer shall be made subject to all taxes, duties, withholdings or other payments which may be required to be made, paid, withheld or deducted as a result of the ownership, transfer, exercise, redemption or enforcement of any Security.

A holder of a Security must pay all taxes, duties and/or expenses arising from the exercise and/or redemption of such Security.

Investors are encouraged to read the section "*Taxation*" beginning on page 134 of the Base Prospectus.

**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.

**Governing law:**

The Securities and any non-contractual obligations arising out of or in connection with the Securities will be governed by, and shall be construed in accordance with, English Law.

**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.

Securities may be listed or admitted to trading, as the case may be, on such other or further stock exchange(s) or market(s) as determined by the Issuer. In particular, the Issuer may list the Securities on the Italian Stock Exchange and admit the Securities to trading on the electronic "Securitized Derivatives market" organised and managed by Borsa Italiana S.p.A. (the **SeDeX**).

The applicable Final Terms will state whether or not the relevant Securities are to be listed and/or admitted to trading and if so, on which stock exchange(s) and/or market(s).

**Selling Restrictions:**

There are restrictions on the offer, sale and transfer of the Securities in the United States and the European Economic Area (including the Republic of Italy, the Grand Duchy of Luxembourg, the Portuguese Republic, Germany and the United Kingdom) and such other restrictions as may be required in connection with the offering and sale of a particular series of Securities, see "*Offering and Sale*".

**Substitution of the Issuer:**

Unless otherwise indicated in the relevant Final Terms, the Issuer is entitled, subject to the Conditions of the Securities, to substitute any other company as principal debtor in respect of all obligations arising from or in connection with any Securities or to change the branch through which it is acting for the purpose of any Securities. Upon any such substitution of the Issuer or branch, the Conditions of the Securities will be amended in all consequential respects.

In the case of Italian Listed Securities, the Issuer shall unconditionally and irrevocably guarantee the obligations of the substituted issuer *vis-à-vis* investors.

## OVERVIEW OF THE PROGRAMME

The following overview does not purport to be complete and is taken from, and is qualified in its entirety by, the Summary and the remainder of this Base Prospectus and, in relation to the terms and conditions of any particular Tranche of Securities, the applicable Final Terms. The Issuer may determine that Securities shall be issued in a form other than that contemplated in the Terms and Conditions, in which event, in the case of listed Securities only and if appropriate, a supplement to this Base Prospectus will be published.

*This Overview constitutes a general description of the Programme for the purposes of Article 22.5(3) of Commission Regulation (EC) No 809/2004 implementing the Prospectus Directive.*

*Words and expressions defined in the Terms and Conditions of the Securities and in the remainder of this Base Prospectus shall have the same meanings in this overview.*

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| <b>Issuer:</b>  | Banca IMI S.p.A.   |
| <b>Description:</b>   | Warrant and Certificate Programme  |
| <b>Certain Restrictions</b>                                   | Each issue of Securities denominated in a currency in respect of which particular laws, guidelines, regulations, restrictions or reporting requirements apply will only be issued in circumstances which comply with such laws, guidelines, regulations, restrictions or reporting requirements from time to time (see " <i>Offering and Sale</i> ").  |
| <b>Principal Security Agent and Luxembourg Listing Agent:</b> | BNP Paribas Securities Services, Luxembourg Branch   |
| <b>Calculation Agent:</b>                                     | The Issuer or such other calculation agent specified in the applicable Final Terms.  |
| <b>Settlement Currencies:</b>                                 | Euro, U.S. dollars or any other currency or currencies selected by the Issuer or any Manager, subject to compliance with all applicable legal and/or regulatory and/or central bank requirements. The Issuer may issue Securities in respect of which the Cash Settlement Amount and/or Remuneration Amount may be payable, as specified in the applicable Final Terms, in one or more currencies which may be different from the currency in which the Issue Price was denominated ( <b>Dual Currency Securities</b> ).   |
| <b>Issue Price:</b>   | Securities may be issued at such price as shall be determined by the Issuer or any Manager appointed in respect of the issue subject to compliance with all applicable legal and/or regulatory and/or central bank requirements.   |
| <b>Form of Securities:</b>                                    | Each issue of Securities will on issue be represented by either a Temporary Global Security or a Permanent Global Security as indicated in the applicable Final Terms. The Temporary Global Security will be exchangeable either, in accordance with its terms, for a Permanent Global Security or for Definitive Securities. The Permanent Global Security will be exchangeable in limited circumstances for Definitive Securities. Each Temporary Global Security and each Permanent Global Security will be held by a common depository on behalf of Euroclear and Clearstream, Luxembourg. |
| <b>Type of Securities:</b>                                    | The Issuer may issue Warrants or Certificates (together, <b>Securities</b> ) of any kind, including but not limited to Index Securities, Share Securities, Debt Securities, Currency Securities, Fund Securities, Commodities Securities and Credit Securities, as specified below.  |

Remuneration may be payable in respect of Certificates, if so specified in the applicable Final Terms.

Warrants may be European Style Warrants, American Style Warrants or such other style specified in the applicable Final Terms.

**Settlement:** Settlement will be by way of cash payment (**Cash Settled Securities**) or physical delivery (**Physical Delivery Securities**).

**Index Securities:** The Cash Settlement Amount in respect of Index Securities will be calculated by reference to a single index or basket of indices.

**Share Securities:** The Cash Settlement Amount in respect of Cash Settled Share Securities will be calculated by reference to a single share or basket of shares.

The Entitlement in respect of Physical Delivery Share Securities will be a specified amount of shares of one or more companies, as applicable, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

**Currency Securities:** The Cash Settlement Amount in respect of Cash Settled Currency Securities will be calculated by reference to a single currency or basket of currencies.

The Entitlement in respect of Physical Delivery Currency Securities will be a specified amount of the relevant currency or currencies as applicable, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

**Debt Securities:** The Cash Settlement Amount in respect of Cash Settled Debt Securities will be calculated by reference to a single debt instrument or basket of debt instruments.

The Entitlement in respect of Physical Delivery Debt Securities will be a specified amount of debt instruments of one or more issuers, as applicable, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

**Commodity Securities:** The Cash Settlement Amount in respect of Cash Settled Commodity Securities will be calculated by reference to a single commodity or basket of commodities.

The Entitlement in respect of Physical Delivery Commodity Securities will be a specified amount of commodities, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

**Fund Securities:** The Cash Settlement Amount in respect of Cash Settled Fund Securities will be calculated by reference to units or shares in a single fund or basket of funds.

The Entitlement in respect of Physical Delivery Fund Securities will be a specified amount of fund shares or units, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

|  |   |
|--|---|
| <b>Credit Securities</b>   | The Cash Settlement Amount in respect of Credit Securities will be calculated by reference to the credit of a specified entity or entities.   |
| <b>Other Securities:</b>   | Securities relating to other underlying instruments, baskets or bases of reference may be issued on such terms as may be determined by the Issuer and specified in the applicable Final Terms.  |
| <b>Warrants:</b>   | <p>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 <b>Expiration Date</b>).</p> <p>American Style Warrants are exercisable on any Exercise Business Day during the Exercise Period (with the last Exercise Business Day of the Exercise Period being the <b>Expiration Date</b>).</p> <p>If Automatic Exercise is not specified in the applicable Final Terms, any Warrant which has not been duly exercised by the relevant Securityholder, at or prior to 10.00 a.m., Brussels or Luxembourg time, as the case may be, on the Expiration Date shall become void.</p> <p>If Automatic Exercise is specified in the applicable Final Terms, any Warrant which has not been duly exercised by the relevant Securityholder, 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. In the case of Italian Listed Warrants, automatic exercise can be waived by serving a Renouncement Notice, which shall be substantially in the form set out in the Amended and Restated Agency Agreement, copies of which may be obtained from the specified office of the Principal Security Agent and the registered office of the Issuer.</p> |
| <b>Certificates:</b>   | Each Certificate shall be automatically exercised on the Exercise Date. In the case of Italian Listed Certificates, automatic exercise can be waived by serving a Renouncement Notice, which shall be substantially in the form set out in the Amended and Restated Agency Agreement, copies of which may be obtained from the specified office of the Principal Security Agent and the registered office of the Issuer.  |
| <b>Physical Delivery Securities and Assessed Value Payment Amount:</b> | In the case of Physical Delivery Securities, in order to receive the relevant Entitlement the relevant Securityholder must deliver to the Principal Security Agent an Exercise Notice (in the case of Warrants) or a Physical Delivery Confirmation Notice (in the case of Certificates) prior to 10.00 a.m. Brussels or Luxembourg time, as the case may be, on the Expiration Date (in the case of Warrants) or the Exercise Date (in the case of Certificates) and pay any Expenses and any other amounts payable and, in the case of Warrants, the relevant Exercise Price. If a Securityholder does not deliver an Exercise Notice or a Physical Delivery Confirmation Notice, as applicable, prior to 10.00 a.m. Brussels or Luxembourg time, as the case may be, on the Expiration Date or the Exercise Date, as applicable, no delivery of the Entitlement will be made and in lieu thereof the Issuer shall determine and pay the Assessed Value Payment Amount.   |
| <b>Substitution of the Issuer:</b>                                     | Unless otherwise indicated in the relevant Final Terms, the Issuer is entitled, subject to the Conditions of the Securities, to substitute any other company as principal debtor in respect of all obligations arising from or in connection with any Securities or to change the   |

branch through which it is acting for the purpose of any Securities. Upon any such substitution of the Issuer or branch, the Conditions of the Securities will be amended in all consequential respects.

In the case of Italian Listed Securities, the Issuer shall unconditionally and irrevocably guarantee the obligations of the substituted issuer *vis-à-vis* investors.

## DOCUMENTS INCORPORATED BY REFERENCE

The following documents which have previously been published or are published simultaneously with this Base Prospectus and have been filed with the CSSF shall be deemed to be incorporated in, and to form part of, this Base Prospectus. Any information not listed in the cross-reference list below but included in the document incorporated by reference is given for information purposes only. The documents set out below that are incorporated by reference in this Base Prospectus are direct translations into English from the original Italian language documents. The Issuer takes responsibility for such translations. For the avoidance of doubt, the Issuer's interim financial statements are not audited.

1. The registration document of the Issuer filed with CONSOB on 7 July 2011 pursuant to the authorisation communicated by notice No. 11061015 of 7 July 2011 (the **Registration Document**):

|   |                |
|---|----------------|
| Auditors  | Page 5         |
| Risk factors                                      | Pages 6 to 8   |
| History and development of the Issuer             | Page 13 to 14  |
| Main activities                                   | Page 15        |
| Main markets                                      | Page 15        |
| Organisational structure                          | Pages 17 to 18 |
| Administrative, management and supervisory bodies | Pages 22 to 24 |
| Main shareholders                                 | Page 25        |
| Legal and arbitration proceedings                 | Pages 27 to 30 |
| Material contracts                                | Page 31        |

2. The audited company financial statements and the audited consolidated financial statements of the Issuer for the financial year ending 31 December 2009:

|   | <i>2009 Company<br/>Financial Statements</i> | <i>2009 Consolidated<br/>Financial Statements</i> |
|---|--|---|
| Balance sheet                               | Pages 59-60                                  | Pages 265-266                                     |
| Income statement                            | Page 61                                      | Page 267  |
| Changes in shareholders' equity             | Pages 63-64                                  | Page 269  |
| Statement of cash flows                     | Pages 65-66                                  | Pages 270-271                                     |
| Accounting principles and explanatory notes | Pages 69 <i>et seq.</i>                      | Pages 275 <i>et seq.</i>                          |
| Auditors' report                            | Page 221                                     | Pages 389-390                                     |

3. The audited company financial statements and the audited consolidated financial statements of the Issuer for the financial year ending 31 December 2010:

|   | <i>2010<br/>Company<br/>Financial Statements</i> | <i>2010<br/>Consolidated<br/>Financial Statements</i> |
|---|--|---|
| Balance sheet                               | Pages 61-62                                      | Pages 261-262   |
| Income statement                            | Page 63  | Page 263  |
| Changes in shareholders' equity             | Pages 65-66                                      | Page 265  |
| Statement of cash flows                     | Pages 67-68                                      | Pages 266-267   |
| Accounting principles and explanatory notes | Pages 71 <i>et seq.</i>                          | Pages 271 <i>et seq.</i>                              |
| Auditors' report                            | Pages 214-215                                    | Pages 367-368   |

Any statement contained herein or in a document which is deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purpose of this Base Prospectus to the extent that a statement contained in any such subsequent document which is deemed to be incorporated by reference herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Base Prospectus.

Copies of documents incorporated by reference in this Base Prospectus can be obtained from the registered office of the Issuer and from the specified offices of the Principal Security Agent for the time being in Luxembourg. This Base Prospectus and all documents incorporated by reference herein are available on the official website of the Luxembourg Stock Exchange at [www.bourse.lu](http://www.bourse.lu).

The Issuer will in the event of any significant new factor, material mistake or inaccuracy relating to information included in this Base Prospectus which is capable of affecting the assessment of any Securities, prepare a supplement to this Base Prospectus, which supplement will be approved by the CSSF in accordance with Article 13 of the Luxembourg Act, or publish a new base prospectus for use in connection with any subsequent issue of Securities. Any supplement to this Base Prospectus will be published on the website of the Luxembourg Stock Exchange at [www.bourse.lu](http://www.bourse.lu).

## RISK FACTORS

*The Issuer believes that the following factors may affect its ability to fulfil its obligations in respect of Securities issued under the Programme and/or are material for the purpose of assessing the market risks associated with Securities issued under the Programme. Most of these factors are contingencies which may or may not occur and the Issuer is not in a position to express a view on the likelihood of any such contingency occurring.*

*The Issuer believes that the factors described below or incorporated by reference in this Base Prospectus as described below, represent the principal risks inherent in investing in Securities issued under the Programme, but the inability of the Issuer to pay Cash Settlement Amounts in respect of Cash Settled Securities or deliver the Entitlement in respect of Physical Delivery Securities may occur for other reasons and the Issuer does not represent that the statements below regarding the risks of holding any Securities are exhaustive. Additional risks and uncertainties not presently known to the Issuer or that the Issuer currently believes to be immaterial could also have a material impact on its business operations or the Securities. The Final Terms in respect of an issue of Securities may contain additional Risk Factors in respect of such Securities. Prospective investors should also read the detailed information set out elsewhere in this Base Prospectus and reach their own views prior to making any investment decision.*

*Terms used in this section and not otherwise defined shall have the meanings given to them in "Terms and Conditions of the Securities".*

### **Factors that may affect the Issuer's ability to fulfil its obligations under Securities issued under the Programme**

#### ***Creditworthiness of the Issuer***

The Securities constitute direct, unconditional, unsubordinated 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. The Issuer issues a large number of financial instruments, including the Securities and, at any given time, the financial instruments outstanding may be substantial.

If a court in the jurisdiction of incorporation of the Issuer institutes bankruptcy or composition proceedings to avert bankruptcy or similar proceedings against the assets of the Issuer, or the Issuer applies for the institution of such proceedings concerning its assets, payments of interest, principal or other amounts on or in connection with the Securities and/or delivery of any assets in connection with the Securities may be limited and/or may be substantially delayed.

Prospective investors should also consider the section entitled "Risk Factors" provided in the Registration Document referred to in "Documents Incorporated by Reference" on page 17 of this Base Prospectus.

### **Factors which are material for the purpose of assessing the market risks associated with Securities issued under the Programme**

#### ***The Securities may not be a suitable investment for all investors***

Each potential investor in the Securities must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

- (i) have sufficient knowledge and experience to evaluate the Securities, the merits and risks of investing in the Securities and the information contained or incorporated by reference in this Base Prospectus or any applicable supplement to the Base Prospectus and all information contained in the applicable Final Terms;

- (ii) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Securities and the impact the Securities will have on its overall investment portfolio;
- (iii) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Securities, including Securities with a Cash Settlement Amount payable in one or more currencies, or where the Settlement Currency is different from the potential investor's currency;
- (iv) understand thoroughly the terms of the Securities and be familiar with any relevant indices and financial markets; and
- (v) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

In addition, an investment in Index Securities, Share Securities, Debt Securities, Currency Securities, Fund Securities, Commodity Securities, Credit Securities or other Securities linked to other assets or bases of reference, may entail significant risks not associated with investments in conventional securities such as debt or equity securities, including, but not limited to, the risks set out in "*Risks related to the structure of a particular issue of Securities*" set out below.

Securities are complex financial instruments. Sophisticated institutional investors generally do not purchase complex financial instruments as stand-alone investments. They purchase complex financial instruments as a way to reduce risk or enhance yield with an understood, measured, appropriate addition of risk to their overall portfolios. A potential investor should not invest in Securities which are complex financial instruments unless it has the expertise (either alone or with a financial adviser) to evaluate how the Securities will perform under changing conditions, the resulting effects on the value of the Securities and the impact this investment will have on the potential investor's overall investment portfolio.

### ***Option Risk***

The Securities are derivative financial instruments which may include an option right and which, therefore, have many characteristics in common with options. Transactions in options involve a high level of risk. An investor who intends to trade in options must first of all understand the functioning of the types of contracts which he intends to trade in (for example, call options and put options). An investment in options constitutes a highly volatile investment and there is a high likelihood that the option may have no value whatsoever at expiration. In such case, the investor would lose the entire amount used to purchase the option (known as the "*premium*").

An investor who is considering the purchase of a call option over a Reference Item, the market price of which is much lower than the price at which the exercise of the option would be opportune (known as "*deep out of the money*"), must consider that the possibility that the exercise of the option will become profitable is remote. Likewise, an investor who is considering the purchase of a put option over a Reference Item, the market price of which is much higher than the price at which the exercise of the option would be opportune, must consider that the possibility that the exercise of the option will become profitable is remote.

The Securities include some options on Reference Item(s). The amount potentially paid or deliverable on exercise or any early termination will depend on the value of such options. Prior to the expiration of a Security, a variation in the value of the relevant options may involve a reduction in the value of such Security.

### ***Risks related to the structure of a particular issue of Securities***

A wide range of Securities may be issued under the Programme. A number of these Securities may have features which contain particular risks for potential investors. Set out below is a description of the most common features.

#### *General risks and risks relating to underlying asset or basis of reference*

The Securities involve a high degree of risk, which may include, among others, interest rate, foreign exchange, time value and political risks. Purchasers should be prepared to sustain a partial or total loss of the purchase price of their Securities. This risk reflects the nature of a Security as an asset which, other factors held constant, tends to decline in value over time and which may become worthless on expiration. See "*Certain Factors Affecting the Value and Trading Price of Securities*" below. Prospective purchasers of Securities should be experienced with respect to options and option transactions, should understand the risks of transactions involving the relevant Securities and should reach an investment decision only after careful consideration, with their advisers, of the suitability of such Securities in light of their particular financial circumstances, the information set forth herein and the information regarding the relevant Securities and the particular share (or basket of shares), index (or basket of indices), currency (or basket of currencies), debt instrument (or basket of debt instruments), fund (or basket of funds), commodity (or basket of commodities), the creditworthiness of the specified reference entity or entities or other asset or basis of reference to which the value of the relevant Securities may relate, as specified in the applicable Final Terms.

The risk of the loss of some or all of the purchase price of a Security upon expiration means that, in order to recover and realise a return upon his or her investment, a purchaser of a Security must generally be correct about the direction, timing and magnitude of an anticipated change in the value of the relevant share (or basket of shares), index (or basket of indices), currency (or basket of currencies), debt instrument (or basket of debt instruments), fund (or basket of funds), commodity (or basket of commodities), the creditworthiness of the specified reference entity or entities or other asset or basis of reference which may be specified in the applicable Final Terms. Assuming all other factors are held constant, the lower the value of a Security and the shorter its remaining term to expiration, the greater the risk that purchasers of such Security will lose all or part of their investment. With respect to European Style Warrants and to Certificates, the only means through which a holder can realise value from such Security prior to the Exercise Date in relation to such Security is to sell it at its then market price in an available secondary market. See "*Possible Illiquidity of the Securities in the Secondary Market*" below.

Fluctuations in the value of the relevant index or basket of indices will affect the value of Index Securities. Fluctuations in the price of the relevant share or value of the basket of shares will affect the value of Share Securities. Fluctuations in the price or yield of the relevant debt instrument or value of the basket of debt instruments will affect the value of Debt Securities. Also, due to the character of the particular market on which a debt instrument is traded, the absence of last sale information and the limited availability of quotations for such debt instrument may make it difficult for many investors to obtain timely, accurate data for the price or yield of such debt instrument. Fluctuations in the rates of exchange between the relevant currencies will affect the value of Currency Securities. Fluctuations in the value of the relevant fund or the value of the basket of funds will affect the value of Fund Securities. Fluctuations in the value of the relevant commodity or basket of commodities will affect the value of Commodity Securities. Fluctuations in the creditworthiness of the specified reference entity or entities will affect the value of the Credit Securities. Purchasers of Securities risk losing their entire investment if the value of the relevant underlying basis of reference does not move in the anticipated direction.

The Issuer may issue several issues of Securities relating to various reference indices, debt instruments, shares, funds, currencies, commodities, the credit of various reference entities, or various other assets or bases of reference as may be specified in the applicable Final Terms. However, no assurance can be given that the Issuer will issue any Securities other than the Securities to which particular Final Terms relate. At any given time, the number of Securities outstanding may be substantial. Securities provide opportunities for investment and pose

risks to investors as a result of fluctuations in the value of the underlying investment. In general, certain of the risks associated with the Securities are similar to those generally applicable to other options of private corporate issuers. Options or Securities on equities or debt securities are priced primarily on the basis of the value of underlying securities. The trading value of Currency Securities and Commodity Securities is likely to reflect primarily present and expected values of the reference currency (or basket of currencies) or commodity (or basket of commodities) specified in the applicable Final Terms.

#### *Certain Factors Affecting the Value and Trading Price of Securities*

The Cash Settlement Amount (in the case of Cash Settled Securities) or the value of the Entitlement less (in the case of Warrants) the Exercise Price (the **Physical Settlement Value**) (in the case of Physical Delivery Securities) at any time prior to expiration is typically expected to be less than the trading price of such Securities at that time. The difference between the trading price and the Cash Settlement Amount or the Physical Settlement Value, as the case may be, will reflect, among other things, a "time value" for the Securities. The "time value" of the Securities will depend partly upon the length of the period remaining to expiration and expectations concerning the value of the share (or basket of shares), index (or basket of indices), currency (or basket of currencies), debt instrument (or basket of debt instruments), fund (or basket of funds), commodity (or basket of commodities), the creditworthiness of the specified reference entity or entities or the value of the other asset or basis of reference as specified in the applicable Final Terms. Securities offer hedging and investment diversification opportunities but also pose some additional risks with regard to interim value. The interim value of the Securities varies with the price level of the share (or basket of shares), index (or basket of indices), currency (or basket of currencies), debt instrument (or basket of debt instruments), fund (or basket of funds), commodity (or basket of commodities), the creditworthiness of the specified reference entity or entities or the price level of the other asset or basis of reference as specified in the applicable Final Terms, as well as by a number of other interrelated factors, including those specified herein.

Before exercising (in the case of Warrants) or selling Securities, Securityholders should carefully consider, among other things, (i) the trading price of the Securities, (ii) the value and volatility of the share (or basket of shares), index (or basket of indices), debt instrument (or basket of debt instruments), fund (or basket of funds), currency (or basket of currencies), commodity (or basket of commodities) or other asset or basis of reference as specified in the applicable Final Terms, (iii) the time remaining to expiration, (iv), in the case of Cash Settled Securities, the probable range of Cash Settlement Amounts, (v) any change(s) in interim interest rates and dividend yields if applicable, (vi) any change(s) in currency exchange rates, (vii) the depth of the market or liquidity of the share (or basket of shares), index (or basket of indices), debt instrument (or basket of debt instruments), fund (or basket of funds), currency (or basket of currencies), commodity (or basket of commodities) or other asset or basis of reference as specified in the applicable Final Terms and (viii) any related transaction costs.

#### *Certain Considerations Regarding Hedging*

Prospective purchasers intending to purchase Securities to hedge against the market risk associated with investing in a share (or basket of shares), index (or basket of indices), currency (or basket of currencies), debt instrument (or basket of debt instruments), fund (or basket of funds), commodity (or basket of commodities) or other asset or basis of reference which may be specified in the applicable Final Terms, should recognise the complexities of utilising Securities in this manner. For example, the value of the Securities may not exactly correlate with the value of the share (or basket of shares), index (or basket of indices), debt instrument (or basket of debt instruments), fund (or basket of funds), currency (or basket of currencies), commodity (or basket of commodities), the creditworthiness of the specified reference entity or entities or the value of the other asset or basis of reference which may be specified in the applicable Final Terms. Due to fluctuating supply and demand for the Securities, there is no assurance that their value will correlate with movements of the share (or basket of shares), index (or basket of indices), debt instrument (or basket of debt instruments), fund (or basket of funds), currency (or basket of currencies), commodity (or basket of commodities), the creditworthiness of the specified reference entity or entities or the value of the other asset or basis of reference which may be specified in the

applicable Final Terms. For these reasons, among others, it may not be possible to purchase or liquidate securities in a portfolio at the prices used to calculate the value of any relevant index or basket.

In the case of Securities relating to a share (or basket of shares), the Issuer and/or any of its respective Affiliates or agents may from time to time hedge the Issuer's obligations under such Securities (and under other instruments and OTC contracts issued by or entered into from time to time by the Issuer and/or any of its respective Affiliates or agents relating to such securities) by taking positions, directly or indirectly, in such share (or basket of shares). Although the Issuer has no reason to believe that such hedging activities will have a material impact on the price of any share, there can be no assurance that such hedging activities will not adversely affect the value of the Securities.

#### *Certain Considerations Associated with Share Securities*

An investment in Share Securities will entail significant risks not associated with an investment in a conventional debt security. In the case of Securities relating to a share (or basket of shares), no issuer of such shares will have participated in the preparation of the relevant Final Terms or in establishing the terms of the Securities and neither the Issuer nor any Manager will make any investigation or enquiry in connection with such offering with respect to any information concerning any such issuer of shares contained in such Final Terms or in the documents from which such information was extracted. Consequently, there can be no assurance that all events occurring prior to the relevant issue date (including events that would affect the accuracy or completeness of the publicly available information described in this paragraph or in any relevant Final Terms) that would affect the trading price of the share will have been publicly disclosed. Subsequent disclosure of any such events or the disclosure of or failure to disclose material future events concerning such an issuer of shares could affect the trading price of the share and therefore the trading price of the Securities.

Except as provided in the Conditions in relation to Physical Delivery Securities, Securityholders will not have voting rights or rights to receive dividends or distributions or any other rights with respect to the relevant shares to which such Securities relate.

#### *Certain Considerations Associated with Currency Securities*

An Investment in Currency Securities will entail significant risks not associated with an investment in a conventional debt security. Fluctuations in exchange rates of the relevant currency (or basket of currencies) will affect the value of Currency Securities. Furthermore, investors who intend to convert gains or losses from the exercise or sale of Securities into their home currency may be affected by fluctuations in exchange rates between their home currency and the Settlement Currency of the Securities. Currency values may be affected by complex political and economic factors, including governmental action to fix or support the value of a currency (or basket of currencies), regardless of other market forces (see "*Exchange rate risks and exchange controls*" below). Purchasers of Securities risk losing their entire investment if exchange rates of the relevant currency (or basket of currencies) do not move in the anticipated direction.

If additional warrants, certificates or options relating to particular currencies or particular currency indices are subsequently issued, the supply of warrants, certificates and options relating to such currencies or currency indices, as applicable, in the market will increase, which could cause the price at which the Currency Securities and such other warrants, certificates and options trade in the secondary market to decline significantly.

#### *Certain Considerations Associated with Fund Securities*

An investment in Fund Securities will entail significant risks not associated with an investment in a conventional debt security. An investment in Fund Securities may bear similar market risks to a direct investment in the relevant fund(s) and investors should take advice accordingly.

*Certain Considerations Associated with Commodity Securities that are linked to commodity futures contracts or commodity indices*

An investment in Commodity Securities will entail significant risks not associated with an investment in a conventional debt security. The yield on Commodity Securities which are linked to commodity futures contracts or commodity indices may not be perfectly correlated to the trend in the price of the underlying commodities, as the use of commodity futures contracts generally involves a rolling mechanism. This means that any commodity futures contracts which expire prior to the relevant payment date under the applicable Commodity Securities are replaced with commodity futures contracts that have a later expiry date. Investors may, therefore, only marginally benefit from any rise or fall in the price of the commodities.

In addition, the trend of commodity futures contracts may differ significantly from that of the commodity spot markets. The trend in the price of a commodity futures contracts compared to the underlying commodity is closely linked to the present and future level of production of the underlying commodity, or to the level of estimated natural reserves, particularly in the case of energy linked products. In addition, the price of the relevant commodity futures contract may not be considered an accurate prediction of a market price, since it also includes so-called "carrying costs" (for example, warehouse or insurance costs). These factors substantially explain the imperfect correlation between commodity spot markets and commodity futures contracts.

*Certain Considerations Associated with Index Securities*

An investment in Index Securities will entail significant risks not associated with an investment in a conventional debt security. The underlying index may be a well known and widely published index or an index which may not be widely published or available. The index may reference, *inter alia*, equities, bonds, currency exchange rates, or other securities or it may be a property index referencing certain property price data which will be subject to market price fluctuations, or reference a number of different assets or indices. A property index may include valuations only and not actual transactions and the property data sources used to compile the index may be subject to change, which may adversely affect the return on the Securities. In addition, the property index may be sponsored and/or calculated by the Issuer or one of its affiliates.

*Certain Considerations Associated with Debt Securities*

An investment in Debt Securities will entail significant risks not associated with an investment in a conventional debt security. On redemption or exercise, as the case may be, of Debt Securities, Holders will receive an amount (if any) determined by reference to the value of the underlying debt instrument(s) and/or the physical delivery of a given number of debt instrument(s). Accordingly, an investment in Debt Securities may bear similar market risks to a direct investment in the underlying debt instrument, and investors should take advice accordingly.

*Certain Considerations Associated with Credit Securities*

An investment in Credit Securities will entail significant risks not associated with an investment in a conventional debt security. The Issuer may issue Securities where the Cash Settlement Amount and/or Remuneration Amount(s) payable is dependent upon whether certain events (**Credit Events**) have occurred in respect of one or more reference entity/entities (**Reference Entities**) and, if so, on the value of certain assets of such Reference Entity/Entities as specified in the applicable Final Terms.

The price of Credit Securities may be volatile and will be affected by, amongst other things, the time remaining to the redemption date or expiration date and the creditworthiness of the Reference Entity/Entities, which in turn may be affected by the economic, financial and political events in one or more jurisdictions.

The holders of Credit Securities will be exposed to the credit risk of one or more Reference Entities, which exposure may be, as stated in the applicable Final Terms, up to the full extent of their investment in such Credit Securities. The occurrence of a Credit Event in relation to any Reference Entity from time to time may result in

the Credit Securities paying a reduced or zero Cash Settlement Amount and/or (if applicable) a reduced or zero Remuneration Amount(s). Upon the occurrence of any of the default events comprising a Credit Event with respect to any Reference Entity, the holders of such Credit Securities may then suffer significant losses at a time when losses may be suffered by a direct investor in obligations of such Reference Entity. However, the holding of a Credit Security is unlikely to lead to outcomes which exactly reflect the impact of investing in an obligation of a Reference Entity, and losses could be considerably greater than would be suffered by a direct investor in the obligations of a Reference Entity and/or could arise for reasons unrelated to such Reference Entity. Holders should also note that a Credit Event may occur even if the obligations of a Reference Entity are unenforceable or their performance is prohibited by any applicable law or exchange controls.

Following the occurrence of a Credit Event, the Calculation Agent may be required by the applicable Final Terms to seek quotations in respect of select obligations of the affected Reference Entity. Such quotations may not be available, or the level of such quotations may be substantially reduced or may vary substantially as a result of illiquidity in the relevant markets or as a result of factors other than the credit risk of the affected Reference Entity (for example, liquidity constraints affecting market dealers).

Accordingly, any quotations so obtained may be significantly different from the value of the relevant obligation which would be determined by reference to (for example) the present value of related cashflows. Where credit losses are determined on the basis of a market protocol, such losses may vary from the losses which would have been determined in the absence of such protocol. If the Calculation Agent or any affiliate thereof participates in any auction for the purposes of such a protocol, then it will do so without regard to the interests of the holders of the Securities. Such participation may have a material effect on the outcome of the relevant auction.

Actions of Reference Entities (for example, merger or demerger or the repayment or transfer of indebtedness) may adversely affect the value of the Credit Securities. Holders of the Securities should be aware that the Reference Entities to which the value of the Securities is exposed, and the terms of such exposure, may change over the term of the Securities.

Credit Securities do not constitute an acquisition by the holders of the Securities of any interest in any obligation of a Reference Entity. The Issuer does not grant any security interest over any such obligation.

Prospective purchasers should be aware that the Issuer's obligations in respect of Credit Securities are irrespective of the existence or amount of the Issuer's and/or any affiliates' credit exposure to a Reference Entity, and the Issuer and/or any affiliate need not suffer any loss nor provide evidence of any loss as a result of the occurrence of a Credit Event.

The Issuer and the Calculation Agent are not obliged to disclose to holders of the Securities any information which they may have at the Issue Date or receive thereafter in relation to any Reference Entity.

Individual Reference Entities may not perform as indicated by the historical performance of similar entities and no assurance can be given with respect to the future performance of any Reference Entities. Historical default statistics may not capture events that would constitute Credit Events for the purposes of the Securities. Investors should then conduct their own investigation and analysis with respect to the creditworthiness of Reference Entities and the likelihood of the occurrence of a Credit Event.

Reference Entities may not be subject to regular reporting requirements. The Reference Entities may report information in accordance with different disclosure and accounting standards. Prospective investors should note that in certain circumstances, there may be no requirement for the Issuer to give information which is generally publicly available in relation to the occurrence of a Credit Event. If a Credit Event occurs in respect of a Reference Entity which is not public, holders of the Securities may not be able to verify the occurrence of such Credit Event. None of the Issuer or the Calculation Agent or any of their respective affiliates make any representation as to the accuracy or completeness of any information available with respect to the Reference Entities and none of the Issuer or the Calculation Agent or any of their respective affiliates will have any obligation to keep investors informed as to any matters with respect to the Reference Entities or any of their

obligations, including whether or not circumstances exist that give rise to the possibility of the occurrence of a Credit Event with respect to the Reference Entities.

#### *Certain Considerations Associated with Securities providing for the application of a Multiplier*

The Securities may provide for the application to the relevant Reference Items of a Multiplier, in order to increase or decrease the percentage of each Reference Item used to determine the amounts payable or deliverable to investors. The Multiplier may be lower than 100 per cent.

In such case, the amounts payable or deliverable to investors will be reduced and, therefore, will contribute to the yield of the Securities only to such reduced extent. The performance of the relevant Reference Item(s) will, therefore, impact the yield of the Securities only to a limited extent.

#### *Certain Considerations Associated with Securities providing for the application of a cap to the Reference Item(s)*

The Securities may provide for the application of a maximum return payable or deliverable to investors or of a maximum value or level to the relevant Reference Item(s) (*cap*).

In such case, the amounts payable or deliverable to investors will be subject to the pre-determined maximum. If the relevant Reference Item(s) out-performs the pre-determined maximum, this will not be taken into consideration when calculating the amount payable or deliverable in respect of the Securities.

### ***Risks Related to Securities Generally***

#### *Option to Vary Settlement*

If the applicable Final Terms in respect of any Securities indicates that the Issuer has an option to vary settlement in respect of such Securities, the Issuer may, at its sole and unfettered discretion, elect (1) not to pay the relevant Securityholders the Cash Settlement Amount, but to deliver or procure delivery of the Entitlement or (2) not to deliver or procure delivery of the Entitlement, but to make payment of the Cash Settlement Amount on the Settlement Date to the relevant Securityholders.

#### *Modification*

The Conditions contain provisions for calling meetings of Securityholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Securityholders including Securityholders who did not attend and vote at the relevant meeting and Securityholders who voted in a manner contrary to the majority.

The Conditions also provide that the Principal Security Agent and the Issuer may, without the consent of Securityholders, agree to (i) any modification (subject to certain specific exceptions) of the Securities or the Amended and Restated Agency Agreement which is not prejudicial to the interests of the Securityholders or (ii) any modification of the Securities or the Amended and Restated 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.

#### *Market Disruption Event and Disrupted Day*

If an issue of Securities includes provisions dealing with the occurrence of a market disruption event or a failure to open of an exchange or related exchange on a Valuation Date or an Averaging Date and the Calculation Agent determines that a market disruption event or such failure has occurred or exists on a Valuation Date or an Averaging Date, any consequential postponement of the Valuation Date or Averaging Date or any alternative provisions for valuation provided in any Securities may have an adverse effect on the value of such Securities.

### *Settlement Disruption Event*

In the case of Physical Delivery Securities, if a Settlement Disruption Event occurs or exists on the Settlement Date, settlement will be postponed until the next Settlement Business Day on which no Settlement Disruption Event occurs. The Issuer in these circumstances also has the right to pay the Settlement Disruption Amount (as defined in the Conditions) in lieu of delivering the Entitlement. Such a determination may have an adverse effect on the value of the relevant Securities.

### *Expenses and Taxation*

A holder of Securities must pay all Expenses relating to such Securities. As used in the Conditions, **Expenses** means all taxes, duties and/or expenses, including any applicable depository charges, transaction or exercise charges, 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 as more fully set out in Condition 9.

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.

### *Other taxation considerations*

It is not possible to predict whether the taxation regime applicable to Securities on the date of purchase or subscription will be amended during the term of the Securities. If such amendments are made, the taxation regime applicable to the Securities may differ substantially from the taxation regime in existence on the date of purchase or subscription of the Securities.

### *Illegality and Cancellation*

If the Issuer determines that its performance under any Securities has, or that any arrangements made to hedge the Issuer's obligations under any Securities have become, illegal in whole or in part for any reason, the Issuer may cancel such Securities. The Issuer may also cancel the Securities upon the occurrence of certain adjustment events as set out in Condition 13 (as may be amended by the applicable Final Terms). If the Issuer cancels the Securities, it will (in the case of an illegality, if permitted by applicable law), pay the holder of each such Security an amount equal to the fair market value of such Security or, in relation to Warrants and where Units are specified in the applicable Final Terms, each Unit, as set out in the Conditions, 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), all as determined by the Calculation Agent. The fair market value of the Securities may be less than the purchase price of the Securities and may in certain circumstances be zero.

### *Change of law*

The Conditions are based on English law in effect as at the date of this Base Prospectus. No assurance can be given as to the impact of any possible judicial decision or change to English law or administrative practice after the date of this Base Prospectus.

### *Potential Conflicts of Interest*

The Issuer and/or any of its Affiliates may also engage in trading activities (including hedging activities) related to the asset or other basis of reference underlying any Securities and other instruments or derivative products based on or related to the asset or other basis of reference underlying any Security for their proprietary accounts or for other accounts under their management. The Issuer and/or any of its Affiliates may also issue other derivative instruments in respect of the asset or other basis of reference underlying Securities. The Issuer and/or

any of its Affiliates may also act as underwriter in connection with future offerings of shares or other securities related to an issue of Securities or may act as financial adviser to certain companies or companies whose shares are included in a basket of shares or in a commercial banking capacity for such companies. Such activities could present certain conflicts of interest, could influence the prices of such shares or other securities and could adversely affect the value of such Securities.

Under the Conditions of the Securities, the Calculation Agent may make certain determinations in respect of the Securities which could affect the amount payable by the Issuer on the Securities. In exercising its right to make such determinations the Calculation Agent is entitled to act in its sole and absolute discretion. Where the Issuer acts as Calculation Agent, potential conflicts of interest may exist between the Calculation Agent and the Securityholders, including with respect to those determinations that the Calculation Agent may make pursuant to the Securities that may influence the Cash Settlement Amount payable, or the Entitlement deliverable (as the case may be), on the Settlement Date.

Any further conflict of interest, including conflicts between the Issuer and any Managers or Distributors will be indicated in the relevant Final Terms.

#### *Physical Delivery Requirements and Settlement Risk*

In order to receive the Entitlement in respect of a Physical Delivery Security, the holder of such Security must (1) 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 Issuer and the Principal Security Agent (a) a duly completed Exercise Notice on or prior to the relevant time on the Expiration Date (in the case of a Physical Delivery Warrant) or (b) a duly completed Physical Delivery Confirmation Notice on or prior to the relevant time on the Exercise Date (in the case of a Physical Delivery Certificate) and (2) pay the relevant Exercise Price (in the case of a Warrant) and Expenses (in the case of a Warrant or a Certificate), together with any other amounts payable. Failure to do so will result (i) in the case of a Warrant where Automatic Exercise is not specified in the applicable Final Terms, the relevant Warrant's becoming void or (ii) in the case of a Warrant where Automatic Exercise is specified in the applicable Final Terms, or in the case of a Certificate, the Securityholder receiving the Assessed Value Payment Amount instead of the Entitlement. The Assessed Value Payment Amount will be determined by the Calculation Agent by reference to the fair market value of the assets comprised in the Entitlement. See Condition 16 for Warrants and Condition 20 for Certificates.

Following the exercise of Physical Delivery Warrants or in connection with the exercise of Physical Delivery Certificates, unless otherwise indicated in the applicable Final Terms, the Calculation Agent may determine that a Settlement Disruption Event or, if applicable, a Failure to Deliver due to Illiquidity is subsisting. Any such determination may affect the value of the Securities and/or may delay settlement and/or lead to cash settlement rather than physical settlement in respect of the Securities.

If so indicated in the applicable Final Terms, the relevant Issuer has an option to vary settlement in respect of the Securities. If exercised by the Issuer, this option will lead to Physical Delivery Securities being cash settled or Cash Settled Securities being physically settled. Exercise of such option may affect the value of the Securities.

#### *EU Savings Directive*

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

territories including Switzerland have adopted similar measures (a withholding system in the case of Switzerland).

The European Commission has proposed certain amendments to the Directive which may, if implemented, amend or broaden the scope of the requirements described above.

If a payment were to be made or collected through a Member State which has opted for a withholding system and an amount of, or in respect of, tax were to be withheld from that payment, neither the Issuer nor any Paying Agent nor any other person would be obliged to pay additional amounts with respect to any Securities as result of the imposition of such withholding tax. The Issuer is required to maintain a Paying Agent in a Member State that is not obliged to withhold or deduct tax pursuant to the Directive.

#### *Credit ratings may not reflect all risks*

One or more independent credit rating agencies may assign credit ratings to Securities issued under the Programme. The ratings may not reflect the potential impact of all risks related to structure, market, additional factors discussed above, and other factors that may affect the value of the Securities. A credit rating is not a recommendation to buy, sell or hold securities and may be revised or withdrawn by the rating agency at any time.

In general, European regulated investors are restricted under Regulation (EC) No. 1060/2009 (the **CRA Regulation**) from using credit ratings for regulatory purposes, unless such ratings are issued by a credit rating agency established in the EU and registered under the CRA Regulation (and such registration has not been withdrawn or suspended), subject to transitional provisions that apply in certain circumstances whilst the registration application is pending. Such general restriction will also apply in the case of credit ratings issued by non-EU credit rating agencies, unless the relevant credit ratings are endorsed by an EU-registered credit rating agency or the relevant non-EU rating agency is certified in accordance with the CRA Regulation (and such endorsement action or certification, as the case may be, has not been withdrawn or suspended). If any credit ratings are assigned to the Securities, certain information with respect to the relevant credit rating agencies and ratings will be disclosed in the Final Terms.

#### *Risks related to Warrants only*

##### *Time Lag after Exercise*

In the case of any exercise of Warrants, there will be a time lag between the time a Warrantholder gives instructions to exercise, or the time the Warrant is automatically exercised, and the time the applicable Cash Settlement Amount (in the case of Cash Settled Warrants) relating to such exercise is determined. Any such delay between the time of exercise and the determination of the Cash Settlement Amount will be specified in the Conditions. However, such delay could be significantly longer, particularly in the case of a delay in exercise of Warrants arising from any daily maximum exercise limitation (in the case of American Style Warrants), the occurrence of a market disruption event or failure to open of an exchange or related exchange (if applicable) or following the imposition of any exchange controls or other similar regulations affecting the ability to obtain or exchange any relevant currency (or basket of currencies) in the case of Currency Warrants. The applicable Cash Settlement Amount may change significantly during any such period, and such movement or movements could decrease the Cash Settlement Amount of the Warrants being exercised and may result in such Cash Settlement Amount being zero.

##### *Minimum Exercise Amount*

If so indicated in the applicable Final Terms, a Warrantholder must tender or hold a specified number of Warrants at any one time in order to exercise. Thus, Warrantholders with fewer than the specified minimum number of Warrants will either have to sell their Warrants or purchase additional Warrants, incurring transaction

costs in each case, in order to realise their investment. Furthermore, holders of such Warrants incur the risk that there may be differences between the trading price of such Warrants and the Cash Settlement Amount (in the case of Cash Settled Warrants) or the Physical Settlement Value (in the case of Physical Delivery Warrants) of such Warrants.

#### *Limitations on Exercise*

In the case of American Style Warrants, if so indicated in the applicable Final Terms, the relevant Issuer will have the option to limit the number of American Style Warrants exercisable on any date (other than the final exercise date) to the maximum number specified in the applicable Final Terms and, in conjunction with such limitation, to limit the number of American Style Warrants exercisable by any person or group of persons (whether or not acting in concert) on such date. In the event that the total number of American Style Warrants being exercised on any date (other than the final exercise date) exceeds such maximum number and the relevant Issuer elects to limit the number of American Style Warrants exercisable on such date, a Warrantholder may not be able to exercise on such date all American Style Warrants that such holder desires to exercise. In any such case, the number of American Style Warrants to be exercised on such date will be reduced until the total number of American Style Warrants exercised on such date no longer exceeds such maximum, such American Style Warrants being selected at the discretion of the relevant Issuer or in any other manner specified in the applicable Final Terms. Unless otherwise specified in the applicable Final Terms, the American Style Warrants tendered for exercise but not exercised on such date will be automatically exercised on the next date on which American Style Warrants may be exercised, subject to the same daily maximum limitation and delayed exercise provisions.

#### ***Risks Related to the Market Generally***

Set out below is a brief description of the principal market risks, including liquidity risk, exchange rate risk, interest risk and credit risk.

#### *Impact of implicit fees on the Issue/Offer Price*

Investors should note that implicit fees (e.g. placement fees, direction fees, structuring fees) may be a component of the Issue/Offer Price of Securities, but such fees will not be taken into account for the purposes of determining the price of the relevant Securities in the secondary market.

The Issuer will specify in the relevant Final Terms the type and amount of any implicit fees which are applicable from time to time.

Investors should also take into consideration that if Securities are sold on the secondary market immediately following the offer period relating to such Securities, the implicit fees included in the Issue/Offer Price on initial subscription for such Securities will be deducted from the price at which such Securities may be sold in the secondary market.

#### *Certain considerations associated with public offers of Securities*

If Securities are distributed by means of a public offer, under certain circumstances indicated in the relevant Final Terms, the Issuer and/or other entities specified in the Final Terms may have the right to withdraw the offer, which in such circumstances will be deemed to be null and void according to the terms indicated in the relevant Final Terms.

In such case, investors who have already paid or delivered subscription monies for the relevant Securities will be entitled to reimbursement of such amounts, but (in the case of Certificates) will not receive any remuneration that may have accrued in the period between their payment or delivery of subscription monies and the reimbursement of the Securities.

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

It is not possible to predict the price at which Securities will trade in the secondary market or whether such market will be liquid or illiquid. The Issuer may, but is not obliged to, list or admit to trading Securities on a stock exchange or market. If the Securities are not listed or admitted to trading on any exchange or market, pricing information for the Securities may be more difficult to obtain and the liquidity of the Securities may be adversely affected. If the Issuer does list or admit to trading an issue of Securities, there can be no assurance that at a later date, the Securities will not be delisted or that trading on such exchange or market will not be suspended. In the event of a delisting or suspension of listing or trading on a stock exchange or market, the Issuer will use its reasonable efforts to list or admit to trading the Securities on another exchange or market. Also, (in the case of Warrants) to the extent Warrants of a particular issue are exercised, the number of Warrants of such issue outstanding will decrease, resulting in a diminished liquidity for the remaining Warrants of such issue. A decrease in the liquidity of an issue of Warrants may cause, in turn, an increase in the volatility associated with the price of such issue of Warrants.

The Issuer, or any of its Affiliates 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. The Issuer or any of its Affiliates may, but is not obliged to, be a market-maker for an issue of Securities. Even if the Issuer or such other entity is a market-maker for an issue of Securities, the secondary market for such Securities may be limited. To the extent that an issue of Securities becomes illiquid, an investor may have to exercise such Securities (in the case of American Style Warrants) or wait until the Exercise Date (in the case of European Style Warrants and Certificates) to realise value.

Finally, investors should note that if an entity is appointed as market-maker or liquidity provider with respect to the Securities in the secondary market, this may, in certain circumstances, affect the price of the Securities in the secondary market.

### *Listing of Securities*

In respect of Securities which are (in accordance with the applicable Final Terms) to be listed on a stock exchange, market or quotation system, the Issuer shall use all reasonable endeavours to maintain such listing, provided that if it becomes impracticable or unduly burdensome or unduly onerous to maintain such listing, then the Issuer may apply to de-list the relevant Securities, although in this case it will use all reasonable endeavours to obtain and maintain (as soon as reasonably practicable after the relevant de-listing) an alternative admission to listing, trading and/or quotation by a stock exchange, market or quotation system within or outside the European Union, as it may decide.

If such an alternative admission is not available or is, in the opinion of the Issuer, impracticable or unduly burdensome, an alternative admission will not be obtained.

### *Exchange rate risks and exchange controls*

In the case of Cash Settled Securities, the Issuer will pay the Cash Settlement Amount in respect of the Securities in the Settlement Currency specified in the applicable Final Terms. This presents certain risks relating to currency conversions if an investor's financial activities are denominated principally in a currency or currency unit (the **Investor's Currency**) other than the Settlement Currency. These include the risk that exchange rates may significantly change (including changes due to devaluation of the Settlement Currency or revaluation of the Investor's Currency) and the risk that authorities with jurisdiction over the Investor's Currency may impose or modify exchange controls. An appreciation in the value of the Investor's Currency relative to the Settlement Currency would decrease (i) the Investor's Currency-equivalent yield on the Securities, (ii) the Investor's Currency equivalent value of the Cash Settlement Amount in respect of the Securities and (iii) the Investor's Currency equivalent market value of the Securities.

Government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable exchange rate. As a result, the Cash Settlement Amount that investors may receive may be less than expected or zero.

The above risks may be increased for currencies of emerging market jurisdictions.

### ***Legal Risks***

#### *Legal investment considerations may restrict certain investments*

Each prospective purchaser of Securities must determine, based on its own independent review and such professional advice as it deems appropriate under the circumstances, that its acquisition of the Securities (i) is fully consistent with its (or if it is acquiring the Securities in a fiduciary capacity, the beneficiary's) financial needs, objectives and condition, (ii) complies and is fully consistent with all investment policies, guidelines and restrictions applicable to it (whether acquiring the Securities as principal or in a fiduciary capacity) and (iii) is a fit, proper and suitable investment for it (or if it is acquiring the Securities in a fiduciary capacity, for the beneficiary), notwithstanding the clear and substantial risks inherent in investing in or holding the Securities. Potential investors should consult with their own tax, legal, accounting and/or financial advisers before considering investing in the Securities.

The investment activities of certain investors are subject to legal investment laws and regulations, or review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent (1) Securities are legal investments for it, (2) Securities can be used as collateral for various types of borrowing and (3) other restrictions apply to its purchase or pledge of any Securities. Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of Securities under any applicable risk-based capital or similar rules.

#### *No reliance*

A prospective purchaser may not rely on the Issuer, the Managers, if any, or any of their respective affiliates in connection with its determination as to the legality of its acquisition of the Securities or as to the other matters referred to above. None of the Issuer, the Managers, if any, or any of their respective affiliates has or assumes responsibility for the lawfulness of the acquisition of the Securities by a prospective purchaser of the Securities, whether under the laws of the jurisdiction of its incorporation or the jurisdiction in which it operates (if different), or for compliance by that prospective purchaser with any law, regulation or regulatory policy applicable to it.

#### *Disclaimers*

Each type of structured Security will be issued subject to express disclaimers in respect of the risks involved in investing in such Securities. The text of such disclaimers will be set out in full in the applicable Final Terms.

## FORM OF FINAL TERMS

### BANCA IMI S.P.A.

#### [Title of Warrants or 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 (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. The expression **Prospectus Directive** means Directive 2003/71/EC and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State) and includes any relevant implementing measure in the Relevant Member State and the expression **2010 PD Amending Directive** means Directive 2010/73/EU.]<sup>1</sup>

[The Base Prospectus referred to below (as completed by these Final Terms) has been prepared on the basis that any offer of Securities in any Member State of the European Economic Area which has implemented the Prospectus Directive (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 in that Relevant Member State of the Securities may only do so 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. Neither the Issuer nor any Manager has authorised, nor do they authorise, the making of any offer of Securities in any other circumstances. The expression **Prospectus Directive** means Directive 2003/71/EC and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State) and includes any relevant implementing measure in the Relevant Member State and the expression **2010 PD Amending Directive** means Directive 2010/73/EU.]<sup>2</sup>

## 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 2 August 2011 [and the supplement to the Base Prospectus dated ●] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive (Directive 2003/71/EC) (the **Prospectus Directive**) as amended (which includes the amendments made by Directive 2010/71/EC (the **2010 PD Amending Directive**) to the extent that such amendments have been implemented in a relevant Member State of the European Economic Area). This document (which for the avoidance of doubt may be

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<sup>1</sup> Consider including this legend where a non-exempt offer of Securities is anticipated. (NB. Not relevant for an issue of Securities with an issue price equal to or greater than EUR50,000 or, after the implementation of the 2010 PD Amending Directive in the relevant Member State, €100,000 (or its equivalent in another currency).)

<sup>2</sup> Consider including this legend where only an exempt offer of Securities is anticipated. (NB. Not relevant for an issue of Securities with an issue price of equal to or greater than EUR50,000 or, after the implementation of the 2010 PD Amending Directive in the relevant Member State, €100,000 (or its equivalent in another currency).)

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 [as supplemented]. 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 [as supplemented]. The Base Prospectus [and the supplement to the Base Prospectus] is [are] available for viewing during normal business hours at the registered office of the Issuer and the specified offices of the Principal Security Agent.

*[The Final Terms relating to each issue of Securities will contain (without limitation) such of the following information as is applicable in respect of such Securities. Any information that is not applicable will be deleted.]*

*[When adding any other final terms or information consideration should be given as to whether such amendments would be acceptable as Final Terms or whether a prospectus for the issue should be prepared.]*

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 [Warrants/Certificates] that are the subject of these Final Terms and references to "Securities" and "Security" shall be construed accordingly.

*[Include any additional risk factors specific to the issue of the relevant Securities which are not covered in the Base Prospectus]*

*[If applicable, insert disclaimer language in respect of the Shares, Index, Debt Instruments, Currencies or Commodities or other asset or reference basis for the Securities.]*

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

2. Specific provisions for each Series:

| Series Number | No. of Securities issued | [No. of Securities per Unit <sup>3</sup> | Issue price [Security/Unit <sup>3</sup> | per [Call/Put] <sup>3</sup> | [Exercise Price <sup>3</sup> | Exercise [Period] <sup>3</sup> /[Date]/ [●]     |
|---------------|--------------------------|--|---|-----------------------------|------------------------------|---|
| ●             | ●                        | ●  | ●                                       | [Call/Put]                  | [insert currency] [●]        | [from and including] [●] [to and including] [●] |
| ●             | ●                        | ●  | ●                                       | [Call/Put]                  | [insert currency] [●]        | [from and including] [●] [to and including] [●] |

3. Consolidation: The Securities are to be consolidated and form a single series with the [insert title of relevant series of Securities] issued on [insert issue date]. (N.B Only applicable in relation to Securities which are fungible with an existing series of Securities)

4. Type of Securities and underlying asset:

(a) The Securities are [Certificates]/[Warrants]. The Securities are [Index Securities / Share Securities / Debt Securities / Currency Securities / Commodity Securities / Fund Securities/Credit Securities (specify other type of Security)].

(b) The index or other item(s) to which the Securities relate is/are [specify underlying asset].

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<sup>3</sup> Not applicable for Certificates

5. Averaging: Averaging [applies/does not apply] to the Securities. [The Averaging Dates are [ ].]
- [In the event that an Averaging Date is a Disrupted Day, [Omission/Postponement/Modified Postponement] (as defined in Condition 3) will apply. (N.B. Only applicable in relation to Share Securities or Index Securities other than Index Securities relating to a Commodity Index).]
- [In the event of Modified Postponement applying, the Averaging Date will be determined [specify relevant provisions] (N.B. Only applicable in relation to Share Securities or Index Securities other than Index Securities relating to a Commodity Index).]
- [For Index Securities relating to a Commodity Index, Debt Securities, Currency Securities, Commodity Securities or Fund Securities, insert applicable postponement/adjustment provisions for Averaging Dates.]
6. Issue Date: The issue date of the Securities is [ ].
7. (i) Exercise Date: In the case of [European Style Warrants/Certificates] the exercise date of the Securities is set out in paragraph 2 under "Specific Provisions for each Series" above.
- (ii) Renouncement Notice Cut-off Time: [●] (Only applicable for Italian Listed Securities)
8. Settlement Date: The settlement date for the Securities is [ ]. (N.B. Applicable for Physical Delivery Securities. Only applicable for Cash Settled Securities if Settlement Date is different from the definition in Condition 3).
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.
10. Issue Price: The issue price per [Security/Unit] is set out in paragraph 2 under "Specific Provisions for each Series", above.
11. Settlement Business Day: **Settlement Business Day** for the purposes of Condition 4 means [ ]. (N.B. Only applicable in the case of Physical Delivery Securities)
12. Exchange Business Day: [ ] (N.B. Only applicable if different from the definition in Condition 3 or if the Securities are neither Share Securities nor Index Securities).
13. Business Day Centre(s): The applicable Business Day Centre[s] for the purposes of the definition of "Business Day" in Condition 3 [is/are] [ ].
14. Settlement: Settlement will be by way of [cash payment (**Cash Settled Securities**)] [and/or] [physical delivery (**Physical Delivery Securities**)].
15. Issuer's option to vary settlement: The Issuer [has/does not have] the option to vary settlement in respect of the Securities.

16. Exchange Rate: The applicable rate of exchange for conversion of any amount into the relevant settlement currency for the purposes of determining the Settlement Price (as defined in Condition 3) or the Cash Settlement Amount (as defined in Condition 3) is [*insert rate of exchange and details of how and when such rate is to be ascertained*].
17. Settlement Currency: The settlement currency for the payment of [the Cash Settlement Amount] (*in the case of Cash Settled Securities*)/[the Settlement Disruption Amount] (*in the case of Physical Delivery Securities*) is [ ].
- [*If the Securities are Cash Settled Securities that are Dual Currency Securities:*
- [The Securities are Dual Currency Securities (*include applicable provisions, such as*
- *Rate of Exchange/method of calculating the Rate of Exchange*
  - *the party, if any, responsible for calculating the Cash Settlement Amount*
  - *the provisions applicable where calculation by reference to the Rate of Exchange is impossible or impracticable, including a description of market disruption or settlement disruption events and adjustment provisions*
  - *person at whose option the Specified Currency(ies are payable).*]
18. Name and address of Calculation Agent: The Calculation Agent is [●]/[*specify other*].
- [*Insert address of Calculation Agent*]
19. Exchange(s): [For the purposes of Condition 3 and Condition 13, the relevant Exchange[s] [is/are] [ ].] (*N.B. Only applicable in relation to Share Securities*)
20. Exchange(s), Index Sponsor and Designated Multi-Exchange Indices: [For the purposes of Condition 3 and Condition 13(A):
- (a) the relevant Exchange[s] [is/are] [ ];
  - (b) the relevant Index Sponsor is [ ]; and
  - (c) the relevant Index Currency is [ ].]; and
- [[*(d) [ ] [the Index] is a Designated Multi-Exchange Index.*]] (*N.B. Designated Multi-Exchange Indices applies in relation to Euro Stoxx Indices*).
- (*N.B. Only applicable in relation to Index Securities other than Index Securities relating to a Commodity Index*).
21. Commodity Indices:
- (a) [ ] [the Index] is a Commodity Index;
  - (b) the relevant Index Sponsor is [ ];
  - (c) the Commodity Index Reference Price is [ ];
  - (d) the Specified Price is [ ];

- (e) the Price Source is [ ]; [and]
- (f) [(Insert provisions for determining the Relevant Price in the event of a Commodity Index Disruption Event, if different from Condition 13.)]; and]
- (g) [the Commodity Index Cut-Off Date is [ ]. (N.B. Only applicable if different from Condition 13)].

(N.B. Only applicable to Index Securities relating to a Commodity Index.)

- 22. Related Exchange(s): [For the purposes of Condition 3 and Condition 13(B), the relevant Related Exchange(s) [is/are] [ ]/[All Exchanges] (N.B. Only applicable in relation to Share Securities)]/[For the purposes of Condition 3 and Condition 13(B), the relevant Related Exchange(s) [is/are] [ ]/[All Exchanges] (N.B. Only applicable in relation to Share Securities and Index Securities other than Index Securities relating to a Commodity Index)]
- 23. Multiplier: The multiplier to be applied to each item comprising the Basket to ascertain the Settlement Price is [ ]. Each such Multiplier shall be subject to adjustment [in accordance with Condition 13(B) in the case of Share Securities]/[specify other]. (N.B. Only applicable in relation to Cash Settled Securities relating to a Basket)
- 24. Nominal Amount and Relevant Screen Page: The Nominal Amount for the determination of the Cash Settlement Amount is [ ] and the relevant screen page (**Relevant Screen Page**) is [ ]. (N.B. Only applicable in relation to Cash Settled Securities relating to Debt Instruments)  
  
[The bid price in respect of [the/each] Debt Instrument shall [include/exclude] any accrued but unpaid interest. (N.B. only applicable in relation to Cash Settled Securities relating to Debt Instruments).]
- 25. Relevant Asset(s): The relevant asset to which the Securities relate [is/are] [ ]. (N.B. Only applicable in relation to Physical Delivery Securities)
- 26. Entitlement:
  - (i) The Entitlement (as defined in Condition 3) in relation to each Security is [ ].
  - (ii) The Entitlement will be evidenced by [insert details of how the Entitlement will be evidenced].
  - (iii) The Entitlement will be delivered [insert details of the method of delivery of the Entitlement].

(N.B. Only applicable in relation to Physical Delivery Securities)
- 27. Cash Settlement Amount: [Insert details of how Cash Settlement Amount is to be calculated]

28. Settlement Price: *(N.B. Only applicable in relation to Cash Settled Securities.)*  
The Settlement Price will be calculated [*insert calculation method*]. *(N.B. Only applicable in relation to Commodity Securities and Fund Securities)*
29. Adjustments to Valuation Date and/or Averaging Date: If the Valuation Date or an Averaging Date (each as defined in Condition 3), as the case may be, is a Disrupted Day, the Settlement Price will be calculated [*insert calculation method*].  
*(N.B. Only applicable to Share Securities and Index Securities other than Index Securities relating to a Commodity Index and where provisions in the Conditions not appropriate)*  
*[For Index Securities relating to a Commodity Index, Debt Securities, Currency Securities, Commodity Securities [or Fund Securities], specify applicable adjustment/postponement provisions for the Valuation Date and/or Averaging Dates.]*
30. Redemption of Debt Instruments: Where one or more of the relevant Debt Instruments is redeemed (or otherwise ceases to exist) before the expiration of the relevant Securities, [*insert appropriate fallback provisions*]. *(N.B. Only applicable in relation to Debt Securities)*
31. Valuation Time: The valuation time is [ ], being the time specified on the Valuation Date or an Averaging Date, as the case may be, for the calculation of the Settlement Price.
32. Currency Securities:
- (i) The Relevant Screen Page is [ ].
- (ii) The relevant base currency (the **Base Currency**) is [ ].
- (iii) The relevant subject [currency/currencies] (each a **Subject Currency**) [is/are] [ ].  
*(N.B. Only applicable in relation to Currency Securities)*
33. Fund Securities: [*Specify applicable market disruption, general disruption, adjustment and/or termination provisions*]
34. Tender Offer: [Applicable/Not Applicable]  
*(N.B. Only applicable in relation to Share Securities)*
35. Additional Disruption Events: [(a)] The following Additional Disruption Events apply to the Securities:  
*(Specify each of the following which applies. NB Additional Disruption Events are applicable to certain Index Securities or Share Securities. Careful consideration should be given to whether Additional Disruption Events would apply for Debt Securities, Currency Securities, Commodity Securities or Fund Securities and if so the relevant definitions will require amendment)*  
[Change in Law  
Hedging Disruption  
Increased Cost of Hedging]

Increased Cost of Stock Borrow  
Insolvency Filing  
Loss of Stock Borrow]

[(b)] [The Trade Date is [ ]].

*(N.B. only applicable if Change in Law and/or Increased Cost of Hedging is applicable)*

[(c)] [The Maximum Stock Loan Rate in respect of [specify in relation to each relevant Share] is [ ]].

*(N.B. Only applicable if Loss of Stock Borrow is applicable).]*

[(d)] [The Initial Stock Loan rate in respect of [specify in relation to each relevant Share] is [ ]].

*(N.B. Only applicable if increased Cost of Stock Borrow is applicable).]*

36. Failure to Deliver due to Illiquidity:

Failure to Deliver due to Illiquidity applies to the Securities. *(N.B. (1) Only applicable in the case of Physical Delivery Securities. (2) Failure to Deliver due to Illiquidity is applicable to certain Share Securities. Careful consideration should be given to whether Failure to Deliver due to Illiquidity would apply to other Physical Delivery Securities)*

37. Credit Securities:  
[NB: Consider whether definitions included in Conditions are up-to-date]

[Applicable/Not Applicable] [Credit Warrant/Credit Certificate]

*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*

(i) Trade Date: [ ]

(ii) Party responsible for making calculations and determinations pursuant to Condition 13(G), if not the Calculation Agent: [ ]

(iii) Calculation Agent City: [ ]

(iv) Reference Entity(ies): [ ]

Succession Event Backstop Date: [Applicable/Not Applicable]

(v) Reference Obligation(s): [ ]

[The obligation[s] identified as follows:

Primary Obligor: [ ]

Guarantor: [ ]

Maturity: [    ]  
 Coupon: [    ]  
 CUSIP/ISIN: [    ]

(vi) All Guarantees: [Applicable/Not Applicable]

(vii) Credit Events: [Bankruptcy]  
 [Failure to Pay]  
                   [Grace Period Extension [Applicable/Not Applicable]]  
                   [If Applicable:  
                   Grace Period:[    ]]  
 [Obligation Default]  
 [Obligation Acceleration]  
  
 [Repudiation/Moratorium]  
  
 [[Restructuring]  
  
 Provisions relating to Multiple Holder Obligation:  
 Condition 13(G)(11) [Applicable/Not Applicable]  
  
 Provisions relating to Restructuring Credit Event:  
 Condition 13(G)(10) [Applicable/Not Applicable] [If  
*Applicable, set out relevant provisions in full*]  
  
 [Restructuring Maturity Limitation and Fully Transferable  
 Obligation [Applicable/Not Applicable]]  
  
 [Modified Restructuring Maturity Limitation and  
 Conditionally Transferable Obligation [Applicable/Not  
 Applicable]]  
  
 [other]

Default Requirement: [    ]  
 Payment Requirement: [    ]  
 Credit Event Backstop Date: [Applicable/Not Applicable]

(viii) Conditions to Settlement: Notice of Publicly Available Information [Applicable/Not Applicable]  
 [If Applicable:  
                   Public Source(s): [    ]  
                   Specified Number: [    ]

Additional Event Determination Date Definitions: [Applicable/Not Applicable]

- (ix) Obligation(s):
- Obligation Category
- [select one only]: [Payment]  
[Borrowed Money]  
[Reference Obligations Only]  
[Bond]  
[Loan]  
[Bond or Loan]  
[Not Subordinated]
- Obligation Characteristics [select all of which apply]: [Specified Currency: [specify currency] [Standard Specified Currencies]]  
[Not Sovereign Lender]  
[Not Domestic Currency:]  
[Domestic Currency means: *specify currency*]  
[Not Domestic Law]  
[Listed]  
[Not Domestic Issuance]
- Additional Obligation(s): [ ]
- (x) Excluded Obligation(s): [ ]
- (xi) Settlement Method: [Cash Settlement/Auction Settlement]
- Fallback Settlement Method: [Cash Settlement/Not Applicable]
- (xii) Accrual of Remuneration upon Credit Event: [Applicable/Not Applicable]
- (xiii) Settlement following Merger Event: Condition 13(G)(8) [Applicable/Not Applicable]  
*[If Applicable, set out relevant provisions in full]:*
- (xiv) Unwind Costs: [Standard Unwind Costs/*other*/Not Applicable]
- (xv) Provisions relating to Monoline Insurer to Reference Entity: [Condition 13(G)(12) [Applicable/Not Applicable]/ [Condition 13(G)(13) [Applicable/Not Applicable]] (N.B. *If Applicable, only one of Condition 13(G)(12) and Condition 13(G)(13) should be specified and the relevant provisions set out in full*)
- (xvi) Credit Event Cash Settlement Amount: [ ]
- (xvii) Provisions relating to Grace Period Extension: *[Applicable/Not Applicable] [if Applicable, set out relevant provisions in full]*
- (xviii) Credit Event Notice after Restructuring Event: *[Applicable/Not Applicable] [if Applicable, set out relevant provisions in full]*
- (xix) Credit Event Settlement Date: [ ] Business Days

- (xx) Valuation Date: [Single Valuation Date:  
[ ] Business Days]  
[Multiple Valuation Dates:  
[ ] Business Days; and each [ ] Business  
Days thereafter.  
Number of Valuation Dates: [ ]]
- (xxi) Valuation Time: [ ]
- (xxii) Quotation Method: [Bid/Offer/Mid-market]
- (xxiii) Quotation Amount: [[ ]/Representative Amount]
- (xxiv) [Minimum Quotation Amount: [ ]]
- (xxv) Quotation Dealers: [ ]
- (xxvi) Quotations: [Include Accrued Interest/Exclude Accrued Interest]  
[Market/Highest]
- (xxvii) Valuation Method: [Average Market/Highest/Average Highest]  
[Blended Market/Blended Highest]  
[Average Blended Market/Average Blended Highest]
- (xxviii) Other terms or special conditions: [ ]
- (xxix) Auction Credit Event Settlement Amount: [ ]
- (xxx) Auction Credit Event Settlement Date: [ ]

## PROVISION RELATING TO WARRANTS

[The following provisions are only applicable to Warrants:]

38. Type of Warrants: (i) The Warrants are [European/American/(specify other)] Style Warrants.
- (ii) The Warrants are Call Warrants or Put Warrants as set out in paragraph 2 under "Specific Provisions for each Series" above.
39. Exercise Price: The exercise price per [Warrant/Unit] (which may be subject to adjustment in accordance with Condition 13(B) in the case of Share Warrants) is set out in paragraph 2 under "Specific Provisions for each Series" above. (*N.B. This should take into account any relevant Multiplier and, in the case of an Index Security, must be expressed as a monetary value*).
40. Exercise Period: In the case of American Style Warrants the exercise period in respect of the Warrants is set out in paragraph 2 under "Specific Provisions for each Series" above.

41. (i) Automatic Exercise: Automatic Exercise [applies/does not apply] to the Warrants.
- (ii) Renouncement Notice Cut-off Time [●] (*Only applicable for Italian Listed Securities*)
42. Minimum Exercise Number: The minimum number of Warrants that may be exercised on any day by any Securityholder is [ ] [and Warrants may only be exercised in integral multiples of [ ] Warrants in excess thereof].
43. Maximum Exercise Number: The maximum number of Warrants that must be exercised on any day by any Securityholder or group of Securityholders (whether or not acting in concert) is [ ]. (*N.B. not applicable for European Style Warrants*).
44. [Units: Warrants must be exercised in Units. Each Unit consists of the number of Securities set out in paragraph 2 under "Specific Provisions for each Series" above. (*N.B. This is in addition to any requirements relating to "Minimum Exercise Number" or "Maximum Exercise Number" set out above*).

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

*[The following provisions are only applicable to Certificates.]*

45. Notional Amount per Certificate: [ ]
46. Remuneration Payment Dates: [[ ] and the Settlement Date]
47. Remuneration Amount: [*Specify how the Remuneration Amount will be determined.*]

#### **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
- Temporary Global Security exchangeable for Definitive Securities on or after the Exchange Date
- Permanent Global Security exchangeable for Definitive Securities only in the limited circumstances specified in the Permanent Global Security
49. Other Final Terms: [*when adding any other final terms consideration should be given as to whether such amendments would be acceptable as Final Terms*]
- [*insert, including alternative adjustment provisions, if different from those set out in Condition 13*]

## DISTRIBUTION

50. Syndication: The Securities will be distributed on a [non-]syndicated basis.
- (i) [If syndicated, names and addresses of Managers and underwriting commitments:] [give names, and addresses and underwriting commitments]  
*(Including names and addresses of entities agreeing to underwrite the issue on a firm commitment basis and names and addresses of the entities agreeing to place the issue without a firm commitment or on a "best efforts" basis if such entities are not the same as the Managers and an indication of the material features of the agreements, including, where applicable, the quotas. Where not all of the issue is underwritten, a statement of the portion not covered. Also provide an indication of the placing commission)*
- (ii) Date of Subscription Agreement:] [ ]
- (iii) Stabilising Manager (if any):] [Not applicable/give name [and address, if not provided under paragraph 50(i)]\*\*]
- If non-syndicated, name and address of Manager (if not the Issuer): [Name and address]
- [Total commission and concession: [ ]]
51. Non exempt Offer\*: [Not Applicable] [An offer of the Securities may be made by the Manager[s] [or through [specify names [and addresses] of other financial intermediaries making non-exempt offers, to the extent known OR consider a generic description of other parties involved in non-exempt offers (e.g. "other parties authorised by the Issuer") or (if relevant) note that other parties may make non-exempt offers in the Public Offer Jurisdictions during the Offer Period, if not known]] (the Distributors and, together with the Manager[s], the **Financial Intermediaries**) other than pursuant to Article 3(2) of the Prospectus Directive in [specify relevant Member State(s) – which must be jurisdictions where the Base Prospectus and any supplements have been passported (in addition to the jurisdiction where approved and published)] (**Public Offer Jurisdictions**) during the period from [specify date] until [specify date or a formula such as "the Issue Date" or "the date which falls [●] Business Days thereafter"] (**Offer Period**). See further Paragraph 12 of Part B below.
- (N.B. Consider any local regulatory requirements necessary to be fulfilled so as to be able to make a non-exempt offer in relevant jurisdictions. No such offer should be made in any relevant jurisdiction until those requirements have been met. Non-exempt offers may only be made into jurisdictions in which the Base Prospectus (and any supplement) has been notified/passported.)*
52. Additional selling restrictions: [give details]

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\* Not relevant for an issue of Securities with an issue price of equal to or greater than EUR50,000 or, after the implementation of the 2010 PD Amending Directive in the relevant Member State, €100,000 (or its equivalent in another currency).

## PURPOSE OF FINAL TERMS

These Final Terms comprise the final terms required for issue [and public offer in the Public Offer Jurisdictions] [and admission to trading on [*specify relevant regulated market (for example the Bourse de Luxembourg) and, if relevant, admission to an official list (for example, the Official List of the Luxembourg Stock Exchange)*]] of the Securities described herein pursuant to the Warrant and Certificate Programme of Banca IMI S.p.A.

## RESPONSIBILITY

[Subject as provided below, the Issuer accepts responsibility for the information contained in these Final Terms. [The information relating to ● [and ●] (the **Reference Information**) contained herein has been accurately extracted from [*insert information source(s)*]. The Issuer accepts responsibility for the accuracy of such extraction but accepts no further or other responsibility in respect of such information.]

Signed on behalf of the Issuer:

By: .....  
*Duly authorised*

## PART B – OTHER INFORMATION

### 1. LISTING AND ADMISSION TO TRADING

- (i) Listing: [Luxembourg/other (*specify*)/None]
- (ii) Admission to trading: [Application has been made/is expected to be made for the Securities to be admitted to trading on [ ] with effect from [ ].] [Not Applicable.]

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

### 2. RATINGS

*[The following provisions are only applicable if credit ratings have been specifically assigned to the Securities]*

Ratings: [The Securities to be issued [will not be rated]/[have been]/[are expected to be]] rated [*insert details*] by [*insert credit rating agency name(s)*].]

*(Where the issue of Securities will not be specifically rated, the following provisions can be deleted)*

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

*[[Insert credit rating agency] is established in the European Union and is registered under Regulation (EC) No. 1060/2009.]*

*[[Insert credit rating agency] is not established in the European Union and is not registered in accordance with Regulation (EC) No. 1060/2009.]*

*[[Insert credit rating agency] is not established in the European Union and has not applied for registration under Regulation (EC) No. 1060/2009. However, the application for registration under Regulation (EC) No. 1060/2009 of [*insert the name of the relevant EU CRA affiliate that applied for registration*], which is established in the European Union, disclosed the intention to endorse credit ratings of [*insert credit rating agency*].]*

*[[Insert credit rating agency] is not established in the European Union and has not applied for registration under Regulation (EC) No. 1060/2009. The ratings [[have been]/[are expected to be]] endorsed by [*insert the name of the relevant EU-registered credit rating agency*] in accordance with Regulation (EC) No. 1060/2009. [*Insert the name of the relevant EU-registered credit rating agency*] is established in the European Union and registered under*

Regulation (EC) No. 1060/2009.]

*[[Insert credit rating agency] is not established in the European Union and has not applied for registration under Regulation (EC) No. 1060/2009, but it is certified in accordance with such Regulation.]*

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

[Save for any fees payable to the Manager[s]/Distributors, so far as the Issuer is aware, no person involved in the issue of the Securities has an interest material to the offer. – *Amend as appropriate if there are other interests. In the event that the Issuer acts as Calculation Agent or the Calculation Agent is an affiliate of the Issuer, include a reference to the risk factor "Potential Conflicts of Interest" at pages 27 to 28]*

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

(i) Reasons for the offer: [ ]

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

(ii) Estimated net proceeds: [ ]

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

(iii) Estimated total expenses: [ ]. *[Expenses are required to be broken down into each principal intended "use" and presented in order of priority of such "uses".]*

*((i) above is required where the reasons for the offer are different from making profit and/or hedging certain risks and where this is the case disclosure of net proceeds and total expenses at (ii) and (iii) above are also required.)*

**5. YIELD (fixed rate Certificates only)**

Indication of yield: [ ]

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

*The yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.]*

**6. HISTORIC INTEREST RATES (floating rate Certificates only)**

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

**7. PERFORMANCE OF [INDEX/BASKET OF INDICES], EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING THE [INDEX/BASKET OF INDICES]]** (*Index Securities only*)

*[Need to include details of where past and future performance and volatility of the [index/basket of indices] can be obtained, the relevant weighting of each index within a basket of indices and where pricing information is available]. [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

*[Need to include the name of [the/each] index, the name of [the/each] index sponsor and a description if composed by the Issuer and if the index is not composed by the Issuer need to include details of where the information about [the/each] index can be obtained.]*

**8. PERFORMANCE OF [THE SHARE/BASKET OF SHARES], EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING [THE SHARE/BASKET OF SHARES]]** (*Share Securities only*)

*[Need to include details of the name of [the/each] share company, any security identification number of the shares, where pricing information about the shares is available, the relevant weighting of each share within a basket of shares (if relevant) and where past and future performance and volatility of the [share/basket of shares] can be obtained.] [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

**9. INFORMATION IN RELATION TO THE DEBT INSTRUMENT/INSTRUMENTS, EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING THE DEBT INSTRUMENT/INSTRUMENTS]** (*Debt Securities only*)

*[Need to include details of the name of the issuer, the ISIN (International Securities Identification Number) of the debt instrument(s), the relevant weighting of each debt instrument in a basket of debt instruments (if relevant) and where pricing information on and where past and future performance and volatility of the debt instrument(s) can be obtained.] [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

**10. PERFORMANCE OF [RATE[S] OF EXCHANGE/CURRENCIES], EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING [THE [RATE[S] OF EXCHANGE/ CURRENCIES]]** (*Currency Securities and Dual Currency Securities only*)

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

**11. PERFORMANCE OF [THE COMMODITY/BASKET OF COMMODITIES], EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING [THE COMMODITY/BASKET OF COMMODITIES]]** (*Commodity Securities only*)

*[Need to include details of [the/each] commodity, where pricing information about [the/each] commodity is available, the relevant weighting of each commodity within a basket of commodities and where past and future performance and volatility of [the commodity/basket of commodities] can be obtained.] [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

**12. PERFORMANCE OF [THE FUND/BASKET OF FUNDS], EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING [THE FUND /BASKET OF FUNDS]]** (*Fund Securities only*)

*[Need to include details of [the/each] fund, the relevant weighting of each fund within a basket of funds and where past and future performance and volatility of [the/each] [fund/basket of funds] can be obtained.] [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

**13. INFORMATION IN RELATION TO THE REFERENCE ENTITY/ENTITIES, EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING THE REFERENCE ENTITY/ENTITIES]** (*Debt Securities only*)

*[Need to include details of the name of the issuer, the ISIN (International Securities Identification Number) of the reference entity/entities, the relevant weighting of each reference entity in a basket of reference entities (if relevant) and where pricing information on and where past and future performance and volatility of the reference entity/entities can be obtained.] [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

**14. TERMS AND CONDITIONS OF THE OFFER** (*Public Offer Only*)

Offer Price: [Issue Price][specify]

[Conditions to which the offer is subject:] [Not Applicable/give details]

[The time period, including any possible amendments, during which the offer will be open and description of the application process:] [Not Applicable/give details]

[Description of the application process:] [Not Applicable/give details]

[Details of the minimum and/or maximum amount of application:] [Not Applicable/give details]

[Description of possibility to reduce subscriptions and manner for refunding excess amount paid by applicants:] [Not Applicable/give details]

[Details of the method and time limits for paying up and delivering the Securities:] [Not Applicable/give details]

[Manner in and date on which results of the offer are to be made public:] [Not Applicable/give details]

[Procedure for exercise of any right of pre-emption, negotiability of subscription rights and treatment of subscription rights not exercised:] [Not Applicable/give details]

[Categories of potential investors to which the Securities are offered and whether tranche(s) have been reserved for certain countries:] [Not Applicable/give details]

[Process for notification to applicants of the amount allotted and the indication whether dealing may begin before notification is made:] [Not Applicable/*give details*]

[Amount of any expenses and taxes specifically charged to the subscriber or purchaser:] [Not Applicable/*give details*]

## 15. 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: [None/*give details*]
- (ii) Name and address of the co-ordinator(s) of the global offer and of single parts of the offer: [●]
- (iii) Name and address of any paying agents and depository agents in each country (in addition to the Principal Security Agent): [●]
- (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: [●]
- (v) Date of signing of the [underwriting] / [placement] agreement [●]

## 16. OPERATIONAL INFORMATION

(i) ISIN Code:

(ii) Common Code:

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

[(iv)] Names and addresses of initial Security Agents: [ ]

## 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 "Securitized 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 relevant 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 any relevant 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 any 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, that 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 applicable 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 therein.

(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 Securityholder 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 as specified in the applicable Final Terms.

**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 Certificate** means Certificates linked to the credit of a specified entity or entities;

**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 has occurred with respect to the 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.

**Credit Warrant** means Warrants linked to the credit of a specified entity or entities;

**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 Weighed 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 17 of this Base Prospectus is deemed incorporated in, and to form part of, this Base Prospectus as more fully described on page 17. 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 68 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.*

*In the near future, the Italian Parliament may authorise the government to introduce a fixed withholding tax on capital gains and financial incomes not exceeding 20 per cent., which may replace the current tax regime of the Securities, as summarised below. Other tax provisions may be adopted which affect the current tax treatment of the Securities.*

*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) and shall report to the Italian Tax Authorities details of the relevant payments and personal information on the individual beneficial owner and shall not apply the withholding tax. 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 or if the withholding tax on disposal, redemption, repayment or assignment has been calculated from 30 per cent. of the disposal proceeds (rather than from the actual gain), 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. These generally do 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 28 to 29.

### **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-Resident holders of Securities*

Under Luxembourg general tax laws currently in force and subject to the laws of 21 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 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 are 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 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 35 per cent.. 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 35 per cent.

#### *Resident holders of Securities*

Under Luxembourg general tax laws currently in force and subject to the law of 23 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 or similar income 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 46.5 per cent. In this case, the tax withheld is deemed to be a payment on account of the final tax due. Investment income paid or made available to accounts opened in the name of one or more accountholders acting on behalf of one or more unidentified third parties is subject to a final withholding tax rate of 30 per cent., unless the relevant beneficial owner(s) of the income is/are identified and as a consequence the tax rates applicable to such beneficial owner(s) will apply.

Investment income payments due by non resident entities to Portuguese tax resident individuals will be included in their taxable income, subject to tax at the current progressive rates of up to 46.5 per cent whenever those payments are not subject to Portuguese withholding tax.

**(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 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 municipal*) 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 it's 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 the following 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 the following 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 €10,000,000) can benefit from the reduced tax rate of 25 per cent. on the first €300,000 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 €300,000 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 (i) not regarded as arising in the United Kingdom for United Kingdom tax purposes and (ii) not treated as payments of interest or annual payments 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).

The European Commission has proposed certain amendments to the Directive which may, if implemented, 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 and the Issuer has consented in writing to its use for the purpose of that Non-exempt offer;
- (b) at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive;
- (c) at any time to fewer than 100 or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to the prior consent of the relevant Manager(s) nominated by the Issuer for any such offer having been obtained; or
- (d) 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 (d) 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, the expression **Prospectus Directive** means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in the Relevant Member State and the expression **2010 PD Amending Directive** means Directive 2010/73/EU..

## 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, including CMVM Regulation 1/2009 on complex financial products, 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 and CMVM Regulation 1/2009 on complex financial products, 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 7 June 2011.

### (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 2010 and 2009 and the consolidated financial statements of the Issuer in respect of the financial year ended 31 December 2010;
- (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 2010 and there has been no material adverse change in the financial position or prospects of the Issuer since 31 December 2010.

**(7) Litigation**

Save as disclosed in the Registration Document at chapter 11, paragraph 11.6 ("*Legal and arbitration proceedings that may have a material effect on the Issuer's performance*"), which is incorporated by reference in this Base Prospectus, 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