



## DEPFA Funding III LP

*(a limited partnership organised under the laws of England and Wales)*

€300,000,000

### Fixed Rate/Variable Rate Guaranteed Non-voting Non-cumulative Perpetual Preferred Securities

having the benefit of a subordinated guarantee of

**DEPFA BANK plc**

*(incorporated in Ireland with company number 348819)*

Issue price: €1,000 per Preferred Security

The €300,000,000 Fixed Rate/Variable Rate Guaranteed Non-voting Non-cumulative Perpetual Preferred Securities (the “**Preferred Securities**”), each with a liquidation preference of €1,000 (the “**Liquidation Preference**”), comprising limited partnership interests in DEPFA Funding III LP (the “**Issuer**”), are proposed to be issued on 8th June, 2005 (the “**Closing Date**”). The Preferred Securities will entitle holders to receive (subject as described herein under “*Description of the Preferred Securities*”) non-cumulative preferential cash distributions (“**Distributions**”) payable annually in arrear on 8th June in each year (each a “**Distribution Payment Date**”), at the rate of 7.00 per cent. per annum on the amount of the Liquidation Preference in respect of the period from and including the Closing Date to but excluding 8th June, 2008 and thereafter at a variable rate per annum on the amount of the Liquidation Preference, all as more fully described herein under “*Description of the Preferred Securities*”.

As an English limited partnership, the Issuer will not be a legal entity separate from its partners. All obligations of the Issuer to make payments in respect of the Preferred Securities will be guaranteed on a limited and subordinated basis by DEPFA BANK plc (the “**Guarantor**”) pursuant to a subordinated guarantee dated 8th June, 2005 (the “**Subordinated Guarantee**”), all as more fully described herein under “*Subordinated Guarantee*”.

The Preferred Securities will be perpetual securities and not subject to any mandatory redemption provisions. The Preferred Securities will be redeemable however, subject to the prior consent of the Irish Financial Services Regulatory Authority (the “**Regulator**”), on 8th June, 2011 or on any Distribution Payment Date thereafter in whole, but not in part, at the option of DEPFA BANK plc, which is the general partner of the Issuer (the “**General Partner**”), at the Liquidation Preference, plus any Additional Amounts (as defined herein), plus any accrued and unpaid Distributions for the then current Distribution Period (as defined herein) subject to compliance with the Limited Partnerships Act 1907. The Preferred Securities will also be redeemable at the option of the General Partner at any time following the occurrence of a Capital Disqualification Event (each as defined herein), as more fully described herein under “*Description of the Preferred Securities*”.

In the event of the dissolution of the Issuer arising as a consequence of the winding-up of the Guarantor, holders of Preferred Securities will be entitled to receive a liquidation preference in an amount equal to the distributions that those holders would have received in a dissolution of the Guarantor at that time, if they had held, instead of the Preferred Securities, non-cumulative preference shares issued directly by the Guarantor, having the same liquidation preference and stated distribution rate as the Preferred Securities, subject as described herein under “*Description of the Preferred Securities*”. The Preferred Securities are expected to be assigned on issue a rating of “A2” by Moody’s Investors Services, Inc., “A” by Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc. and “A+” by Fitch Ratings Ltd. A credit rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the relevant rating organisation.

See “**Investment Considerations**” for a discussion of certain factors that should be considered by prospective investors.

Application has been made to list the Preferred Securities on Eurolist by Euronext Amsterdam and will be made to list the Preferred Securities on the Official Market of the Frankfurt Stock Exchange (*amtlicher Markt*). This Offering Circular constitutes a prospectus for the purpose of the listing and issuing rules (*Fondsreglement*) of Euronext Amsterdam.

The Preferred Securities will be represented on issue by a single global certificate in registered form (the “**Global Certificate**”). The Global Certificate will be registered in the name of BT Globenet Nominees Limited as nominee for, and will be deposited with, Clearstream Banking AG, Frankfurt am Main (“**Clearstream, Frankfurt**”) on or around the Closing Date. The Preferred Securities will also be eligible for clearing and settlement through Euroclear Bank S.A./N.V., as operator of the Euroclear System (“**Euroclear**”) and Clearstream Banking, société anonyme (“**Clearstream, Luxembourg**”).

*Joint Lead Managers and Joint Bookrunners*

**BNP PARIBAS**

**DEUTSCHE BANK**

**MORGAN STANLEY**

*Sole Structuring Advisor*

The date of this Offering Circular is 7th June, 2005

Each of the Guarantor and the Issuer (acting through its General Partner) confirms, after having made all reasonable enquiries, that this Offering Circular contains all information with regard to the Issuer, the Guarantor and its subsidiaries (together, the “**Group**”) and the Preferred Securities which is material in the context of the issue of the Preferred Securities, that the information contained in this Offering Circular is true and accurate in all material respects and is not misleading, that the opinions and intentions expressed in this Offering Circular are honestly held and that there are no other facts the omission of which makes this Offering Circular as a whole, or any such information or the expression of any such opinion or intention, misleading. The Guarantor accepts responsibility accordingly.

No person has been authorised to give any information or to make any representation not contained or incorporated in this Offering Circular and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, the Guarantor or the Managers (as defined under “*Subscription and Sale*” below). Neither the delivery of this Offering Circular nor any subscription, sale or purchase made in connection herewith shall, in any circumstances, create any implication that there has been no change in the affairs of the Issuer, the Guarantor or the Group since the date hereof.

Prospective investors should inform themselves as to the legal requirements and tax consequences within the countries of their residence and domicile for the acquisition, holding or disposal of Preferred Securities or, as the case may be, Substituted Preference Shares (as defined under “*Description of the Preferred Securities*” below) and any foreign exchange restrictions that might be relevant to them. This Offering Circular does not constitute an offer of, or an invitation by or on behalf of, the Issuer or any of its partners, the Guarantor or the Managers to subscribe for or purchase any of the Preferred Securities.

Prospective investors should satisfy themselves that they understand all of the risks associated with making investments in the Preferred Securities. If prospective investors are in any doubt whatsoever as to the risks involved in investing in the Preferred Securities, they should consult their professional advisers.

The Managers have not separately verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by the Managers or any of them as to the accuracy or completeness of the information contained in this Offering Circular or any other information provided by the Guarantor in connection with the Preferred Securities or their distribution.

The distribution of this Offering Circular and the offering of the Preferred Securities in certain jurisdictions may be restricted by law. Persons into whose possession this Offering Circular comes are required by the Issuer, the Guarantor and the Managers to inform themselves about, and to observe, any such restrictions.

In respect of the United Kingdom, this Offering Circular is directed only at (a) investment professionals falling within article 14(5) of the Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes) (Exemptions) Order 2001 (the “**Promotion of CIS Order**”) and article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 (the “**Financial Promotion Order**”), who have professional experience of participating in unregulated schemes and of matters relating to investments; and/or (b) persons falling within article 22(2) of the Promotion of CIS Order and article 49(2) of the Financial Promotion Order. Preferred Securities are only available to such persons. Persons who do not either (i) have such professional experience in participating in unregulated schemes and in matters relating to investments or (ii) fall within said article 22(2) and 49(2), should not rely on this Offering Circular.

No action has been taken to permit a public offering of the Preferred Securities in any jurisdiction where action would be required for such purpose. Accordingly, the Preferred Securities may not be offered or sold, directly or indirectly, and this Offering Circular may not be distributed in any jurisdiction, except in accordance with the legal requirements applicable in that jurisdiction. In particular, the Preferred Securities have not been, and will not be, registered under the United States Securities Act of 1933, as amended (the “**Securities Act**”). Subject to certain exceptions, the Preferred Securities may not be offered, sold or delivered within the United States or to U.S.

persons. A further description of certain restrictions on the offering and sale of the Preferred Securities and on the distribution of this Offering Circular is given under “*Subscription and Sale*” below.

**IN CONNECTION WITH THE ISSUE OF THE PREFERRED SECURITIES, MORGAN STANLEY & CO. INTERNATIONAL LIMITED OR ANY PERSON ACTING FOR IT MAY OVER-ALLOT OR EFFECT TRANSACTIONS WITH A VIEW TO SUPPORTING THE MARKET PRICE OF THE PREFERRED SECURITIES AT A LEVEL HIGHER THAN THAT WHICH MIGHT OTHERWISE PREVAIL FOR A LIMITED PERIOD. HOWEVER THERE MAY BE NO OBLIGATION ON MORGAN STANLEY & CO. INTERNATIONAL LIMITED OR ANY PERSON ACTING FOR IT TO DO THIS. SUCH STABILISING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME AND MUST BE BROUGHT TO AN END AFTER A LIMITED PERIOD. STABILISATION TRANSACTIONS CONDUCTED ON EURONEXT AMSTERDAM MUST BE CONDUCTED IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS OF EURONEXT AMSTERDAM AND ARTICLE 32 (AND ANNEX 6) OF THE FURTHER REGULATIONS ON MARKET CONDUCT SUPERVISION OF THE SECURITIES TRADE 2002 (NADERE REGELING GEDRAGSTOEZICHT EFFECTENVERKEER 2002), AND WILL END 30 DAYS AFTER THE ISSUE DATE OF THE PREFERRED SECURITIES. STABILISATION TRANSACTIONS CONDUCTED ON EURONEXT AMSTERDAM MUST BE CONDUCTED BY A MEMBER OF EURONEXT AMSTERDAM.**

All references in this Offering Circular to “**EUR**”, “**€**” and “**euro**” are to the currency introduced at the start of the third stage of European Economic and Monetary Union pursuant to the Treaty establishing the European Community, as amended.

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## INVESTMENT CONSIDERATIONS

*Prospective investors should carefully consider the following information in conjunction with the other information contained in this Offering Circular. Defined terms used herein have the meaning given to them in "Description of the Preferred Securities."*

### **Risks Associated with the Guarantor's Financial Condition**

An investment in the Preferred Securities will have similar economic risks to an investment in non-cumulative perpetual preference shares issued directly by the Guarantor having the same liquidation preference and rate of distribution as the Preferred Securities. It is expected that the Issuer's sole source of funds to pay Distributions on the Preferred Securities will be payments which it receives from its investments in one or more debt instruments issued by a member of the Group (the "**Subordinated Note**"). The rights of Holders shall be represented solely by the Subordinated Guarantee and the Preferred Securities, and under no circumstances will the rights of Holders be represented by the Subordinated Note nor shall Holders be entitled to receive or hold the Subordinated Note. The Preferred Securities are guaranteed on a limited and subordinated basis by the Guarantor pursuant to the terms of the Subordinated Guarantee. Accordingly, if the Guarantor's financial condition were to deteriorate, the Holders may suffer direct and materially adverse consequences, including non-payment of Distributions on the Preferred Securities or of payments under the Subordinated Guarantee.

### **Limitations to remedies of Holders under the Subordinated Guarantee**

Holders may not receive payments from the Guarantor under the Subordinated Guarantee in circumstances where the Guarantor is prevented by applicable Irish banking regulations or legal or other regulatory requirements from making such payments.

### **Distributions Not Cumulative**

Distributions on the Preferred Securities are not cumulative. As set out in "*Description of the Preferred Securities*," Distributions on the Preferred Securities will be paid on each Distribution Payment Date out of interest received by the Issuer from its investments in the Subordinated Note and from other resources legally available, except that the Issuer will not pay any Distributions and the Guarantor will not make payment in respect of any Distributions in the circumstances set out in "*Description of the Preferred Securities – Distributions*".

The discretion of the Guarantor's board of directors to resolve that a Distribution should not be paid is unfettered, except that the Guarantor's board of directors will exercise such discretion not to pay if the Guarantor or any of its Subsidiaries has suspended payment of, deferred or not paid the most recent payment on any of its preference shares (unless such payment is the last payment in the Dividend Stopper Period) or Tier 2 Securities (unless prior to the relevant Distribution Payment Date all the arrears of interest in respect of such Tier 2 Securities have been paid).

If Distributions on the Preferred Securities for any Distribution Period are not paid for the reasons stated above, the Holders will not be entitled to receive such Distributions (or any payment under the Subordinated Guarantee in respect of such Distributions).

### **Perpetual Nature of the Preferred Securities**

The Preferred Securities are perpetual securities and have no fixed final redemption date and Holders have no rights to call for the redemption of the Preferred Securities. Although the Issuer may redeem the Preferred Securities in certain circumstances (including at its option on 8th June, 2011 or on any Distribution Payment Date thereafter or following the occurrence of a Capital Disqualification Event at any time), there are limitations on its ability to do so. Therefore, Holders should be aware that they may be required to bear the financial risks of an investment in the Preferred Securities for an indefinite period of time.

## Substitution

If a Capital Deficiency Event occurs and is continuing the General Partner has the discretion to cause, and if the Regulator so requires will cause, the substitution of the Preferred Securities with fully paid non-cumulative preference shares issued by the Guarantor.

Although the Guarantor has undertaken to apply for a listing for the Substituted Preference Shares there can be no assurance that, in the event that a Capital Deficiency Event occurs and is continuing, a recognised stock exchange will agree to list such Substituted Preference Shares.

If a Preferred Securities Substitution occurs it is the current intention of the General Partner to arrange for an alternative method for investors to hold their Substituted Preference Shares. If an accountholder elects for this alternative method, then instead of delivering each unit of Substituted Preference Shares directly to the investors, the General Partner will invite a third party investment bank to arrange for the establishment of a finance company which will receive each relevant unit of Substituted Preference Shares. Each relevant investor will receive a security in a nominal amount of €1,000 issued by the finance company and backed by the Substituted Preference Shares.

The General Partner will only offer this alternative means of holding the Substituted Preference Shares if under Irish law in force at the time of the Preferred Securities Substitution such an arrangement would enable investors to hold the security in Clearstream, Frankfurt and receive cash flows on the Substituted Preference Shares free of Irish withholding taxes and such security would be transferable free of Irish stamp taxes.

It may not be possible for the Guarantor and the General Partner to effect this arrangement and the efficacy of any such arrangement is subject to any change in the tax or regulatory regime.

If the Guarantor issues the Substituted Preference Shares directly to the Holders then under the current Irish tax regime dividends on such Substituted Preference Shares may be subject to Irish withholding taxes. In such circumstances the Guarantor will, subject to having available distributable profits, pay such additional amounts by way of extra dividend to investors as may be necessary in order that the net payments under the Substituted Preference Shares, after any withholding for taxes imposed by Ireland on such payments, will equal the amount that would have been received in the absence of any such withholding.

If any Substituted Preference Shares are issued directly to investors transfers will be subject to Irish stamp duty at a rate of 1 per cent., see "Taxation – Ireland".

In addition, the tax treatment for holders of Substituted Preference Shares or the security issued by the finance company may be different from that for Holders of the Preferred Securities.

## No Limitation on Senior Debt

The obligations of the Guarantor under the Subordinated Guarantee will rank:

- (a) junior to all liabilities of the Guarantor including subordinated liabilities (in each case other than any liability of the Guarantor which constitutes, or is capable of constituting, Tier 1 Capital or which is referred to in (b) or (c) and any other liability which ranks *pari passu* with or junior to the Subordinated Guarantee);
- (b) *pari passu* with Parity Securities, if any, issued by the Guarantor and any guarantee or support agreement of the Guarantor ranking *pari passu* with the Subordinated Guarantee; and
- (c) senior to Junior Share Capital.

In the event that the Guarantor is wound-up, liquidated or dissolved, the assets of the Guarantor would be available to pay obligations under the Subordinated Guarantee only after all payments have been made on senior liabilities and claims.

The Guarantor is not prohibited from issuing, guaranteeing or otherwise incurring further debt ranking *pari passu* with, or senior to, its obligations under the Subordinated Guarantee.

#### **Absence of prior public markets**

The Preferred Securities constitute a new issue of securities by the Issuer. Prior to this issue, there will have been no public market for the Preferred Securities. Although application will be made for the Preferred Securities to be listed on the Official Market of the Frankfurt Stock Exchange (*amtlicher Markt*) and has been made for the Preferred Securities to be listed on Eurolist by Euronext Amsterdam, there can be no assurance that an active public market for the Preferred Securities will develop and, if such a market were to develop, the Managers are under no obligation to maintain such a market. The liquidity and the market prices for the Preferred Securities can be expected to vary with changes in market and economic conditions, the financial condition and prospects of the Guarantor and other factors that generally influence the market prices of securities.

## SUMMARY OF THE PREFERRED SECURITIES AND SUBORDINATED GUARANTEE

*The following summary is qualified in its entirety by the more detailed information included elsewhere in this Offering Circular. Capitalised terms used but not defined in this summary shall bear the respective meanings ascribed to them under "Description of the Preferred Securities". Prospective investors should also consider carefully, amongst other things, the factors set out under "Investment Considerations".*

**Issuer:** DEPFA Funding III LP (the **Issuer**), an English limited partnership formed and registered under the Limited Partnerships Act 1907.

The business of the Issuer is to raise and provide finance and financial support to the Guarantor and its subsidiaries (together, the **Group**). The general partner of the partnership will be the Guarantor (the **General Partner**).

The business of the partnership, as administered by, or on behalf of, the General Partner, will include the following:

- acquiring and holding the Issuer's assets;
- monitoring the Issuer's assets and determining whether they continue to be suitable; and
- functions necessary or incidental thereto.

On the Closing Date, the Issuer's principal assets will be a debt instrument or instruments issued by a member of the Group (the **Subordinated Note**).

**Guarantor:** DEPFA BANK plc. The Guarantor is incorporated in Ireland with limited liability and is the holding company of the Group.

**Issue:** €300,000,000 Fixed Rate/Variable Rate Guaranteed Non-voting Non-cumulative Perpetual Preferred Securities (the **Preferred Securities**), each with a liquidation preference of €1,000 (the **Liquidation Preference**), comprising interests in a limited partnership share in the Issuer.

**Use of Proceeds:** The proceeds of the issue of the Preferred Securities will augment the Group's regulatory capital base. The Issuer will use the proceeds raised from the issuance of the Preferred Securities to subscribe for the Subordinated Note.

**Subordinated Guarantee:** The Guarantor will on the Closing Date provide a subordinated guarantee (the **Subordinated Guarantee**), which will be in favour of the Holders.

The Subordinated Guarantee will rank *pari passu* with:

- (a) the most senior non-cumulative perpetual preference shares of the Guarantor (whether or not in issue);
- (b) the guarantee provided by the Guarantor in respect of the outstanding €220,000,000 Floating Rate Non cumulative Trust Preferred Securities issued on 30<sup>th</sup> May, 2000 by DEPFA Funding Trust; and
- (c) the guarantee provided by the Guarantor in respect of the outstanding €300,000,000 6.50 per cent. Guaranteed Non-Voting Non-Cumulative Perpetual Preferred Securities and the outstanding €100,000,000 6.50 per cent. Guaranteed Non-Voting Non-Cumulative Perpetual Preferred Securities issued on 30<sup>th</sup> October, 2003 and 9<sup>th</sup> February, 2004 respectively, in each case by DEPFA Funding II LP.

**Distributions:**

The Preferred Securities will entitle Holders to receive (subject as described below) non-cumulative preferential cash distributions (the **Distributions**).

Distributions will be payable out of the Issuer's own legally available resources annually in arrear on 8<sup>th</sup> June in each year (each a **Distribution Payment Date**) at the rate of 7.00 per cent. per annum in respect of the period from and including the Closing Date to but excluding the Distribution Payment Date falling on 8<sup>th</sup> June, 2008 and thereafter at a variable rate of interest per annum which is (i) the aggregate of 0.10 per cent. per annum and the annual spot 10 year EUR fixed versus 6 month EUR EURIBOR swap rate or, if less, (ii) 8.00 per cent. per annum.

Notwithstanding the existence of such resources legally available for distribution by the Issuer, the Issuer will not pay any Distributions to the Holders and the Guarantor will not make any payment in respect of Distributions (including any Additional Amounts) under the Subordinated Guarantee:

- (a) to the extent that such payment, together with the amount of any distributions or dividends paid or scheduled to be paid to holders of Parity Securities on the relevant Distribution Payment Date would exceed Adjusted Distributable Reserves as at the Distribution Determination Date immediately preceding such Distribution Payment Date; or
- (b) even if Adjusted Distributable Reserves are sufficient:
  - (i) to the extent that such payment in respect of the Preferred Securities and/or Parity Securities and/or the Subordinated Guarantee would cause the Guarantor not to meet its minimum capital requirements or not to meet its solvency ratio under the Capital Adequacy Regulations, as determined by



the Guarantor's board of directors in its sole discretion; or

- (ii) to the extent that the Guarantor is not meeting its minimum capital requirements or is not meeting its solvency ratios under the Capital Adequacy Regulations, as determined by the Guarantor's board of directors (and as notified by the Guarantor's board of directors to the Regulator and the Issuer) in its sole discretion; or
- (iii) if the board of directors of the Guarantor has resolved not later than the Distribution Determination Date that no Distributions should be made on the next Distribution Payment Date; or
- (iv) if the Regulator has instructed the General Partner or the Guarantor not to make such payment.

The discretion of the Guarantor's board of directors to resolve that a Distribution should not be paid is unfettered, except that the Guarantor's board of directors will exercise such discretion not to pay if the Guarantor or any of its Subsidiaries has suspended payment of, deferred or not paid the most recent payment or foresees suspension of the next payment on any of its preference shares (unless such payment is the last payment in the Dividend Stopper Period) or Tier 2 Securities (unless prior to the relevant Distribution Payment Date of the Preferred Securities all the deferred and accrued arrears of interest in respect of such Tier 2 Securities have been paid in full).

To the extent that a Distribution is not paid by reason of the limitations described above, no payment under the Subordinated Guarantee will be paid, or may be claimed in respect thereof.

Subject to (b) above, if, on any Distribution Payment Date, Distributions are not paid in full on the Preferred Securities or dividends or other distributions are not paid in full on any Parity Securities, but the Guarantor's board of directors determine that there are sufficient Adjusted Distributable Reserves to allow payment of part of any Distribution, the General Partner may determine to pay the Relevant Proportion of such Distribution.

**Distribution and Capital Stopper:**

The Guarantor will undertake in the Subordinated Guarantee that, in the event that any Distribution is not paid it will not:

- (c) declare or pay any distribution or dividend and, where applicable, will procure that no distribution or dividend is declared or paid on any Junior Share Capital or Parity Securities, until the then applicable Dividend Stopper Period has expired; or
- (d) (if permitted) repurchase or redeem Junior Share Capital or Parity Securities until the then applicable Dividend Stopper Period has expired.

The Guarantor will also undertake in the Subordinated Guarantee that, in the event that on a Distribution Payment Date the Relevant Proportion of a Distribution is paid it will only declare and pay (or make a payment under a guarantee in respect of) an amount not exceeding the Relevant Proportion of any distribution or dividend (and, where applicable, will procure that only the Relevant Proportion of any distribution or dividend is declared or paid) on any Parity Security for the applicable Dividend Stopper Period.

**Capital Deficiency Event and Substituted Preference Shares:**

If a Capital Deficiency Event occurs and is continuing then the General Partner has the discretion to cause, and if the Regulator requires will so cause, the substitution of the Preferred Securities for non-cumulative preference shares issued directly by the Guarantor (the **Preferred Securities Substitution**).

On the substitution date, each Preferred Security of €1,000 in liquidation preference will be substituted for each Substituted Preference Share which will have a liquidation preference of €1,000 and have rights as to quantum of distributions and upon liquidation equivalent to the Preferred Securities.

The General Partner will notify holders if a Capital Deficiency Event occurs and the Preferred Securities Substitution is to take place. In the notice the General Partner will include information of the procedures for effecting the Preferred Securities Substitution.

*If a Preferred Securities Substitution occurs it is the current intention of the General Partner to arrange for an alternative method for investors to hold their Substituted Preference Shares. If this method is adopted by the General Partner and an accountholder elects for this alternative method, then instead of delivering each Substituted Preference Share directly to the investors, the General Partner will invite a third party investment bank to arrange for the establishment of a finance company which will receive each relevant Substituted Preference Share. Each relevant investor will receive a security in a nominal amount of €1,000 issued by the finance company and backed by the Substituted Preference Shares. The General Partner will only offer this alternative means of holding the Substituted Preference Shares if under Irish law in force at the time of the Preferred Securities Substitution such an arrangement would enable investors to hold the security in Clearstream Banking AG, Frankfurt am Main ("**Clearstream, Frankfurt**") and receive cashflows on the Substituted Preference Shares free of Irish withholding taxes and such security would be transferable free of Irish stamp taxes.*

The above statements in italics will not form part of the terms of the Preferred Securities and thus will not constitute a contractually binding commitment.

No Preferred Securities Substitution will take place and the Holders will continue to hold their Preferred Securities and all their rights thereunder if prior to the substitution date, a winding-up of the Guarantor occurs.

**Optional Redemption:**

The Preferred Securities will be perpetual securities and are not subject to any mandatory redemption provisions. They will, however, be redeemable on 8th June, 2011 (the **First Call Date**) or on any

Distribution Payment Date thereafter, in whole but not in part, at the option of the General Partner and subject to the satisfaction of the Redemption Conditions, at the Optional Redemption Price.

**Capital Disqualification Event Redemption:**

If at any time a Capital Disqualification Event occurs, the Preferred Securities will be redeemable at any time (including prior to the First Call Date) in whole, but not in part, at the option of the General Partner, subject to satisfaction of the Redemption Conditions at the Optional Redemption Price.

**Ranking of the Preferred Securities:**

The Preferred Securities, together with the Subordinated Guarantee, are intended to provide Holders with rights on liquidation equivalent to non-cumulative preference shares of the Guarantor, whether or not issued.

Claims under the Preferred Securities in respect of any Liquidation Distributions will rank:

- (i) senior to the rights of the General Partner in respect of other partnership interests issued by the Issuer; and
- (ii) *pari passu* with claims of the holders of all other preferred securities issued by the Issuer unless the terms of such other preferred securities or provisions of relevant law provide otherwise.

**Rights upon Liquidation:**

In the event of the dissolution of the Issuer, Holders will be entitled to receive, subject as set out below, for each Preferred Security a Liquidation Distribution out of the assets of the Issuer legally available for distribution.

Notwithstanding the availability of sufficient assets of the Issuer to pay any Liquidation Distribution to Holders as aforesaid, if, at the time such Liquidation Distribution is to be paid, proceedings have been commenced for the voluntary or involuntary liquidation, dissolution or winding-up of the Guarantor other than pursuant to a Permitted Reorganisation, the Liquidation Distribution payable per Preferred Security shall not exceed the amount per security that would have been paid as a liquidation distribution out of the assets of the Guarantor had the Preferred Securities and all Parity Securities been non-cumulative preference shares issued by the Guarantor with equivalent rights of participation in the capital of the Guarantor (whether or not the Guarantor could in fact have issued such securities at such time) and ranked:

- (a) junior to all liabilities of the Guarantor including subordinated liabilities (in each case other than any liability of the Guarantor which constitutes, or is capable of constituting, Tier 1 Capital or which is referred to in (b) or (c) and any other liability ranking *pari passu* with or junior to the Subordinated Guarantee);
- (b) *pari passu* with Parity Securities, if any, issued by the Guarantor

and any guarantee or support agreement of the Guarantor ranking *pari passu* with the Subordinated Guarantee; and

(c) senior to Junior Share Capital.

In the event of an order being made for the liquidation, dissolution or winding-up of the Guarantor other than pursuant to a Permitted Reorganisation or a declaration being made that the Guarantor is insolvent, the Issuer shall be dissolved and the amount per Preferred Security to which Holders will be entitled as a Liquidation Distribution will be as described above.

Notwithstanding the foregoing, Holders shall have no rights to receive Distributions, nor shall they have any rights to receive, in circumstances where the Issuer is being dissolved, Liquidation Distributions out of the assets of the Issuer legally available for distribution upon Substituted Preference Shares being issued and allotted to, or to the order of, the Holders consequent upon the occurrence of a Capital Deficiency Event.

**Withholding Tax and Additional Amounts:**

The Issuer will pay such additional amounts (**Additional Amounts**) as may be necessary in order that the net payment received by each Holder in respect of the Preferred Securities, after withholding for any taxes imposed by tax authorities in the United Kingdom upon payments made by or on behalf of the Issuer, will equal the amount which would have been received in the absence of any such withholding taxes, subject to certain exceptions.

The Subordinated Guarantee will contain a similar provision in respect of Irish taxes.

**Administrator:**

The Issuer will appoint an administrator to perform those operational matters in relation to the Issuer required under the Financial Services and Markets Act 2000 to be performed by a person authorised by the FSA to establish, operate and wind-up collective investment schemes.

**Form of the Preferred Securities:**

The Preferred Securities will be in registered form.

The Preferred Securities will be represented on issue by a single global certificate in registered form, which will be registered in the name of BT Globenet Nominees Limited, as nominee for, and deposited with, Clearstream, Frankfurt. The Preferred Securities will also be eligible for clearing and settlement through Euroclear and Clearstream, Luxembourg.

ISIN:	DE000A0E5U85
Common Code:	022172794
WKN:	A0E5U8
Fondscod:	45614

Definitive certificates will not be made available to Holders other than in certain limited circumstances.

**Listing:**

Application will be made to list the Preferred Securities on the Official Market of the Frankfurt Stock Exchange (*amtlicher Markt*) and has been made to list the Preferred Securities on Eurolist by Euronext

Amsterdam.

**Rating:**

The Preferred Securities are expected to be assigned, on issue, a rating of "A2" by Moody's Investors Service, Inc., a rating of "A" by Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc. and a rating of "A+" by Fitch Ratings Ltd. A credit rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the relevant rating organisation.

**Governing Law:**

The Limited Partnership Agreement, the Preferred Securities and the Subordinated Guarantee will be governed by, and construed in accordance with, English law.

The subordination provisions of the Limited Partnership Agreement and the Subordinated Guarantee will be governed by, and construed in accordance with, Irish law.

## DESCRIPTION OF THE PREFERRED SECURITIES

*The Preferred Securities are limited partnership interests in the Issuer. The following description should be read in conjunction with, and is subject to the terms of, the Limited Partnership Agreement, a copy of which is available for inspection as described under "General Information".*

### 1. Definitions and Interpretation

In this description of the Preferred Securities, except to the extent that the context otherwise requires:

**"Act"** means the Limited Partnerships Act 1907, as amended and/or restated from time to time;

**"Additional Amounts"** means the additional amounts which may be payable in respect of the Preferred Securities as described in paragraph 6;

**"Adjusted Distributable Reserves"** means, in respect of each financial year of the Guarantor, the aggregate amount, as calculated as of the end of the immediately preceding financial year, of accumulated retained earnings and any other reserves and surpluses of each member of the Group capable of being available for distribution in accordance with the Companies Acts; but before deduction of the amount of any distributions declared or payable even without declaration in respect of such prior financial year;

**"Agency Agreement"** means the agency agreement dated 8th June, 2005 relating to the Preferred Securities between, *inter alios*, the Guarantor, the Registrar and the Paying and Transfer Agents;

**"Business Day"** means a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the relevant place or places;

**"Calculation Agent"** means Deutsche Bank AG;

**"Call Date"** means the First Call Date and each Distribution Payment Date thereafter;

**"Capital Adequacy Regulations"** means at any time the regulations, requirements, guidelines and policies relating to capital adequacy then in effect of the Regulator or such other governmental authority in Ireland (or, if the Guarantor becomes domiciled in a jurisdiction other than the Ireland, in such other jurisdiction) having primary bank supervisory authority with respect to the Guarantor and the Group;

**"Capital Deficiency Event"** means:

- (a) the Guarantor's total capital ratios, in accordance with Capital Adequacy Regulations, have fallen below the then applicable minimum ratios required by such regulations for Irish banks; or
- (b) the Guarantor's board of directors in its sole discretion has notified the Regulator and the Issuer that the payment of the next Distribution on the Preferred Securities would cause (a) above to occur if such payment were to be made or it has determined that (a) above is otherwise expected to occur in the near term;

**"Capital Deficiency Event Notice"** has the meaning set out in paragraph 5.2;

**"Capital Disqualification Event"** means a change in any applicable law or regulation, or in the official interpretation or application thereof, as a result of which, for the purposes of the Capital Adequacy Regulations at that time, the Preferred Securities can no longer qualify for inclusion in Tier 1 Capital on a consolidated basis;

“**Clearstream, Frankfurt**” means Clearstream Banking AG, Frankfurt am Main or its successor;

“**Clearstream, Luxembourg**” means Clearstream Banking, société anonyme Luxembourg or its successor;

“**Closing Date**” means 8th June, 2005;

“**Companies Acts**” means the Companies Act 1963 to 2003 of Ireland, as amended and/or restated from time to time and all statutory instruments made under any enactment in Ireland which are to be construed as one therewith;

“**Distribution Amount**” has the meaning set out at paragraph 2.12;

“**Distribution Determination Date**” means, with respect to any Distribution Payment Date, the day falling 10 Dublin Business Days prior to such Distribution Payment Date;

“**Distributions**” means the non-cumulative distributions in respect of the Preferred Securities as described under paragraph 2;

“**Distribution Payment Date**” means 8th June in each year;

“**Distribution Period**” means the period from, and including, the Closing Date to, but excluding, the first Distribution Payment Date and each period thereafter from, and including, one Distribution Payment Date to, but excluding, the next following Distribution Payment Date;

“**Dividend Stopper Period**” means with respect to any Distribution Payment Date or the equivalent term in respect of any Parity Security, one calendar year from and including the earlier of the date (i) on which a full Distribution is not paid on the Preferred Securities or (ii) on which a full scheduled dividend or distribution on any Parity Security has not been paid;

“**Euroclear**” means Euroclear Bank S.A./N.V. as operator of the Euroclear system or its successor;

“**Exchange Event**” means that any or all of Clearstream, Frankfurt, Euroclear and Clearstream, Luxembourg is or are closed for business for a continuous period of 14 days or more (other than for the purposes of a public holiday) or announces an intention permanently to cease business;

“**First Call Date**” means 8th June, 2011;

“**FSA**” means the United Kingdom’s Financial Services Authority (or any successor body);

“**General Partner**” means DEPFA BANK plc;

“**Group**” means the Guarantor and the Subsidiaries;

“**Guarantor**” means DEPFA BANK plc and its successors and assigns;

“**Guarantor Additional Amounts**” means additional amounts payable by the Guarantor under the Subordinated Guarantee as may be necessary in order that the net amounts received by the Holders after a withholding or deduction for or on behalf of any present or future taxes or duties of whatsoever nature imposed or levied by or on behalf of Ireland or any political subdivision thereof or by any authority therein or thereof having power to tax shall equal the amounts which would have been receivable in the absence of such withholding or deduction;

“**Holder**” means, in respect of each Preferred Security, each person registered on the Register as the limited partner holding such Preferred Security at the relevant time;

“**Initial Holder**” means BT Globenet Nominees Limited;

“**Issuer**” means DEPFA Funding III LP;

“**Junior Share Capital**” means the ordinary shares of the Guarantor, together with any other securities or obligations which rank junior to non-cumulative preferred securities or preference shares of the Guarantor, whether issued (i) directly by the Guarantor or (ii) by the Issuer or another Subsidiary or other entity and benefiting from a guarantee or support agreement from the Guarantor which ranks junior to the Subordinated Guarantee;

“**Limited Partnership Agreement**” means an agreement dated 6th June, 2005 between the General Partner and the Initial Holder establishing the Issuer, as the same may be amended from time to time;

“**Liquidation Distribution**” means the Liquidation Preference plus (a) any due and accrued but unpaid Distributions calculated from (and including) the immediately preceding Distribution Payment Date (or, if none, the Closing Date) to (but excluding) the date of payment and (b) any Additional Amounts, in each case in cash only;

“**Liquidation Preference**” means €1,000 per Preferred Security;

“**Margin**” means 0.10 per cent.;

“**Optional Redemption Price**” means the Liquidation Preference plus (a) any due and accrued but unpaid Distributions calculated from (and including) the immediately preceding Distribution Payment Date (or, if none, the Closing Date) to (but excluding) the date of payment and (b) any Additional Amounts payable, in each case in cash only;

“**Parity Securities**” means any preference shares, preferred securities (other than the Preferred Securities) or other securities either (a) issued directly by the Guarantor (and ranking *pari passu* with the Guarantor’s obligations under the Subordinated Guarantee) or (b) issued by the Issuer or any Subsidiary or other entity with the benefit of any guarantee or support agreement from the Guarantor ranking *pari passu* with the Subordinated Guarantee and for the avoidance of doubt this includes the outstanding €300,000,000 6.50 per cent. Guaranteed Non-voting Non-cumulative Perpetual Preferred Securities and the outstanding €100,000,000 6.50 per cent. Guaranteed Non-voting Non-cumulative Perpetual Preferred Securities issued in each case by DEPFA Funding II LP on 30th October, 2003 and 9th February, 2004 respectively and the outstanding €220,000,000 Floating Rate Non-cumulative Trust Preferred Securities issued on 30th May, 2000 by DEPFA Funding Trust;

“**Paying and Transfer Agents**” means Deutsche Bank AG, Frankfurt am Main and Deutsche Bank AG, Amsterdam Branch or such other entities as are appointed by the General Partner on behalf of the Issuer and notified to the Holders as described under paragraph 10;

“**Permitted Reorganisation**” means an amalgamation, merger, consolidation, reorganisation or other similar arrangement entered into by the Guarantor under which:

- (i) the whole of the business, undertaking and assets of the Guarantor are transferred to and all of the liabilities and obligations of the Guarantor are assumed by the new or surviving entity either:
  - (a) automatically by operation of the laws of Ireland; or
  - (b) upon terms and subject to the satisfaction of such conditions as the Holders of a simple majority in Liquidation Preference of the outstanding Preferred Securities or the sanction of a resolution, passed by Holders of at least a simple majority in Liquidation Preference of the Preferred Securities present or represented at a separate meeting at which the quorum shall be holders present or represented holding at least one third in Liquidation Preference of the outstanding Preferred Securities so that the new or surviving entity shall have the same obligations as the Guarantor has had immediately prior to the Permitted Reorganisation as if the new or surviving entity has been named in the Limited Partnership Agreement and in the Subordinated Guarantee in place of the Guarantor; and



- (ii) the new or surviving entity will immediately after such amalgamation, merger, consolidation, reorganisation or other similar arrangement be subject to regulation and supervision by the Regulator; and
- (iii) prior to such transfer Moody's Investors Services Inc. and Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. and Fitch Ratings Ltd. have publicly confirmed that upon any such transfer the ratings assigned to the Preferred Securities before such rating agencies were informed of such transaction would not be reduced upon or as a consequence of such amalgamation, merger, consolidation, reorganisation or other similar arrangement;

**"Preferred Capital Contribution"** means, in relation to the Preferred Securities, the aggregate contribution to the assets of the Issuer (being a whole multiple of €1,000) paid in cash by the Holders;

**"Preferred Securities"** means the euro Fixed Rate/Variable Rate Guaranteed Non-Voting Non-Cumulative Perpetual Preferred Securities outstanding, originally issued on the Closing Date in the principal amount of €300,000,000, each such security representing an interest of a Holder in the Issuer attributable to each €1,000 of the Preferred Capital Contribution and including any further Preferred Securities of the Issuer of the same series issued after the Closing Date and ranking *pari passu* with the Preferred Securities as regards participation in the profits and assets of the Issuer and **"Preferred Security"** shall be construed accordingly;

**"Preferred Securities Substitution"** has the meaning set out in paragraph 5.1;

**"Preferred Securities Substitution Confirmation"** has the meaning set out in paragraph 5.4;

**"Redemption Conditions"** means, with respect to any redemption, (i) that the consent of the Regulator to the redemption, if then required by the Regulator, has been obtained, and (ii) unless the Regulator deems that there is sufficient capital to cover risks adequately, that the Guarantor has (a) Adjusted Distributable Reserves or (b) proceeds available from an issue of Replacement Capital that has been made for the purpose of funding the redemption, in either cases (ii)(a) or (b) in an amount at least equal to the aggregate Optional Redemption Price;

**"Reference Rate"** means in respect of a relevant Distribution Period, the 10-year CMS mid-swap rate in EUR (annual, 30/360) versus 6 month EURIBOR (semi-annual/ACT/360) which appears on Reuters Page "ISDAFIX2" or a successor page under the heading "EURIBOR BASIS" and above the caption "11:00 AM CET" (as such headings and captions may appear from time to time) as of 11:00 a.m. (Central European Time) (the **"Relevant Screen Page"**), on the Variable Distribution Determination Date for such Distribution Period;

**"Register"** means the register of Holders maintained outside the U.K. and Ireland on behalf of the Issuer;

**"Registrar"** means Deutsche Bank AG, Frankfurt am Main or such other entity appointed by the Issuer and notified to the Holders as described under paragraph 10;

**"Regulator"** means the Irish Financial Services Regulatory Authority as part of the Central Bank and Financial Services Authority of Ireland or such other national or supranational regulatory authority as may at the relevant time have responsibility for the regulation and supervision of banks in Ireland (or, if the Guarantor or any new or surviving entity as provided for in the definition of Permitted Reorganisation is, or becomes domiciled in a jurisdiction other than Ireland, the body having primary bank supervisory authority with respect to the Guarantor or such new or surviving entity);

**"Relevant Proportion"** means:

- (a) in relation to any partial payment of a Distribution on a Preferred Security, a fraction of which the numerator is an amount set at the absolute discretion of the Guarantor's Board of Directors being no more than Adjusted Distributable Reserves as of the most recently available audited accounts for the previous financial year of the Guarantor or interim accounts for the previous quarterly period of the Guarantor on the first day of the relevant Dividend Stopper Period and the denominator is the sum of (i) the amount

originally scheduled to be paid on the Preferred Securities during the Dividend Stopper Period (on the basis that the rate at which Distributions accrue will remain unchanged during such period) and (ii) the aggregate of distributions or dividends originally scheduled (also disregarding for such purpose possible movements in interest rates or any other fluctuating benchmark used in calculating such distribution or dividend) to be payable to holders of Parity Securities during the Dividend Stopper Period, converted where necessary into euro; and

- (b) in relation to any partial payment of any Liquidation Distribution on a Preferred Security, the total amount available for any such payment and for making any corresponding payment of a liquidation distribution on any Parity Securities divided by the sum of (i) the full Liquidation Distributions before any reduction or abatement in respect of the Preferred Securities and (ii) the amount of the full liquidation distribution before any reduction or abatement in respect of any Parity Securities, converted where necessary into the same currency in which liquidation payments are made to creditors of the Guarantor;

“**Replacement Capital**” means shares or other securities issued by the Guarantor or a Subsidiary or other entity which would, under the then generally accepted accounting principles in Ireland, qualify as at the date thereof for treatment as a minority interest or within shareholders’ funds in the Guarantor’s accounts;

“**Stock Exchanges**” means the Official Market of the Frankfurt Stock Exchange (*amtlicher Markt*) and Eurolist by Euronext Amsterdam or such other stock exchange approved by the General Partner on which the Preferred Securities or Substituted Preference Shares may be listed from time to time;

“**Subordinated Guarantee**” means the subordinated guarantee in respect of the Preferred Securities executed by the Guarantor on 8th June, 2005 as a deed poll;

“**Subsidiary**” means any entity which is for the time being a subsidiary or subsidiary undertaking of the Guarantor (within the meaning of the Companies Acts);

“**Substitution Date**” means the date upon which a Preferred Securities Substitution takes effect;

“**Substituted Preference Shares**” means the preference shares which may be issued by the Guarantor in substitution for the Preferred Securities and the Subordinated Guarantee upon the occurrence of a Capital Deficiency Event;

“**TARGET**” means the Trans European Real-Time Gross Settlement Express Transfer (TARGET) System;

“**TARGET Business Day**” means a day on which TARGET is operating;

“**Tier 1 Capital**” has the meaning ascribed to it in the Central Bank of Ireland Implementation Notice dated 30th June, 2000 in respect of the Implementation of the EC Own Funds and Solvency Ratio Directives for Credit Institutions Incorporated in Ireland (BSD S 1/00) or any successor notification replacing such notice;

“**Tier 1 Securities**” means any obligation of the Guarantor or, as the case may be, a Subsidiary or other entity which is treated, or is capable of being treated, as Tier 1 Capital of the Guarantor;

“**U.K. Tax**” means any present or future taxes or duties of whatsoever nature imposed or levied by or on behalf of the United Kingdom or any political subdivision of or by any authority therein or thereof having power to tax;

“**Variable Distribution Determination Date**” means, with respect to any Distribution Period beginning on or after 8th June, 2008, the second TARGET Business Day prior to the first day of such Distribution Period; and

“**Variable Distribution Rate**” has the meaning set out in paragraph 2.11.

## 2. Distributions

- 2.1 Subject as provided in paragraph 2.4, non-cumulative distributions (the “**Distributions**”) on the Preferred Securities will accrue from the Closing Date (or, in the case of any further preferred securities issued so as to rank *pari passu* with the Preferred Securities as regards participation in the profits and assets of the Issuer, from their respective dates of issue) and shall be payable annually in arrear on each Distribution Payment Date.
- 2.2 A Distribution on each Preferred Security in respect of a Distribution Period will be payable annually in arrear on the relevant Distribution Payment Date. In respect of each Distribution Period from and including the Closing Date to but excluding 8th June, 2008, a Distribution will accrue at the rate of 7.00 per cent. per annum calculated on the amount of the Liquidation Preference (the “**Fixed Distribution Rate**”). Distributions in respect of any subsequent Distribution Period will accrue at the relevant Variable Distribution Rate calculated on the amount of the Liquidation Preference. The amount of any Distribution payable per Preferred Security in respect of any period shall be calculated by applying the Fixed Distribution Rate or, as the case may be, the Variable Distribution Rate for the relevant period to the Liquidation Preference and multiplying such amount by (a) the actual number of days from and including the immediately preceding Distribution Payment Date (or, if none, the Closing Date) to but excluding the date of payment divided by (b) the actual number of days in the period from and including the immediately preceding Distribution Payment Date (or, if none, the Closing Date) to but excluding the immediately following Distribution Payment Date).
- 2.3 Distributions on the Preferred Securities will be non-cumulative. Subject to paragraph 2.4, Distributions on the Preferred Securities will be payable out of the Issuer’s own legally available resources on each Distribution Payment Date.
- 2.4 Notwithstanding the existence of resources legally available for distribution by the Issuer, the Issuer will not pay any Distributions (including Additional Amounts) to the Holders and the Guarantor will not make any payment in respect of Distributions (including any Guarantor Additional Amounts) under the Subordinated Guarantee:
- 2.4.1 to the extent that such payment, together with the amount of any distributions or dividends paid or scheduled to be paid to holders of Parity Securities on the relevant Distribution Payment Date would exceed Adjusted Distributable Reserves as at the Distribution Determination Date immediately preceding such Distribution Payment Date; or
- 2.4.2 even if Adjusted Distributable Reserves are sufficient:
- (i) to the extent that such payment in respect of the Preferred Securities and/or Parity Securities and/or the Subordinated Guarantee would cause the Guarantor not to meet its minimum capital requirements or not to meet its solvency ratio under the Capital Adequacy Regulations, as determined by the Guarantor’s board of directors in its sole discretion; or
  - (ii) to the extent that the Guarantor is not meeting its minimum capital requirements or is not meeting its solvency ratios under the Capital Adequacy Regulations, as determined by the Guarantor’s board of directors (and as notified by the Guarantor’s board of directors to the Regulator and the Issuer) in its sole discretion; or
  - (iii) if the board of directors of the Guarantor has resolved not later than the Distribution Determination Date that no Distribution should be made on the next Distribution Date;
  - (iv) if the Regulator has instructed the General Partner or the Guarantor not to make such payment.

- 2.5 The discretion of the Guarantor's board of directors to resolve that a Distribution should not be paid is unfettered, except that the Guarantor's board of directors will exercise such discretion not to pay if the Guarantor or any of its Subsidiaries has suspended payment of, deferred or not paid the most recent payment or foresees suspension of the next payment on any of its preference shares (unless such payment is the last payment in the Dividend Stopper Period) or Tier 2 Securities (unless prior to the relevant Distribution Payment Date of the Preferred Securities all the arrears deferred and accrued of interest in respect of such Tier 2 Securities have been paid in full).
- 2.6 Subject to paragraph 2.4.2 above, whether by reason of the provisions of paragraph 2.4 or 2.5 or any equivalent article or term of a Parity Security, on any Distribution Payment Date, Distributions are not paid in full on the Preferred Securities or dividends or other distributions are not paid in full on any Parity Securities, but the Guarantor's board of directors determines that there are sufficient Adjusted Distributable Reserves so as to allow payment of part of any Distribution, the General Partner may determine to pay the Relevant Proportion of any such Distribution. No Holder shall have any claim in respect of any Distribution or part thereof not payable as a result of the limitations set out in paragraph 2.4 or 2.5. Accordingly, such amounts will not cumulate for the benefit of Holders or entitle the Holders to any claim in respect thereof against the Issuer or against the Guarantor under the Subordinated Guarantee.
- 2.7 On each Distribution Determination Date, the Guarantor will determine whether or not a full or partial Distribution is to be made.
- 2.8 In the event that any Distribution is not to be paid in full, the General Partner will notify or procure notification to the Stock Exchanges, the Registrar and the Paying and Transfer Agents and to Holders, in accordance with paragraph 10, of the amount, if any, being the Relevant Proportion (subject to paragraph 2.9) of such full Distribution to be paid in respect of that Distribution.
- 2.9 To the extent that the payment of the Relevant Proportion of a Distribution on the Preferred Securities or of the distribution or dividend on any Parity Security would otherwise exceed the amount of Adjusted Distributable Reserves actually available immediately before such payment, such Relevant Proportion shall not be payable.
- 2.10 The Guarantor has undertaken in the Subordinated Guarantee that, in the event that any Distribution is not paid, it will not:
- (a) declare or pay any distribution or dividend and, where applicable, will procure that no distribution or dividend is declared or paid on any Junior Share Capital or Parity Securities, until the then applicable Dividend Stopper Period has expired; or
  - (b) (if permitted) repurchase or redeem Junior Share Capital or Parity Securities until the then applicable Dividend Stopper Period has expired.
- 2.11 On each Variable Distribution Determination Date, the Calculation Agent will determine the Reference Rate as at 11:00 a.m. (Central European Time). The variable distribution rate (the "**Variable Distribution Rate**") for the relevant Distribution Period shall be the aggregate of the Reference Rate plus the Margin or, if less, 8.00 per cent. per annum. If the Reference Rate does not appear on the Relevant Screen Page on the relevant Variable Distribution Determination Date, the rate for that date will be determined as if "EUR-Annual Swap Rate-Reference Banks" had been specified as the applicable Reference Rate. "EUR-Annual Swap Rate-Reference Banks" means that the rate will be a percentage determined on the basis of the mid-market annual swap rate quotations provided by five leading swap dealers selected by the Calculation Agent in consultation with the Guarantor in the eurozone interbank market (the "**Reference Banks**") at approximately 11:00 a.m. (Central European Time) on the Variable Distribution Determination Date. For this purpose, the mid-market annual swap rate means the arithmetic mean of the bid and offered rates for the annual fixed leg, calculated on a 30/360 day count basis, of a fixed-for-floating euro interest rate swap transaction with a 10 year maturity commencing on the first day of that Distribution Period and in an amount that is representative

for a single transaction in the relevant market at the relevant time with an acknowledged dealer of good credit in the swap market, where the floating leg, in each case calculated on an Actual/360 day count basis, is equivalent to in the case of "EUR-ISDA-EURIBOR Swap Rate – 11.00", "EUR-EURIBOR-Telorate", with a maturity of six months. The Calculation Agent will request the principal office of each of the Reference Banks to provide a quotation of its rate. If at least three quotations are provided, the rate for the first day of that Distribution Period will be the arithmetic mean of the quotations, eliminating the highest quotation (or, in the event of equality, one of the highest) and the lowest quotation (or, in the event of equality, one of the lowest).

- 2.12 The Calculation Agent will, as soon as practicable after 11:00 a.m. (Central European Time) on each Variable Distribution Determination Date determine the Variable Distribution Rate in respect of the relevant Distribution Period and calculate the amount of Distributions payable in respect of each Preferred Security (the “**Distribution Amount**”) on the Distribution Payment Date for the relevant Distribution Period. The Distribution Amount payable on each Preferred Security shall be calculated in accordance with the provisions of paragraph 2.2.
- 2.13 The Calculation Agent will cause the Variable Distribution Rate and the Distribution Amount for each Distribution Period and the relevant Distribution Payment Date to be notified to the Issuer, the Guarantor, the Principal Paying and Transfer Agent and each Stock Exchange by no later than the first day of the relevant Distribution Period and the Calculation Agent will cause publication thereof in accordance with paragraph 10 as soon as possible after their determination but in any event no later than the fourth TARGET Business Day thereafter. The Distribution Payment Date so published may subsequently be amended (or appropriate arrangements made by way of adjustment) without notice in the event of proven or manifest error.
- 2.14 All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this paragraph 2 by the Calculation Agent will (in the absence of wilful default, bad faith or manifest or proven error) be binding on the Issuer, the Guarantor, the Paying and Transfer Agents and all Holders and (in the absence of wilful default, bad faith or manifest or proven error) no liability to the Issuer, the Guarantor or the Holders shall attach to the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions under this paragraph 2.
- 2.15 The Guarantor shall procure that, so long as any of the Preferred Securities remains outstanding, there is at all times a Calculation Agent for the purposes of the Preferred Securities provided that the Guarantor may terminate the appointment of the Calculation Agent. In the event of the appointed office of any bank or financial institution being unable or unwilling to continue to act as the Calculation Agent or failing duly to determine the Variable Distribution Rate and/or the Distribution Amount for any relevant Distribution Period, the Guarantor shall appoint the Euro-zone office of another major bank or financial institution engaged in the Euro-zone interbank market to act in its place. The Calculation Agent may not resign its duties or be removed without a successor having been appointed.
- 2.16 Save as described above, Holders will have no right to participate in the profits of the Issuer or the Guarantor and in particular will have no rights to receive from the Issuer amounts paid to the Issuer in respect of its partnership assets in excess of Distributions due and payable under the Preferred Securities. In the event that any amounts received by the Issuer in respect of its partnership assets exceed the amount (if any) then due by way of Distribution under the Preferred Securities, the amount of such excess will be paid to the General Partner and Holders will have no rights in respect thereof.
- 2.17 The liability of a Holder to contribute to the debts or obligations of the Issuer (if any) shall (subject to the Act) not exceed the amount of that Holder’s Preferred Capital Contribution.
- 2.18 For the purposes of the definition of “Relevant Proportion”, in paragraphs 1, 2.6, 2.8 and 2.9, Adjusted Distributable Reserves as at each Distribution Determination Date shall be determined by reference to the

aggregate amount, as calculated as of the end of the immediately preceding financial year, of accumulated retained earnings and any other reserves and surpluses of the Guarantor capable of being available for distribution in accordance with the Companies Acts; but before deduction of the amount of any other distributions declared or payable event without declaration in respect of such prior financial year.

- 2.19 Notwithstanding the foregoing, no Holder shall have any right to receive Distributions in respect of the Preferred Securities for any period from and including the date upon which Substituted Preference Shares have been issued and allotted to, or to the order of, the Holders in accordance with paragraph 5 below.

### **3. Liquidation Distributions**

- 3.1 In the event of the dissolution of the Issuer, the Holders will be entitled, subject as set out in paragraph 3.4, to receive the Liquidation Distribution, in respect of each Preferred Security held, out of the assets of the Issuer available for distribution to such Holders under the Act. Such entitlement will arise (a) before any payments due to the General Partner and the holder of any corresponding preferential right in respect of other partnership interests issued by the Issuer and (b) before any distribution of assets is made to the General Partner, but such entitlement will rank equally with the entitlement of the holders of all other preferred securities issued by the Issuer which rank *pari passu* with the Preferred Securities, if any.

Notwithstanding the availability of sufficient assets of the Issuer to pay any Liquidation Distribution to the Holders as aforesaid, if, at the time such Liquidation Distribution is to be paid, proceedings have been commenced for the voluntary or involuntary liquidation, dissolution or winding-up of the Guarantor other than pursuant to a Permitted Reorganisation, the Liquidation Distribution per Preferred Security paid to Holders thereof shall not exceed the amount per security that would have been paid as a liquidation distribution out of the assets of the Guarantor had the Preferred Securities and all Parity Securities been the most senior class of non-cumulative preference shares in the Guarantor with equivalent rights of participation in the capital of the Guarantor (whether or not the Guarantor could in fact have issued such securities at such time) and ranked:

- (a) junior to all liabilities of the Guarantor including subordinated liabilities (in each case other than any liability of the Guarantor which constitutes, or is capable of constituting, Tier 1 Capital or which is referred to in (b) or (c) and any other liability which ranks *pari passu* with or junior to the Subordinated Guarantee);
  - (b) *pari passu* with Parity Securities, if any, issued by the Guarantor and any guarantee or support agreement of the Guarantor ranking *pari passu* with the Subordinated Guarantee; and
  - (c) senior to Junior Share Capital.
- 3.2 If the Liquidation Distribution and any other such liquidation distributions cannot be made in full by reason of the limitation described in paragraph 3.1 or any equivalent article or term of a Parity Security, but there are funds available for payment so as to allow payment of part of the Liquidation Distribution, then each Holder will be entitled to receive the Relevant Proportion of the Liquidation Distribution. After payment of all Liquidation Distributions the General Partner will be entitled to any remaining assets of the Issuer representing proceeds of the sale or redemption of the Issuer's partnership assets and the Holders will have no right or claim to any of the remaining assets of the Issuer or the Guarantor.
- 3.3 In the event of an order being made for the liquidation, dissolution, or winding-up of the Guarantor other than pursuant to a Permitted Reorganisation or the Guarantor is declared insolvent, the Issuer shall be dissolved and the amount per Preferred Security to which Holders shall be entitled as a Liquidation Distribution will be as set out in paragraphs 3.1 and 3.2.
- 3.4 Subject to the Act, other than in the events referred to in paragraphs 3.3, 4.2, 4.3, 5.1 and 5.2, unless the Regulator has given its approval, if then required by the Regulator, the General Partner will not permit, or

take any action that would or might cause, the liquidation or dissolution of the Issuer. Notwithstanding the foregoing restriction imposed on the General Partner, if for any other reason the Issuer is liquidated, dissolved or wound up in circumstances where proceedings have not been commenced for the liquidation, dissolution or winding-up of the Guarantor, the Liquidation Distribution shall only be payable to the extent that either the Guarantor has (a) Adjusted Distributable Reserves, or (b) proceeds available from an issue of Replacement Capital that has been made for the purpose of funding the Liquidation Distribution (in either cases (a) or (b) in an amount at least equal to the aggregate Liquidation Distribution). No Holder shall have any claim (whether against the Issuer or the Guarantor) in respect of any Liquidation Distribution or part thereof not paid when it would, but for the operation of this paragraph 3.4, otherwise have become due.

- 3.5 Notwithstanding the foregoing, no Holder shall have any claim in respect of any Liquidation Distribution or part thereof in the event that Substituted Preference Shares have been issued and allotted to, or to the order of, the Holders in accordance with paragraph 5 below and/or the Issuer is dissolved pursuant to paragraph 5.

#### **4. Redemption and Purchase**

- 4.1 The Preferred Securities have no fixed final redemption date and Holders have no rights to call for the redemption of the Preferred Securities. Any redemption is subject to the provisions of the Act.

- 4.2 The Preferred Securities are redeemable, at the option of the General Partner, subject to the satisfaction of the Redemption Conditions, in whole but not in part, on the First Call Date or any Distribution Payment Date thereafter, upon not less than 30 nor more than 60 days' notice to the Holders (published in accordance with paragraph 10) and to the Stock Exchanges specifying the relevant Distribution Payment Date for redemption (the "**Optional Redemption Date**") (which notice shall be irrevocable). Upon the expiry of such notice, the Issuer shall be dissolved and the General Partner as liquidation agent shall be bound to redeem each of the Preferred Securities accordingly by payment of an amount equal to the Optional Redemption Price.

- 4.3 If at any time a Capital Disqualification Event occurs, the Preferred Securities may be redeemed, in whole but not in part, at the option of the General Partner, subject to satisfaction of the Redemption Conditions, at any time, upon not less than 30 nor more than 60 days' notice to the Holders published in accordance with paragraph 10 specifying the relevant date for redemption (the "**Capital Disqualification Event Redemption Date**") (which notice shall be irrevocable) at the Optional Redemption Price. Prior to the publication of any notice of redemption pursuant to the foregoing, the General Partner shall deliver to the Registrar a certificate signed by two directors of the Guarantor stating that the Issuer is entitled to effect such redemption and an opinion of counsel to the Guarantor experienced in such matters to the effect that a Capital Disqualification Event has occurred. Upon the expiry of such notice, the Issuer shall be dissolved and the General Partner as liquidation agent shall be bound to redeem each of the Preferred Securities accordingly.

- 4.4 Under the existing requirements of the Regulator, neither the Issuer nor the Guarantor may redeem or purchase any Preferred Securities unless the Regulator gives its prior written consent. The Regulator may impose conditions on any such redemption or purchase.

#### **5. Substitution for Preference Shares**

- 5.1 If a Capital Deficiency Event occurs and is continuing, then the General Partner has the discretion to cause and, if the Regulator so requires, will cause the substitution of the Preferred Securities with the Substituted Preference Shares (the "**Preferred Securities Substitution**") on the Substitution Date (as defined below).

- 5.2 As soon as reasonably practicable following the occurrence of a Capital Deficiency Event which is to be followed by a Preferred Securities Substitution, the General Partner shall cause notice (the "**Capital Deficiency Event Notice**") to be given to the Holders (in accordance with paragraph 10) and to the Stock

Exchanges that the Substituted Preference Shares will be available from the date (the “**Substitution Date**”) specified in the Capital Deficiency Event Notice for the purpose.

- 5.3 Until such time as the Capital Deficiency Event Notice is given by the General Partner (in accordance with paragraph 10) Holders will continue to be entitled to receive Distributions and/or Liquidation Distributions in respect of the Preferred Securities but thereafter Holders will have no further rights, title or interest in or to the Preferred Securities except to have them substituted in the manner and to the persons described below.
- 5.4 The Capital Deficiency Event Notice will contain a form of substitution confirmation (the “**Preferred Securities Substitution Confirmation**”) to be completed by each Holder (or, for so long as the Preferred Securities are registered in the name of a nominee for Clearstream, Frankfurt by each accountholder named in the records of Clearstream, Frankfurt as the holder of an interest in the Preferred Securities). The form of Preferred Securities Substitution Confirmation shall also be made available at the offices of each Paying and Transfer Agent. To receive Substituted Preference Shares in respect of its holding of Preferred Securities, a Paying and Transfer Agent must receive from the Holder (or such accountholder, as the case may be) a Preferred Securities Substitution Confirmation together with the certificate representing the relative holding of Preferred Securities or other evidence of entitlement satisfactory to the General Partner.
- 5.5 Each Substituted Preference Share allotted will rank for any dividend from the immediately preceding Distribution Payment Date but otherwise will have no entitlement to any accrued Distributions or any other payment in respect of the Preferred Securities.
- 5.6 Upon a Preferred Securities Substitution, each Holder (or, as the case may be, accountholder) shall receive in respect of each €1,000 Liquidation Preference of Preferred Securities one Substituted Preference Share with a liquidation preference of €1,000.

*If a Preferred Securities Substitution occurs it is the current intention of the General Partner to arrange for an alternative method for investors to hold their Substituted Preference Shares. If an accountholder elects for the alternative method, then instead of delivering each Substituted Preference Share directly to the investors, the General Partner will invite a third party investment bank to arrange for the establishment of a finance company which will receive each relevant Substituted Preference Share. Each relevant investor will receive a security in a nominal amount of €1,000 issued by the finance company and backed by the Substituted Preference Shares.*

*The General Partner will only offer this alternative means of holding the Substituted Preferred Shares if under Irish law in force at the time of the Preferred Securities Substitution such an arrangement would enable investors to hold the security in Clearstream, Frankfurt and receive cash flows on the Substituted Preference Shares free of Irish withholding taxes and such security would be transferable free of Irish stamp taxes.*

*The above statements in italics do not form part of the terms of the Preferred Securities and thus do not constitute a contractually binding commitment, nor can there be any assurance that at the time a Capital Deficiency Event occurs, if ever, that use of "qualifying company" or similar arrangement will be available.*

- 5.7 No Preferred Securities Substitution will take place and the Holders will continue to hold their Preferred Securities and all their rights thereunder if, prior to the Substitution Date, a winding-up of the Guarantor occurs.
- 5.8 The Guarantor has undertaken in the Limited Partnership Agreement that it will pay any taxes or capital duties or stamp duties payable in Ireland arising on the allotment and issue of the Substituted Preference Shares. The Guarantor will not be obliged to pay, and each Holder (or, as the case may be, accountholder) delivering Preferred Securities and a duly completed Preferred Securities Substitution Confirmation to a Paying and Transfer Agent must pay, any other taxes, stamp duty reserve taxes and capital, stamp, issue and registration duties arising on the relevant Preferred Securities Substitution. The Guarantor will not be obliged to pay and each recipient must pay all, if any, taxes arising by reference to any disposal or deemed disposal of a Preferred Security in connection with such Preferred Securities Substitution.



- 5.9 The General Partner will use all reasonable endeavours to procure that if the Guarantor under paragraph 5.6 issues any Substituted Preference Shares to Holders, that certificates for such Substituted Preference Shares will be despatched by mail free of charge (but uninsured and at the risk of the person entitled thereto) within one month after receipt of a duly completed Preferred Securities Substitution Confirmation.

## 6. Additional Amounts

All payments in respect of the Preferred Securities by the Issuer will be made without withholding or deduction for, or on account of, any U.K. Tax, unless the withholding or deduction of such U.K. Tax is required by law. In that event, each Holder will be entitled to receive, as further distributions, such additional amounts (the “**Additional Amounts**”) as may be necessary in order that the net amounts received by the Holders after such withholding or deduction shall equal the amounts which would have been receivable in respect of the Preferred Securities in the absence of such withholding or deduction; except that no such Additional Amounts will be payable to a Holder (or to a third party on his behalf) with respect to any Preferred Security:

- (a) to the extent that such U.K. Tax is imposed or levied by virtue of such Holder (or the beneficial owner) of such Preferred Security having some connection with the United Kingdom, other than merely being a Holder (or beneficial owner) of such Preferred Security; or
- (b) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any law implementing or complying with, or introduced in order to conform to Council Directive 2003/48/EC of 3<sup>rd</sup> June, 2003 on the taxation of savings income in the form of interest payments or any other Directive of the European Community on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26<sup>th</sup>-27<sup>th</sup> November, 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or
- (c) who would have been able to avoid such withholding or deduction by presenting the Preferred Securities to another Paying and Transfer Agent in a Member State of the European Union (insofar as presentation for payment is required),

and except that the Issuer’s obligations to make any such payments are subject to the limitations provided in paragraphs 2 and 3.

## 7. Payments

- 7.1 Distributions will be payable in accordance with the Act on the relevant Distribution Payment Date (or where any Distribution Payment Date is not a TARGET Business Day on the next TARGET Business Day (without interest in respect of such delay)) to the Holders of record as they appear on the Register on the relevant record date, which will be five TARGET Business Days prior to the relevant Distribution Payment Date.

If the General Partner gives a notice of redemption pursuant to paragraph 4.2 or 4.3 in respect of the Preferred Securities, then on the Optional Redemption Date (or where such date is not a TARGET Business Day, on the next TARGET Business Day (without interest in respect of such delay) or the Capital Disqualification Event Redemption Date (or where such date is not a TARGET Business Day, on the next TARGET Business Day (without interest in respect of such delay), as the case may be, the General Partner shall procure that the Optional Redemption Price will be paid by the Registrar or by the Paying and Transfer Agent on behalf of the Issuer to the Holders. Upon such payment, all rights of Holders to participate in the assets of the Issuer or to be returned any amount in respect of the Preferred Securities (including the Preferred Capital Contribution (or any part thereof) made by or on behalf of the Holders) will be extinguished and the Holders shall thereupon cease to be limited partners of the Issuer provided their holding of Preferred Securities are redeemed in accordance with the foregoing, and the Preferred Capital Contribution will, on payment of the Optional Redemption Price, be deemed repaid.

7.2 Subject to all applicable fiscal or other laws and regulations:

7.2.1 each payment in respect of Distributions will be made by cheque and mailed to the Holder of record at such Holder's address as it appears on the Register on the relevant record date for the Preferred Securities; and

7.2.2 any payment in respect of the Optional Redemption Price or the Liquidation Distribution in respect of any Preferred Security will be made by cheque against presentation and surrender of the relevant certificate of entitlement at the office of the Registrar or a Paying and Transfer Agent,

provided, however, that a Holder may receive such payment by direct transfer if appropriate direct transfer instructions have been received by the Registrar in sufficient time prior to the relevant date of payment. Holders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due if the due date is not a TARGET Business Day if the Holder is late in surrendering certificates (if required to do so) or if a cheque mailed in accordance with this paragraph arrives after the due date for payment.

In the event that payment of the Optional Redemption Price in respect of any Preferred Security is improperly withheld or refused and not paid by the Issuer, Distributions on such Preferred Security, subject as described in paragraphs 2.3 and 2.4, will continue to accrue, from the Optional Redemption Date or Capital Disqualification Event Redemption Date, as the case may be, to the date of actual payment of such Optional Redemption Price.

7.3 The General Partner will, and the Guarantor has undertaken in the Subordinated Guarantee that it will procure that the General Partner will, maintain at all times whilst the Preferred Securities are outstanding (a) whilst the Preferred Securities are listed on Eurolist by Euronext Amsterdam, a Paying and Transfer Agent in The Netherlands (b) a Registrar having its specified office outside the United Kingdom and (c) a Paying and Transfer Agent having a specified office in a European Union Member State (if any) that will not be obliged to withhold or deduct tax pursuant to any law implementing or complying with, or introduced in order to conform to Council Directive 2003/48/EC of 3<sup>rd</sup> June, 2003 on the taxation of savings income in the form of interest payments or any other Directive of the European Community on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26th -27th November, 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive.

## 8. Meetings

8.1 Except as described below and provided for in the Act, Holders will not be entitled to receive notice of, or attend or vote at, any meeting of partners in the Issuer or participate in the management of the Issuer.

8.2 The consent in writing of the Holders of at least a simple majority in Liquidation Preference of the outstanding Preferred Securities or the sanction of a resolution, passed by Holders of at least a simple majority in Liquidation Preference of the Preferred Securities present or represented at a separate meeting at which the quorum shall be Holders present or represented holding at least one-third in Liquidation Preference of the outstanding Preferred Securities, shall be required in order to give effect to any variation or abrogation of the rights, preferences and privileges of the Preferred Securities by way of amendment of the Limited Partnership Agreement or otherwise (including, without limitation, the authorisation or creation of any securities or ownership interests of the Issuer ranking, as to participation in the profits or assets of the Issuer, senior to the Preferred Securities or the approval of the replacement or substitution of the Preferred Securities for obligations or securities of another entity) (unless otherwise provided in the terms of the Preferred Securities or as required by applicable law). No such sanction shall be required if, as determined by the General Partner, the change is solely of a formal, minor or technical nature or is to correct an error or cure an ambiguity or which does not adversely affect the rights of Holders, provided that the change does not reduce the amounts payable to Holders or impose any obligation on the Holders or any modification of the

terms of the Preferred Securities pursuant to paragraph 8.3, in which case the General Partner shall be authorised to approve and implement such change.

8.3 Notwithstanding the foregoing, the General Partner may, without the consent or sanction of the Holders, take such action as is required in order to amend the Limited Partnership Agreement:

8.3.1 to allow an increase in the level of the Preferred Capital Contributions and the corresponding number of Preferred Securities or to create and issue one or more other series of preferred securities of the Issuer ranking *pari passu* with the Preferred Securities as regards participation in the profits and assets of the Issuer and to admit if relevant new holders in respect thereof; or

8.3.2 to authorise, create and issue one or more other series of securities or partnership interests in the Issuer ranking junior, as regards participation in the profits and assets of the Issuer, to the Preferred Securities and to admit if relevant new holders in respect thereof.

Thereafter the Issuer may, provided that the circumstances for non-payment of Distributions in paragraph 2.3 or 2.4 are not subsisting, without the consent of the Holders issue any such further securities either having the same terms and conditions as the Preferred Securities in all respects (or in all respects except for the first payment of Distributions on them) and so that such further issue shall be consolidated and form a single series with the Preferred Securities or upon such other terms as aforesaid. References herein to the Preferred Securities include (unless the context requires otherwise) any other securities issued pursuant to this paragraph and forming a single series with the Preferred Securities.

8.4 Notwithstanding the foregoing, no vote of the Holders will be required for the redemption, cancellation or substitution of the Preferred Securities or withdrawal of a Holder in accordance with the Limited Partnership Agreement.

8.5 The General Partner will cause a notice of any meeting at which Holders are entitled to vote and any voting forms to be mailed to each Holder. Each such notice will include a statement setting forth (a) the date, time and place of such meeting, (b) a description of any resolution to be proposed for adoption at such meeting on which such Holders are entitled to vote and (c) instructions for the delivery of proxies.

## **9. Covenant of the General Partner**

The General Partner will undertake not to incur any indebtedness in the name of the Issuer other than the costs and expenses incidental to creating the Preferred Securities and the Issuer and any other partnership interests in the Issuer, performing its obligations in respect of the Limited Partnership Agreement, maintaining the listing of the Preferred Securities and any other partnership interests in the Issuer (where applicable), the Register, the Registrar, the Paying and Transfer Agents and a listing agent in respect of the Preferred Securities and corresponding agents (where applicable) with respect to any other partnership interests in the Issuer, the Issuer's holding of the partnership assets and any securities acquired with any other capital contributions to the Issuer or substitutions therefor and the maintenance of a custodian therefor, the exercise of the Issuer's rights in respect of the partnership assets and any securities acquired with any other capital contributions to the Issuer or substitutions therefor and the administration of the Issuer.

## **10. Notices**

All notices to the Holders will be mailed to the Holder of record and, so long as the Preferred Securities are listed on Eurolist by Euronext Amsterdam and the rules of such exchange so require, in a daily newspaper of general circulation in The Netherlands (which is expected to be *Het Financieele Dagblad*), with notice thereof given to Euronext Amsterdam and in the Euronext Amsterdam Daily Official List (*Officiële Prijscourant*). Any mailed notice shall be deemed to have been given one clear day after the date on which it was posted and any notice published in a newspaper shall be deemed to have been given on the date of publication or, if so published more than once or on different dates, on the date of the first publication.

## **11. Transfers and Form**

The Preferred Securities will be in registered form.

On or about the Closing Date, the Global Certificate representing the Preferred Securities will be deposited with Clearstream, Frankfurt. The Preferred Securities will be registered in the name of the Initial Holder, as nominee for Clearstream, Frankfurt. For so long as the Preferred Securities are deposited and registered as described above, book-entry interests in the Preferred Securities will be shown on, and transfers of such interests will be effected only through, records maintained by Clearstream, Frankfurt.

If any or all of Clearstream, Frankfurt, Euroclear and Clearstream, Luxembourg is or are closed for business for a continuous period of 14 days or more (other than for the purposes of a public holiday) or announces an intention permanently to cease business, then, subject to the occurrence of a Preferred Securities Substitution, a number of Preferred Securities corresponding to its book-entry interest in the Preferred Securities represented by the Global Certificate will, subject to such reasonable requirements as the General Partner may require, be transferred to each holder of an interest in the Preferred Securities whose name is notified by Clearstream, Frankfurt to the Registrar. Each such holder will be registered as a Holder in the Register and registered with the Registrar at Companies House on the Register of Limited Partnerships for England and Wales in accordance with the Act and receive a definitive certificate made out in its name. Other than in the circumstances referred to in this paragraph, definitive certificates will not be available.

If definitive certificates are made available in respect of Preferred Securities, they will be available from the Registrar and from any Paying and Transfer Agent, and will be posted to the relevant Holders at the address shown in the Register or, as applicable, in the relevant instrument of transfer within three Business Days in London of issue, by uninsured post at the risk of such Holders. Transfers of Preferred Securities if represented by definitive certificates may be effected by presentation of the relevant certificate (with the transfer certificate attached thereto duly completed on behalf of the transferor and transferee) at the specified office of the Registrar or any Paying and Transfer Agent. Where a Holder transfers some only of the Preferred Securities represented by any such certificate he shall be entitled to a certificate for the balance without charge. All transfers of Preferred Securities by Holders must be effected in accordance with the Act and subject to the provisions of the Limited Partnership Agreement.

## **12. Replacement of Certificates**

If a certificate is damaged or defaced or alleged to have been lost, stolen or destroyed, a new certificate representing the same Preferred Securities may be issued on payment of such fee and on such terms (if any) as to evidence and indemnity and the payment of out-of-pocket expenses as the General Partner may think fit and on payment of the costs of the General Partner incidental to its investigation of the evidence and, if damaged or defaced, on delivery up of the old certificate at the specified office of any Paying and Transfer Agent.

## **13. Prescription**

Claims against the Issuer for payment of Distributions and sums in respect of the Optional Redemption Price or Liquidation Distribution of the Preferred Securities will be prescribed in accordance with English law unless made within 10 years from the date on which such payment becomes due or, if later, the date on which the Issuer makes such payment available to Holders.

## **14. Governing Law and Jurisdiction**

- 14.1 The Limited Partnership Agreement and the Preferred Securities shall be governed by, and construed in accordance with, English law, save for paragraph 3 of Schedule 2 to the Limited Partnership Agreement and paragraph 3 of the Preferred Securities which shall be governed by, and construed with, Irish law.

- 14.2 The General Partner agrees for the benefit of the Holders that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with the Preferred Securities (respectively, “**Proceedings**” and “**Disputes**”) and, for such purposes, irrevocably submits to the jurisdiction of such courts.
- 14.3 The General Partner irrevocably waives any objection which it might now or hereafter have to the courts of England being nominated as the forum to hear and determine any Proceedings and to settle any Disputes, and agrees not to claim that any such court is not a convenient or appropriate forum.
- 14.4 The General Partner agrees that the process by which any Proceedings in England are begun may be served on it by being delivered to it at the offices of DEPFA BANK plc, London Branch, 1st Floor, 105 Wigmore Street, London W1V 1QY or at any address in Great Britain at which service of process may be served on it in accordance with Part XXIII of the Companies Act 1985. If the appointment of the person mentioned in this paragraph 14.4 ceases to be effective, the General Partner shall forthwith appoint a further person in England to accept service of process on its behalf in England. Nothing in this paragraph shall affect the right of any Holder to serve process in any other manner permitted by law.
- 14.5 The submission to the jurisdiction of the courts of England shall not (and shall not be construed so as to) limit the right of any Holder to take Proceedings in any other court of competent jurisdiction, nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by law.

## SUMMARY OF PROVISIONS RELATING TO THE PREFERRED SECURITIES IN GLOBAL FORM

### Initial Issue of Preferred Securities

The Preferred Securities will be issued in registered form and will be initially represented by interests in the Global Certificate which will be deposited with Clearstream Frankfurt, and registered in the name of, BT Globenet Nominees Limited (the “**Nominee**”) as nominee for Clearstream, Frankfurt. The Preferred Securities be eligible for clearing and settlement through Euroclear and Clearstream, Luxembourg. For so long as the Preferred Securities are deposited and registered as described above, book-entry interests in the Preferred Securities will be shown on, and transfers of such interests will be effected only through, records maintained by Clearstream, Frankfurt, Euroclear, and Clearstream, Luxembourg.

### Exchange

If any or all of Clearstream, Frankfurt, Euroclear and Clearstream, Luxembourg is or are closed for business for a continuous period of 14 days (other than for the purposes of a public holiday) or announces an intention permanently to cease business, then, subject to the occurrence of a Preferred Securities Substitution, a number of Preferred Securities corresponding to its book-entry interest in the Preferred Securities represented by the Global Certificate will, subject to such reasonable requirements as the General Partner may require, be transferred to each holder of an interest in the Preferred Securities whose name is notified by Clearstream, Frankfurt to the Registrar. Each such holder will be registered as a Holder in the Register and registered with the Registrar at Companies House on the Limited Partnerships Register accordance with the Act and will receive a certificate made out in its name.

### Accountholders

So long as the Preferred Securities are registered in the name of the Nominee for Clearstream, Frankfurt the Nominee will be the sole registered owner or holder of the Preferred Securities represented by the Global Certificate for all purposes under the Limited Partnership Agreement. Except as set forth under “*Description of Preferred Securities – Transfers and Form*” and under “*-Transfers of Interests*” below, the persons shown in the records of Clearstream, Frankfurt, Euroclear, Clearstream, Luxembourg or any other clearing system as the holders of the Preferred Securities evidenced by the Global Certificate (each an “**Accountholder**”) will not be entitled to have Preferred Securities registered in their names, will not receive or be entitled to receive physical delivery of definitive certificates evidencing interests in the Preferred Securities and will not be considered registered owners or holders thereof under the Limited Partnership Agreement. Accordingly, each Accountholder must rely on the rules and procedures of Euroclear, Clearstream, Frankfurt and Clearstream, Luxembourg, as the case may be, to exercise any rights and obligations of an investor in Preferred Securities.

### Payment

Each Accountholder must look solely to Clearstream, Frankfurt, Euroclear or Clearstream, Luxembourg, as the case may be, for its share of each payment made by the Issuer to the registered holder of the Preferred Securities and in relation to all other rights arising under the Global Certificate, subject to and in accordance with the respective rules and procedures of Clearstream, Frankfurt, Euroclear or Clearstream, Luxembourg, as the case may be. Such persons shall have no claim directly against the Issuer in respect of payments due on the Preferred Securities for so long as the Preferred Securities are represented by the Global Certificate and such obligations of the Issuer will be discharged by payment to the registered holder of the Preferred Securities in respect of each amount so paid.

### Transfers of Interests

Accountholders will only be able to transfer their beneficial interests in the Preferred Securities in accordance with the restrictions described under “*Description of Preferred Securities – Transfers and Form*” and the rules and procedures of Clearstream, Frankfurt, Euroclear or Clearstream, Luxembourg, as the case may be.

## SUBORDINATED GUARANTEE

*The following is the Subordinated Guarantee substantially in the form to be executed by the Guarantor.*

THIS DEED OF GUARANTEE (the “**Subordinated Guarantee**”), dated 8th June, 2005, is executed and delivered by DEPFA BANK plc (the “**Guarantor**”) for the benefit of the Holders (as defined below).

WHEREAS:

- (i) the Guarantor desires to issue this Subordinated Guarantee for the benefit of the Holders, as provided herein; and
- (ii) this Subordinated Guarantee is intended to provide the Holders, on a dissolution of DEPFA Funding III LP (the “**Issuer**”) or on a default by the Issuer in discharging its obligations in respect of the Preferred Securities (as defined below), with rights against the Guarantor in respect of the Guaranteed Payments (as defined below) which rank *pari passu* to those which they would have had if the Preferred Securities had been directly issued non-cumulative preference shares of the Guarantor.

NOW, THEREFORE the Guarantor executes and delivers this Subordinated Guarantee as a deed poll for the benefit of the Holders.

### 1. Definitions

As used in this Subordinated Guarantee, capitalised terms not defined herein shall have the meanings ascribed to them in the Partnership Agreement and otherwise the following terms shall, unless the context otherwise requires, have the following meanings:

“**Dividend Stopper Period**” means with respect to any Distribution Payment Date or the equivalent term of any Parity Security, one calendar year from and including the earlier of the date (i) on which a full Distribution is not paid on the Preferred Securities or (ii) on which a full scheduled dividend or distribution on any Parity Security has not been paid;

“**Guaranteed Payments**” means (without duplication) collectively (i) all Distributions (or Relevant Proportion thereof) due on the Preferred Securities, (ii) any Liquidation Distribution (or Relevant Proportion thereof) to which Holders are entitled, (iii) the Optional Redemption Price and (iv) any Additional Amounts;

“**Holder**” means, in respect of each Preferred Security, each person registered on the Register as the limited partner holding such Preferred Security at the relevant time, save that for as long as the Preferred Securities are registered in the name of a nominee for Clearstream, Frankfurt each person (other than such nominee) who is for the time being shown in the records of Clearstream, Frankfurt as the holder of an interest in any Preferred Securities (in which regard any certificate or other document issued by Clearstream, Frankfurt as to the number of Preferred Securities standing to the account of any person shall be conclusive and binding for all purposes) shall be treated by the Issuer, the Guarantor and any Paying and Transfer Agent as the holder of Preferred Securities in a nominal amount equal to such interest for all purposes other than with respect to payments, the right to which shall be vested in the name of the person appearing as the relative limited partner in the Register;

“**Irish Tax**” means any present or future taxes or duties of whatsoever nature imposed or levied by or on behalf of Ireland or any political subdivision of or by any authority therein or thereof having power to tax;

“**Partnership Agreement**” means the Limited Partnership Agreement dated 8th June, 2005 establishing the Issuer, as amended from time to time; and

“**Preferred Securities**” means the euro Fixed Rate/Variable Rate Guaranteed Non-voting Non-cumulative Perpetual Preferred Securities, outstanding of the Issuer originally issued on 8th June, 2005 in the principal amount of €300,000,000, whether or not in issue on the date of this Subordinated Guarantee, the Holders of which are entitled to the benefits of this Subordinated Guarantee as evidenced by the execution of this Subordinated Guarantee.

## 2. Guarantee

- 2.1 Subject to the exceptions and limitations contained in the following provisions of this clause 2, the Guarantor irrevocably agrees to pay in full to the Holders the Guaranteed Payments, as and when due, to the extent that such payments shall not have been paid when due and payable by the Issuer regardless of any defence, right of set-off or counterclaim which the Issuer may have or assert. This Guarantee is continuing, irrevocable and absolute. The rights and claims of the Holders against the Guarantor under this Guarantee are subordinated to the claims of the Senior Creditors (as defined in clause 2.3) in that payment of the Guaranteed Payments is conditional upon satisfaction of the conditions set out in the following provisions of this clause 2.
- 2.2 Notwithstanding clause 2.1, the Guarantor will not, save to the extent provided in clause 2.5, be obliged to make any Guaranteed Payment if the Guarantor is prevented by applicable Irish banking regulations or other legal or regulatory requirements from making payment in full under this Guarantee.
- 2.3 Notwithstanding clause 2.1, if, at the time that the Liquidation Distribution is to be paid by the Guarantor under this Subordinated Guarantee in respect of any Preferred Securities, proceedings have been commenced for the voluntary or involuntary liquidation, dissolution or winding-up of the Guarantor other than pursuant to a Permitted Reorganisation, payment under this Subordinated Guarantee of such Liquidation Distribution shall not exceed the amount per security that would have been paid as a liquidation distribution out of the assets of the Guarantor had the Preferred Securities and all Parity Securities been the most senior class of non-cumulative preference shares in the Guarantor with equivalent rights of participation in the capital of the Guarantor (whether or not the Guarantor could in fact have issued such securities at such time) and ranked:
- (a) junior to all liabilities of the Guarantor including subordinated liabilities (in each case other than any liability of the Guarantor which constitutes, or is capable of constituting, Tier 1 Capital or which is referred to in (b) or (c) and any other liability which ranks *pari passu* with or junior to this Subordinated Guarantee) (the “**Senior Creditors**”);
  - (b) *pari passu* with Parity Securities, if any, issued by the Guarantor and any guarantee or support agreement of the Guarantor ranking *pari passu* with this Subordinated Guarantee; and
  - (c) senior to Junior Share Capital.
- 2.4 All Guaranteed Payments made hereunder will be made without withholding or deduction for or on account of any Irish Tax, unless the withholding or deduction of such taxes, duties, assessments or governmental charges is required by law. In that event, the Guarantor will, if permitted by the Regulator (to the extent such approval is required), pay such additional amounts (the “**Guarantor Additional Amounts**”) as may be necessary in order that the net amounts received by the Holders after such withholding or deduction shall equal the amounts which would have been receivable under this Subordinated Guarantee in the absence of such withholding or deduction; except that no such Guarantor Additional Amounts will be payable to a Holder (or a third party on his behalf):
- (a) to the extent that such taxes, duties, assessments or governmental charges are imposed or levied by virtue of such Holder (or the beneficial owner of a Preferred Security) having some connection with Ireland other than being a Holder (or beneficial owner) of a Preferred Security; or
  - (b) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any law implementing or complying with, or introduced in order to conform to



Council Directive 2003/48/EC of 3<sup>rd</sup> June, 2003 on the taxation of savings income in the form of interest payments or any other Directive of the European Community on the taxation of savings implementing the conclusions of the ECOFIN Council Meeting of 26th -27th November, 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or

- (c) who would have been able to avoid such withholding or deduction by presenting the Preferred Securities to another Paying and Transfer Agent in a Member State of the European Union, insofar as presentation for payment is required,

and except that the Guarantor's obligation to pay any Guarantor Additional Amounts is subject to the exceptions relating to Guaranteed Payments set out in clauses 2.2 and 2.3.

- 2.5 In the event that the amounts described in clauses 2.1 and 2.4 cannot be made in full by reason of either of the conditions referred to in clause 2.2 or 2.3, such amounts will be payable *pro rata* in the Relevant Proportion and the obligations of the Guarantor in respect of any such unpaid balance shall lapse and be extinguished.
- 2.6 The Guarantor hereby waives notice of acceptance of this Subordinated Guarantee and of any liability to which it applies or may apply, presentment, demand for payment, protest, notice of non-payment, notice of dishonour, notice of redemption and all other notices and demands.
- 2.7 The obligations, covenants, agreements and duties of the Guarantor under this Subordinated Guarantee shall in no way be affected or impaired by reason of the happening from time to time of any of the following:
  - (a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Issuer of any express or implied agreement, covenant, term or condition relating to the Preferred Securities to be performed or observed by or on behalf of the Issuer;
  - (b) the extension of time for the payment by or on behalf of the Issuer of all or any portion of any Distribution, the Optional Redemption Price, the Liquidation Distribution or any other sums payable under the terms of the Preferred Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with, the Preferred Securities;
  - (c) any failure, omission, delay or lack of diligence on the part of Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Holders pursuant to the terms of the Preferred Securities, or any action on the part of the Issuer granting indulgence or extension of any kind;
  - (d) the voluntary or involuntary winding-up, dissolution, amalgamation, reconstruction, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganisation, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Issuer or any of the assets of the Issuer;
  - (e) any invalidity of, or defect or deficiency in, the Preferred Securities; or
  - (f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred.

There shall be no obligation on the Holders to give notice to, or obtain consent of, the Guarantor with respect to the happening of any of the foregoing.

- 2.8 This Subordinated Guarantee shall be deposited with and held by the Registrar until all the obligations of the Guarantor have been discharged in full. The Guarantor hereby acknowledges the right of every Holder to the production of, and the right of every Holder to obtain a copy of, this Subordinated Guarantee from the Registrar.

- 2.9 A Holder may enforce this Subordinated Guarantee directly against the Guarantor, and the Guarantor waives any right or remedy to require that any action be brought against the Issuer or any other person or entity before proceeding against the Guarantor. All waivers contained in this Subordinated Guarantee shall be without prejudice to the right to proceed against the assets of the Issuer and the General Partner as permitted by the terms of the Preferred Securities. The Guarantor agrees that this Subordinated Guarantee shall not be discharged except by complete performance of all obligations of the Guarantor under this Subordinated Guarantee.
- 2.10 The Guarantor shall be subrogated to any and all rights of the Holders against the assets of the Issuer in respect of any amounts paid to the Holders by the Guarantor under this Subordinated Guarantee. The Guarantor shall not (except to the extent required by mandatory provisions of law) exercise any rights which it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of a payment under this Subordinated Guarantee, if, at the time of any such payment, any amounts are due and unpaid under this Subordinated Guarantee. If the Guarantor shall receive or be paid any amount with respect to the Preferred Securities in violation of the preceding sentence, the Guarantor agrees to pay over such amount to the Holders.
- 2.11 The Guarantor acknowledges that its obligations hereunder are several and independent of the obligations of the Issuer with respect to the Preferred Securities and that the Guarantor shall be liable as principal and sole obligor hereunder to make Guaranteed Payments pursuant to the terms of this Subordinated Guarantee, notwithstanding the occurrence of any event referred to in clause 2.7.
- 2.12 Subject to applicable law, the Guarantor agrees that its obligations hereunder constitute unsecured obligations of the Guarantor subordinated in right of payment to Senior Creditors and will at all times rank:
- (a) junior to all Senior Creditors;
  - (b) *pari passu* with Parity Securities, if any, issued by the Guarantor and any guarantee or support agreement of the Guarantor ranking *pari passu* with this Subordinated Guarantee and issued in respect of Parity Securities issued by the Issuer or any Subsidiary; and
  - (c) senior to Junior Share Capital.
- 2.13 No Holder shall following any breach by the Guarantor of any of its obligations under this Subordinated Guarantee be entitled to exercise any right of set-off or counterclaim which may be available to it against amounts owing by the Guarantor to such Holder. Notwithstanding the provisions of the foregoing sentence, if any of the said rights and claims of any Holder against the Guarantor is discharged by set off, such Holder will immediately pay an amount equal to the amount of such discharge to the Guarantor or, in the event of its winding-up, the liquidator of the Guarantor and until such time as payment is made will hold a sum equal to such amount in trust for the Guarantor, or the liquidator of the Guarantor and accordingly any such discharge will be deemed not to have taken place.
- 2.14 In the event of the winding-up of the Guarantor if any payment or distribution of assets of the Guarantor of any kind or character, whether in cash, property or securities, including any such payment or distribution which may be payable or deliverable by reason of the payment of any other indebtedness of the Guarantor being subordinated to the payment of amounts owing under this Subordinated Guarantee, shall be received by any Holders, before the claims of Senior Creditors have been paid in full, such payment or distribution shall be held in trust by the Holder, as applicable, and shall be immediately returned by it to the liquidator of the Guarantor and in that event the receipt by the liquidator shall be a good discharge to the relevant Holder. Thereupon, such payment or distribution will be deemed not to have been made or received.

### 3. Undertakings

- 3.1 The Guarantor undertakes that it will not issue any Tier 1 Securities ranking senior to its obligations under this Subordinated Guarantee or enter into any support agreement or give any guarantee in respect of any Tier 1 Securities issued by any Subsidiary or other entity if such support agreement or guarantee would rank senior to this Subordinated Guarantee unless this Subordinated Guarantee is changed to give the Holders such rights and entitlements as are contained in or attached to such securities or such other support agreement or guarantee so that this Subordinated Guarantee ranks *pari passu* with, and contains substantially equivalent rights of priority as to payment on, any Tier 1 Securities or such other support agreement or guarantee.
- 3.2 The Guarantor undertakes that, in the event that any Distribution is not paid to Holders in accordance with the rights attaching to the Preferred Securities in accordance with the Partnership Agreement, the Guarantor will not:
- (a) declare or pay any distribution or dividend and, where applicable, will procure that no distribution or dividend is declared or paid on any Junior Share Capital, until the then applicable Dividend Stopper Period has expired; or
  - (b) (if permitted) repurchase or redeem Parity Securities or Junior Share Capital until the then applicable Dividend Stopper Period has expired.
- 3.3 The Guarantor undertakes that, so long as any of the Preferred Securities is outstanding:
- (a) unless the Guarantor is itself being wound up, it will not permit, or take any action that would or might cause, the liquidation, dissolution or winding-up of the Issuer (or the General Partner if the Guarantor itself is not the general partner) otherwise than with the prior approval of the Regulator (if then required); and
  - (b) the General Partner will at all times be either the Guarantor itself or a directly or indirectly wholly-owned Subsidiary of the Guarantor,
- unless, in the case of (a) or (b), otherwise approved by a simple majority of the Holders by vote or in writing.
- 3.4 If a Capital Deficiency Event occurs and is continuing, pursuant to which the General Partner has exercised its discretion to cause a Preferred Securities Substitution or the Regulator has required a Preferred Securities Substitution to take place, the Guarantor undertakes that it will take all reasonable steps to:
- (a) allot, issue and deliver Substituted Preference Shares in satisfaction of the rights of the Holders in the circumstances and in the manner described in the Limited Partnership Agreement and herein;
  - (b) apply for the Substituted Preference Shares, or, as applicable, the securities issued by a finance company and backed by Substituted Preference Shares, to be listed on a stock exchange; and
  - (c) pay any taxes or capital duties or stamp duties payable in Ireland arising on the allotment and issue of such Substituted Preference Shares.

The Guarantor undertakes that as soon as practicable after a Capital Deficiency Event, it will give, or will procure that the General Partner gives, written notice to the Holders enclosing a Preferred Securities Substitution Confirmation which each Holder will be required to complete. The form of such Preferred Securities Substitution Confirmation shall also be made available at the offices of each Paying and Transfer Agent. The Guarantor undertakes that following such Preferred Securities Substitution, the Substituted Preference Shares allotted will rank for any dividend from the immediately preceding Distribution Payment Date but the Holders will not otherwise have any entitlement to any accrued Distributions or any other payment on the Preferred Securities.

- 3.5 The Guarantor will procure that it will maintain at all times whilst the Preferred Securities are outstanding (a) whilst the Preferred Securities are listed on Eurolist by Euronext Amsterdam and the rules of such Stock Exchange so require, a Paying and Transfer Agent in The Netherlands, (b) a Registrar having its specified office outside the United Kingdom and (c) a Paying and Transfer Agent having a specified office in a European Union Member State (if available) that will not be obliged to withhold or deduct tax pursuant to any law implementing or complying with, or introduced in order to conform to Council Directive 2003/48/EC on the taxation of savings income in the form of interest payments or any other Directive of the European Community on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26th -27th November, 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive.
- 3.6 The Guarantor undertakes that in the event that on a Distribution Payment Date the Relevant Proportion of a Distribution is paid it will only declare and pay (or make a payment under a guarantee in respect of) an amount not exceeding the Relevant Proportion of any distribution or dividend (and, where applicable, will procure that an amount not exceeding the Relevant Proportion of any distribution or dividend is declared and paid) on any Parity Security for the applicable Dividend Stopper Period.

#### **4. Termination**

With respect to the Preferred Securities, this Subordinated Guarantee shall terminate and be of no further force and effect upon the earliest of:

- 4.1 full payment of the Optional Redemption Price; or
- 4.2 purchase and cancellation of all Preferred Securities; or
- 4.3 full payment of the Liquidation Distribution; or
- 4.4 the issue and allotment of the Substituted Preference Shares to or to the order of the Holders;

provided however that this Subordinated Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time payment of any sums paid in respect of the Preferred Securities or under this Subordinated Guarantee must be restored by a Holder for any reason whatsoever.

#### **5. Transfer; Amendment; Notices**

- 5.1 Subject to operation of law, all guarantees and agreements contained in this Subordinated Guarantee shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders. The Guarantor shall not transfer its obligations hereunder without the prior approval of the Holders of not less than a simple majority in Liquidation Preference of the outstanding Preferred Securities (excluding any Preferred Securities held by the Guarantor or Subsidiary of the Guarantor), which approval shall be obtained in accordance with procedures contained in Schedule 2 to the Limited Partnership Agreement and applicable law.
- 5.2 This Subordinated Guarantee shall be changed only:
- (a) upon the prior consent in writing of the Holders of at least a simple majority in Liquidation Preference of the outstanding Preferred Securities having been obtained; or
  - (b) upon the prior sanction of a resolution, passed by Holders of at least a simple majority in Liquidation Preference of the Preferred Securities present or represented at a separate meeting at which the quorum shall be Holders present or represented holding at least one-third in Liquidation Preference of the outstanding Preferred Securities having been obtained,

except that no such prior consent or prior sanction is required in respect of any changes required by clause 3.1 hereof or if, as determined by the Guarantor, the change is solely of a formal, minor or technical nature or is to correct an error or cure an ambiguity or which does not adversely affect the rights of Holders (provided that such change does not reduce the amounts payable to Holders or impose any obligation on the Holders) in which case the Guarantor shall be authorised to approve and implement such change.

- 5.3 Any notice, request or other communication required or permitted to be given hereunder to the Guarantor shall be given in writing by delivering the same against receipt therefor or be addressed to the Guarantor, as follows, to:

DEPFA BANK plc  
1 Commons Street  
Dublin 1  
Ireland

Attention: The Company Secretary

Telephone: +353 1 792 2222

Facsimile: +353 1 792 2211

The address of the Guarantor may be changed at any time and from time to time and shall be the most recent such address furnished in writing by the Guarantor to the Registrar for the Preferred Securities.

Any notice, request or other communication required or permitted to be given hereunder to the Holders shall be given by the Guarantor in the same manner as notices sent on behalf of the Issuer to Holders.

- 5.4 This Subordinated Guarantee is solely for the benefit of the Holders and is not separately transferable from their interests in respect of the Preferred Securities.

## **6. Governing Law and Jurisdiction**

- 6.1 This Subordinated Guarantee is governed by, and shall be construed in accordance with, English law, save for paragraphs 2.3 and 2.12 which shall be governed by, and construed in accordance with, Irish law.
- 6.2 The Guarantor agrees for the benefit of the Holders that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with the Preferred Securities (respectively “**Proceedings**” and “**Disputes**”) and, for such purposes, irrevocably submits to the jurisdiction of such courts.
- 6.3 The Guarantor irrevocably waives any objection which it might now or hereafter have to the courts of England being nominated as the forum to hear and determine any Proceedings and to settle any Disputes, and agrees not to claim that any such court is not a convenient or appropriate forum.
- 6.4 The Guarantor agrees that the process by which any Proceedings in England are begun may be served on it by being delivered to it at the offices of DEPFA BANK plc, London Branch, 1st Floor, 105 Wigmore Street, London W1U 1QY or at any address in Great Britain at which service of process may be served on it in accordance with Part XXIII of the Companies Act 1985. If the appointment of the person mentioned in this Clause 6.4 ceases to be effective, the Guarantor shall forthwith appoint a further person in England to accept service of process on its behalf in England. Nothing in this paragraph shall affect the right of any Holder to serve process in any other manner permitted by law.
- 6.5 The submission to the jurisdiction of the courts of England shall not (and shall not be construed so as to) limit the right of any Holder to take Proceedings in any other court of competent jurisdiction, nor shall the

taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by law.

IN WITNESS WHEREOF this Subordinated Guarantee has been executed as a deed poll on behalf of the Guarantor.

The COMMON SEAL of )  
DEPFA BANK plc was affixed )  
to this Deed in the presence of: )

## USE OF PROCEEDS

The proceeds of the issue of the Preferred Securities, amounting to approximately €300,000,000, will increase the Group's regulatory capital base. Commissions and expenses in relation to the issue of the Preferred Securities will be paid separately - see "*Subscription and Sale*" and "*General Information*" below. The Issuer will use the proceeds raised from the issuance of the Preferred Securities to subscribe for the Subordinated Note issued by a wholly owned Subsidiary of the Guarantor.

## DEPFA FUNDING III LP

### Introduction

The Issuer was registered in England and Wales on 6th June, 2005 under the Limited Partnerships Act 1907, with the Guarantor as the general partner (the “**General Partner**”) and BT Globenet Nominees Limited as the initial limited partner (the “**Initial Limited Partner**”). The General Partner and the Initial Limited Partner will enter into a limited partnership agreement before the Closing Date (the “**Limited Partnership Agreement**”) for the purpose of establishing the Issuer. The Issuer is not a legal entity separate from its partners and has no subsidiaries. The Limited Partnership Agreement does not create a trust relationship between any of the partners.

The General Partner, incorporated in Ireland with registered number 348819, is the sole General Partner of the Issuer and, as such, solely manages the Issuer (subject to the appointment by the Issuer of the Administrator as described below). The Guarantor will undertake in the Subordinated Guarantee to ensure that, unless otherwise approved by a simple majority of the Holders, the General Partner will at all times be either the Guarantor itself or a directly or indirectly wholly-owned subsidiary of the Guarantor.

Provided that the Limited Partners do not become involved with the administration of the limited partnership, and subject to compliance with the provisions of the Act, the liability of the Limited Partners for the debts or obligations of the limited partnership will be limited to the amount of partnership capital which they have contributed or agreed to contribute to the partnership, i.e. €1,000 per Preferred Security.

No financial statements of the Issuer have yet been prepared. The first financial statements of the Issuer are expected to be prepared for the period ending on 31st December, 2005. Thereafter, it is intended that the Issuer will prepare audited annual financial statements. It is not intended that the Issuer will publish interim financial statements.

### Activity

The business of the Issuer is generally to raise finance for the Group and is more particularly described in the Limited Partnership Agreement. The Issuer has carried out no operations since its registration other than in relation to the creation of the Preferred Securities. The capital contributions to be made by the Limited Partners will be used by the Issuer to subscribe for the Subordinated Note issued by a wholly owned Subsidiary of the Guarantor.

### Administration

For U.K. regulatory purposes, the Issuer will be operated by the General Partner or, insofar as the General Partner is not so authorised, by an administrator (the “**Administrator**”) authorised by the FSA under the Financial Services and Markets Act 2000 (the “**FSMA**”) to establish, operate and wind-up collective investment schemes. The registered offices of the Issuer and of the General Partner are 1st Floor, 105 Wigmore Street, London W1U 1QY and 1 Commons Street, Dublin 1, Ireland respectively. Neither the Initial Limited Partner nor any Holder may participate in the administration of the Issuer.

The General Partner has agreed to contribute capital from time to time to the extent required for the Issuer to meet any operating expenses which it may have. The General Partner has also agreed that it will at all times maintain sole ownership, whether directly or indirectly, of its general partner interest in the Issuer, subject to the terms of the Limited Partnership Agreement. The Limited Partnership Agreement provides that all of the Issuer’s business and affairs will be conducted by the General Partner save for those operational matters required to be performed by an Administrator under the FSMA. The General Partner will have unlimited liability for the debts and obligations of the Issuer to the extent that these cannot be satisfied out of partnership assets.

If the Issuer is dissolved, the Limited Partnership Agreement provides that the General Partner will only be entitled to any assets of the Issuer remaining after (i) all debts and other liabilities of the Issuer have been satisfied in full and



(ii) the full Liquidation Preference to which the Holders are entitled and all other amounts to which the holders of any other partnership interests are entitled have been paid to, or irrevocably set aside for, such holders, provided that upon any dissolution of the Issuer pursuant to any substitution of the Preferred Securities by Substituted Preference Shares, the General Partner will be entitled to any assets of the Issuer remaining after all debts and other liabilities of the Issuer have been satisfied in full and the Holders will not be entitled to any assets of the Issuer.

### **Capitalisation**

In addition to the initial capital contribution by the General Partner, the initial capital contribution of €1.00 of the Initial Limited Partner and the preferred capital contribution of €300,000,000 to be made by the Initial Limited Partner in relation to the Preferred Securities and such other capital contributions as may be made by the General Partner from time to time to meet certain operating expenses of the partnership, the General Partner may accept additional limited partners and additional capital contributions to the Issuer in accordance with the provisions of the Limited Partnership Agreement.

### **Indebtedness**

Since the date of its registration, the Issuer has not had any loan capital outstanding, has not incurred any borrowings, has had no contingent liabilities, has not granted any guarantees and does not intend to have outstanding any such loan capital, incur any such borrowings, have any such contingent liabilities or grant any such guarantees other than in connection with the issue of the Preferred Securities and other partnership interests in the Issuer. The General Partner will undertake not to incur any indebtedness in the name of the Issuer other than the costs and expenses incidental to creating the Preferred Securities and the Issuer and any other partnership interests in the Issuer, performing its obligations in respect of the Limited Partnership Agreement, maintaining the listings of the Preferred Securities, the Register, the Registrar, the Paying and Transfer Agents and listing agents in respect of the Preferred Securities and corresponding agents (where applicable) with respect to any other partnership interests in the Issuer, the Issuer's holding of the partnership assets and any other securities acquired with any other capital contributions to the Issuer or substitutions therefor and the maintenance of any custodian therefor, the exercise of the Issuer's rights in respect of the partnership assets and any other securities acquired with any other capital contributions to the Issuer or substitutions therefor and the administration of the Issuer.

## DESCRIPTION OF DEPFA BANK PLC

### Introduction

DEPFA BANK public limited company (“DEPFA plc”) was incorporated in the Republic of Ireland on 9th October, 2001 and is the parent company of the DEPFA plc group of companies, comprising DEPFA plc and its consolidated subsidiaries (the “Group”), which is a specialist European provider of financial services to public sector clients. DEPFA plc is a public limited company based in Dublin and holds a universal banking license from the Irish Financial Services Regulatory Authority as part of the Central Bank and Financial Services Authority of Ireland (the “Authority”) under the Irish Central Bank Act, 1971 (as amended). DEPFA plc has been registered in the Irish Companies Registration Office, and has been given company number 348819. Its shares are listed on the Frankfurt Stock Exchange (Official Market). It has a network of subsidiaries, branches and offices across many European countries, as well as in North America and Asia.

The Group including DEPFA plc provides a broad range of products and services to public sector entities, from government budget financing and financing of infrastructure projects to placing of public sector assets and other investment banking products including advisory services.

### Certain Business Developments

DEPFA plc is the largest Irish bank in terms of consolidated assets, and together with its consolidated subsidiaries, is one of the leading European providers of financing products and services to public sector entities, from government budget financing and financing of infrastructure projects to placing of public sector securities and furnishing investment banking products and other services.

The Group operates in only one business segment, the provision of public finance services. The Group classifies its services under three broad categories: budget finance, investment banking and infrastructure finance.

The Group is a specialist in budget finance for public sector authorities. Budget finance involves the provision of financial solutions to sovereign clients (e.g. countries) and sub-sovereign clients (e.g. regions, federal states, cities and local authorities) including the origination and syndication of loans, the purchase of bonds and other debt securities issued by such clients on a private placement or syndicated basis, the granting of liquidity backstop facilities and letters of credit and the provision of structured financing solutions (including derivative products), advisory and other related services.

The Group also provides its public sector clients with investment banking services such as the arrangement, origination, syndication and placement of public sector capital market transactions, the structuring and sale of credit derivative products, and the provision of brokerage, trading and other advisory services.

The Group also provides infrastructure financing and services to public sector clients. The Group’s infrastructure finance activities focus primarily on providing funding for essential public sector infrastructure projects (e.g. schools, prisons, hospital, roads) that are being carried out by privately owned companies under concessions or agreements awarded by public sector entities.

As at and for the year ended 31st December, 2004, the Group had operating income of €841 million and total assets of €190 billion, of which a substantial majority was attributable to the Group’s budget finance activities. The Group’s public sector assets accounted for €153 billion in principal amount at 31st December, 2004.

At 31st December, 2004, €74 billion of such public sector assets (in principal amount) were included in the cover asset pools forming the collateral for the Asset Covered Securities and Pfandbriefe issued by DEPFA ACS Bank (“DEPFA ACS”) and the Pfandbriefbank (as defined below), respectively.

## **Current Position and Recent Developments**

### *Sale of DEPFA Deutsche Pfandbriefbank AG*

In March 2004 DEPFA plc announced its intention to sell Pfandbriefbank AG. However, as none of the bids received by DEPFA plc met its full internal valuation for Pfandbriefbank AG, the Board of Directors of DEPFA plc decided on 15th April, 2005 that it was in the best interest of its shareholders to halt the sale of Pfandbriefbank AG. This means that the corporate structure of DEPFA Group remains unchanged.

DEPFA Group will continue as planned to further develop its business with German clients from its offices in Frankfurt.

### *Expansion in the United States*

The Group is in the process of building up a presence in the United States. Activities in the United States are centred on the purchase of taxable General Obligation municipal bonds, liquidity and credit support standby facilities for municipal bond issues as well as public sector infrastructure financing projects. Initially, DEPFA plc established an agency in New York in 2003, which was converted to a branch in September 2004 from which it now issues Yankee certificates of deposit. Representative offices have been established during the course of 2004 in San Francisco and Chicago.

Management believes that the U.S. business has got off to a successful start and in its first full year of operations is making a valuable contribution to Group profits. As a next step to strengthen its long term position in the U.S. municipal debt market and to enhance the Group's earnings base DEPFA plc is aiming to establish an AAA (Highest Credit Rating) rated municipal bond insurance company.

## **Business Performance and Outlook**

In the first three months of 2005 DEPFA plc recorded a net profit after taxes of € 120 million which corresponds to a return on equity of 25%. Total revenues in the first quarter remained stable year-on-year and reached € 193 million, helped by extended net interest income which rose by € 5 million to € 112 million (+5%), and the trading result, which achieved a good level at € 36 million. Income from sale of assets amounted to € 35 million in the first quarter whilst net commission income totalled € 10 million. € 24 billion of new business was generated in the first quarter which helped increase the total public finance portfolio to close to the € 160 billion mark.

Personnel and administrative expenditures increased considerably in the first quarter. After three months, total costs amounted to € 53 million; the cost/income ratio is 27.5%. The 56% rise in costs was mainly down to three factors: the ongoing development of the product range, the expansion of DEPFA plc's geographic presence and some project-related expenditures.

Since 31st March, 2005, and save as otherwise disclosed in this Offering Circular, there have been no significant changes in the development of DEPFA plc or the Group. Management believes the Group is developing in line with expectations.

## **Taxation**

The Guarantor is located in the International Financial Services Centre (the "IFSC") in Dublin, Ireland. The IFSC is a special business centre for which lower tax rates apply for offshore business. The Guarantor has a certificate under section 446 of the Irish Taxes Consolidation Act 1997, certifying eligibility for lower tax rates. This lower tax rate is scheduled to terminate on 31st December, 2005. A general rate of 12.5 per cent. corporation tax on all other trading income has applied since 1st January, 2003 and will apply to the Guarantor's trading income after its lower rate terminates in 2005.

## **Registered Office**

The registered office of the Guarantor is 1 Commons Street, Dublin 1, Ireland. The registered number of the Guarantor is 348819.

## **Branches, Representative Offices and Subsidiaries of the Guarantor**

The Group currently has a presence in the following cities through its network of branches, representative offices and subsidiaries: Amsterdam, Copenhagen, Dublin, Frankfurt am Main, Hong Kong, London, Madrid, New York, Chicago, San Francisco, Nicosia, Paris, Rome, and Tokyo. (See further details under “Principal Subsidiaries of the Guarantor” below).

## **Objects and Share Capital**

The primary object of the Guarantor is to carry on the business of banking in all its forms, including borrowing, raising or taking up money and employing and using the same.

At the date of this Offering Circular, the Guarantor’s authorised share capital consisted of €130,100,002 comprised of 433,333,340 Ordinary shares with a par-value of €0.30 each and 10,000,000 Non-cumulative Redeemable Preference Shares of €0.01 each. The Guarantor’s issued share capital was €106 million comprised of 353,019,720 Ordinary shares and was fully paid-up. The Guarantor’s shares are entitled to dividends and are not divided into classes. Each share is entitled to one voting right. The Guarantor does not hold any of its own shares.

## **Basle Convention on the Treatment of Equity Capital**

Under the capital regulations of the Regulator, at 31st March, 2005 the Guarantor’s consolidated tier 1 capital ratio was risk-weighted at 12.3 per cent. and its consolidated total capital to risk-weighted assets ratio was 16.96 per cent. Also at that date, 70.11 per cent. of the Guarantor’s consolidated on balance sheet assets were 0 per cent. risk-weighted, 0.33 per cent. were weighted at 10 per cent., 27.97 per cent. of such assets were 20 per cent. risk-weighted, 0.52 per cent. weighted at 50 per cent. and 1.07 per cent. weighted at 100 per cent., respectively.

## **Auditors**

The Guarantor’s auditors are PricewaterhouseCoopers Dublin.

## **Financial Year**

The financial year of the Group is the calendar year.

## **The Board of Directors of DEPFA BANK plc**

There are currently 11 members of the Board of Directors of the Guarantor, 4 of whom are Executive Directors. Alternate Directors may also be appointed under the Memorandum and Articles of Association of the Guarantor. The Guarantor does not have a Supervisory Board.

## Members

Gerhard Bruckermann  
(*Chairman and CEO*)

## Principal Outside Activities

Chairman of the Board of Directors of DePfa-Bank Europe plc.  
Chairman of the Board of Directors of DEPFA Investment Bank Ltd.  
Member of the Advisory Board of Karlsruher Rendite Beratungsgesellschaft für Vermögensanlagen GmbH. Member of the Supervisory Board of DEPFA Deutsche Pfandbriefbank AG.

Dr. Thomas M. Kolbeck ( <i>Vice Chairman and Deputy CEO</i> )	Member of the Board of Directors of DePfa-Bank Europe plc.. Member of the Board of Directors of DEPFA Investment Bank Ltd. Chairman of the Supervisory Board of DEPFA Deutsche Pfandbriefbank AG.
Dermot M. Cahillane	Member of the Board of Directors of DePfa-Bank Europe plc. Member of the Board of Directors of DBE Property Holdings Ltd. Member of the Board of Directors of DEPFA Investment Bank Ltd. Chairman of the Board of Directors of DEPFA ACS BANK. Member of the Board of Directors of Depfa Hold One Limited, Depfa Hold Two Limited, Depfa Hold Three Limited and Depfa Hold Four Limited.
Dr. Reinhard Grzesik	Member of the Supervisory Board of DEPFA Deutsche Pfandbriefbank AG. Member of the Board of Directors of DePfa-Bank Europe plc. Member of the Board of Directors of Depfa Hold One Limited, Depfa Hold Two Limited, Depfa Hold Three Limited and Depfa Hold Four Limited.
Dr. Richard Brantner	Member of the Board of Directors of European Investment Bank. Deg. DT. Investments und Entwicklungsgesellschaft. Member of the Supervisory Board of Aareal Bank AG. Member of the Board of Directors of Integrata AG.
Prof. Dr. Alexander Hemmelrath	Partner in Haarmann Hemmelrath & Partner. Member of the Board of Directors of Advanced Medien AG. Gieag. Member of the Board of Directors of Seitz AG. Member of the Board of Directors of Supermarket Media AG.
Maurice O'Connell	None.
Jacques Poos	Member of the Board of Directors of Banque BNP Paribas (Luxembourg).
Hans W. Reich	Member of the Board of Directors of Thyssen Krupp Werften GmbH. Member of the Board of Directors of Frachtkontor Junge & Co. Member of the Board of Directors of HUK-COBURG-Allgemeine-Versicherungs-AG. Member of the Board of Directors of Krankenversicherungs-AG der HUK-COBURG. Member of the Board of Directors of Lebensversicherung-AG der HUK-COBURG. Member of the Board of Directors of ALSTROM GmbH. Member of the Board of Directors of Deutsche Telekom AG. Member of the Board of Directors of IKB Deutsche Industriebank AG. Member of the Board of Directors of RAG AG. Member of the Board of Directors of Thyssen Krupp Steel AG. Haftpflicht-Unterstützungs-Kasse kraftfahrender Beamter Deutschland AG. Member of the Board of Directors of HUK-COBURG Holding GmbH. Member of the Board of Directors of Deutsche Energie Agentur GmbH. Member of the Supervisory Board of Aareal Bank AG.
Prof. Dr. Frances Ruane	Member of the Board of Directors of DEPFA ACS BANK. Douglas

Hyde Gallery. Irish Writers' Centre. National Children's Hospital Foundation Board. Member of the Board of Directors of Board Gais Eireann.

Prof. Dr. Dr. h.c. mult. Hans  
Tietmeyer

Member of the Board of Directors of Bank for International Settlements. Member of the Board of Directors of BDO Deutsche Warentreuhand AG. DWS Investment GmbH. Member of the Board of Directors of ING Groep N.V. Member of the Board of Directors of Hauck & Aufhäuser Privatbankiers KgaA. Member of the Supervisory Board of Aareal Bank AG.

### **Addresses of the Board of Directors of DEPFA BANK plc**

The business address of Gerhard Bruckermann, Dermot Cahillane, Thomas Kolbeck and Reinhard Grzesik is 1 Commons Street, Dublin 1, Ireland. The business address of Richard Brantner is Erhard-Junghans Strasse 29, 78713 Schramberg, Germany. The business address of Hans Reich is KFW, Palmengartenstrasse 5-9, D-60325 Frankfurt, Germany. The business address of Frances Ruane is Department of Economics, Trinity College, Dublin 2, Ireland. The business address of Hans Tietmeyer is Reichenbachweg 15b, 61462 Königstein, Germany. The business address of Jacques Poos is 45 Square Emile Mayrisch, Esch-Alzette L4240, Luxembourg. The business address of Alexander Hemmelrath is Haarmann, Hemmelrath & Partner, Rechtsanwälte, Wirtschaftsprüfer, Steuerberater GbR, Maximilianstrasse 35, 80539 Munich, Germany. The business address of Maurice O'Connell is 9 Cypress Lawn, Templeogue, Dublin 6W, Ireland.

### **Principal Subsidiaries of the Guarantor**

The principal subsidiaries of the Guarantor are as follows:

#### **DEPFA Deutsche Pfandbriefbank AG, Frankfurt**

DEPFA Deutsche Pfandbriefbank AG, the former parent of the Group, is governed by the German Mortgage Bank Act (MBA) and since its split from Aareal Bank AG concentrates purely on public sector lending.

#### **DePfa-Bank Europe plc, Dublin**

DePfa-Bank Europe plc ("DePfa Europe") has historically been responsible for lending to European central, regional and local authorities outside Germany and into Japan and North America. On 2nd December, 2002, DePfa Europe transferred substantially all of its banking business to the Guarantor, and it is proposed to transfer all of the remaining assets and liabilities of DePfa Europe to the Guarantor as soon as reasonably practical. There are no immediate plans to liquidate DePfa Europe.

#### **DEPFA ACS BANK, Dublin**

DEPFA ACS BANK is an unlimited company wholly owned by the Guarantor, the primary purpose of which is to provide funding to the Group by issuing asset covered securities under the Irish Asset Covered Securities Act 2001.

#### **DEPFA Investment Bank Ltd., Nicosia**

DEPFA Investment Bank Ltd. is incorporated in Nicosia, Cyprus and is responsible for investment banking activity with a focus on sovereign public sector investments in Central and Eastern Europe.

#### **DePfa Capital Japan, K.K., Tokyo**

DePfa Capital Japan K.K. is incorporated in Japan and engages in public sector financing.

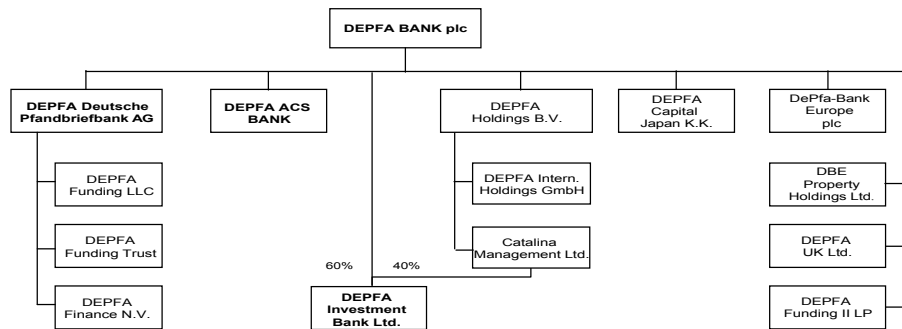
## DEPFA UK Ltd, UK

DEPFA UK Ltd. was established to provide management consultancy and advisory services relating to international public sector financing.

## DBE Property Holdings Ltd., Ireland

DBE Property Holdings Ltd procures assets for other group companies.

The following diagram illustrates the structure of the Group at the date of this Offering Circular:



## CONSOLIDATED CAPITALISATION AND INDEBTEDNESS OF DEPFA BANK PLC

The following table sets out the capitalisation and indebtedness of the Group which has been extracted without material adjustment from the unaudited consolidated annual group report as at 31st March, 2005.

	<b>31st March, 2005</b> <b>(unaudited)</b> <i>(€ million)</i>
<b>Authorised Capital</b>	
Authorised Capital <sup>(1)</sup> .....	130
Issued Capital <sup>(2)</sup> .....	104
Capital Reserve.....	333
Retained Earnings.....	1,457
Other Comprehensive Income.....	95
<b>Total shareholders' equity</b> .....	<b>1,989</b>
 Hybrid capital <sup>(3)</sup> .....	 1,510
<b>Indebtedness</b>	
Loan Capital	
Total long term <sup>(4)</sup> .....	89,423
Total short term <sup>(5)</sup> .....	23,600
Other indebtedness <sup>(6)</sup> .....	68,656
<b>Total Indebtedness</b> <sup>(7)</sup> .....	<b>181,679</b>
 <b>Contingent liabilities arising from guarantees and indemnity agreements</b> .....	 31

### Notes:

- (1) Authorised capital is comprised of 433,333,340 common shares with a par value of €0.30 each, of which 353,019,720 shares comprise issued capital and 80,313,620 additional shares may be issued under the authorised capital.
- (2) Issued capital is fully paid up and comprised of 353,019,720 common shares with a par value of €0.30 each. At 31st March, 2005 the group holds 11,489,159 shares of DEPFA Bank plc with a nominal value of €3,446,748.
- (3) Hybrid capital comprises subordinated liabilities of €620 million and profit participation certificates of €890 million.
- (4) Of total Long term indebtedness, €78,098 million is secured and €11,325 million is unsecured, but none is guaranteed.
- (5) All short term indebtedness is unsecured and not guaranteed.
- (6) Of total Other indebtedness €43,855 million is secured and €24,801 million is unsecured, but none is guaranteed.
- (7) Total indebtedness is disclosed in the unaudited consolidated interim financial statements of the group as at 31st March, 2005 as comprising, in millions of euro, 66,277 as liabilities to banks, 5,130 as liabilities to customers and 110,272 as debt securities in issue
- (8) Save as disclosed above, there has been no material change in the capitalisation or indebtedness, contingent liabilities or liabilities arising from guarantees and indemnity agreements of the Group since 31st March, 2005.



## TAXATION

*The following is a summary of certain UK, Irish, Dutch and German taxation considerations relevant to Holders for the purchase, ownership and disposition of Preferred Securities. This summary addresses only the taxation consequences to holders that acquire Preferred Securities as beneficial owners pursuant to the offering at the initial offering price and does not apply to certain classes of holders such as dealers, financial and other traders and certain persons who are exempt from Irish taxation on their income. Such holders may be subject to different tax considerations.*

*This summary is based on UK, Irish and Dutch and German taxation law and practice in force at the date of this Offering Circular.*

*This summary does not address the position of Holders who are resident in the UK or Ireland or have some connection with the UK or Ireland beyond the holding of Preferred Securities.*

**THIS SUMMARY IS FOR GENERAL INFORMATION ONLY BASED ON LAW AND PRACTICE AT THE DATE OF THIS OFFERING CIRCULAR IN THE UNITED KINGDOM, IRELAND, THE NETHERLANDS AND GERMANY AND IS NOT EXHAUSTIVE. PROSPECTIVE INVESTORS ARE ADVISED TO CONSULT WITH THEIR OWN TAXATION ADVISERS AS TO THE TAXATION CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF PREFERRED SECURITIES, INCLUDING THE EFFECT OF TAX LAWS IN COUNTRIES OTHER THAN THE UNITED KINGDOM, IRELAND, THE NETHERLANDS AND GERMANY.**

### **United Kingdom**

#### **(a) UK Taxation Treatment for Non-UK Residents**

Non-UK tax-resident corporate or individual Holders which hold their interest in Preferred Securities as an investment should be liable to UK taxation only to the extent that UK taxation is deducted at source from any payment to such a Holder made in respect of the Preferred Securities.

The same treatment should apply to a non-UK tax-resident corporate or individual Holder which holds its interest in the Preferred Securities as a trading asset, provided that the Issuer is not carrying on its business as a trade or a venture in the nature of a trade and the Holder does not otherwise carry on a trade in the UK through a branch or agency through or from which the Preferred Securities are held or the income from them arises (or where that Holder is a company, that Holder does not carry on a trade in the United Kingdom through a permanent establishment through or from which the Preferred Securities are held or the income from them arises).

#### **(b) Distributions on the Preferred Securities**

The Guarantor understands that the Issuer should be classified as a partnership for UK taxation purposes and should not constitute a “unit trust scheme” for the purposes of UK taxation. On the basis that the Issuer is treated for the purposes of UK taxation as a partnership, payments of Distributions on Preferred Securities may be made without withholding for or on account of UK taxation.

#### **(c) Stamp Duty and Stamp Duty Reserve Tax (“SDRT”)**

No UK stamp duty will be chargeable on the issue or subsequent transfer of the Preferred Securities to a Holder. Transfers of the Preferred Securities within a clearing system will not be chargeable to UK stamp duty. In practice, UK stamp duty is not likely to be chargeable in respect of a transfer of the Preferred Securities either because such a transfer is effected within a clearing system or, if the transfer is outside a clearing system, because the Issuer will invest in exempt loan capital for UK stamp duty purposes.

The Guarantor understands that no liability to SDRT should arise in respect of the issue or subsequent transfer of the Preferred Securities.

## **Ireland**

### **1. Preferred Securities**

#### **(a) *Withholding tax***

Payments of Distributions on the Preferred Securities may be made without withholding for or on account of Irish taxation.

Payments made under the Subordinated Guarantee could be subject to Irish withholding tax if the payments are regarded as having an Irish source. It is considered unlikely that the payments made under the Subordinated Guarantee have an Irish source.

In certain circumstances, Irish encashment tax may be required to be withheld at the standard rate (currently 20%) from Distributions on the Preferred Securities and payments under the Subordinated Guarantee where such payments are entrusted for payment to or collected by any person in Ireland for payment to any person who is a holder of the Preferred Securities. Persons who are not resident in Ireland may qualify for exemption from Irish encashment tax.

#### **(b) *Direct taxation of investor***

A non-Irish resident investor will not be liable to Irish income tax on receipt of Distributions on the Preferred Securities. As it is considered that payments made under the Subordinated Guarantee are not likely to have an Irish source, non Irish tax resident investors should not be liable to Irish income tax on receipt of payments made under the Subordinated Guarantee.

In general, persons who are resident in Ireland for tax purposes will be subject to tax on any Distributions on the Preferred Securities or payments made on the Subordinated Guarantee.

#### **(c) *Stamp Duty***

No Irish stamp duty is payable on the transfer of Preferred Securities, except if a written instrument (a) is executed in Ireland or (b) wherever the instrument is executed, it relates to any property situated in Ireland or any matter or thing done or to be done in Ireland.

### **2. Substituted Preference Shares**

#### **(a) *Withholding tax***

Dividend payments on the Substituted Preference Shares will be subject to withholding tax unless the beneficial owner of the dividends is:

- (i) a person, other than a company who is neither resident nor ordinarily resident in Ireland, and resident in a Member State of the European Union or in a jurisdiction with which Ireland has a valid double taxation treaty; or
- (ii) a company which is not resident in Ireland which :
  - (I) is resident in a Member State of the European Union or in a jurisdiction with which Ireland has a double taxation treaty and which is not under the control of Irish residents;
  - (II) is controlled only by residents of a Member State of the European Union or a jurisdiction with which Ireland has a valid double taxation treaty; or

- (III) is part of a group which is listed on a recognised stock exchange in a Member State of the European Union or a jurisdiction with which Ireland has a valid double taxation treaty, and satisfies certain other conditions;

and, in either case, has provided the required documentation to the Guarantor.

(b) *Direct taxation of investor*

A holder of Substituted Preference Shares will not be liable to Irish income tax in respect of dividends beyond any withholding tax applicable to the dividends.

(c) *Stamp Duty*

Stamp duty at a rate of 1 per cent. of the consideration is payable on the transfer of Substituted Preference Shares in certificated form.

## **Netherlands Taxation**

### **General**

The following summary describes the principal Netherlands tax consequences of the acquisition, holding, redemption and disposal of Preferred Securities or Substituted Preference Shares. This summary does not purport to be a comprehensive description of all Netherlands tax considerations that may be relevant to a decision to acquire, to hold, and to dispose of the Preferred Securities or Substituted Preference Shares. Each prospective holder of Preferred Securities or Substituted Preference Shares should consult a professional adviser with respect to the tax consequences of an investment in the Preferred Securities or Substituted Preference Shares. The summary of certain Netherlands taxes set forth below is included for general information purposes only.

This summary is based on the Netherlands tax legislation, published case law, treaties, rules, regulations and similar documentation, in force as of the date of this Offering Circular, without prejudice to any amendments introduced at a later date and implemented with retroactive effect.

This summary does not address the Netherlands tax consequences of a holder of Preferred Securities or Substituted Preference Shares who is not a resident (or deemed resident) of the Netherlands for Netherlands tax purposes. This summary does not address the Netherlands tax consequences of a holder of Preferred Securities or Substituted Preference Shares who holds a substantial interest (aanmerkelijk belang) in the Issuer, within the meaning of Section 4.3 of the Income Tax Act 2001. Generally speaking, a holder of Preferred Securities or Substituted Preference Shares holds a substantial interest in the Issuer, if such holder of Preferred Securities or Substituted Preference Shares, alone or together with his or her partner (statutory defined term) or certain other related persons, directly or indirectly, holds (i) an interest of 5 percent or more of the total issued capital of the Issuer or of 5 percent or more of the issued capital of a certain class of shares of the Issuer, (ii) rights to acquire, directly or indirectly, such interest or (iii) certain profit sharing rights in the Issuer.

For the purpose of the principal Netherlands tax consequences described herein, it is assumed that the Issuer is neither a resident nor deemed to be a resident of the Netherlands for Netherlands tax purposes.

### **Withholding Tax**

No Netherlands withholding tax is due upon payments on the Preferred Securities or Substituted Preference Shares.

### **Corporate Income Tax**

If the holder of Preferred Securities or Substituted Preference Shares is subject to Netherlands corporate income tax and the Preferred Securities or Substituted Preference Shares are attributable to its (deemed) business assets, income

derived from the Preferred Securities or Substituted Preference Shares and gains realised upon the redemption and disposal of the Preferred Securities or Substituted Preference Shares and substitution of Preferred Securities in Substituted Preference Shares are generally taxable in the Netherlands.

### **Individual Income Tax**

If the holder of Preferred Securities or Substituted Preference Shares is an individual, resident or deemed to be a resident of the Netherlands for Netherlands tax purposes (including the individual holder of Preferred Securities or Substituted Preference Shares who has opted to be taxed as a resident of the Netherlands), the income derived from the Preferred Securities or Substituted Preference Shares and the gains realised upon the redemption and disposal of the Preferred Securities or Substituted Preference Shares and substitution of Preferred Securities in Substituted Preference Shares are taxable at the progressive rates of the Income Tax Act 2001, if:

- (i) the holder of Preferred Securities or Substituted Preference Shares has an enterprise or an interest in an enterprise, to which enterprise the Preferred Securities or Substituted Preference Shares are attributable; or
- (ii) such income or gains qualify as “income from miscellaneous activities” (*resultaat uit overige werkzaamheden*) within the meaning of Section 3.4 of the Income Tax Act 2001, which include the performance of activities with respect to the Preferred Securities or Substituted Preference Shares that exceed “regular, active portfolio management” (*normaal, actief vermogensbeheer*).

If neither condition (i) nor condition (ii) applies to the individual holder of Preferred Securities or Substituted Preference Shares, the actual income derived from the Preferred Securities or Substituted Preference Shares and the actual gains realised with respect to the Preferred Securities or Substituted Preference Shares will not be taxable. Instead, such holder of Preferred Securities or Substituted Preference Shares will be taxed at a flat rate of 30 per cent. on deemed income from “savings and investments” (*sparen en beleggen*) within the meaning of Section 5.1 of the Income Tax Act 2001. This deemed income amounts to 4 per cent. of the average of the individual’s “yield basis” (*rendementsgrondslag*) within the meaning of article 5.3 of the Income Tax Act 2001 at the beginning of the calendar year and the individual’s yield basis at the end of the calendar year, insofar the average exceeds a certain threshold. The fair market value of the Preferred Securities or Substituted Preference Shares will be included in the individual’s yield basis.

### **Gift and Inheritance Taxes**

Generally, gift and inheritance taxes will be due in the Netherlands in respect of the acquisition of the Preferred Securities or Substituted Preference Shares by way of a gift by, or on the death of, a holder of Preferred Securities or Substituted Preference Shares who is a resident or deemed to be a resident of the Netherlands for the purposes of Netherlands gift and inheritance tax at the time of the gift or his or her death.

An individual of the Netherlands nationality is deemed to be a resident of the Netherlands for the purposes of the Netherlands gift and inheritance tax, if he or she has been resident in the Netherlands during the ten years preceding the gift or his or her death. An individual of any other nationality is deemed to be a resident of the Netherlands for the purposes of the Netherlands gift and inheritance tax only if he or she has been residing in the Netherlands at any time during the twelve months preceding the time of the gift. The same twelve-month rule may apply to entities that have transferred their seat of residence out of the Netherlands.

#### *Treaties*

Treaties may limit the Dutch sovereignty to levy gift and inheritance tax.

## **Other Taxes and Duties**

No Netherlands VAT, capital duty, registration tax, customs duty, transfer tax, stamp duty or any other similar documentary tax or duty, will be due in the Netherlands by a holder of Preferred Securities or Substituted Preference Shares in respect of or in connection with the subscription, issue, placement, allotment or delivery of the Preferred Securities or Substituted Preference Shares.

## **German Taxation**

### **General**

The following is a general discussion of certain German tax consequences of the acquisition and ownership of Preferred Securities. It does not purport to be a comprehensive description of all tax considerations that may be relevant to a decision to purchase Preferred 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 laws of Germany currently in force and as applied on the date of this Offering Circular, which are subject to change, possibly with retroactive or retrospective effect.

Prospective purchasers of Preferred Securities are advised to consult their own tax advisors as to the tax consequences of the purchase, ownership and disposition of Preferred Securities, including the effect of any state or local taxes, under the tax laws of Germany and each country of which they are residents.

### **Income Tax**

Payments of interest on the Preferred Securities, including interest having accrued up to the disposition of Preferred Securities and credited separately (“Accrued Interest”), if any, 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) are subject to German personal or corporate income tax (plus solidarity surcharge (*Solidaritätszuschlag*) at a rate of 5.5 per cent. thereon). Such interest may also be subject to trade tax if the Preferred Securities form part of the property of a German trade or business. Accrued Interest paid upon the acquisition of Preferred Securities may give rise to negative income if the Preferred Securities are held as a non-business asset.

Upon the disposition, assignment or redemption of Preferred Securities a holder holding the Preferred Securities as a non-business asset will have to include in his taxable income further amounts if the Preferred Securities can be classified as a financial innovation (*Finanzinnovation*) under German tax law (including, among other things, zero coupon Notes, floating rate Notes, discounted Notes, provided the discount exceeds certain thresholds, Notes being traded “flat”, i.e. without Accrued Interest being credited separately, or stripped bonds, i.e. bonds traded without coupons and coupons traded without bonds). In this case, generally the difference between the proceeds from the disposition, assignment or redemption and the issue or purchase price is deemed to constitute interest income subject to income tax (plus the solidarity surcharge) in the year of the disposition, assignment or maturity of the Preferred Security.

Where Preferred Securities forms part of the property of a German trade or business, each year the part of the difference between the issue or purchase price of the Preferred Securities and its redemption amount (if such amount is fixed at the time of the acquisition) attributable to such year as well as interest accrued must be taken into account as interest income and may also be subject to trade tax.

Capital gains from the disposition of Preferred Securities, other than income described in the second paragraph above, are only taxable to a German tax-resident individual if the Preferred Securities are disposed of within one year after their acquisition or form part of the property of a German trade or business, in which case the capital gains may also be subject to trade tax. Capital gains derived by German-resident corporate holders of Preferred Securities will be subject to corporate income tax (plus solidarity surcharge at a rate of 5.5 per cent. thereon) and trade tax.

## **Withholding Tax**

If Preferred Securities are held in a custodial account that the Holder maintains with a German branch of a German or non-German bank or financial services institution (the “Disbursing Agent”) a 30 per cent. withholding tax on interest payments (*Zinsabschlag*), plus 5.5 per cent. solidarity surcharge on such tax, will be levied, resulting in a total tax charge of 31.65 per cent. of the gross interest payment. Withholding tax on interest is also imposed on Accrued Interest.

In addition, if Preferred Securities qualify as financial innovations, as explained above, and are kept in a custodial account that the Holder maintains with a Disbursing Agent such custodian will generally withhold tax at a rate of 30 per cent. (plus solidarity surcharge at a rate of 5.5 per cent. thereon) from the positive difference between the redemption amount or proceeds from the disposition or assignment and the issue or purchase price of the Preferred Securities if the Preferred Securities have been kept in a custodial account with such Disbursing Agent since the time of issuance or acquisition, respectively. If the Preferred Securities have not been kept in a custodial account with a Disbursing Agent since the time of issuance or acquisition, withholding tax of 30 per cent. is applied to 30 per cent. of the amounts paid in partial or final redemption or the proceeds from the disposition or assignment of the Preferred Securities, respectively.

In computing the tax to be withheld the Disbursing Agent may deduct from the basis of the withholding tax any Accrued Interest previously paid by the holder of a Preferred Securities to the Disbursing Agent during the same calendar year. In general, no withholding tax will be levied if the Holder of Preferred Securities is an individual (i) whose Preferred Securities do not form part of the property of a German trade or business nor gives rise to income from the letting and leasing of property; and (ii) who filed a withholding exemption certificate (*Freistellungsauftrag*) with the Disbursing Agent but only to the extent the interest income derived from the Preferred Securities together with other investment income does not exceed the maximum exemption amount shown on the withholding exemption certificate. Similarly, no withholding tax will be deducted if the holder of the Preferred Securities has submitted to the Disbursing Agent a certificate of non-assessment (*Nichtveranlagungsbescheinigung*) issued by the relevant local tax office.

If Preferred Securities are not kept in a custodial account with a Disbursing Agent, withholding tax will apply at a rate of 35 per cent. of the gross amount of interest paid by a Disbursing Agent upon presentation of a coupon (whether or not presented with the Preferred Securities to which it appertains) to a holder of such coupon (other than a non-German bank or financial services institution) (*Tafelgeschäft*). In this case proceeds from the disposition, assignment or redemption of a Coupon, and if the Notes qualify as financial innovations 30 per cent. of the proceeds from the disposition, assignment or redemption of a Note, will also be subject to withholding tax at a rate of 35 per cent. Where the 35 per cent. withholding tax applies Accrued Interest paid cannot be taken into account in determining the withholding tax base. Again a solidarity surcharge at a rate of 5.5 per cent. of the withholding tax applies so that the total tax burden to be withheld is 36.925 per cent.

Withholding tax and the solidarity surcharge thereon are credited as prepayments against the German personal or corporate income tax and the solidarity surcharge liability of the German resident. Amounts over withheld will entitle the holder of Preferred Securities to a refund, based on an assessment to tax.

## **Inheritance and Gift Tax**

No inheritance or gift taxes with respect to any Preferred Securities will arise under the laws of Germany, if, in the case of inheritance tax, neither the decedent nor the beneficiary, or, in the case of gift tax, neither the donor nor the donee, is a resident of Germany and such Preferred Securities are 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, registration or similar taxes or duties will be payable in Germany in connection with the issuance, delivery or execution of the Preferred Securities. Currently, net assets tax is not levied in Germany.

## **EU Directive on the Taxation of Savings Income**

On 3rd June, 2003, the European Council of Economics and Finance Ministers adopted a Directive on the taxation of savings income. Under the Directive Member States will (if equivalent measures have been introduced by certain non-EU countries) be required, from 1st July, 2005, 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. However, for a transitional period, Belgium, Luxembourg and Austria will instead be 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).

Under the guidance recently published by the UK tax authorities payments related to the Preferred Securities will not constitute interest and will not be subject to a reporting requirement under the Directive (although similar information may be requested under other information collection powers).

## SUBSCRIPTION AND SALE

Pursuant to a Subscription Agreement (the “**Subscription Agreement**”) dated 7th June, 2005, BNP Paribas, Deutsche Bank AG, London Branch and Morgan Stanley & Co. International Limited (the “**Managers**”) have jointly and severally agreed to subscribe for the Preferred Securities at a price of €1,000 per Preferred Security. The Managers will receive a combined selling, management and underwriting commission of €20 per Preferred Security. The Managers are entitled to terminate the Subscription Agreement in certain circumstances before the issue of the Preferred Securities.

### United States

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

Each Manager has agreed that, except as permitted by the Subscription Agreement, it will not offer, sell or deliver the Preferred Securities (i) as part of their distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering and the Issue Date within the United States or to, or for the account or benefit of, U.S. persons and that it will have sent to each dealer to which it sells any Preferred Securities during the distribution compliance period a confirmation or other notice setting forth the restrictions on offers and sales of the Preferred Securities within the United States or to, or for the account or benefit of, U.S. persons. Terms used in this paragraph have the meanings given to them by Regulation S.

In addition, until 40 days after the commencement of the offering, an offer or sale of Preferred Securities within the United States by any dealer that is not participating in the offering may violate the registration requirements of the Securities Act.

### Ireland

Each Manager has represented and agreed that:

- (a) it has not offered or sold and will not offer or sell any of the Preferred Securities to persons in Ireland except where the offer or sale is not subject to the European Communities (Transferable Securities and Stock Exchange) Regulations, 1992 of Ireland (as amended) or the Unit Trust Act, 1990 of Ireland (as amended); and
- (b) it will not underwrite the issue of, or place any of the Preferred Securities otherwise than in conformity with the provisions of the Investment Intermediaries Act, 1995 of Ireland (as amended), including, without limitation, sections 9, 23 (including any advertising restrictions made thereunder) and any codes of conduct made under section 37.

### United Kingdom

Each Manager has represented and agreed that, except as permitted by the Subscription Agreement:

- (a) it has not offered or sold, and prior to the expiry of six months from the Closing Date will not offer or sell, any Preferred Securities to persons in the U.K. except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or otherwise in circumstances which have not resulted and will not result in an offer to the public in the U.K. within the meaning of the Public Offers of Securities Regulations 1995;



- (b) it has only offered or sold and will only offer or sell Preferred Securities to (a) investment professionals falling within article 14(5) of the Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes) (Exemptions) Order 2001 (the “**Promotion of CIS Order**”) and article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 (the “**Financial Promotion Order**”), who have professional experience of participating in unregulated schemes and of matters relating to investments, and/or (b) persons falling within article 22(2) of the Promotion of CIS Order and article 49(2) of the Financial Promotion Order;
- (c) it has in place and will have in place proper systems and procedures to prevent any person other than those persons described in (b) above from participating in the Preferred Securities;
- (d) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue of the Preferred Securities in circumstances in which Section 21(1) of the FSMA does not apply to the Guarantor; and
- (e) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Preferred Securities in, from or otherwise involving the United Kingdom.

### **Federal Republic of Germany**

Each Manager has represented and agreed that it shall only offer and sell Preferred Securities in the Federal Republic of Germany in compliance with the provisions of the German Securities Sales Prospectus Act (*Wertpapier-Verkaufsprspektgesetz*) of 13th December, 1990, as amended, or any other laws applicable in the Federal Republic of Germany governing the offer and sale of securities in the Federal Republic of Germany.

### **General**

No action has been or will be taken in any country or jurisdiction by the Issuer, the Guarantor or the Managers that would permit a public offering of the Preferred Securities or possession or distribution of any offering material relating thereto, in any country or jurisdiction where action for that purpose is required. Persons into whose hands this Offering Circular comes are required by the Issuer, the Guarantor and the Managers to comply with all applicable laws and regulations in each country or jurisdiction in or from which they purchase, offer, sell or deliver Preferred Securities or have in their possession or distribute such offering material, in all cases at their own expense.

## GENERAL INFORMATION

### Authorisations

The Limited Partnership Agreement to establish the Issuer was duly authorised by a resolution of a duly authorised committee of the board of directors of the General Partner passed on 3rd June, 2005.

The entering into of the Limited Partnership Agreement and the Subordinated Guarantee by the Guarantor was authorised by a resolution of a duly authorised committee of the board of directors of the Guarantor passed on 3rd June, 2005.

All consents, approvals, authorisations or other orders of all regulatory authorities required by the Issuer and/or the Guarantor under the laws of England and Wales and/or Ireland have been given for the issue of the Preferred Securities and for the Issuer, the General Partner and the Guarantor, as the case may be, to undertake and perform their respective obligations as appropriate under the Limited Partnership Agreement, the Subscription Agreement, the Agency Agreement, the Preferred Securities and the Subordinated Guarantee.

### Listing

Application will be made to list the Preferred Securities on the Official Market of the Frankfurt Stock Exchange (*amtlicher Markt*).

Application has been made to list the Preferred Securities on Eurolist by Euronext Amsterdam (see “**Netherlands Listing Information**” below).

### Clearing Systems

The Preferred Securities have been accepted for clearance through Clearstream, Frankfurt. The Preferred Securities will also be eligible for clearing and settlement through Euroclear and Clearstream, Luxembourg. The ISIN for this issue is DE000A0E5U85 and the Common Code is 022172794. The Fondscode for this issue is 45614 and the WKN is A0E5U8.

### No significant change

There has been no significant change in the financial or trading position of the Guarantor or the Group or the Issuer and there has been no material adverse change in the financial position or prospects of the Guarantor or the Group or the Issuer since 31st December, 2004 in the case of the Guarantor and the Group and since its establishment in the case of the Issuer.

### Litigation

There are no legal, arbitration or administrative proceedings involving any of the Issuer, the Guarantor or any Subsidiary of the Group (and no such proceedings are pending or threatened) which may have or have had in the 12 months preceding the date of this Offering Circular a significant effect on the financial position of the Issuer, the Guarantor or any Subsidiary of the Group.

### Accounts

The consolidated financial statements of the Guarantor have been audited for the years ending 31st December, 2003 and 2004 by PricewaterhouseCoopers. The audited consolidated financial statements of the Guarantor for the years ended 31st December, 2003 and 31st December, 2004 in this Offering Circular have been extracted from the 2004 Annual Report of the Guarantor. These financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America. These financial statements and certain financial

information relating to the financial periods ending 31st December, 2003 and 31st December, 2004 as contained in this Offering Circular do not constitute or contain accounts a copy of which is required by the European Communities (Credit Institutions: Accounts) Regulations, 1992 of Ireland to be annexed to the Guarantor's annual return. The accounts of the Guarantor for the financial year ended 31st December, 2003 so required to be annexed have been so annexed to its annual return for the relevant period and filed with the Registrar of Companies. The accounts of the Guarantor for the financial year ended 31st December, 2004 so required to be annexed have not been so annexed to its annual return for the relevant period, but will be so annexed when the annual return is filed with the Registrar of Companies within the permitted period. The auditors of the Guarantor have made a report under section 193 of the Companies Act, 1990 in respect of these accounts for the financial years ended 31st December, 2003 and 31st December, 2004 without any qualifications as to any matter mentioned in section 193.

No financial statements of the Issuer have yet been prepared. PricewaterhouseCoopers has been appointed as auditors of the Issuer.

## **Documents**

Copies of the following financial statements will be available free of charge from the specified offices of the Paying and Transfer Agents for so long as any of the Preferred Securities remains outstanding:

- (a) the audited financial statements of the Guarantor in respect of the financial years ended 31st December, 2004 and 2003, respectively. The Guarantor currently prepares audited consolidated accounts on an annual basis; and
- (b) the most recently published audited annual consolidated financial statements of the Guarantor, the most recently published consolidated financial statements (if any) of the Guarantor and the most recently published unaudited interim consolidated financial statements of the Guarantor. The Guarantor currently prepares unaudited consolidated interim accounts on a quarterly basis.

The Guarantor currently does not publish non-consolidated financial statements.

The first financial statements of the Issuer are expected to be prepared for the period ending on 31st December, 2005. Thereafter, it is intended that the Issuer will prepare audited annual financial statements, copies of which will be available at the offices of each Paying and Transfer Agent. It is not intended that the Issuer will publish interim financial statements.

In addition, the following documents are available for inspection at the specified offices of the Paying and Transfer Agents for so long as any of the Preferred Securities remains outstanding:

- (a) the Memorandum and Articles of Association of the Guarantor; and
- (b) the Subscription Agreement, the Subordinated Guarantee, the Limited Partnership Agreement and the Agency Agreement.

## **Appendix - Netherlands Listing Information**

### **1. General**

This appendix shall, together with [the (preliminary) Offering Circular] form one document for admission to listing on Eurolist by Euronext Amsterdam.

## 2. Additional Information

### Issue Date

The Preferred Securities will be issued by DEPFA Funding III LP on 8th June, 2005. The rights attached to the Preferred Securities take effect as per the issue date of the Preferred Securities.

### Authorisations

The issue of the Preferred Securities by the Issuer has been duly authorised by a resolution of a duly authorised committee of the board of directors of the General Partner held on 3rd June, 2005.

All necessary consents, approvals, authorisations or other orders of all regulatory authorities required by the Issuer and/or DEPFA BANK plc under English and Irish laws have been obtained for the issue of the Preferred Securities and for the Issuer and DEPFA BANK plc, as the case may be, to undertake and perform their respective obligations in relation to the Issue.

### No material change

Save as described herein, there has been no material adverse change in the financial position or prospects of DEPFA BANK plc or the Group since 31st December, 2004 or the Issuer since its establishment.

### Price stabilisation

In connection with the issue, Morgan Stanley & Co. International Limited or any person acting on its behalf may over-allot or effect transactions with a view to supporting the market price of the Preferred Securities at a level higher than that which might otherwise prevail for a limited period. However, there is no obligation on Morgan Stanley & Co. International Limited or any agent of it to do this. Such stabilising may be effected on the Frankfurt Stock Exchange, Euronext Amsterdam or otherwise. Such stabilising, if commenced, may be discontinued at any time, and, in any case, will not exceed a period of 30 days from (and including) the date of issue of the Preferred Securities. Such stabilising shall be in compliance with all relevant laws and regulations, including Article 32 of the Further Regulations on Market Conduct Supervision on the Securities Trade 2002 (*Nadere Regeling gedragstoezicht effectenverkeer*) as amended.

### Listing and documents for Inspection

Application has been made to list the Preferred Securities on Eurolist by Euronext Amsterdam. At the date hereof it is not intended to list the Preferred Securities on any other stock exchange.

So long as the Preferred Securities are listed on Eurolist by Euronext Amsterdam, there will be a paying agent in The Netherlands. The Issuer has appointed Deutsche Bank AG, Amsterdam as initial paying agent (the “**Amsterdam Paying Agent**”).

For so long as the Preferred Securities are listed on Eurolist by Euronext Amsterdam, payments in respect of the Preferred Securities shall be made payable in Amsterdam in euros at the offices of the Amsterdam Paying Agent.

The most recently published consolidated and non-consolidated audited annual financial statements and consolidated un-audited interim financial statements of DEPFA BANK plc and the most recently published audited annual accounts of the Issuer, will also be available free of charge at the offices of the Amsterdam Paying Agent.

In addition the following documents will be available for inspection, free of charge, at the offices of the Amsterdam Paying Agent:

- (a) the Limited Partnership Agreement establishing the Issuer;
- (b) the articles of association of DEPFA BANK plc;
- (c) the authorisations referred to above;
- (d) the Subscription Agreement;
- (e) the Agency Agreement;
- (f) the Subordinated Guarantee; and
- (g) all financial information in relation to DEPFA BANK plc, that will become available in the future.

### **Incorporation by reference**

The Limited Partnership Agreement establishing the Issuer, the audited consolidated financial statements of the Guarantor for the years ended 31<sup>st</sup> December, 2003 and 2004 and the unaudited consolidated financial statements of the Guarantor for the three months ended 31<sup>st</sup> March, 2005 are incorporated herein by reference.

### **Notices**

Notices with regard to the Preferred Securities will be given by the Issuer so long as any Preferred Securities are listed on Eurolist by Euronext Amsterdam, and Euronext Amsterdam so requires, by publication in the Euronext Amsterdam Daily Official List (*Officiële Prijscourant*) and in one daily newspaper of wide circulation in the Netherlands (which is expected to be *Het Financieele Dagblad*).

### **Costs**

In addition to the commissions payable to the Managers (see “Subscription and Sale”) the costs related to the offering of the Preferred Securities are expected to amount to approximately EUR 600,000.

### **Other**

The Issuer will comply with the requirements set forth in Article 2.1.20 section a-g of Schedule B of the Listing and Issuing Rules (*Fondsenreglement*) of Euronext Amsterdam, for so long as the Preferred Securities are listed on Euronext Amsterdam.

## FINANCIAL INFORMATION

The following financial information of the Guarantor for the three month period ended on 31<sup>st</sup> March, 2005 is extracted from the unaudited first quarter report for 2005 of the Guarantor in accordance with US GAAP<sup>1</sup>.

### Group balance sheet

<b>Assets</b>	<b>31. Mar. 2005</b>
	<b>(unaudited)</b>
	<i>(€ million)</i>
Cash and balances with central banks .....	1,213
Loans and advances to banks.....	24,916
Loans and advances to customers.....	73,769
Debt securities and other fixed-income securities .....	91,887
Equities and other non-fixed income securities .....	92
Intangible assets.....	52
Property and equipment .....	27
Other assets.....	5,193
Accrued interest and prepaid expenses.....	4,642
<b>Total assets</b> .....	<b>201,791</b>

<b>Shareholders' equity and liabilities</b>	<b>31. Mar. 2005</b>
	<b>(unaudited)</b>
	<i>(€ million)</i>
Liabilities to banks .....	66,277
Liabilities to customers .....	5,130
Debt securities in issue.....	110,272
Other liabilities .....	11,856
Accrued interest and deferred income .....	4,452
Provisions .....	305
Hybrid capital.....	1,510
<b>Total liabilities</b> .....	<b>199,802</b>
<b>Equity</b> .....	

#### <sup>1</sup> Disposal of DEPFA Deutsche Pfandbriefbank AG

On 1st March, 2004 DEPFA BANK plc initiated the sale process of its subsidiary DEPFA Deutsche Pfandbriefbank AG ("Deutsche Pfandbriefbank"). The results of Deutsche Pfandbriefbank were classified as results from discontinued operations and its assets and liabilities were classified as held for sale in accordance with SFAS 144.

At the date of signing the Group accounts for 31st December, 2004 the Group was in negotiations with a number of interested parties and expected a sale to be completed for a reasonable price in 2005. Subsequent to this date the negotiations were completed and the Group received bids from the interested parties. However, none of the bids submitted met the full internal value of Deutsche Pfandbriefbank for the Group. Therefore, on 18th April, 2005, the Board of Directors of DEPFA BANK plc announced that a sale was not in the best interests of shareholders. Consequently, the results of operations of Deutsche Pfandbriefbank are no longer reported as discontinued operations, and its assets and liabilities are no longer classified as held for sale.

No adjustment to the carrying amount of Deutsche Pfandbriefbank was required.

Subscribed capital.....	104
Capital reserve.....	333
Retained earnings .....	1,457
Other comprehensive income .....	95
<b>Total equity</b> .....	<b>1,989</b>
Total shareholders' equity and liabilities .....	201,791
<b>Contingent liabilities and loan commitments –</b>	
Contingent liabilities on guarantees and indemnity agreements.....	31
Loan commitments.....	13,723

## Group profit and loss account

for the period ended

**31 Mar. 2005**

**(unaudited)**

Interest and similar income from:.....	<i>(€ million)</i>
Lending and money market business .....	895
Fixed-income securities.....	896
Interest and similar expenses .....	-1,694
Net interest income .....	97
Commission income.....	14
Commission expenditure.....	-4
Income from sale of assets.....	35
Trading result.....	51
Other income.....	-
Operating income .....	193
General administrative expenses .....	-51
Depreciation and amortisation of intangible assets .....	-
and property and equipment.....	-2
Other expenditure.....	5
Operating results before provision for loan losses .....	145
Provision for loan losses.....	-
Income before income taxes.....	145
Income taxes .....	-25
Income after income taxes .....	120
Minority interest income.....	-
Group net income for the year – continuing operations .....	120
Results from discontinued operations:.....	-
Operating result from discontinued operations .....	-
<b>Group net income</b> .....	<b>120</b>

**2005**

**31 Mar. 2005**

**(unaudited)**

Weighted average number of ordinary shares in circulation.....	341,890,598
Total earnings per share (€).....	0.35
Total diluted earnings per share (€) .....	0.35



The following financial information of the Guarantor for the years ended 31<sup>st</sup> December, 2003 and 2004 is extracted from the 2004 audited consolidated financial statements in accordance with US GAAP.

### Group Balance Sheet

<b>Assets</b>	<b>31. Dec. 2004</b>	<b>31. Dec. 2003</b>
	<i>(€ million)</i>	<i>(€ million)</i>
Cash and balances with central banks .....	722	531
Loans and advances to banks.....	13,480	10,878
Loans and advances to customers.....	33,702	24,348
Debt securities and other fixed-income securities .....	60,125	57,386
Equities and other non-fixed income securities .....	86	56
Equity participations.....	–	5
Intangible assets.....	5	5
Property and equipment .....	22	9
Other assets.....	1,468	866
Accrued interest and prepaid expenses .....	2,197	2,484
Assets held for sale .....	78,611	77,397
<b>Total assets</b> .....	<b>190,418</b>	<b>173,965</b>
<b>Shareholders' equity and liabilities</b>	<b>31. Dec. 2004</b>	<b>31. Dec. 2003</b>
	<i>(€ million)</i>	<i>(€ million)</i>
Liabilities to banks .....	46,888	49,944
Liabilities to customers .....	5,534	6,351
Debt securities in issue.....	47,958	31,702
Other liabilities .....	6,986	5,636
Accrued interest and deferred income .....	2,100	2,263
Provisions .....	80	80
Hybrid capital.....	400	300
Liabilities held for sale.....	78,569	76,311
<b>Total liabilities</b> .....	<b>188,515</b>	<b>172,587</b>
<b>Equity</b> .....		
Subscribed capital.....	104	103
Capital reserve.....	369	354
Retained earnings .....	1,337	838
Other comprehensive income .....	93	83
<b>Total equity</b> .....	<b>1,903</b>	<b>1,378</b>
Total shareholders' equity and liabilities .....	190,418	173,965
<b>Contingent liabilities and loan commitments – continuing operations</b>		
Contingent liabilities on guarantees and indemnity agreements.....	–	–
Loan commitments.....	10,878	6,910
Contingent liabilities and loan commitments – discontinued operations.....		
Contingent liabilities on guarantees and indemnity agreements	32	43
Loan commitments.....	179	19

## Group Profit and Loss Account

	for the year ended <b>31 Dec 2004</b>	for the year ended <b>31 Dec 2003</b>
	<i>(€ million)</i>	<i>(€ million)</i>
Interest and similar income from:.....		
Lending and money market business .....	1,173	938
Fixed-income securities.....	2,384	1,899
Interest and similar expenses .....	-3,277	-2,632
Net interest income .....	280	205
Commission income.....	83	112
Commission expenditure.....	-16	-18
Income from sale of assets.....	209	47
Trading result.....	5	108
Other income.....	10	3
Operating income .....	571	457
General administrative expenses .....	-139	-89
Depreciation and amortisation of intangible assets .....		
and property and equipment.....	-4	-2
Other expenditure.....	-2	-2
Operating results before provision for loan losses .....	426	364
Provision for loan losses.....	-	-
Income before income taxes.....	426	364
Income taxes.....	-38	-48
Income after income taxes .....	388	316
Minority interest income.....	-	-4
Group net income for the year – continuing operations .....	388	312
Results from discontinued operations:.....		
Operating result from discontinued operations .....	152	58
<b>Group net income</b> .....	<b>540</b>	<b>370</b>

	<b>2004</b>	<b>2003</b>
Weighted average number of ordinary shares in circulation.....	341,996,032	345,721,135
Earnings per share from continuing operations (€).....	1.13	0.90
Earnings per share from discontinued operations (€).....	0.45	0.17
Total earnings per share (€).....	1.58	1.07
Diluted earnings per share from continuing operations (€).....	1.13	0.90
Diluted earnings per share from discontinued operations (€) .....	0.45	0.17
Total diluted earnings per share (€) .....	1.58	1.07

## Group cash flow statement

	2004 Net cash flow (€ million)	2003 Net cash flow (€ million)
<b>Net income for the year</b>	<b>540</b>	<b>370</b>
<b>Non-cash items included in net income and reconciliation to cash flow from operating activities</b>		
Provision for loan losses.....	-	-
Depreciation and amortisation of property and equipment, financial assets and intangible assets.....	7	5
Deferred taxes.....	-8	-22
Change in accrued interest income.....	334	-1,133
Change in accrued interest expenditure.....	60	690
Other non cash items.....	-39	-37
<b>Subtotal.....</b>	<b>894</b>	<b>-127</b>
Gain/loss on sale of available for sale securities.....	-99	-45
Decrease/increase in other assets.....	163	446
Decrease/Increase in other liabilities.....	-929	-1,040
<b>Cash flow from operating activities.....</b>	<b>29</b>	<b>-766</b>
New public sector loans.....	-20,449	-21,514
Public sector loan repayments.....	16,969	15,597
Change in other loans and advances to banks and customers.....	-5,385	-4,163
Purchase of securities available for sale and securities held to maturity.....	-43,761	-34,535
Sale/maturity of securities available for sale and securities held to maturity.....	37,801	14,383
Purchase of property and equipment and financial assets.....	-109	-40
Sale of property and equipment and financial assets.....	42	3
Change in scope of consolidation including purchase of minority interest.....	-40	-
<b>Cash flow from investment activities.....</b>	<b>-14,932</b>	<b>-30,269</b>
	<b>2004</b>	<b>2003</b>
	<b>Net cash flow</b>	<b>Net cash flow</b>
	<i>(€ million)</i>	<i>(€ million)</i>
Net purchase/sale of own shares.....	-11	-54
New issue of debt securities.....	89,228	72,112
Debt securities repaid.....	-76,116	-67,741
Other amounts raised from banks and customers.....	1,893	26,788
Dividends paid.....	-41	-35
<b>Cash flow from financing activities.....</b>	<b>14,953</b>	<b>31,070</b>
<b>Cash and cash equivalents at end of previous period.....</b>	<b>680</b>	<b>645</b>
Cash flow from operating activities.....	29	-766

Cash flow from investment activities .....	-14,932	-30,269
Cash flow from financing activities .....	14,953	31,070
<b>Cash and cash equivalents at end of period .....</b>	<b>730</b>	<b>680</b>

**ISSUER**

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