

PROSPECTUS

**Banco Espírito Santo, S.A.**

*(Incorporated with limited liability in Portugal)*

*(acting through its head office or its Madeira Free Trade Zone branch or its Cayman Islands branch or its London branch or its Luxembourg branch)*

and

**BES Finance Ltd.**

*(Incorporated with limited liability in the Cayman Islands)*

unconditionally and irrevocably guaranteed by

**Banco Espírito Santo, S.A.**

*(Incorporated with limited liability in Portugal)*

*(acting through its London branch)*

**€20,000,000,000 EURO MEDIUM TERM NOTE PROGRAMME**

*This Prospectus is valid for the purpose of the listing of Notes on the Official List of the Luxembourg Stock Exchange and the admission to trading of the Notes on the regulated market of the Luxembourg Stock Exchange, for a period of one year from the date of publication. Any Notes (as defined below) issued under the Programme on or after the date of this Prospectus are issued subject to the provisions herein. This Prospectus does not affect any Notes already issued. Under the €20,000,000,000 Euro Medium Term Note Programme (the "Programme"), each of Banco Espírito Santo, S.A. (the "Bank" or "BES"), acting through its head office or its Madeira Free Trade Zone branch or its Cayman Islands branch or its London branch or its Luxembourg branch, and BES Finance Ltd. ("BES Finance" and, together with the Bank in its capacity as an issuer of Notes under the Programme, the "Issuers" and each an "Issuer") may from time to time and, subject to applicable laws and regulations, issue notes (the "Notes", which will include Senior Notes, Dated Subordinated Notes, Undated Subordinated Notes and, in the case of the Bank acting through its head office only, Undated Deeply Subordinated Notes (as such terms are defined below)) denominated in any currency agreed between the Issuer of such Notes (the "relevant Issuer") and the relevant Dealer (as defined below).*

The payments of all amounts owing in respect of the Notes issued by BES Finance will be unconditionally and irrevocably guaranteed by the Bank, acting through its London branch, pursuant to the Trust Deed (as defined herein).

The Final Terms (as defined below) for each Tranche (as defined on page 95 below) of Notes will state whether the Notes of such Tranche are to be (i) senior Notes which, in the case of Notes issued by BES Finance, will be guaranteed on an unsubordinated basis ("Senior Notes"), (ii) dated subordinated Notes which, in the case of Notes issued by BES Finance, will be guaranteed on a subordinated basis ("Dated Subordinated Notes"), (iii) undated subordinated Notes which, in the case of Notes issued by BES Finance, will be guaranteed on a subordinated basis ("Undated Subordinated Notes") or (iv) undated deeply subordinated Notes ("Undated Deeply Subordinated Notes"), which may be issued by the Bank acting through its head office only.

The maximum aggregate nominal amount of all Notes from time to time outstanding under the Programme will not exceed €20,000,000,000 or such greater amount as may be agreed from time to time in accordance with the terms of the Programme Agreement (or its equivalent in other currencies calculated as described herein). The Notes may be issued on a continuing basis to one or more of the Dealers specified on page 10 and any additional Dealer appointed under the Programme from time to time, which appointment may be for a specific issue or on an ongoing basis (each a "Dealer" and together the "Dealers"). References in this Prospectus to the "relevant Dealer" shall, in the case of an issue of Notes being (or intended to be) subscribed by more than one Dealer, be to all Dealers agreeing to purchase such Notes.

**An investment in Notes issued under the Programme involves certain risks. For a discussion of these risks see "Risk Factors".**

Application has been made to the Commission de Surveillance du Secteur Financier (the "CSSF") in its capacity as competent authority under the Luxembourg Act dated 10th July, 2005 on prospectuses for securities (the "Prospectus Act 2005") to approve this document as a base prospectus. The CSSF assumes no responsibility as to the economic and financial soundness of the transactions contemplated by this Prospectus or the quality or solvency of the Issuers in accordance with Article 7(7) of the Prospectus Act 2005. Application has also been made to the Luxembourg Stock Exchange for Notes issued under the Programme to be admitted to trading on the Regulated Market of the Luxembourg Stock Exchange and to be listed on the Official List of the Luxembourg Stock Exchange. Notice of the aggregate nominal amount of Notes, interest (if any) payable in respect of Notes, the issue price of Notes and any other terms and conditions not contained herein which are applicable to each Tranche of Notes will be set forth in the final terms (the "Final Terms") which, with respect to Notes to be listed on the Official List of the Luxembourg Stock Exchange and admitted to trading on the Luxembourg Stock Exchange, will be filed with the CSSF.

The Programme provides that Notes may be listed or admitted to trading, as the case may be, on such other or further stock exchanges or markets as may be agreed between the relevant Issuer, and the relevant Dealer. Each Issuer may also issue unlisted Notes.

In the case of Notes held through Interbolsa-Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários, S.A. ("Interbolsa") (each an "Interbolsa Note") the Notes of each Tranche will be in book-entry form (*forma escritural*) and can be either registered Notes (*nominativas*) or bearer Notes (*ao portador*), as specified in the applicable Final Terms. The Notes of each Tranche (other than Interbolsa Notes) will be in bearer form. Bearer Notes other than Interbolsa Notes will (unless otherwise specified in the applicable Final Terms) initially be represented by a temporary global Note, which may be in new global note form, which will be exchangeable either for interests in a permanent global Note or for definitive Notes, as indicated in the applicable Final Terms, all as further described in "Form of the Notes" below.

The relevant Issuer, the Bank, acting through its London branch, (where the relevant Issuer is BES Finance) and (in respect of Notes other than Interbolsa Notes) the Trustee may agree with any Dealer that Notes may be issued in a form not contemplated by the Terms and Conditions of the Notes herein, in which event a supplement to this Prospectus, if appropriate, will be made available which will describe the effect of the agreement reached in relation to such Notes. Any person (an "Investor") intending to acquire or acquiring any securities from any person (an "Offeror") should be aware that, in the context of an offer to the public as defined in the Prospectus Directive, the relevant Issuer may be responsible to the Investor for the Prospectus only if the relevant Issuer has authorised that Offeror to make the offer to the Investor. Each Investor should therefore verify with the Offeror whether or not the Offeror is acting in association with the relevant Issuer. If the Offeror is not authorised by the relevant Issuer, the Investor should check with the Offeror whether anyone is responsible for the Prospectus for the purposes of Article 6 of the Prospectus Directive as implemented by the national legislation of each EEA Member State in the context of the offer to the public, and, if so, who that person is. If the Investor is in any doubt about whether it can rely on the Prospectus and/or who is responsible for its contents it should take legal advice.

The rating of certain Series of Notes to be issued under the Programme may be specified in the applicable Final Terms. Whether or not each credit rating applied for in relation to relevant Series of Notes will be issued by a credit rating agency established in the European Union and registered under Regulation (EC) No. 1060/2009 (as amended) (the "CRA Regulation") will be disclosed clearly and prominently in the Final Terms.

The Bank has a rating of "BB-" by Standard & Poor's Credit Market Services Europe Limited ("S&P"), "Ba3" by Moody's Investors Service España, S.A. ("Moody's") and "BBB (low)" by DBRS Ratings Limited ("DBRS"). S&P, Moody's and DBRS are established in the European Union and are registered under the CRA Regulation (as amended). As such S&P, Moody's and DBRS are included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with such Regulation.

**Arranger**

**HSBC**

**Dealers**

BANCA IMI  
BARCLAYS  
BOFA MERRILL LYNCH  
COMMERZBANK  
CREDIT SUISSE  
GOLDMAN SACHS INTERNATIONAL  
J.P. MORGAN  
MITSUBISHI UFJ SECURITIES  
NOMURA  
THE ROYAL BANK OF SCOTLAND  
UNICREDIT BANK

BANCO ESPÍRITO SANTO  
BNP PARIBAS  
CITIGROUP  
CREDIT AGRICOLE CIB  
DEUTSCHE BANK  
HSBC  
LANDESBANK BADEN – WÜRTTEMBERG  
MORGAN STANLEY  
SOCIÉTÉ GÉNÉRALE CORPORATE & INVESTMENT BANKING  
UBS INVESTMENT BANK

The date of this Prospectus is 29th May, 2012.

This Prospectus comprises a base prospectus for the purposes of Article 5.4 of Directive 2003/71/EC (the “Prospectus Directive”) as amended (which includes the amendments made by Directive 2010/73/EU (the “2010 PD Amending Directive”) to the extent that such amendments have been implemented in a relevant Member State of the European Economic Area.

#### RESPONSIBILITY STATEMENT

Each of BES Finance and the Bank accepts responsibility for the information contained in this Prospectus. To the best of the knowledge and belief of BES Finance and the Bank (each having taken all reasonable care to ensure that such is the case), the information contained in this Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.

Subject as provided in the applicable Final Terms, the only persons authorised to use this Prospectus in connection with an offer of Notes are the persons named in the applicable Final Terms as the relevant Dealer or the Managers and the persons (if any) named in or identifiable in accordance with the applicable Final Terms as an Authorised Offeror, as the case may be.

**AN INVESTOR INTENDING TO ACQUIRE OR ACQUIRING ANY NOTES FROM AN OFFEROR WILL DO SO, AND OFFERS AND SALES OF THE NOTES TO AN INVESTOR BY AN OFFEROR WILL BE MADE, IN ACCORDANCE WITH ANY TERMS AND OTHER ARRANGEMENTS IN PLACE BETWEEN SUCH OFFEROR AND SUCH INVESTOR INCLUDING AS TO PRICE, ALLOCATION AND SETTLEMENT ARRANGEMENTS. THE ISSUER WILL NOT BE A PARTY TO ANY SUCH ARRANGEMENTS WITH INVESTORS (OTHER THAN THE DEALERS) IN CONNECTION WITH THE OFFER OR SALE OF THE NOTES AND, ACCORDINGLY, THIS PROSPECTUS AND ANY FINAL TERMS WILL NOT CONTAIN SUCH INFORMATION. THE INVESTOR MUST LOOK TO THE OFFEROR AT THE TIME OF SUCH OFFER FOR THE PROVISION OF SUCH INFORMATION. THE ISSUER HAS NO RESPONSIBILITY TO AN INVESTOR IN RESPECT OF SUCH INFORMATION.**

This Prospectus is to be read in conjunction with all documents which are deemed to be incorporated herein by reference (see “Documents Incorporated by Reference” below). This Prospectus shall be read and construed on the basis that such documents are incorporated and form part of this Prospectus. Each of BES Finance and the Bank accepts responsibility for the accuracy of the translations into English of such documents.

Neither the Dealers nor the Trustee have 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 Dealers or the Trustee as to the accuracy or completeness of the information contained in this Prospectus or any other information provided by BES Finance or the Bank in connection with the Programme or the Notes or their distribution. The statements made in this paragraph are made without prejudice to the responsibility of BES Finance and the Bank under the Programme.

No person is or has been authorised to give any information or to make any representation not contained in or not consistent with this Prospectus or any other information supplied in connection with the Programme or the Notes and, if given or made, such information or representation must not be relied upon as having been authorised by BES Finance, the Bank, the Trustee or any of the Dealers.

Neither this Prospectus nor any other information supplied in connection with the Programme or any Notes (i) is intended to provide the basis of any credit or other evaluation or (ii) should be considered as a recommendation or constituting an invitation or offer by BES Finance, the Bank, the Trustee or any of the Dealers that any recipient of this Prospectus or any other information supplied in connection with the Programme or any Notes should purchase any Notes. Each investor contemplating purchasing any Notes should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of BES Finance and/or the Bank.

The delivery of this Prospectus does not at any time imply that the information contained herein concerning BES Finance and/or the Bank is correct at any time subsequent to the date hereof or that

any other information supplied in connection with the Programme is correct as of any time subsequent to the date indicated in the document containing the same. The Dealers and the Trustee expressly do not undertake to review the financial condition or affairs of BES Finance or the Bank during the life of the Programme.

This Prospectus does not constitute an offer to sell or the solicitation of an offer to buy any Notes in any jurisdiction to any person to whom it is unlawful to make the offer or solicitation in such jurisdiction. The distribution of this Prospectus and the offer or sale of Notes may be restricted by law in certain jurisdictions. BES Finance, the Bank, the Trustee and the Dealers do not represent that this document may be lawfully distributed, or that any Notes may be lawfully offered, in compliance with any applicable registration or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder, or assume any responsibility for facilitating any such distribution or offering. In particular, unless specifically indicated to the contrary in the applicable Fund Terms, no action has been taken by BES Finance, the Bank, the Trustee or the Dealers which is intended to permit a public offering of any Notes outside Luxembourg or distribution of this document in any jurisdiction where action for that purpose is required. Accordingly, no Notes may be offered or sold, directly or indirectly, and neither this Prospectus nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations and the Dealers have represented that all offers and sales by them will be made on the same terms. Persons into whose possession this Prospectus or any Notes come must inform themselves about, and observe, any such restrictions. In particular, there are restrictions on the distribution of this Prospectus and the offer or sale of Notes in the United States, the European Economic Area (including the United Kingdom, Italy, Portugal and Luxembourg), Japan and the Cayman Islands (see “Subscription and Sale” below).

This Prospectus has been prepared on the basis that, except to the extent sub-paragraph (ii) below may apply, any offer of Notes in any Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “Relevant Member State”) will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of Notes. Accordingly any person making or intending to make an offer in that Relevant Member State of Notes which are the subject of an offering contemplated in this Prospectus as completed by final terms in relation to the offer of those Notes may only do so (i) in circumstances in which no obligation arises for the Issuers or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer, or (ii) if a prospectus for such offer has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State and (in either case) published, all in accordance with the Prospectus Directive, provided that any such prospectus has subsequently been completed by applicable final terms which specify that offers may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State, such offer is made in the period beginning and ending on the dates specified for such purpose in such prospectus or applicable final terms, as applicable and the relevant Issuer has consented in writing to its use for the purpose of such offer. Except to the extent sub-paragraph (ii) above may apply, neither Issuer nor any Dealer has authorised, nor do they authorise, the making of any offer of Notes in circumstances in which an obligation arises for the Issuers or any Dealer to publish or supplement a prospectus for such offer.

The Notes have not been and will not be registered under the United States Securities Act 1933, as amended (the “Securities Act”), and are subject to U.S. tax law requirements. Subject to certain exceptions, Notes may not be offered, sold or delivered within the United States or to U.S. persons (see “Subscription and Sale” below).

All references in this document to “U.S. dollars” and “U.S.\$” refer to United States dollars, those to “Sterling”, and “£” refer to pounds sterling, and those to “Euro”, “EUR” and “€” refer to the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty on the Functioning of the European Union, as amended.

No invitation may be made to the public in the Cayman Islands to subscribe for the Notes.

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

## SUMMARY

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

Words and expressions defined in “*Form of the Notes*” and “*Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)*” and “*Terms and Conditions of the Undated Deeply Subordinated Notes*” (together the “*Terms and Conditions of the Notes*”) shall have the same meanings in this summary.

### **Issuers:**

#### *BES*

Banco Espírito Santo, S.A. (“BES” or the “Bank”) is a bank incorporated in Portugal (with commercial registry and tax payer number 500 852 367) on 26th September, 1990 for an unlimited duration and with limited liability (*societies anonym*). As of 31st December, 2011, the share capital of BES is €4,030,232,150.40 and is represented by 1,461,240,084 ordinary, registered book-entry shares with no par value.

According to the Portuguese Bank Association, BES is Portugal’s second-largest private financial institution by total consolidated assets. BES and its consolidated subsidiaries (together, the “BES Group” or the “Group”) offer a full range of banking and financial services, including deposit taking, lending, asset management, leasing and factoring, investment banking and brokerage services. As of 31st December, 2011, the BES Group operated 701 branches in Portugal (including 47 on-site branches resulting from partnerships with insurance agents under the *Assurfinance* programme) and 100 branches abroad (of which there were 25 in Spain, 34 in Angola, 33 in Libya and 2 in Cape Verde), 23 private banking centres (22 in Portugal and 1 in Angola) and 34 corporate centres (24 in Portugal, 9 in Spain and 1 in Angola).

As of 31st December, 2011, Espírito Santo Financial Group (hereinafter, “ESFG”) and its subsidiaries held 38.08 per cent. of the voting rights in BES and consolidated BES in its financial statements. Crédit Agricole S.A. is a shareholder in BES and is ESFG’s strategic partner in BES’ management and operations, particularly in connection with the development of products in the retail sector. There are no written arrangements governing this relationship.

The BES Group continues to pursue its international strategy, with particular emphasis on expanding its market position in Spain, Brazil, Angola, Mozambique and Libya and continuing to capitalise on its established positions in France, Luxembourg, the United Kingdom, the United States and Macao.

### *BES Finance*

BES Finance was incorporated in the Cayman Islands (with registered number 69526) on 15th November, 1996 for an unlimited duration and with limited liability as an exempted company under the laws of the Cayman Islands. BES Finance has no subsidiaries.

BES Finance is a wholly-owned subsidiary of BES and all issued ordinary shares are fully paid as at the date of this Prospectus. Through its shareholding, BES directly controls BES Finance. There are no other measures in place concerning such control.

In acting as an Issuer in relation to an issue of Notes, the Bank may specify that for the purpose of such issue it is acting through its head office or its Madeira Free Trade Zone branch or its Cayman Islands branch or its London branch or its Luxembourg branch.

BES Finance Ltd. may not issue Undated Deeply Subordinated Notes.

The Bank may issue Undated Deeply Subordinated Notes through its head office only.

#### **Guarantor:**

Banco Espírito Santo, S.A., a Portuguese incorporated bank. In acting as a Guarantor in relation to an issue of Notes by BES Finance, the Bank will be acting through its London branch.

#### **Risk Factors:**

There are certain factors which may affect the Issuers' and the Guarantor's ability to fulfil their obligations under Notes issued under the Programme.

### *RISK FACTORS RELATING TO BES*

Factors that may affect BES' ability to fulfil its obligations under Notes to be issued by BES under the Programme or guaranteed by BES under the Deed of Guarantee:

- *Economic environment* – The BES Group's performance, results of operations and financial conditions are dependent on the strength of the Portuguese economy and, to a lesser extent, that of the European Union and that of those countries outside of the EU where the BES Group operates.
- *Global economic conditions and the European Sovereign Debt Crisis* – The BES Group's businesses are being and may continue to be negatively affected by current local and global economic conditions and adverse perceptions of those conditions and future economic prospects.
- *Financial markets* – Conditions in the global financial markets and the macroeconomic context of the countries in which the BES Group operates generally influence the performance of the BES Group.
- *Banking markets* – Intense competition in all areas of the BES Group's operation can have an adverse effect on the Issuers' operating results.



- *Economic conditions in the international markets and adverse political, governmental or economic developments related to its international expansion* – The BES Group’s international operations are exposed to the risk of adverse political, governmental or economic developments in the countries in which it operates.
- *Interest Rate Risk* – The BES Group is subject to the risk of interest rate fluctuations, which may from time to time impact negatively upon the BES Group’s operating results.
- *Credit risk* – Risk arising from changes in credit quality and the repayment of loans and amounts due from borrowers and counterparties are inherent in a wide range of the BES Group’s businesses.
- *Market Risk* – The BES Group faces the risk of possible losses resulting from an adverse change in the value of financial instruments due to fluctuations in interest rates, foreign exchange rates, share prices or commodity prices.
- *Liquidity Risk* – The inability of the BES Group to anticipate and provide for unforeseen decreases or changes in funding sources could have consequences on the BES Group’s ability to meet its obligations when they fall due.
- *Operational Risk* – The BES Group faces the risk of losses or of a negative impact on its relationship with other stakeholders resulting from inadequate or negligent application of internal procedures, or from people behaviour, information systems, external events, non-compliance with regulations in force or legal action.
- *Risks associated with the implementation of its risk management policies* – Although BES has implemented risk management policies for each of the risks that it is exposed to, such policies may not be fully effective.
- *Risks associated with the increasing dependence on information technology systems* – Banking activities are highly dependent on sophisticated IT systems, which are vulnerable to a number of problems and require frequent updates. Any significant interruption to the BES Group’s IT systems can have an extremely adverse effect on the activities, the results and the financial condition of the BES Group.
- *Risks associated with the ability to maintain its customer base* – The success of the BES Group depends largely on its ability to maintain its client portfolio and provide it with a diversified range of competitive and high quality products and services. The potential inability of BES to do so could have an adverse effect on the BES Group’s financial situation and results.
- *Regulation* – The BES Group operates in a highly regulated industry and the regulatory laws governing the activity of the BES Group may change at any time in ways which may have an adverse effect on its business, nor can the BES Group predict the timing or form of any future regulatory initiatives.

- *Risks relating to Bank's shareholding and corporate structure* – The major shareholders of BES (ESFG and Crédit Agricole S.A.) hold a majority of the voting rights of BES and, as such, have the ability to exercise significant influence over or determine the outcome of certain shareholder actions.

#### *RISK FACTORS RELATING TO BES FINANCE*

BES Finance Ltd is a funding vehicle of the BES Group. Therefore any failure by BES to pay amounts outstanding under any intra-group loans made by BES Finance to BES would affect BES Finance's ability to meet its payment obligations under the issued Notes.

#### *RISK FACTORS RELATING TO THE NOTES ISSUED UNDER THE PROGRAMME*

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

- *The Notes may not be a suitable investment for all investors* – Each potential investor in the Notes must determine the suitability of that investment in light of their own circumstances.
- *Notes subject to optional redemption by the Issuer* – An optional redemption feature is likely to limit the market value of the Notes.
- *Index Linked Notes and Dual Currency Notes* – the market price of such Notes may be volatile; they may receive no interest; the amount of principal payable at redemption may be less than the nominal of such Notes or even zero; a Relevant Factor may be subject to significant fluctuations that may not correlate with changes in interest rates, currencies or other indices; if a Relevant Factor is applied to Notes in conjunction with a multiplier greater than one or which contains some other leverage factor, the effect of changes in the Relevant Factor on principal or interest payable will be magnified and the timing of changes in a Relevant Factor may affect the actual yield to investors, even if the average level is consistent with their expectations.
- *Partly-paid Notes* – For Notes where the issue price is payable in more than one instalment, failure to pay any subsequent instalment when due could result in an investor losing all of his investment.
- *Variable rate Notes with a multiplier or other leverage factor* – Such notes can be volatile investments, especially if they are structured to include multipliers or other leverage factors, or caps or floors, or any combination of those features or other similar related features.
- *Inverse Floating Rate Notes* – The market values of such Notes typically are more volatile than the market values of other



conventional floating rate debt securities based on the same reference rate.

- *Fixed/Floating Rate Notes* – Such Notes may bear interest at a rate that the relevant Issuer may elect to convert from a fixed rate to a floating rate or from a floating rate to a fixed rate.
- *Notes issued at a substantial discount or premium* – Such Notes tend to fluctuate more in relation to general changes in interest rates than do prices for conventional interest-bearing securities.
- *The Issuer's obligations under Subordinated Notes are subordinated* – In the event of bankruptcy or winding-up of the relevant Issuer, the relevant Noteholders' claims shall be subordinated in right of payment to the claims of all unsubordinated creditors of the relevant Issuer.
- *Under certain conditions, interest payments under Undated Subordinated Notes may be deferred* – Any deferral of interest payments will likely have an adverse effect on the market price of the Undated Subordinated Notes. As a result of the interest deferral provision, the market price of Undated Subordinated Notes may be more volatile than debt securities not subject to such deferrals and may be more sensitive generally to adverse changes in the BES Group's financial condition.

There are certain risks relating to credit linked Notes, such as cash settlement, physical settlement and the 2003 ISDA credit derivatives definitions.

There are risks relating to physical settlement and certain risks relating to auction settlement of credit linked Notes, such as auction settlement, auction final price and the Issuer's and/or Guarantor's ability to influence the auction final price, the role of the credit derivatives determinations committee, credit event and succession event backstop dates, succession event risk, extension of scheduled maturity date and settlement suspension, adjustments and interest provisions.

There are certain risks relating to the Notes generally, such as modification and substitution, EU Savings Directive and definitive Notes where denominations involve integral multiples.

There are certain risks relating to Undated Deeply Subordinated Notes:

- the Undated Deeply Subordinated Notes are deeply subordinated obligations and will be subordinated to all of BES' existing and future indebtedness;
- there are no events of default under the Undated Deeply Subordinated Notes;
- the Undated Deeply Subordinated Notes will be available to cover losses of BES; and
- the Undated Deeply Subordinated Notes are undated securities and need not be redeemed by BES.

Investments in Interbolsa Notes will be subject to Interbolsa procedures and Portuguese law with respect to the form and transfer of Interbolsa Notes, payments on Interbolsa Notes and Portuguese tax rules. Holders of Interbolsa Notes must ensure that they comply with all procedures to ensure the correct tax treatment of their Interbolsa Notes.

*RISKS RELATED TO THE NOTES GENERALLY*

General market risks include the secondary market generally, exchange rate risks and exchange controls, interest rate risks, credit ratings may not reflect all risks, U.S. foreign account tax compliance withholding risk and legal investment considerations may restrict certain investments.

See “Risk Factors” for further details.

**Description:**

Euro Medium Term Note Programme

**Arranger:**

HSBC Bank plc

**Dealers:**

Banca IMI S.p.A.  
Banco Espírito Santo, S.A.  
Barclays Bank PLC  
BNP Paribas  
Citigroup Global Markets Limited  
Commerzbank Aktiengesellschaft  
Crédit Agricole Corporate and Investment Bank  
Credit Suisse Securities (Europe) Limited  
Deutsche Bank AG, London Branch  
Goldman Sachs International  
HSBC Bank plc  
J.P. Morgan Securities Ltd.  
Landesbank Baden-Württemberg  
Merrill Lynch International  
Mitsubishi UFJ Securities International plc  
Morgan Stanley & Co. International plc  
Nomura International plc  
Société Générale  
The Royal Bank of Scotland plc  
UBS Limited  
UniCredit Bank AG

and any other Dealers appointed in accordance with the Programme.

**Certain Restrictions:**

Each issue of Notes denominated in a currency in respect of which particular laws, guidelines, regulations, restrictions or reporting requirements apply will only be issued in circumstances which comply with such laws, guidelines, regulations, restrictions or reporting requirements from time to time (see “Subscription and Sale” on page 315).

**Notes having a maturity of less than one year:**

Notes issued by BES Finance which have a maturity of less than one year will constitute deposits for the purposes of the prohibition on accepting deposits contained in section 19 of the Financial Services and Markets Act 2000 unless they are issued to a limited

class of professional investors and have a denomination of at least £100,000 or its equivalent in other currencies.

<b>Trustee:</b>	The Bank of New York Mellon
<b>Issuing and Principal Paying Agent:</b>	The Bank of New York Mellon, or, in the case of Interbolsa Notes, the Portuguese Paying Agent
<b>Portuguese Paying Agent:</b>	Banco Espírito Santo, S.A.
<b>Size:</b>	Up to €20,000,000,000 (or its equivalent in other currencies calculated as described on page 49) outstanding at any time. The Issuers may increase the amount of the Programme in accordance with the terms of the Programme Agreement (following the production of a supplement to the Prospectus by the Issuers) and any further or other documents required by the relevant Stock Exchange for the purpose of listing any Notes to be issued on the relevant Stock Exchange.
<b>Distribution:</b>	Notes may be distributed by way of private or public placement and in each case on a syndicated or non-syndicated basis.
<b>Currencies:</b>	Subject to any applicable legal or regulatory restrictions, such currencies as may be agreed between the relevant Issuer and the relevant Dealer.
<b>Redenomination:</b>	The applicable Final Terms may provide that certain Notes may be redenominated in euro. The relevant provisions applicable to any such redenomination are contained in the relevant Terms and Conditions of the Notes.
<b>Maturities:</b>	Such maturities as may be agreed between the relevant Issuer and the relevant Dealer, subject to such minimum or maximum maturities as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant Issuer and the Bank (where the Issuer is BES Finance) or the relevant Specified Currency, provided that Dated Subordinated Notes will have a minimum maturity of five years and Undated Subordinated Notes and Undated Deeply Subordinated Notes will have no fixed maturity.
<b>Issue Price:</b>	Notes may be issued on a fully-paid or a partly-paid basis and at an issue price which is at par or at a discount to, or premium over, par. Undated Deeply Subordinated Notes may not be issued on a partly-paid basis.
<b>Form of Notes:</b>	The Notes (other than Interbolsa Notes) will be in bearer form and each Tranche will on issue be represented by a temporary global Note which will be exchangeable either for interests in a permanent global Note or for definitive Notes as indicated in the applicable Final Terms. Permanent global Notes will be exchangeable for definitive Notes upon either (i) not less than 60 days' written notice from Euroclear Bank S.A./N.V. ("Euroclear") and/or Clearstream Banking, société anonyme ("Clearstream, Luxembourg") (acting on the instructions of any holder of an interest in such permanent global Note) to the Agent as described therein or (ii) only upon the occurrence of an Exchange Event as described under "Form of the Notes". A global Note representing Notes having denominations

consisting of a minimum Specified Denomination and one or more higher Specified Denominations which are not an integral multiple of such minimum Specified Denomination may only be exchanged for definitive Notes upon an Exchange Event. Any interest in a global Note will be transferable only in accordance with the rules and procedures for the time being of Euroclear, Clearstream, Luxembourg and/or any other agreed clearing system, as appropriate.

Interbolsa Notes will be issued in book-entry form (*forma escritural*) and can be either registered Notes (*nominativas*) or bearer Notes (*ao portador*), as specified in the applicable Final Terms and as further described under “Form of the Notes”. Interbolsa Notes may only be transferred in accordance with the applicable procedures established by the Portuguese Securities Code and the regulations issued by the Comissão do Mercado de Valores Mobiliários (Portuguese Securities Market Commission, the “CMVM”) and Interbolsa.

**Fixed Rate Notes:**

Fixed interest will be payable on such date or dates as may be agreed between the relevant Issuer and the relevant Dealer and on redemption and will be calculated on the basis of such Day Count Fraction as may be agreed between the relevant Issuer and the relevant Dealer.

**Floating Rate Notes:**

Floating Rate Notes will bear interest at a rate determined:

- (i) on the same basis as the floating rate under a notional interest-rate swap transaction in the relevant Specified Currency governed by an agreement incorporating the 2006 ISDA Definitions (as published by the International Swaps and Derivatives Association, Inc., and as amended and updated as at the Issue Date of the first Tranche of the Notes of the relevant Series); or
- (ii) on the basis of a reference rate appearing on the agreed screen page of a commercial quotation service; or
- (iii) on such other basis as may be agreed between the relevant Issuer and the relevant Dealer,

in each case as indicated in the applicable Final Terms.

The Margin (if any) relating to such floating rate will be agreed between the relevant Issuer and the relevant Dealer for each Series of Floating Rate Notes.

**Index Linked Notes:**

Payments of principal in respect of Index Linked Redemption Notes or of interest in respect of Index Linked Interest Notes will be calculated by reference to such index and/or formula or to changes in the prices of securities or commodities or to such other factors as the relevant Issuer and the relevant Dealer may agree (as indicated in the applicable Final Terms).

**Other provisions in relation to Floating Rate Notes and Index Linked Interest Notes:**

Floating Rate Notes and Index Linked Interest Notes may also have a maximum interest rate, a minimum interest rate or both. Interest on Floating Rate Notes and Index Linked Interest Notes in respect of each Interest Period, as agreed prior to issue by the relevant Issuer and the relevant Dealer, will be payable on such Interest

Payment Dates, and will be calculated on the basis of such Day Count Fraction, as may be agreed between the relevant Issuer and the relevant Dealer.

**Dual Currency Notes:**

Payments (whether in respect of principal or interest and whether at maturity or otherwise) in respect of Dual Currency Notes will be made in such currencies, and based on such rates of exchange, as the relevant Issuer and the relevant Dealer may agree (as indicated in the applicable Final Terms). Interbolsa Notes may be Dual Currency Notes provided the corresponding information necessary for that purpose is made available by the Issuer or by the Portuguese Paying Agent to Interbolsa, pursuant to the applicable Interbolsa procedures.

**Zero Coupon Notes:**

Zero Coupon Notes will be offered and sold at a discount to their nominal amount and will not bear interest.

**Credit Linked Notes:**

Amounts payable in respect of the Credit Linked Notes will be determined on the basis of whether one or more specified credit events occur in relation to a specified entity or entities.

Following the occurrence of such events, if Conditions to Settlement are satisfied, the Credit Linked Notes will be redeemed, and the relevant Issuer will, if Cash Settlement is specified as the applicable Settlement Method in the applicable Final Terms, pay the Credit Event Redemption Amount or, if Physical Delivery is specified as the applicable Settlement Method in the applicable Final Terms, Deliver the Deliverable Obligations comprising the Asset Amount.

Where Auction Settlement is specified as the applicable Settlement Method in the applicable Final Terms and an Auction Final Price Determination Date occurs, the Auction Final Price will be determined according to an auction procedure set out in the applicable rules published by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto) from time to time and may be amended from time to time.

If Auction Settlement is specified as the applicable Settlement Method in the applicable Final Terms and a Credit Event Determination Date occurs, the Credit Linked Notes will be redeemed and the relevant Issuer will pay the Credit Event Redemption Amount.

Prospective investors should review the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” below and the applicable Final Terms to ascertain whether and how such provisions apply to the Credit Linked Notes.

**Redemption:**

The Final Terms relating to each Tranche of Notes will indicate either that the Notes of such Tranche cannot be redeemed prior to their stated maturity (other than in specified instalments (see below), if applicable, or for taxation reasons or following an Event of Default) or that such Notes will be redeemable at the option of the relevant Issuer and/or the Noteholders upon giving not less than 30 nor more than 60 days’ irrevocable notice (or such other notice period (if any) as is indicated in the applicable Final Terms) to the Noteholders or the relevant Issuer, as the case may be, on a date or

dates specified prior to such stated maturity and/or subject to certain conditions (if any) and at a price or prices and on such terms as are indicated in the applicable Final Terms.

Any early redemption of a Dated Subordinated Note, an Undated Subordinated Note or an Undated Deeply Subordinated Note will be subject to the prior consent of the Bank of Portugal.

The Final Terms may provide that Notes may be redeemable in two or more instalments of such amounts and on such dates as are indicated in the applicable Final Terms.

**Denomination of Notes:**

Notes will be issued in such denominations as may be agreed between the relevant Issuer and the relevant Dealer and as indicated in the applicable Final Terms save that the minimum denomination of each Note admitted to trading on a European Economic Area exchange and/or offered to the public in a Member State of the European Economic Area in circumstances which require the publication of a prospectus under the Prospectus Directive will be €1,000 (or, if the Notes are denominated in a currency other than euro, the equivalent amount in such currency) or such higher amount as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant Specified Currency.

**Taxation:**

All payments in respect of the Notes will be made without deduction for or on account of withholding taxes imposed within any Relevant Tax Jurisdiction (as defined in Condition 7 of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” and Condition 6 of the “Terms and Conditions of the Undated Deeply Subordinated Notes”) subject as provided in Condition 8 of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” and Condition 7 of the “Terms and Conditions of the Undated Deeply Subordinated Notes”).

All payments in respect of the Notes will be made subject to any withholding or deduction required pursuant to FATCA, as provided in Condition 6(b) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” and Condition 5(b) of the “Terms and Conditions of the Undated Deeply Subordinated Notes”.

**Negative Pledge:**

The terms of the Senior Notes will contain a negative pledge provision as further described in Condition 3 relating to Senior Notes. The terms of the Dated Subordinated Notes, the Undated Subordinated Notes and the Undated Deeply Subordinated Notes will contain no negative pledge.

**Cross Default:**

The terms of the Senior Notes will contain a cross default provision as further described in Condition 10(A) relating to Senior Notes. The terms of the Dated Subordinated Notes, the Undated Subordinated Notes and the Undated Deeply Subordinated Notes will contain no cross default provision.

**Status of the Notes:**

The Senior Notes and the relative Receipts and Coupons will constitute direct, unconditional, unsecured (subject to the



provisions of Condition 3) and unsubordinated obligations of the relevant Issuer and will rank *pari passu* with all present and future unsecured and unsubordinated obligations of the relevant Issuer, without any preference among themselves by reason of priority of date of issue, currency of payment or otherwise, except for obligations given priority by law.

The Dated Subordinated Notes and the relative Receipts and Coupons will constitute direct, unsecured and subordinated obligations of the relevant Issuer and will rank *pari passu* among themselves and at least *pari passu* with all other present and future dated subordinated obligations of the relevant Issuer, save for those that have been accorded by law preferential rights. Without prejudice to the foregoing, the Dated Subordinated Notes will, in the event of a distribution of the assets in the dissolution or liquidation of the relevant Issuer, rank senior to the share capital of the relevant Issuer.

The Undated Subordinated Notes and the relative Receipts and Coupons (if any) will constitute direct and unsecured obligations of the relevant Issuer, subordinated as hereinafter referred to, and will rank *pari passu* without any preference among themselves and at least *pari passu* with all other present and future undated subordinated obligations of the relevant Issuer, save for those that have been accorded by law preferential rights. Without prejudice to the foregoing, the Undated Subordinated Notes will, in the event of a distribution of the assets in the dissolution or liquidation of the relevant Issuer rank senior to the share capital of the relevant Issuer.

In order to allow each of the Issuers or the Bank to continue its business activities (in accordance with the Bank of Portugal Regulation 6/2010 as amended), any amounts which would be payable as principal or interest on the Undated Subordinated Notes, will be available to meet the losses of the Issuer or of the Bank provided: (a) that there has been (i) consumption of the whole of the reserves and retained earnings; (ii) writing down of the ordinary share capital of the Issuer and the Bank and (iii) writing down of the Issuer's and the Bank's preference shares (including any preference share capital guaranteed by the Bank); and (b) that therefore the Issuer's and the Bank's total shareholders' equity and the preference shares interests of the Issuer and the Bank have been reduced to zero.

In the above circumstances where unpaid principal and interest may be used to meet the losses of the Issuer or of the Bank, the unpaid amounts of interest first and then principal will be cancelled and utilised to the extent that may be necessary to meet the losses of the Issuer or of the Bank. The cancelled amounts will only be reinstated as subordinated credits of the corresponding holders as if such amounts had never been written down or cancelled in the event of (i) the winding-up, liquidation or bankruptcy of the Issuer or of the Bank, in which event such reinstatement will be deemed to take effect at the moment which immediately precedes the commencement of the winding-up, liquidation or bankruptcy proceedings; or of (ii) a decision being taken by the shareholders of the Issuer or of the Bank to allow a dividend to be paid or to

reinstate the cancelled or written down amounts, in each case subject to the approval of the Bank of Portugal. In both the above cases and at all times, cancelled or written down amounts will revert to being treated as subordinated credits of the corresponding holders, without prejudice to the subordination regime applying thereto.

During any period of cancellation or writing down such cancelled or written down amounts shall not bear interest.

In the event of liquidation, bankruptcy or analogous proceedings of the Issuer, no Noteholder (having a debt or a liability towards the Issuer) may exercise any set-off or other similar rights against any amounts held by the Issuer.

The Undated Deeply Subordinated Notes and the relevant Coupons (if any) will constitute direct, unsecured and subordinated obligations of the Bank and will rank *pari passu* without any preference among themselves, save for those that have been accorded by law preferential rights. Without prejudice to the foregoing, the Undated Deeply Subordinated Notes will, in the event of a distribution of the assets in the dissolution or liquidation of the Bank rank senior to the ordinary share capital of the Bank and *pari passu* with the entitlements of holders of preferential shares of the Bank.

In order to allow the Bank to continue its business activities (in accordance with the Bank of Portugal Regulation 6/2010 as amended), any amounts which, subject to the limits of the “Terms and Conditions of the Undated Deeply Subordinated Notes” or, as the case may be, the insolvency of the Bank, would be payable as principal or interest under the Undated Deeply Subordinated Notes, will be available to meet the losses of the Bank.

In the above circumstances where unpaid principal and interest may be used to meet the losses of the Bank, the unpaid nominal amounts of interest first and then principal will be written down and utilised

to the extent that may be necessary to meet the losses of the Bank. The written down amounts will only be reinstated as subordinated credits of the corresponding holders as if such amounts had never been written down in the conditions mentioned in the “Terms and Conditions of the Undated Deeply Subordinated Notes” below, i.e. to the extent that the Bank’s Regulatory Capital registers a positive variation resulting from an improvement in the Bank’s financial condition as a consequence of gains obtained in the course of the Bank’s activities, such reinstatement being made proportionally between the outstanding nominal amount of the Undated Deeply Subordinated Notes, and other instruments also eligible as Tier 1 Capital subject to limits ranking *pari passu* therewith and the shareholders’ capital on a *pro rata* basis. In the above cases and at all times, the reinstated amounts previously written down will revert to being treated as subordinated credits of the corresponding holders, with the same level of subordination as before being written down.

During any period of writing down such written down amounts shall not bear interest.

In the event of liquidation, bankruptcy or analogous proceedings of the Bank, no Noteholder (having a debt or a liability towards the Bank) may exercise any set-off or other similar rights against any amounts held by the Bank.

**Status of the Guarantee:**

The payment of the principal of, and interest on, the Notes issued by BES Finance will be unconditionally and irrevocably guaranteed (the “Guarantee”) by the Bank pursuant to the Trust Deed. The obligations of the Bank under such guarantee will:

- (1) in the case of Senior Notes, constitute direct, unconditional, unsecured (subject to the provisions of Condition 3) and unsubordinated obligations of the Bank and will rank *pari passu* with all present and future unsecured (subject as aforesaid) and unsubordinated obligations (including those arising under deposits received in its banking business) of the Bank, except for obligations given priority by law;
- (2) in the case of Dated Subordinated Notes, constitute direct, unsecured obligations of the Bank but, in the event of dissolution or liquidation of the Bank, subordinated in right of payment to the claims of depositors and other unsecured creditors of the Bank (other than creditors in respect of indebtedness which is subordinated to at least the same extent as the obligations of the Bank under its guarantee in respect of the Dated Subordinated Notes); and
- (3) in the case of Undated Subordinated Notes, constitute direct, unsecured obligations of the Bank which, to the extent permitted by Portuguese law, are subordinated to the claims of Senior Creditors of the Bank, in that payment under the Guarantee is conditional upon the Bank being solvent at the time of payment and that no such payment shall be made except to the extent that the Bank could make such payment and still be solvent immediately thereafter. For this purpose, the Bank shall be considered to be solvent if both (i) it is able to pay its

debts to the Senior Creditors of the Bank as they fall due and (ii) its Assets exceed its Liabilities to Senior Creditors of the Bank.

A report as to the solvency of the Bank by (a) two directors of the Bank or, if the directors have not reported to BES Finance within 14 days before any payment needs to be made pursuant to Condition 4(iii), the auditors of the Bank or (b) if the Bank is being wound up, its liquidator shall, in each case in the absence of manifest error, be treated and accepted by BES Finance, the Bank, the Trustee and the holders of Undated Subordinated Notes issued by BES Finance as correct and sufficient evidence thereof. For the purposes of Condition 4(iii):

- (A) “Assets” means the total consolidated gross assets of the Bank and “Liabilities” means the total consolidated gross liabilities of the Bank, all as shown by the latest published

audited consolidated balance sheet of the Bank but adjusted for contingencies and for subsequent events in such manner and to such extent as such directors, auditors or liquidator, as the case may be, may determine to be appropriate; and

- (B) “Senior Creditors of the Bank” means creditors of the Bank who (x) are depositors or other unsubordinated creditors of the Bank or (y) are subordinated creditors of the Bank other than those whose claims rank *pari passu* with or junior to the claims of the holders of Undated Subordinated Notes and persons entitled to claim under the Guarantee in respect of such Notes.

The obligations of the Bank under the Guarantee in respect of Undated Subordinated Notes are conditional upon the Bank being solvent immediately before and after payment by the Bank. Any amount which might otherwise have been allocated in or towards payment by BES Finance of principal and interest in respect of the Undated Subordinated Notes will be available to meet the losses of the Bank. In the event of liquidation, bankruptcy or analogous proceedings of the Bank, no Noteholder (having a debt or a liability towards the Bank) may exercise any set-off or other similar rights against any amounts held by the Bank.

**Rating:**

The rating of certain Tranches of Notes to be issued under the Programme may be specified in the applicable Final Terms. Whether or not each credit rating applied for in relation to relevant Tranche of Notes will be issued by a credit rating agency established in the European Union and registered under Regulation (EC) No. 1060/2009 (as amended) will be disclosed in the Final Terms.

**Listing and admission to trading and approval:**

Application has been made to the CSSF to approve this document as a base prospectus in accordance with the Prospectus Act of 2005. Application has also been made to the Luxembourg Stock Exchange for Notes issued under the Programme to be admitted to trading on the regulated market of the Luxembourg Stock Exchange and to be listed on the Official List of the Luxembourg Stock Exchange.

Notes may be listed or admitted to trading, as the case may be, on other or further stock exchanges or markets agreed between the Issuer and the relevant Dealer in relation to the Series. Notes which are neither listed nor admitted to trading on any market may also be issued.

The applicable Final Terms will state whether or not the relevant Notes are to be listed and/or admitted to trading and, if so, on which stock exchanges and/or markets.

**Governing Law:**

Bearer Notes and any non-contractual obligations arising out of or in connection with the Bearer Notes will be governed by and shall be construed in accordance with English law, except that Conditions 2(ii) and 2(iii) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” where the Bank acts in its capacity as issuer or guarantor, as the case may be, Conditions 4(ii) and 4(iii) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” and Conditions 2, 4 and

6 of the “Terms and Conditions of the Undated Deeply Subordinated Notes” (and, in each case, any non-contractual obligations arising out of or in connection with such Notes) will be governed by and construed in accordance with Portuguese law. Interbolsa Notes and any non-contractual obligations arising out of or in connection with them will be governed by and shall be construed in accordance with Portuguese law.

**Selling Restrictions:**

There are restrictions on the offer, sale and transfer of the Notes in the United States, the European Economic Area (including the United Kingdom, Italy, Portugal and Luxembourg), Japan and the Cayman Islands. See “Subscription and Sale” below.

**Future Issues of Undated Subordinated Notes and Undated Deeply Subordinated Notes:**

If Undated Subordinated Notes or Undated Deeply Subordinated Notes are issued, this Prospectus may be supplemented to ensure that the terms of such Notes fully comply with then prevailing requirements laid down by regulation of the Bank of Portugal n. 6/2010 of 31st December, 2010 or any further amending regulation on said requirements.

## RISK FACTORS

*Each of the Issuers and the Guarantor believes that the following factors may affect its ability to fulfil its obligations under Notes issued under the Programme. Most of these factors are contingencies which may or may not occur and neither Issuer nor the Guarantor is in a position to express a view on the likelihood of any such contingency occurring.*

*In addition, factors which are material for the purpose of assessing the market risks associated with Notes issued under the Programme are also described below.*

*Prospective investors should also read the detailed information set out elsewhere in this Prospectus and reach their own views prior to making any investment decision.*

### **1. Factors that may affect BES' ability to fulfil its obligations under Notes to be issued by BES under the Programme or guaranteed by BES under the Deed of Guarantee**

#### **1.1. Economic Environment**

As a financial group whose core business is banking (taking deposits and using them to grant loans) in Portugal, the state of the Portuguese economy affects the performance of the BES Group (BES together with its consolidated subsidiaries). For the year ended 31st December, 2011, 74 per cent. of the BES Group's net assets and 50.9 per cent. of operating income derived from its activities in Portugal (as at and for the year ended 31st December, 2010: 73 per cent. and 61.7 per cent., respectively). Consequently, the BES Group is particularly exposed to the macroeconomic conditions which affect growth, particularly in the Portuguese market.

Portugal's gross domestic product ("GDP") stagnated in 2008, experienced a contraction of 2.9 per cent. in 2009 and grew 1.4 per cent. in 2010. In 2010, the Portuguese public deficit represented 9.8 per cent. of Portugal's GDP and national public debt amounted to 93.3 per cent. of GDP in 2010. Unemployment grew from 9.5 per cent. in 2009 to 10.8 per cent. at the end of 2010.

As a result of deteriorating economic conditions, the Portuguese government requested financial assistance from the Member States of the European Union (the "EU") through the European Financial Stability Facility (the "EFSF") and the International Monetary Fund (the "IMF") in April 2011. On 5th May, 2011, the Portuguese government, with the support of the main Portuguese political parties, agreed to an economic and financial stabilisation programme jointly provided by the IMF and the EU (the "Stabilisation Programme"). The Stabilisation Programme is expected to provide significant financial support of €78 billion over a three-year period in the form of a co-operative package of IMF and EU funding, including a €26 billion three-year loan under the IMF's extended fund facility, with the remaining €52 billion in funding being provided by the EU at an interest rate expected to be between 3.5 per cent. and 4 per cent. On 10th May, 2011, the European Commission approved the Stabilisation Programme and, on 16th May, 2011, EU finance ministers approved the Stabilisation Programme. The availability of the funding is dependent on the implementation of budgetary and structural measures by the Portuguese government, which will be subject to quarterly reviews by the EU and the IMF for the duration of the Stabilisation Programme.

As part of the Stabilisation Programme, the Portuguese government has committed to implement measures to decrease expenses and increase revenues that, subject to certain assumptions, are intended to reduce the general government deficit to a level of approximately 5.9 per cent. of GDP in 2011, to approximately 5.4 per cent. of GDP in 2012 and approximately 3.0 per cent. of GDP in 2013.

In addition, the Stabilisation Programme is intended to put the Portuguese public debt to GDP ratio on a downward path from 2013 and maintain fiscal consolidation over the medium-term up to a balanced budgetary position, principally by containing growth in expenditure and by supporting competitiveness through a budget-neutral adjustment to the tax structure. The Stabilisation Programme contains structural measures and policy guidelines designed to boost the country's competitiveness and improve Portugal's growth rates in the medium term with a view to repaying the



country's large debt burden. Specifically, the Stabilisation Programme includes, among others, measures intended to:

- Increase revenues, in part through the increase of tax rates for goods and services;
- Improve the flexibility of the labour market;
- Reduce the level of pensions for certain government employees; and
- Improve the competitiveness of the Portuguese economy.

The implementation of the required measures is subject to the continued commitment of the Portuguese government. Changes in the government or government policy, including as a result of rescue plans elsewhere in Europe, could have an impact on the timing and scope of the structural reforms that Portugal has to implement in order to meet the conditions of the Stabilisation Programme. Furthermore, implementation of these structural reforms may meet considerable opposition from labour unions and the general public in Portugal, which could put pressure on the Portuguese government's ability to meet the requirements of such measures in the future. In addition, European politics (including national elections in EU Member States) may affect the availability of funding for Portugal and other European countries.

The outlook for the Portuguese economy is conditioned by the implementation of the Stabilisation Programme. The need to reduce the public deficit down to 4.5 per cent. of GDP in 2012 (target reaffirmed by the Government in the 2012 State Budget as reported by the Portuguese Ministry of Finance) translates into the adoption of a very restrictive fiscal policy, with negative impacts on economic activity in the near term. At the same time, the private sector – corporate, financial and households – continue its deleveraging process. Under these circumstances, GDP is expected by the Portuguese Government to decrease approximately 3.3 per cent. in 2012, after having contracted 1.6 per cent. in 2011 (source: Portuguese Ministry of Finance). This will be mainly associated with a significant contraction in domestic demand, of around 10 per cent. in real and accumulated terms in these two years (source: Portuguese Ministry of Finance). Albeit slowing down, exports have posted strong growths while imports have fallen significantly, in line with internal demand.

The Government submitted its State Budget for 2012 reaffirming the fiscal target established in the Memorandum of Understanding agreed with the International Monetary Fund, European Commission and European Central Bank (the "Troika"). The detection of deviations from the target for 2011 (deficit of 5.9 per cent. of GDP) has resulted in the need of extraordinary and non-recurring corrective measures. Detected deviations derived from several factors, principally a lower than expected decrease in compensation of public employees, non-tax revenues that were lower than the target (for example, dividends), one-off expenses relating to the privatization of Banco Português de Negócios and the re-classification and integration of two public companies of the Autonomous Region of Madeira into the general public accounts of Portuguese government. The announced corrective measures (which were agreed with the Troika) include an extraordinary surtax (equivalent to 50 per cent. of the Christmas bonus), a rise in VAT on gas and electricity invoices from 6 per cent. to 23 per cent. in October 2011 and the transfer of the banking sector pension funds to the Portuguese national social security regime.

Since no extraordinary measures may be used in 2012, the Government announced a series of additional more permanent measures to reduce public deficit. Amongst these are: (i) a decrease in compensation of employees by EUR 2.7 billion, achieved mainly by suspending public servants' Christmas and holiday pay; (ii) a decrease in social transfers by EUR 3.1 billion, by suspending the payment of pensions relating to the 13th and 14th month-pay and cuts in health expenditure, and (iii) tax rises, including VAT and other consumption tax as well as income and property taxes. On the back of these measures, the Government maintained the fiscal target for 2012 (4.5 per cent. of GDP) (source: Portuguese Treasury and Government Debt Agency).

Meanwhile, the second assessment of the adjustment programme by the Troika in November 2011 was favourable. Accordingly, a further tranche of external assistance of €8 billion in total was

released. In connection with the release of the next tranche of €15 billion of financial assistance, the Troika made its third assessment in February 2012 and it was also favourable. Part of the fourth disbursement was already made in April 2012 (€7 billion) and the remaining is expected to be released during May 2012 (€7.9 billion). Portugal has received €46.6 billion out of a total of €78 billion of official assistance under the Stabilisation Programme, as reported by the IMF.

The principal risks to the Portuguese domestic outlook stem from the possibility of further deterioration in macroeconomic conditions outside of Portugal, particularly in Europe in light of the growing signs of recession in the Euro Zone. Although slowing down, Portuguese exports have maintained some strength and an increasing proportion of exports to emerging markets in Africa, Latin America and Asia are growing in significance. However, a worse than expected performance in the Euro Zone may well lead to a steeper fall in Portuguese GDP in 2012. The stabilization of the financial situation of the Euro Zone is therefore critical to any stabilisation in Portugal. The ongoing deleveraging process in the Portuguese economy has already led to a decrease in external deficit of 8.3 per cent. of GDP at the end of 2010 to 5.1 per cent. at the end of 2011, and it is expected to continue, reaching 1.6 per cent. of GDP at the end of 2012 (source: Portuguese National statistical Institute).

The continuously weak macroeconomic conditions in the Portugal are materially adversely affecting the liquidity, business and/or financial conditions of the BES Group's borrowers, which are in turn further increasing the BES Group's non-performing loan ratios, impairing its loan and other financial assets and resulting in decreased demand for borrowings in general.

Even if the Stabilisation Programme is successfully implemented, it is uncertain whether it will achieve the set targets. A failure of these measures may exacerbate current negative macroeconomic conditions in Portugal and may prolong the recession. In such a case, the market reaction is likely to be negative and business activity may deteriorate, which may have a material adverse effect on the BES Group's business, financial condition and results of operations.

Furthermore, the implementation of the required measures could have a material adverse effect on the Portuguese economy, at least in the short term, due to its recessionary nature. It is also uncertain whether the success of the Stabilisation Programme will enable the Portuguese economy to grow sufficiently to ease Portugal's financial constraints. Any further significant deterioration of global economic conditions, including the credit profile of other EU countries, or the creditworthiness of Portuguese or international banks, or changes to the Euro Zone, may give rise to concerns regarding the ability of Portugal to meet its funding needs. In particular, during the second half of 2011 and into 2012 as the EU worked to develop a further rescue plan for Greece, the risk of sovereign default intensified and this raised concerns about the contagion effect such a Greek default would have on other economies. The focus of such contagion was largely directed at Portugal, as well as Ireland, Spain and Italy.

In addition, even if the Stabilisation Programme is enacted and implemented in full, concerns relating to Portuguese public finances and negative financial contagion from events outside Portugal may continue to affect the liquidity and profitability of financial institutions in Portugal, resulting in, among other things, lower market values for Portuguese government debt; limited liquidity in the Portuguese banking system and reliance on external funding; increased competition for, and thus cost of, customer deposits; limited credit extension to customers; and a deterioration of credit quality. A failure to successfully implement the provisions of the Stabilisation Programme and to attain its fiscal targets may lead to the termination of financial support from the IMF and the EU, which would create the conditions for a credit event with respect to Portugal's government debt.

The adverse macroeconomic conditions in Portugal have significantly affected, and are expected to continue to adversely affect, the behaviour and the financial situation of the BES Group's clients, and consequently, the supply and demand of the products and services that the BES Group has to offer. In particular, limited growth in customer loans is expected in the coming years, which will make it difficult for the BES Group to generate enough interest income to maintain its net interest margin. Furthermore, the continuing growth of unemployment, the reduction of the profitability of enterprises

and an increase in company and personal insolvencies have had, and are expected to continue to have, a negative influence on BES' clients' ability to pay back loans, and, consequently, could cause an increase in the ratio of overdue loans, which might exceed the standard historic average, reflecting a deterioration of the quality of assets of the BES Group.

## 1.2. *Global economic conditions and the European Sovereign Debt Crisis*

The BES Group's businesses and performance are being and may continue to be negatively affected by current local and global economic conditions and adverse perceptions of those conditions and future economic prospects. The outlook for the global economy over the near to medium term remains challenging, particularly in Portugal and other European countries, with a slow recovery in the United States. Expectations with respect to global economic activity deteriorated significantly at the end of 2011, with tighter liquidity and more restrictive financing conditions having constrained investment and consumption growth in Europe. External demand shows signs of moderation, as the main emerging economies have fought inflationary pressures and the United States has continued to face high unemployment rates and low personal income growth. While sustained support from governments and central banks initially served to consolidate the economic recovery that began in 2009, increased government intervention in 2010 saw government debt and/or fiscal deficits soar in a number of European countries leading, together with other factors, to the European sovereign debt crisis. The European sovereign debt crisis continued throughout 2011 and despite recent agreements reached by the EU and Euro Zone Member States, and the resolution of a Greek bail-out plan, uncertainty regarding the resolution of the European sovereign debt crisis and the stability of the Euro remains.

In particular, during 2011, the heightened perceived risk of sovereign default relating to certain EU Member States, in particular Greece, had a negative impact on global financial markets. Against a background of increasing unease over the macro/financial implications of sizeable fiscal imbalances among several Euro sovereign issuers, including Portugal, investors have reduced their investment in these countries and the default, or a significant decline in the credit rating, of one or more sovereigns or financial institutions could cause severe stress in the financial system generally and could adversely affect the markets in which the BES Group operates.

Continued reduction in investment flows may further restrict economic recovery. Such challenging economic and market conditions exert downward pressure on asset prices and on credit availability, and upward pressure on funding costs, and may continue to impact asset recovery rates and the credit quality of the BES Group's businesses, customers and counterparties, including sovereigns. In particular, the BES Group has significant exposure to customers and counterparties in the European Union (particularly in Portugal) and would be affected by any restructuring of the terms, principal, interest or maturity of their borrowings.

Any significant deterioration in the global economy, including in the credit profiles of other EU Member States or in the solvency of Portuguese or international banks, or certain other economic changes in the Euro Zone could:

- Negatively affect the capacity of the Republic of Portugal to satisfy its financing needs;
- Have a direct negative impact on the value of BES' portfolio of Portuguese public debt securities (as of 31st December, 2011, the Bank held approximately €2.9 billion in Portuguese public debt). In relation to the sovereign debt of other EU periphery economies, the BES Group held €4 million of Spanish public debt and had no exposure to Italian, Irish, Hungarian or Greek public debt as of 31st December, 2011. BES is a market maker of Portuguese sovereign debt and also takes risk positions in such sovereign debt with the amount of its holdings and the portfolio's average maturity varying from time to time as a result of its market making and risk taking activities and its view regarding the attractiveness of such debt. For example, recently BES has increased its holdings of Portuguese sovereign debt by approximately €1.5 billion and lengthened the portfolio's maturity profile;

- Have a significant adverse effect on the Bank's capacity to raise and/or generate capital and comply with minimum regulatory capital requirements;
- Significantly restrict the Bank's ability to obtain liquidity; and
- Negatively affect the Bank's capital position, its operational results and its financial condition.

As a consequence of the systemic risk resulting from the sovereign debt crisis in the Euro area, the EU summit of 27th October, 2011 decided that banks subject to the European Banking Authority's ("EBA") stress tests should reinforce their capital ratios in order to achieve, by 30th June, 2012, a Core Tier 1 ratio of 9 per cent. after a mark-to-market valuation of sovereign debt exposures held by those institutions as of 30th September, 2011. BES' total capital needs, applying EBA's methodology, as of 30th September, 2011, were €810 million, of which €121 million resulted from the mark-to-market valuation of the sovereign debt exposure. Notwithstanding the fact that the EBA stress tests are performed at the ESFG Group level (a major shareholder of BES and a company for which BES is a significant investment), BES has used the same methodology to calculate its total capital needs, as presented above.

The possibility of a Greek default and the contagion effect it may have on other EU economies such as Ireland, Italy, Spain and especially Portugal continues to create market instability, despite the strong positive effect from the 3-year liquidity operations from the ECB in December 2011 and February 2012, which contributed to the stabilisation of the financial markets and a significant improvement in terms of the liquidity available in the market. These downward pressures on growth were not counterbalanced by fiscal policy stimuli, as European governments pursued restrictive fiscal policies, not only in the European periphery economies, but also in the main core European economies. The Euro Zone economy contracted by 0.3 per cent. in the last quarter of 2011 and it is widely expected to contract in the first quarter of 2012, exerting additional pressure on the Portuguese economy.

### 1.3. *Financial Markets*

The performance of the BES Group is generally influenced by conditions in the global financial markets and the macroeconomic conditions in the countries in which it operates. In particular, the global financial system has operated under difficult conditions since August 2007 and the financial markets have had particularly negative performances after the insolvency of several international financial institutions since September 2008. This situation has caused unprecedented disruptions in the financial markets worldwide in relation to liquidity and funding of the international banking system. Furthermore, this situation has put significant pressure on the core business of many investment banks, commercial banks, and insurance companies worldwide. In response to the instability and lack of liquidity in the market, some countries, including some members of the EU and the United States of America, have intervened by injecting liquidity and capital into the system with the goal of stabilising these financial markets and, in some cases, preventing the insolvency of certain financial institutions.

Despite these measures, volatility in the capital markets has continued at an extraordinary level compared to the past. The potential impact of the sovereign debt crisis in Europe has exacerbated investors' fears and created a cloud of uncertainty with respect to the European financial sector, particularly with respect to the economies in the periphery of the Euro Zone. These developments have created an unfavourable environment for banking activity generally. The current economic environment creates challenges for the BES Group and may adversely affect its business, financial condition and results of operations in the following ways:

- The circumstances mentioned above have caused a general slowdown in the business of the BES Group, an increase in its funding costs (both wholesale and retail) and a reduction in its share prices and asset values. Any worsening of the current economic climate could jeopardise the BES Group's strategy or exacerbate these trends and adversely affect its financial performance and condition.

- The BES Group is exposed to potential losses if certain financial institutions, or other counterparties to the BES Group, become insolvent or are not able to meet their financial obligations to the BES Group. Moreover, the performance of the BES Group may be influenced by an inability to recover the value of its assets at percentage levels consistent with its historical recovery estimates, particularly as such estimates could prove to be inaccurate in light of the unprecedented turbulence in the markets.
- Numerous banks worldwide have been and are being supported in part by various “rescue plans” and other types of support by their home country governments. The BES Group is uncertain as to how much longer governmental support will be needed to keep these banks solvent and whether governments will have the means or the political will to continue, or if necessary expand, this support. Any failure of government support to continue, or if necessary to expand, could result in more bank failures and a heightened lack of confidence in the global banking system, thus increasing the challenges faced by BES and other financial institutions.
- In addition, external intervention from the EU and the IMF might involve a reorganisation of the Portuguese banks. Whilst this may erode their deposit base and negatively impact upon their financing needs, it might also provide the conditions necessary to ensure that Portuguese banks have access to regular funding during the Stabilisation Programme. There can be no assurance, however, that the funding requirements originally anticipated will be adequate. There might also be difficulties in resuming marketbased financing when the Stabilisation Programme is completed. In the future, Portuguese banks might be required to comply with more stringent regulatory capital ratios that necessitate recapitalisation. In the context of the programme agreed by the Portuguese government with the Troika, the Bank of Portugal implemented higher minimum Core Tier 1 ratios for Portuguese banks to be met by December 2011 and December 2012 of 9 per cent. and 10 per cent., respectively. BES Core Tier 1 ratio as of 31st December, 2011 was 9.2 per cent. In addition, as a consequence of the systemic risk resulting from the sovereign debt crisis in the Euro area, the European Banking Authority decided that banks subject to stress tests should reinforce their capital ratios in order to achieve, by 30th June, 2012, a Core Tier 1 ratio of 9 per cent., after a mark-to-market valuation of sovereign debt exposures held by those institutions as of 30th September, 2011.

In general, the current economic conditions and unfavourable financial environment, including those potential developments outlined above, could have a material adverse effect on the BES Group’s business, financial condition and results of operations.

#### 1.4. ***Banking Markets***

The BES Group faces intense competition in all of its areas of operation (including, among others, corporate and retail banking, investment banking, specialised credit and asset management), both in Portugal and its international markets. Competition for customer deposits has been especially intense in Portugal. The BES Group’s competitors in the markets in which it is active are principally commercial and investment banks.

The continuing financial crisis could introduce additional competitive challenges, as many national governments (including the Portuguese government) seek to provide support in a variety of forms to banks organised in their jurisdictions. Depending on the level of this government support and the financial strength of the banks in question, this support could strengthen the competitive position of these banks and intensify the competition faced by the BES Group.

Structural changes in the Portuguese economy in the past have significantly increased competition in the Portuguese banking sector. These changes are principally related to the privatisation of several sectors of the economy, including banking and insurance, as well as to the integration of the Portuguese economy into the European Union and the introduction of the Euro. Mergers and acquisitions involving the largest Portuguese banks have resulted in a significant concentration of market share, a process which may continue. Competition has further increased with the emergence



of non-traditional distribution channels such as internet and telephone banking. The five main financial groups in the Portuguese banking sector (without double-counting institutions already consolidated in financial groups) are (ranking in terms of assets as of 30th June, 2011): Caixa Geral de Depósitos, the Millennium BCP Group, the BES Group, the Santander Totta Group and BPI Group, which represented approximately 78 per cent. of total assets in the Portuguese banking system, according to the Portuguese Banking Association statistics (June 2011).

Competition for customer deposits has been especially intense in Portugal. Competition in the Portuguese market can have an adverse effect on the activities of the BES Group. The competition is affected by consumer demand, technological changes, the impact of consolidation, regulatory actions and other factors. If the BES Group is unable to provide attractive product and service offerings that are profitable, it may lose market share or incur losses on some or all of its activities, which could adversely affect its financial condition and its results of operations. Although BES believes that it is in a strong position to continue to compete in the markets in which it operates, there can be no assurance that it will be able to compete effectively in these markets.

In addition, competition in the Angolan market is robust, with international banks competing against some very strong local and regional players. BES believes that increased competition in Angola could put pressure on its operations there.

**1.5. *Economic conditions in the international markets and adverse political, governmental or economic developments related to its international expansion***

The BES Group continues to pursue its international strategy, with particular emphasis on expanding its market position in Spain, Brazil and Africa (namely in Angola, Mozambique, Libya and Cape Verde) and continuing to capitalise on its established positions in France, Luxembourg, the United Kingdom, the United States and Macao. The BES Group's performance, results of operations and financial condition are affected by the economic conditions and levels of economic activity in the countries where the BES Group operates, including in Spain, Brazil and Angola. Consequently, a protracted global economic decline could reduce the overall level of economic activity of any one or more of the international markets where the BES Group's operates, which could have an adverse effect on the BES Group and its results of operations and financial condition.

Accordingly, BES gives no assurance that it will be successful in Spain, Brazil, Angola or any of the other international markets in which it operates. The BES Group's international operations are exposed to the risk of adverse political, governmental or economic developments in the countries in which it operates and other risks associated with doing business in emerging markets. In particular, certain countries where the BES Group has operations, including Angola, have experienced political, civil and economic instability in the past and may face such instability again in the future. These factors could have a material adverse effect on the BES Group's financial condition and results of operations.

In Libya, which is still consolidating the political and government changes following the fall of the Ghadafi regime, the BES Group has exposure through a participation of 40 per cent. in Aman Bank (with management control). Although Aman Bank has not been the subject of sanctions, and did not suffer significant damage to its infrastructure during the war to overthrow the previous regime, there can be no assurance regarding its future performance due to uncertainty following the regime change, particularly as the country transitions to a new government and institutions.

**1.6. *Interest Rate Risk***

The BES Group is subject to the risks typical of banking activities, such as interest rate fluctuations. Interest rate risk may be defined as the impact on shareholders' equity or on net interest income due to an adverse change in market interest rates. As is the case with other banks in Portugal, the BES Group, and especially its corporate and retail segment, is particularly exposed to differentials between the interest rates payable by it on deposits and the interest rates that it is able to charge on loans to customers and other banks. This exposure comes from the fact that, in the Portuguese market, loans



typically have variable interest rates, whereas the interest rates applicable to deposits are usually fixed for periods that may vary between three months and three years. As a result, Portuguese banks, including BES, frequently experience difficulties in adjusting the interest rates that they pay for deposits in line with market interest rate changes. This trend is reinforced by intense competition in the sector and the current low interest rate environment that puts pressure on a bank's deposit margin.

Interest rates are sensitive to several factors that are out of the BES Group's control, including fiscal and monetary policies of governments and central banks, as well as domestic and international economic and political conditions. Changes in market interest rates can affect the interest rates that the BES Group actually charges, receives on its interest-earning assets, in a different way when compared to the rates that the BES Group pays for its interest bearing liabilities. This difference may reduce the net interest margin, which could have a material adverse effect on the BES Group's results of operations.

In July 2011, the European Central Bank announced its decision to increase the interest rate applicable to the main operations of refinancing of the Eurosystem from 1.25 per cent. to 1.5 per cent. As a result of the sovereign debt crisis and the weak European economic conditions and outlook, the ECB reversed that action lowering its benchmark interest rate for the Euro Zone from 1.5 per cent. to 1.25 per cent. and to 1 per cent. in November and December 2011, respectively.

A rise in interest rates could reduce the demand for credit and the BES Group's ability to generate credit for its clients, as well as contribute to an increase in the credit default rate. Conversely, a reduction in the level of interest rates may adversely affect the BES Group through, among other things, a lower margin on deposits, a decrease in demand for deposits and an increase in competition in deposit-taking and lending to customers. As a result of these factors, significant changes or volatility in interest rates could have a material adverse impact on the business, financial condition or operating results of the BES Group.

The BES Group has been repricing its loan portfolio. However, it has not repriced its portfolio of mortgages, which represented, on 31st December, 2011, 22.7 per cent. of the gross loans to its clients. Therefore the BES Group is dependent on obtaining higher spreads on new loan production to impact, on a long-term basis, the average interest spread of its global mortgages portfolio. If the BES Group is unable to adjust the interest rate payable on deposits in line with the changes in market interest rates receivable by it on loans, or if the BES Group's monitoring procedures are unable to manage adequately interest rate risk, its net interest income could rise less or decline more than its interest expense, in which case the BES Group's results could be negatively affected.

#### **1.7. Credit Risk**

Risks arising from changes in credit quality and the repayment of loans and amounts due from borrowers and counterparties are inherent in a wide range of the BES Group's business. Adverse changes in the credit quality of the BES Group's borrowers and counterparties, a general deterioration in Portuguese or global economic conditions, or increased systemic risks in financial systems, could affect the recovery and value of the BES Group's assets and require an increase in provision for bad and doubtful debts and other provisions. Over the past three years, the BES Group has set aside provisions for loan losses of €539.9 million, €351.8 million and €600.6 million in each of 2009, 2010 and 2011, respectively. Accordingly, the BES Group is subject to credit risk, i.e. the risk that the BES Group's clients and other counterparties are unable to fulfil their payment obligations.

The BES Group is exposed to different counterparties in the normal course of its business, but its exposure to counterparties in the financial services industry is significant. This exposure can arise through trading, lending, deposit-taking, clearance and settlement and numerous other activities and relationships. These counterparties include institutional clients, brokers and dealers, commercial banks and investment banks. Many of these relationships expose the BES Group to credit risk in the event of default of a counterparty or client. In addition, the BES Group's credit risk may be exacerbated when the collateral it holds cannot be realised at, or is liquidated at prices not sufficient to recover, the full amount of the loan or derivative exposure it is due to cover. Many of the hedging

and other risk management strategies utilised by the BES Group also involve transactions with financial services counterparties. The insolvency of these counterparties may impair the effectiveness of the BES Group's hedging and other risk management strategies, which could in turn have a material adverse effect on the BES Group's financial condition and results of operations.

Although the BES Group regularly reviews its exposure to its clients and other counterparties, as well as its exposure to certain economic sectors and regions which the BES Group believes to be particularly critical, payment defaults may arise from events and circumstances that are unforeseeable or difficult to predict or detect. In addition, the collateral and security provided to the BES Group may be insufficient to cover the exposure or others' obligations to it, for example, as a result of sudden market declines that reduce the value of the collateral. Accordingly, if a major client or other significant counterparty were to default on its obligations this could have a material adverse effect on the BES Group's financial condition and results of operations.

The BES Group actively manages credit risk and analyses credit transactions. Expectations about future credit losses may, however, be incorrect for a variety of reasons. An unexpected decline in general economic conditions, unanticipated political events or a lack of liquidity in the economy may result in credit losses which exceed the amount of the BES Group's provisions or the maximum probable losses envisaged by its risk management models. As the BES Group's operations are mostly concentrated in Portugal, it is particularly exposed to the risk of a general economic downturn or other events which affect default rates in Portugal. An increase in the BES Group's provisions for loan losses or any loan losses in excess of these provisions could have a material adverse effect on the BES Group's financial condition and results of operations. The BES Group's exposure to credit risk was €85.9 billion as at 31st December, 2011.

#### 1.8. *Market Risk*

The BES Group currently engages in various treasury activities for its own account, including entering into interest rate, credit, liquidity and exchange rate derivative transactions as well as taking positions in fixed income and equity in the domestic and international markets and trading in the primary and secondary markets for government securities.

The BES Group presented a value at risk (VaR) of €47.5 million as at 31st December, 2011 in its trading positions in respect of shares, interest rates, volatility and credit spread, commodities and foreign exchange (excluding the position of foreign exchange relating to shares of the portfolio of assets available for sale and the portfolio of assets at fair value), which compares with €22.4 million as at 31st December, 2010. VaR is calculated using the Monte Carlo simulation, with 99 per cent. confidence level and an investment period of 10 days.

Proprietary trading involves a certain degree of risk. Future proprietary trading results will in part depend on market conditions, and although the BES Group seeks to actively manage its capital markets exposure, it cannot assure it will be successful in doing so. Current market conditions are characterised by extreme volatility, which increase the likelihood of negative proprietary trading results and puts downward pressure on asset valuations. Protracted adverse market movements, particularly asset price declines, can reduce the level of activity in the market or reduce market liquidity. These developments can lead to material losses if BES Group cannot close out deteriorating positions in a timely way. This may especially be the case for assets for which there are less liquid markets.

Assets that are not traded on stock exchanges or other public trading markets, such as derivative contracts between banks, may have values that BES Group calculates using models other than publicly quoted prices. Monitoring the deterioration of prices of assets like these is difficult and could lead to losses that BES Group does not anticipate. As such, the BES Group could incur significant losses, which could have a material adverse effect on the BES Group's financial condition and results of operations.

## 1.9. *Liquidity risk*

Liquidity risk arises from the present or future inability to pay liabilities as they mature. Banks, principally by virtue of their business of providing long-term loans and receiving short-term deposits, are subject to liquidity risk. Over the last few years many banks have resorted to obtaining funds from market sources instead of their traditional sources (retail deposits).

As of 31st December, 2011, the BES Group's cumulative liquidity gap, calculated in accordance with Bank of Portugal Instruction 13/2009, was negative €0.6 billion (31st December, 2010: €5.5 billion). The liquidity buffer, i.e. the amount of liquid assets that mature within more than one year, was €2.8 billion as at the same date (31st December, 2010: €5.5 billion).

The maintenance of sufficient customer deposits to fund the BES Group's loan portfolio is subject to certain factors outside the BES Group's control, such as depositors' concerns relating to the economy in general, the financial services industry or the BES Group specifically, ratings downgrades, significant further deterioration in economic conditions in the Republic of Portugal and the existence and extent of deposit guarantees. Any of these factors on their own or in combination could lead to a reduction in the BES Group's ability to access customer deposit funding on appropriate terms in the future and could result in deposit outflows, both of which would have an impact on the BES Group's ability to fund its operations and meet its minimum liquidity requirements, and may require BES to increase its use of sources other than deposits, if available, to fund its loan portfolio.

The BES Group's liquidity could also be impaired by an inability to access debt markets, an inability to sell assets or redeem its investments, other outflows of cash or collateral deterioration. These situations may arise due to circumstances that the BES Group is unable to control, such as continued general market disruption, loss in confidence in financial markets, uncertainty and speculation regarding the solvency of market participants, credit rating downgrades or operational problems that affect third parties. Access to the financial markets has been limited since the disruptions in the credit markets in 2007. Funding in the interbank markets or via the capital markets has been very difficult, especially since 2010 for banks from the EU periphery economies. Even a perception among market participants that a financial institution is experiencing greater liquidity risk can cause significant damage to the institution. Specific ways in which the BES Group could find its liquidity further impaired include the following:

- The BES Group's ability to sell assets may be impaired if other market participants are seeking to sell similar assets at the same time or are not in the position to finance themselves or are distressed sellers, or because the market value of assets, including financial instruments underlying derivative transactions to which the BES Group is a party, is difficult to ascertain, as has occurred in the recent past.
- Financial institutions with which the BES Group interacts may exercise set-off rights or the right to require additional collateral, which could further impair the BES Group's liquidity position.
- If the customers with which the BES Group has outstanding but undrawn lending commitments were to draw down on these credit lines at a rate that is higher than BES is anticipating, this could put increased pressure on the BES Group's liquidity position.
- The BES Group's contingency plan for liquidity stress scenarios relies in part on its ability to enter into repo transactions with the European Central Bank. If the European Central Bank were to suspend its repo programme, and if no similar source of repo financing were to exist in the market at that time, this could severely impede BES' ability to manage a period of liquidity stress.
- An increase in interest rates and/or credit spreads, as well as any restriction on the availability of credit, including, but not limited to, inter-bank credit, could impact the BES Group's ability to borrow on a secured or unsecured basis, which may have a material adverse effect on the BES Group's liquidity and results of operations.

Any of these events could cause the BES Group to curtail its business activities and could increase its cost of funding, both of which could have a material adverse effect on the BES Group's business and results of operations.

Although the BES Group puts significant effort in liquidity risk management and focuses on maintaining liquidity surplus in the short term, the BES Group is exposed to the general risk of liquidity shortfalls and cannot ensure that the procedures in place to manage such risks will be suitable to eliminate liquidity risk.

### **Reliance on the European Central Bank for funding and liquidity**

As a result of the very difficult conditions in the capital markets for short or medium-long term funding, the BES Group's liquidity operations with the ECB are very important. The ECB currently makes funding available to European banks that satisfy certain conditions to obtain such funding, including pledging eligible collateral.

At 31st December, 2011, the BES Group's total portfolio of securities eligible for rediscount with the ECB was €15.1 billion (31st December, 2010: €10.8 billion). The ECB establishes the valuation and the eligibility criteria for collateral assets to be used on repo transactions with financial institutions. Changes to these valuations or the eligibility criteria can have a negative impact on the amount of available assets for that purpose, and reduce the liquidity lines available from the ECB. Additionally, further downgrades of the credit rating of the Republic of Portugal or Portuguese corporations would result in increased haircuts to any eligible collateral or such debt not being eligible and consequently a reduction in the pool of assets that might be considered eligible collateral.

At 31st December, 2011, BES had outstanding borrowings of €8.7 billion from the ECB (31st December, 2010: €3.9 billion), borrowed against the BES Group's portfolio of securities eligible for rediscount with the ECB. In the current environment, the curtailment or termination of liquidity operations by the ECB could result in the BES Group having to dispose of its assets, potentially with a high discount to their book values, in order to comply with its obligations and to seek alternative sources of funding which might only be available, if at all, at unfavourable conditions and could significantly increase its funding costs. This would have a corresponding negative impact on its results of operations and financial condition. Nonetheless, due to significant instability and volatility in the financial markets, in October 2011, the ECB announced new long-term refinancing operations with maturities of 12 and 13 months (in the amounts to be requested by the banks) and the maintenance, until at least June 2012, of the normal liquidity lending operations in unlimited amounts (for one week, one month and three months). In addition, in December 2011, the ECB decided to lower the key benchmark rate to 1 per cent. and announced a number of measures to facilitate the Euro Zone banking sector's access to liquidity and the restoration of the ordinary course of the interbank money markets: (i) the reduction of the reserve requirement ratio for European banks from 2 per cent. to 1 per cent., (ii) two unlimited three-year liquidity facilities (instead of the previous maximum term of 13 months) to be made available on 21st December, 2011 and 29th February, 2012 (the total amount borrowed by the BES Group under these facilities is €10.2 billion), and (iii) the loosening of the eligibility criteria for collaterals accepted by the ECB.

The BES Group has been implementing measures in order to diversify its financing sources beyond the ECB, and has accelerated the deleveraging process by making an effort to increase customer funds and reduce customer loans. This risks increasing the cost of deposits, which may not be completely offset by the process of repricing of loans and could adversely impact the net interest margin. There can be no assurances as to when BES will again be able to access the public wholesale markets or the cost of any market funding if and when such markets should become available.

In addition to the usual and to the extraordinary liquidity measures provided by the ECB, there is a special measure, the Emergency Liquidity Assistance, to allow all Euro Zone central banks to support domestic financial institutions, which is applicable only to illiquid but solvent financial institutions. However, this is a temporary measure, which aims to re-establish the normal monetary transmission

mechanisms and ensure the stability of the financial system, and the availability, quantum and conditionality of any funding is uncertain.

#### **1.10. *Operational Risk***

The BES Group is subject to certain operational risks, including interruption of service, errors, fraud by third parties (including large-scale organised frauds, as a result of the BES Group's financial operations), breach or delays in the provision of services and compliance with risk management requirements. The BES Group continually monitors these risks by means of, among other things, advanced administrative and information systems and insurance coverage in respect of certain operational risks. However, the BES Group may be unable to successfully monitor or prevent these risks in the future. Any failure to successfully execute the BES Group's operational risk management and control policies could have a material adverse effect on the BES Group's financial condition and results of operations.

#### **1.11. *Risks associated with the implementation of its risk management policies***

The BES Group is exposed to a number of risks, including, among others, market risk, credit risk, liquidity risk and operational risk. Although BES has implemented risk management policies for each of the risks that it is exposed to, the policies and procedures it employs to identify, monitor and manage these risks may not be fully effective.

#### **1.12. *Risks associated with the increasing dependence on information technology systems***

Banks and their activities are increasingly dependent on highly sophisticated information technology ("IT") systems. IT systems are vulnerable to a number of problems, such as software or hardware malfunctions, malicious hacking, physical damage to vital IT centres and computer viruses. Harmonising the IT systems in the BES Group to create a consistent IT architecture poses significant challenges. IT systems need regular upgrading to meet the needs of changing business and regulatory requirements and to keep pace with possible expansion into new markets.

The BES Group may not be able to implement necessary upgrades on a timely basis, and upgrades may fail to function as planned. In addition to costs that may be incurred as a result of any failure of its IT systems, the BES Group could face fines from bank regulators if its IT systems fail to enable it to comply with applicable banking or reporting regulations.

The BES Group maintains back-up systems for its operations, with one of those back-up systems being located in Portugal outside of its premises. However, there are limited scenarios, for example in the event of a major catastrophe resulting in the failure of its information systems, where the BES Group could lose certain recently entered data with regard to its Portuguese operations or could lose more significant portions of data with regard to its international operations.

The BES Group is reliant on its outsourcing contract with IBM for the maintenance and operation of its IT systems. Should IBM become unwilling or unable to fulfil its obligations under the outsourcing contract, the BES Group could find the smooth functioning of its IT systems compromised.

A major disruption of the BES Group's IT systems, whether under the scenarios outlined above or under other scenarios, could have a material adverse effect on the normal operation of the BES Group's business and thus on its financial condition and results of operations.

#### **1.13. *Risks associated with the ability to maintain its customer base***

The BES Group's success depends on its ability to maintain its customer base and to offer its customers a wide range of high quality and competitive products and consistently high levels of service. The BES Group has sought to achieve this objective by segmenting its branch networks to better serve the diverse needs of each customer segment through, among other things, cross-selling the products and services of the BES Group's subsidiaries through its marketing and distribution



networks in Portugal. Any failure to maintain the BES Group's customer base or to offer the BES Group's customers a wide range of high quality and competitive products or consistently high levels of service could have a material adverse effect on the BES Group's financial condition and results of operations.

#### 1.14. *Regulation*

Banking activities in Portugal are subject to extensive regulation by supervision authorities, which have broad administrative powers over many aspects of the financial services business, which include liquidity, capital adequacy and permitted investments, ethical issues, money laundering, privacy, securities (including debt instruments) issuance and offering/placement, financial intermediation issues, record-keeping, marketing and selling practices, among others. These various regulations can significantly increase the cost structure of a bank and limit its possibilities for increasing its income.

Specific examples where regulation can impact the conduct of the BES Group's business include the following:

- The minimum cash requirement to be held with the Bank of Portugal applicable to Portuguese banks was fixed at 2 per cent. of the total amount of deposits until 18th January, 2012, when the reserve requirement ratio was reduced to 1 per cent. An increase in this percentage or a decline in the rate accrued on those cash reserves would have an adverse impact on the BES Group's net income.
- Further to the Stabilisation Programme agreed by the Troika and the Portuguese government in the second quarter of 2011, Portuguese banks are required to maintain a minimum Core Tier 1 Capital ratio of 9 per cent. by 31st December, 2011 and 10 per cent. by 31st December, 2012 (Notice no. 3/2011 issued by the Bank of Portugal).
- Banks subject to the EBA's stress tests, including BES, are required to reinforce their capital ratios in order to achieve, by 30th June, 2012, a Core Tier 1 ratio of 9 per cent. after a mark-to-market valuation of sovereign debt exposures held by those institutions as of 30th September, 2011.

The BES Group capital ratios are calculated under the Basel II regulations. As from the first quarter of 2009, BES has been authorised by the Bank of Portugal to use the Internal Ratings Based ("IRB") approach to calculate credit risk extended by BES headquarters, BES' London branch and BES Investimento, to be extended with a roll-out to other BES Group entities and portfolios. The Standardised Approach method ("TSA method") is used for operational risk.

At the end of the third quarter of 2010, the Basel Committee on Banking Supervision issued guidance relating to amendments to its existing rules for calculating regulatory capital for internationally active banks (commonly referred to as Basel II), which are included in further recommendations known as Basel III. The Basel III recommendations were finalised on 1st January, 2011 and include changes to capital requirements and the introduction of a leverage ratio and liquidity standards.

The Basel III recommendations propose a number of changes to the regulatory capital framework, including changes to deductions from capital and the risk weighting of certain classes of asset from 1st January, 2013. In particular, the net asset value of insurance subsidiaries will be required to be deducted, which will adversely affect the BES Group's capital ratios following its acquisition of the remaining 50 per cent. stake in BES Vida. The recommendations also require banks to increase their regulatory capital as a percentage of risk-weighted assets to achieve by 1st January, 2019:

- Minimum Common Equity Tier 1 ratio: 7 per cent. (made up of a 4.5 per cent. minimum requirement and an additional 2.5 per cent. capital conservation buffer);
- Minimum Tier 1 ratio: 8.5 per cent. (made up of a 6 per cent. minimum requirement and an additional 2.5 per cent. of capital conservation buffer);



- Total capital ratio: 10.5 per cent.;
- Introduction of an additional counter-cyclical buffer of between 0 per cent. and 2.5 per cent. of risk weighted assets to be composed of Common Equity Tier 1 capital under conditions to be determined by the regulatory authorities; and
- Establishment of transitional periods to the absorption of the deductions of capital items not eligible under Basel III and new deductions to the capital base.

All relevant banks will benefit from a transitional period (from 1st January, 2013 to 1st January, 2019) to comply with the capital rules adopted.

The liquidity changes include the proposed introduction of short-term and longer-term standards for funding liquidity referred to as the Liquidity Coverage Ratio and the Net Stable Funding Ratio. The Liquidity Coverage Ratio, which is recommended for introduction in 2015, addresses the sufficiency of high quality liquid assets to meet short-term liquidity needs under a specified acute stress scenario which may not fall below 100 per cent. of the estimated net cash outflows for the following 30 days. The Net Stable Funding Ratio, which is recommended for introduction in 2018, will seek to establish a minimum acceptable amount of stable funding based on the liquidity characteristics of an institution's assets and activities over a one-year period.

The Basel III rules have not yet been approved by the European Union and their incorporation into European and national law has, accordingly, not yet taken place. On 20th July, 2011, the European Commission adopted a legislative package of proposals (known as CRD IV) to implement the changes through the replacement of the existing Capital Requirements Directive with a new Directive and Regulation. As with Basel III, the proposals contemplate the entry into force of the new legislation from January 2013, with full implementation by January 2019; however the proposals allow individual Member States to implement the stricter definition and/or level of capital more quickly than is envisaged under Basel III.

The leverage ratio is defined as Tier 1 capital divided by a measure of non risk weighted assets. If Basel III is followed under CRD IV, the leverage ratio may not fall below 3 per cent. effective as of 2017. The ultimate aim of Basel III/CRD IV is to reduce leverage in order to bring institutions' assets more in line with their capital.

At 31st December, 2011, the total capital ratio of the BES Group was 10.7 per cent., with its Tier 1 ratio and Core Tier 1 ratio equal to 9.4 per cent. and 9.2 per cent., respectively. Such ratios were respectively 11.3 per cent., 8.8 per cent. and 7.9 per cent. at 31st December, 2010. The acquisition of the remaining 50 per cent. stake in BES Vida is expected to result in a reduction in the BES Group's Core Tier 1 ratio. The capital adequacy requirements applicable to the BES Group limit its ability to advance loans to customers and may require it to issue additional equity capital or subordinated debt in the future, which are expensive sources of funds. Furthermore, capital adequacy ratios such as those mandated by Basel II have a "procyclical" effect, meaning that in difficult credit environments such as at present, a bank may find its capital ratios decreased at precisely the time that the economy is most in need of increased financing activity. Thus, as a result of this "procyclical" effect, capital adequacy requirements intended to ensure the health of banks can in fact exacerbate the effect of an economic downturn, further adding to the strain on the banking system.

In addition, the Bank of Portugal has established minimum provisioning requirements regarding loans, non-performing loans, overdue loans, impairment for securities and equity holdings, sovereign risk and other contingencies. Therefore, any change in increase in the amount of these requirements could have an adverse impact on the BES Group's financial condition and results of operations.

The regulatory laws governing banking activity may change at any time in ways which may have an adverse effect on the business of the BES Group. Furthermore, the BES Group cannot predict the timing or form of any future regulatory initiatives. Changes in existing regulatory laws may materially affect the way in which the BES Group conducts its business, the products and services it can offer and the value of its assets.

In addition, the BES Group's operations are subject to national regulation in each jurisdiction in which it operates. Often, these regulations are complex and costly to comply with in terms of time and other resources. Breach of applicable regulations may lead to penalties, fines, compliance costs, reputational harm and even loss of licenses to operate. For example, in October 2011 the BES Group settled with the U.S. Securities and Exchange Commission in respect of various alleged violations of U.S. securities laws relating to engaging in certain transactions in the United States and has agreed to pay U.S.\$7 million. Recently, BES has also settled with the Federal Reserve Board and agreed to pay a U.S.\$975,000 penalty with respect to matters relating to the sale of unregistered securities to U.S. customers.

#### **1.15. *Risks relating to BES shareholding and corporate structure***

As of May 2012, the major shareholders of BES hold, directly or indirectly, approximately 48 per cent. of the voting rights of BES and have the ability to exercise significant influence over or determine the outcome of certain shareholder actions.

Crédit Agricole, the second largest shareholder of BES, with a holding of 10.81 per cent., is ESFG's strategic partner (the largest shareholder, with 37.19 per cent. of voting rights) in banking and insurance.

### **RISK FACTORS RELATING TO BES FINANCE**

#### **2. *Factors that may affect BES Finance's ability to fulfil its obligations under the Notes issued under the Programme***

BES Finance Ltd is a funding vehicle of the BES Group. As such it raises funds to BES by way of intragroup loans. In the event that BES fails to make a payment under an intra-group loan, BES Finance may not be able to meet its payment obligations under the issued Notes.

### **RISK FACTORS RELATING TO THE NOTES ISSUED UNDER THE PROGRAMME**

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

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

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

- (i) have sufficient knowledge and experience to make a meaningful evaluation of the Notes, the merits and risks of investing in the Notes and the information contained or incorporated by reference in this Prospectus or any applicable supplement to this Prospectus;
- (ii) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Notes and the impact the Notes will have on its overall investment portfolio;
- (iii) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Notes, including Notes with principal or interest payable in one or more currencies, or where the currency for principal or interest payments is different from the potential investor's currency;
- (iv) understand thoroughly the terms of the Notes and be familiar with the behaviour of any relevant indices and financial markets; and
- (v) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

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

### **3.2 *Risks related to the structure of a particular issue of Notes***

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

#### *Notes subject to optional redemption by the Issuer*

An optional redemption feature of Notes is likely to limit their market value. During any period when the Issuer may elect to redeem Notes, the market value of those Notes generally will not rise substantially above the price at which they can be redeemed. This also may be true prior to any redemption period.

The Issuer may be expected to redeem Notes when its cost of borrowing is lower than the interest rate on the Notes. At those times, an investor generally would not be able to reinvest the redemption proceeds at an effective interest rate as high as the interest rate on the Notes being redeemed and may only be able to do so at a significantly lower rate. Potential investors should consider reinvestment risk in light of other investments available at that time.

#### *Index Linked Notes and Dual Currency Notes*

The Issuer may issue Notes with principal or interest determined by reference to an index or formula, to changes in the prices of securities or commodities, to movements in currency exchange rates or other factors (each, a "Relevant Factor"). In addition, the Issuer may issue Notes with principal or interest payable in one or more currencies which may be different from the currency in which the Notes are denominated. Potential investors should be aware that:

- (i) the market price of such Notes may be volatile;
- (ii) they may receive no interest;
- (iii) payment of principal or interest may occur at a different time or in a different currency than expected;
- (iv) they may lose all or a substantial portion of their principal;
- (v) a Relevant Factor may be subject to significant fluctuations that may not correlate with changes in interest rates, currencies or other indices;
- (vi) if a Relevant Factor is applied to Notes in conjunction with a multiplier greater than one or contains some other leverage factor, the effect of changes in the Relevant Factor on principal or interest payable likely will be magnified; and
- (vii) the timing of changes in a Relevant Factor may affect the actual yield to investors, even if the average level is consistent with their expectations. In general, the earlier the change in the Relevant Factor, the greater the effect on yield.

The historical experience of an index should not be viewed as an indication of the future performance of such index during the term of any Index Linked Notes. Accordingly, each potential investor should

consult its own financial and legal advisers about the risk entailed by an investment in any Index Linked Notes and the suitability of such Notes in light of its particular circumstances.

#### *Partly-paid Notes*

The Issuer may issue Notes where the issue price is payable in more than one instalment. Failure to pay any subsequent instalment could result in an investor losing all of his investment.

#### *Variable rate Notes with a multiplier or other leverage factor*

Notes with variable interest rates can be volatile investments. If they are structured to include multipliers or other leverage factors, or caps or floors, or any combination of those features or other similar related features, their market values may be even more volatile than those for securities that do not include those features.

#### *Inverse Floating Rate Notes*

Inverse Floating Rate Notes have an interest rate equal to a fixed rate minus a rate based upon a reference rate such as LIBOR. The market values of those Notes typically are more volatile than market values of other conventional floating rate debt securities based on the same reference rate (and with otherwise comparable terms). Inverse Floating Rate Notes are more volatile because an increase in the reference rate not only decreases the interest rate of the Notes, but may also reflect an increase in prevailing interest rates, which further adversely affects the market value of these Notes.

#### *Fixed/Floating Rate Notes*

Fixed/Floating Rate Notes may bear interest at a rate that converts from a fixed rate to a floating rate, or from a floating rate to a fixed rate. Where the Issuer has the right to effect such a conversion, this will affect the secondary market and the market value of the Notes since the Issuer may be expected to convert the rate when it is likely to produce a lower overall cost of borrowing. If the Issuer converts from a fixed rate to a floating rate in such circumstances, the spread on the Fixed/Floating Rate Notes may be less favourable than then prevailing spreads on comparable Floating Rate Notes tied to the same reference rate. In addition, the new floating rate at any time may be lower than the rates on other Notes. If the Issuer converts from a floating rate to a fixed rate in such circumstances, the fixed rate may be lower than then prevailing rates on its Notes.

#### *Notes issued at a substantial discount or premium*

The market values of securities issued at a substantial discount or premium from their principal amount tend to fluctuate more in relation to general changes in interest rates than do prices for conventional interest-bearing securities. Generally, the longer the remaining term of the securities, the greater the price volatility as compared to conventional interest-bearing securities with comparable maturities.

#### *The Issuer's obligations under Subordinated Notes are subordinated*

The Issuer's obligations under Subordinated Notes will be unsecured and subordinated and will rank junior in priority of payment to its obligations to Senior Creditors. "Senior Creditors" means creditors of the Issuer or, as the case may be, the Bank who (x) are depositors or other unsubordinated creditors of the Issuer or, as the case may be, the Bank or (y) are subordinated creditors of the Issuer or, as the case may be, the Bank other than those whose claims rank *pari passu* with or junior to the claims of the holders of Subordinated Notes or (in respect of the Bank) persons entitled to claim under the Guarantee in respect of such Notes. Although Subordinated Notes may pay a higher rate of interest than comparable Notes which are not subordinated, there is a real risk that an investor in Subordinated Notes will lose all or some of his investment should the Issuer become insolvent.

*Under certain conditions, interest payments under Undated Subordinated Notes may be deferred*

If on any Interest Payment Date in relation to which no dividend or other distribution has been declared, paid or made on any class of the stock or share capital of the Issuer or, where the Issuer is BES Finance, the Bank in the immediately preceding interest period, then the Issuer may defer the payment of interest on the Undated Subordinated Notes.

In no event will holders of Undated Subordinated Notes be able to accelerate the maturity of their Undated Subordinated Notes; such holders will have claims only for amounts then due and payable on their Undated Subordinated Notes. After the Issuer has fully paid all deferred interest on any issue of Undated Subordinated Notes and if that issue of Undated Subordinated Notes remains outstanding, future interest payments on that issue of Undated Subordinated Notes will be subject to further deferral as described above.

Any deferral of interest payments will likely have an adverse effect on the market price of the Undated Subordinated Notes. In addition, as a result of the interest deferral provision of the Undated Subordinated Notes, the market price of the Undated Subordinated Notes may be more volatile than the market prices of other debt securities on which original issue discount or interest accrues that are not subject to such deferrals and may be more sensitive generally to adverse changes in the Issuer's financial condition.

*Credit Linked Notes*

General risks relating to Credit Linked Notes

The Issuer may issue Notes ("Credit Linked Notes") (i) where the amount payable on redemption is dependent upon whether one or more specified events ("Credit Events") have occurred in respect of one or more Reference Entity/Entities and, if so, on the value of certain specified obligations of such Reference Entity/Entities or (ii) where, if a Credit Event has occurred, the Issuer's obligation on redemption is to deliver certain specified obligations of the relevant Reference Entity/Entities.

Prospective investors in any such Credit Linked Notes should be aware that depending on the terms of the Credit Linked Notes (i) they assume credit risk in relation to all specified Reference Entities and related obligations of those Reference Entities, (ii) they may receive no or a limited amount of interest, (iii) (A) the payment of the redemption amount or interest or (B) the delivery of any specified obligations may occur at a different time than expected and (iv) they may lose all or a substantial portion of their investment.

Cash Settlement

The market price of Credit Linked Notes may be volatile and will be affected by, amongst other things, the time remaining to the redemption date or settlement date, as applicable, prevailing credit spreads and the creditworthiness of the Reference Entity/Entities which in turn may be affected by the economic, financial and political events in one or more jurisdictions. In addition investors will be exposed to market conditions and price risk in relation to the determination of the Final Price or Auction Final Price in the case of cash settled Credit Linked Notes. This will directly affect the return to investors following a Credit Event. In extreme circumstances, such as prevailed in certain securities markets following the insolvency of Lehman Brothers, market participants may not be willing to bid or to provide quotes for a considerable period of time. As a result, the market price determined for a given obligation – even for obligations that are fully performing – may be zero, in which case investors will risk losing 100 per cent. of their investment. Unless the Final Terms provide otherwise, it will not be relevant to determining the Final Price or the Auction Final Price that extreme circumstances may be affecting the market as a whole or that the market price of a security or obligation may recover at a future date after the Final Price or the Auction Final Price has been determined. In certain circumstances the Issuer may select obligations of the Reference Entity/Entities in respect of which a Credit Event has occurred and in this case will be entitled to select Reference

Obligations of a lower value than other possible Reference Obligations. This will have the effect of reducing the return on the Notes.

#### Physical Settlement

Where the Credit Linked Notes provide for physical delivery, the Issuer may determine that the specified obligations to be delivered are either (a) obligations which for any reason (including, without limitation, failure of the relevant clearance system or due to any law, regulation, court order or market conditions or the failure to obtain any requisite consents with respect to the delivery of obligations which are loans) it is impossible or illegal to deliver on the specified settlement date or (b) obligations of the relevant Reference Entity which the Issuer and/or any of its Affiliates has not received under the terms of any transaction and/or trading position entered into by the Issuer and/or any of its Affiliates to hedge the Issuer's obligations in respect of the Credit Linked Notes. Any such determination may delay settlement in respect of the Credit Linked Notes and/or cause the obligation to deliver such specified obligations to be replaced by an obligation to pay a cash amount which, in either case, may affect the value of the Credit Linked Notes and, in the case of payment of a cash amount, will affect the timing of the valuation of such Credit Linked Notes and, as a result, the amount payable on redemption. Prospective investors should review the "Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)" and the applicable Final Terms to ascertain whether and how such provisions may apply to the Credit Linked Notes.

The Issuer, the Guarantor, the Dealer(s) or any of their respective Affiliates may have acquired, or during the term of the Credit Linked Notes may acquire, non-public information with respect to the Reference Entity/Entities that they may not disclose. Prospective investors must therefore make an investment decision based upon their own due diligence and purchase the Credit Linked Notes in the knowledge that non-public information which the Issuer, the Guarantor, the Dealer(s) or any of their respective Affiliates may have will not be disclosed to investors. None of the Issuer, the Guarantor, the Dealer(s) and any of their respective Affiliates is under any obligation (i) to review on the Noteholders' behalf, the business, financial conditions, prospects, creditworthiness, status or affairs of the Reference Entity/Entities or conduct any investigation or due diligence into the Reference Entity/Entities or (ii) other than as may be required by applicable rules and regulations relating to the Credit Linked Notes, to make available (a) any information relating to the Credit Linked Notes or (b) any non-public information they may possess in respect of the Reference Entity/Entities.

In the case of Physical Delivery, where the Reference Obligation is a loan, in order for the Delivery of the loan (or an interest in the loan) to be effected, the Reference Obligation must be capable of being transferred to the Noteholders in accordance with its terms and the Noteholders must have the capacity to hold such loan (or loan interest).

The Issuer's obligations in respect of Credit Linked Notes are irrespective of the existence or amount of the Issuer's and/or any of its Affiliates' credit exposure to a Reference Entity and the Issuer and/or any of its Affiliates need not suffer any loss nor provide evidence of any loss as a result of the occurrence of a Credit Event.

#### *2003 ISDA Credit Derivatives Definitions*

While there are many similarities between the terms used in this Prospectus (in particular, in Condition 24 of the "Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)") and the terms used in the 2003 ISDA Credit Derivative Definitions, as supplemented from time to time, (the "Credit Derivative Definitions"), there are a number of differences. In particular, the Issuer and the Guarantor have determined that certain provisions of the Credit Derivatives Definitions, which are intended for use by market participants in "over the counter" transactions, require amendment when incorporated in the terms of an offering of securities such as the Credit Linked Notes. Therefore, a prospective investor should understand that the complete terms and conditions of the Credit Linked Notes are as set out in this Prospectus and the applicable Final Terms and that the Credit Derivative Definitions are not incorporated by reference herein. Consequently, investing in



Credit Linked Notes is not necessarily equivalent to investing in a credit default swap that incorporates the Credit Derivatives Definitions.

While ISDA has published and supplemented the Credit Derivatives Definitions in order to facilitate transactions and promote uniformity in the credit derivatives market, the credit derivatives market has evolved over time and is expected to continue to change. Consequently, the Credit Derivatives Definitions and the terms applied to credit derivatives, including Credit Linked Notes, are subject to further evolution. Past events have shown that the views of market participants may differ as to how the Credit Derivatives Definitions operate or should operate. As a result of the continued evolution in the market, the Credit Linked Notes may not conform to future market standards. Such a result may have a negative impact on the Credit Linked Notes.

There can be no assurances that changes to the terms applicable to credit derivatives generally will be predicable or favourable to the Issuer, the Guarantor or the Noteholders. Future amendments or supplements to the terms applicable to credit derivatives generally will only apply to Credit Linked Notes that have already been issued if the Issuer and the Noteholders agree to amend such Credit Linked Notes to incorporate such amendments or supplements and other conditions to amending the Credit Linked Notes have been met.

#### *Risks relating to Physical Settlement*

In the case of Physical Settlement, the Issuer, pursuant to Condition 24(d) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”, shall be entitled to select any of the Deliverable Obligations to constitute the Asset Amount, irrespective of their market value. In order to maximise the value of the credit protection it has purchased under a Credit Linked Note, the Issuer is likely to select the cheapest Deliverable Obligation available to it in the market. Under the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” (and as indicated in the applicable Final Terms) there may be restrictions imposed as to what qualifies as a Deliverable Obligation, to exclude excessively long-dated bonds. However there is a possibility that a Deliverable Obligation will be longer dated than the Credit Linked Notes thus changing the maturity of the Noteholder’s initial investment. The market value of the Deliverable Obligations, if they are more long-term obligations, compared with their nominal value will generally be lower than in the case of obligations of a shorter term. Moreover if obligations with a longer term to maturity than the Credit Linked Notes are delivered there is a greater risk that general interest rate levels will increase following the delivery, thus reducing the value of the Noteholder’s investment.

The Noteholder could receive the Deliverable Obligations denominated in a currency other than the currency of the Credit Linked Notes and would then bear the risk of currency movements between the determination of the Asset Amount and the Delivery.

#### *Risks relating to Auction Settlement of Credit Linked Notes*

##### *Auction Settlement*

Where an Auction Final Price Determination Date occurs, the Auction Final Price will be determined according to an auction procedure set out in the relevant Transaction Auction Settlement Terms, a form of which will be published by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto) from time to time and may be amended by ISDA without notice to the holders of the Credit Linked Notes from time to time. The Auction Final Price determined pursuant to an auction may be less than the market value that would otherwise have been determined in respect of the relevant Reference Entity or Reference Obligation. The Issuer, the Guarantor and the Noteholders may have little or no influence in the outcome of any such auction.

Auction Final Price and the Issuer’s and/or the Guarantor’s ability to influence the Auction Final Price

There is a possibility that the Issuer, the Guarantor or the Calculation Agent (or one of their respective Affiliates) would act as a participating bidder in any auction to determine the Auction Final Price. In

such capacity, it may take certain actions which may influence the Auction Final Price including (without limitation): (a) providing rates of conversion to determine the applicable currency conversion rates to be used to convert any obligations which are not denominated in the auction currency into such currency for the purposes of the auction; and (b) submitting bids, offers and physical settlement requests with respect to the relevant Deliverable Obligations. In deciding whether to take any such action (or whether to act as a participating bidder in any auction), the Issuer, the Guarantor or the Calculation Agent (or an Affiliate of any of them) shall be under no obligation to consider the interests of any Noteholder.

If the relevant Credit Derivatives Determinations Committee does not decide to conduct an auction with respect to obligations of the relevant Reference Entity satisfying the relevant characteristics as set out in the applicable Final Terms, then the Fallback Settlement Method shall apply. In such circumstances, either the Final Price will be determined pursuant to the Valuation Method or the Issuer will Deliver to Noteholders the Asset Amount.

#### Role of the Credit Derivatives Determinations Committee

Credit Derivatives Determinations Committees were established pursuant to the March 2009 Supplement to the Credit Derivatives Definitions to make determinations that are relevant to the majority of the credit derivatives market and to promote transparency and consistency. In respect of a Credit Event relating to a Credit Linked Note, prospective purchasers should note that the relevant Credit Derivatives Determinations Committee has the power to make binding decisions on critical issues such as whether a Credit Event or Succession Event has occurred, which obligations are to be valued and whether an auction should take place in accordance with and as more fully described in the Credit Derivatives Determinations Committees Rules, a form of which may be published by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto) from time to time and as amended from time to time in accordance with the terms thereof. Consequently, the payments on the Credit Linked Notes and the timing of any such payments may be affected by any such relevant decisions or subsequent determinations if Auction Settlement is specified as the applicable Settlement Method in the applicable Final Terms.

#### Credit Event and Succession Event Backstop Dates

In respect of a Credit Event relating to a Series of Credit Linked Notes, a Credit Event may not be triggered unless a request is submitted to ISDA for the relevant Credit Derivatives Determinations Committee to consider whether the relevant event constitutes a Credit Event within 60 calendar days of the occurrence of such potential Credit Event unless a Credit Event Determination Date has already occurred with respect to such event. For Succession Events, the look-back period is 90 calendar days and functions similarly. These provisions mean that there is a time limit on the ability to act on a Credit Event or Succession Event and that it is possible that the Credit Linked Notes could be affected by a Credit Event or Succession Event that took place prior to the Trade Date.

#### Succession Event risk

Succession Events arise where a Reference Entity transfers all or some only of its principal debt obligations to a third party or merges with a third party to produce a new entity. Succession Events may occur at any time. If a Succession Event occurs in relation to a Reference Entity or Reference Entities, whether by operation of law or pursuant to any agreement, the Reference Entity, or in the case of more than one Reference Entity, the composition of the Reference Entities within the portfolio of Reference Entities, may change. For example the third party to which a Reference Entity had transferred its debt obligations may replace that Reference Entity as the specified Reference Entity. Any risk which may result from such a change of Reference Entities will be borne by the Noteholders. New Reference Entities resulting from a Succession Event may be less creditworthy than the original Reference Entity, which in turn could decrease the value of the Credit Linked Notes.

## Extension of Scheduled Maturity Date

Under Conditions 24(e), (f), (g) and (h) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” the Calculation Agent may in its sole discretion postpone the Maturity Date upon: (i) the Calculation Agent determining that the Repudiation/Moratorium Extension Condition has been satisfied; (ii) the Calculation Agent determining that a Potential Failure to Pay has occurred with respect to one or more of the Reference Obligations; (iii) the Calculation Agent determining that a Potential Credit Event has occurred; or (iv) the Calculation Agent determining that a Credit Event or a Potential Repudiation/Moratorium may have occurred.

## Settlement Suspension, Adjustments and Interest Provisions

If, following the determination of a Credit Event Determination Date in accordance with subparagraph (a) of the definition of Credit Event Determination Date but prior to the Settlement Date or, to the extent applicable, a Valuation Date, ISDA publicly announces that the conditions to convening a Credit Derivatives Determinations Committee to determine the occurrence of a Credit Event have been satisfied, the Calculation Agent may at its option determine that the applicable timing requirements of Condition 24 of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” and the definitions of Credit Event Redemption Date, Valuation Date, Physical Settlement Period, and any other provision of Condition 24 of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” as determined by the Calculation Agent in its sole discretion, shall toll and be suspended and remain suspended (such period of suspension, a “Suspension Period”) until such time as ISDA subsequently publicly announces that the relevant Credit Derivatives Determinations Committee has resolved (a) that a Credit Event has or has not occurred or (b) not to determine such matters. Once ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has made such resolution, the relevant timing requirements of Condition 24 of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” that have previously tolled or been suspended shall resume on the Business Day following such public announcement by ISDA.

In the event of any such Suspension Period, the Calculation Agent may make (i) such consequential or other adjustment(s) or determination(s) to or in relation to Condition 24 of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” as may be desirable or required either during or following any relevant Suspension Period to account for or reflect such suspension and (ii) determine the effective date of such adjustment(s) or determination(s).

In the case of interest bearing Credit Linked Notes:

- (a) if a Suspension Period falls in any one or more Interest Period(s), then no interest (or any interest on any delayed payment of interest) shall accrue during each portion of an Interest Period during which a Suspension Period exists; and
- (b) if an Interest Payment Date falls in a Suspension Period, such Interest Payment Date will be deferred until such date as determined by the Calculation Agent falling no earlier than the first Interest Payment Date and no later than the fifth Interest Payment Date following the end of the Suspension Period, all subject to the provisions of Condition 5 and Conditions 24(e), (f) and (g) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”.

Investors should note that in addition to redemption at maturity or following a Credit Event, Credit Linked Notes may be subject to early redemption for tax reasons or following a merger of the Issuer and a Reference Entity. In this case the Early Redemption Amount will be as specified in the applicable Final Terms and may reflect the market value of credit derivative transactions in relation to the Reference Entity/Entities at such time as well as certain unwind costs of the Issuer.

In certain circumstances the scheduled maturity of the Notes may also be delayed as provided in Condition 24 of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated

Notes)” to allow certain credit derivative determinations to be made in respect of the Credit Linked Notes. Investors will not receive any additional payment for such delay. See in particular Condition 24 (e) (Repudiation/Moratorium Extension), Condition 24 (f) (Grace Period Extension), Condition 24 (g) (Credit Derivatives Determinations Committee Extension) and Condition 24 (h) (Maturity Date Extension) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”.

### 3.3 ***Risks related to Notes generally***

Set out below is a brief description of certain risks relating to the Notes generally:

#### *Modification and substitution*

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

The conditions of the Bearer Notes other than Interbolsa Notes also provide that the Trustee may, without the consent of Noteholders, agree to (i) modifications of the Notes which are not, in the opinion of the Trustee, materially prejudicial to the interests of the Noteholders or (ii) modifications to the Notes or the Trust Deed of a formal, minor or technical nature or which are made to correct a manifest error or to comply with mandatory provisions of the law of the jurisdiction in which the Issuer is incorporated or (iii) the substitution of another company as principal debtor under any Notes in place of the Issuer, in the circumstances described in Condition 18 of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”. Interbolsa Notes are not constituted by the Trust Deed and thus any such modification or substitution will have to be agreed in accordance with the provisions of meetings of holders of Interbolsa Notes (see Condition 15(b) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”).

#### *EU Savings Directive*

Under EC Council Directive 2003/48/EC on the taxation of savings income (the “Directive”), Member States are required to provide to the tax authorities of another Member State details of payments of interest or similar income (similar income for this purpose includes, but is not limited to, payments on redemption of the Notes representing any discount on the issue of the Notes or any premium payable on redemption) paid by a person within its jurisdiction to an individual resident in that other Member State or to certain limited types of entities established in that other Member State. However, for a transitional period, Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries). A number of non-EU countries and territories including Switzerland have adopted similar measures (a withholding system in the case of Switzerland).

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

If a payment were to be made or collected through a Member State which has opted for a withholding system, or through a non-EU country which has adopted similar measures and has opted for a withholding system, or through certain dependent or associated territories which have adopted similar measures and which have opted for a withholding system, and an amount of, or in respect of, tax were to be withheld from that payment, neither the Issuer nor any Paying Agent nor any other person would be obliged to pay additional amounts with respect to any Note as a result of the imposition of such withholding tax. The Issuer is required to maintain a Paying Agent in a Member State that will not be obliged to withhold or deduct tax pursuant to the Directive.

### *U.S. Foreign Account Tax Compliance Withholding*

Pursuant to sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (“FATCA”) or similar law implementing an intergovernmental approach to FATCA, the Issuer and other non-U.S. financial institutions through which payments on the Notes are made may be required to withhold U.S. tax at a rate of 30 per cent. on all, or a portion of, payments made on or after 1st January, 2017 in respect of (i) any Notes issued on or after 1st January, 2013 and (ii) any Notes which are treated as equity for U.S. federal tax purposes, whenever issued. This withholding tax may be triggered if (i) the Issuer is a foreign financial institution (“FFI”) (as defined in FATCA) which enters into and complies with an agreement with the U.S. Internal Revenue Service (“IRS”) to provide certain information on its account holders (making the Issuer a “Participating FFI”), (ii) the Issuer has a positive “passthru payment percentage” (as calculated pursuant to FATCA), and (iii) (a) an investor does not provide information sufficient for the relevant Participating FFI to determine whether the investor is a U.S. person or should otherwise be treated as holding a “United States Account” of such Issuer, or (b) any FFI, that is an investor, or through which payment on such Notes is made is not a Participating FFI.

The application of FATCA to interest, principal or other amounts paid with respect to the Notes is not clear. If an amount in respect of U.S. withholding tax were to be deducted or withheld from interest, principal or other payments on the Notes, neither the Issuer nor the Guarantor nor any paying agent nor any other person would, pursuant to the conditions of the Notes be required to pay additional amounts as a result of the deduction or withholding of such tax. As a result, investors may, if FATCA is implemented as currently proposed by the IRS, receive less interest or principal than expected. Holders of Notes should consult their own tax advisers on how these rules may apply to payments they receive under the Notes.

FATCA is particularly complex and its application is uncertain at this time. The above description is based in part on proposed regulations and official guidance that is subject to change. The application of FATCA to Notes issued on or after 1st January, 2013 (or whenever issued, in the case of Notes treated as equity for U.S. federal tax purposes) may be addressed in the relevant Final Terms or a supplement to the Prospectus, as applicable.

### *Notes where denominations involve integral multiples: definitive Notes*

In relation to any issue of Notes which have denominations consisting of a minimum Specified Denomination plus one or more higher integral multiples of another smaller amount, it is possible that such Notes may be traded in amounts that are not integral multiples of such minimum Specified Denomination. Should definitive Notes be printed, a holder who, as a result of trading such amounts, holds an amount which is less than the minimum Specified Denomination in his account with the relevant clearing system at the relevant time may not receive a definitive Note in respect of such holding and would need to purchase a principal amount of Notes such that its holding amounts to a Specified Denomination.

If definitive Notes are issued, Noteholders should be aware that definitive Notes which have a denomination that is not an integral multiple of the minimum Specified Denomination may be illiquid and difficult to trade.

## **3.4 Risks relating to Undated Deeply Subordinated Notes**

*The Undated Deeply Subordinated Notes are deeply subordinated obligations and will be subordinated to all of BES’ existing and future indebtedness.*

The Undated Deeply Subordinated Notes are by their terms deeply subordinated in right of payment to all current and future unsubordinated and subordinated (other than deeply subordinated) indebtedness of BES. In the event of a distribution of the assets in the dissolution or liquidation of BES the rights of payment of the holders of Undated Deeply Subordinated Notes shall rank in priority only to any payments to holders of BES’ shares. In the event of incomplete payment of unsubordinated creditors, the obligations of BES in connection with the Undated Deeply Subordinated Notes will be



terminated. Although the Undated Deeply Subordinated Notes may pay a higher rate of interest than comparable notes which are not deeply subordinated, there is a greater potential risk that an investor in the Undated Deeply Subordinated Notes will lose all or some of its investment should BES become insolvent.

There is no restriction on the amount of debt that BES may issue that ranks senior to the Undated Deeply Subordinated Notes or on the amount of securities that it may issue that rank *pari passu* with the Undated Deeply Subordinated Notes. The issue of any such debt or securities may reduce the amount recoverable by investors upon the bankruptcy of BES. If BES' financial condition were to deteriorate, the holders of Undated Deeply Subordinated Notes could suffer direct and materially adverse consequences, including cancellation of interest and reduction of interest and principal and, if BES were liquidated (whether voluntarily or involuntarily), the holders of Undated Deeply Subordinated Notes could suffer loss of their entire investment.

*There are no events of default under the Undated Deeply Subordinated Notes*

The "Terms and Conditions of the Undated Deeply Subordinated Notes" do not provide for events of default allowing acceleration of the Undated Deeply Subordinated Notes if certain events occur and the holders of Undated Deeply Subordinated Notes will not be entitled to initiate insolvency proceedings against BES for failure of any payment under the Undated Deeply Subordinated Notes. Accordingly, if BES fails to meet any obligations under the Undated Deeply Subordinated Notes, including the payment of any interest, investors will not have the right of acceleration of principal.

*The Undated Deeply Subordinated Notes will be available to cover losses of BES*

The Undated Deeply Subordinated Notes are being issued for capital adequacy regulatory purposes with the intention and purpose of being eligible as Tier 1 Capital of BES. See Condition 2(a) of the Undated Deeply Subordinated Notes ("*Status and subordination of the Undated Deeply Subordinated Notes*"). Such eligibility depends upon a number of conditions being satisfied, which are reflected in the "Terms and Conditions of the Undated Deeply Subordinated Notes". One of these relates to the ability of the Undated Deeply Subordinated Notes and the proceeds of their issue to be available to absorb any losses of BES. Accordingly, in certain circumstances and/or upon the occurrence of certain events, payments of interest under the Undated Deeply Subordinated Notes may be restricted and, in certain cases, forfeited and the amount of interest and the principal amount of the Undated Deeply Subordinated Notes may be reduced. See Conditions 2(b) and 4(d) of the Undated Deeply Subordinated Notes ("*Loss Absorption*" and "*Interest Cancellation*").

Under the mentioned conditions, the Undated Deeply Subordinated Notes will be available and may be used to absorb losses of BES, if that is necessary for BES to continue its business activities, proportionally between the nominal amount of the Undated Deeply Subordinated Notes, other undated deeply subordinated notes ranking *pari passu* therewith and the share capital of the Bank on a *pro rata* basis, in accordance with a decision taken by the Executive Committee of BES to that effect or further to a direction received from the Bank of Portugal in case BES is at risk of failing to comply with the Own Funds Requirements Regulations applicable to it. In these circumstances the nominal amount of the Undated Deeply Subordinated Notes will be reduced to the extent necessary to absorb BES' losses, whenever the amount of the Bank's Regulatory Capital (as defined in the "Terms and Conditions of the Undated Deeply Subordinated Notes") excluding the Undated Deeply Subordinated Notes and other instruments also eligible to Tier 1 Capital subject to limits, is below the amount of the share capital of the Bank with reference to the most recently published financial statements of the Bank or whenever the Bank is at risk of non-compliance with the Own Funds Requirements Regulations, at an individual or consolidated level as appropriate, in the opinion of either the Bank or the Bank of Portugal taking into account the most recently available reports from the Bank of Portugal regarding the Bank's compliance with the Own Funds Requirements Regulations. The nominal amount so reduced will only be reinstated and recorded as a subordinated credit in certain specified circumstances. The potential reduction of the nominal amount will very likely negatively affect the market value of the Undated Deeply Subordinated Notes then outstanding and will increase the risk



of capital loss under the investment in the Undated Deeply Subordinated Notes, either in whole or in part, considering that such reduced amount will only be reinstated in certain circumstances.

*The Undated Deeply Subordinated Notes are undated securities and need not be redeemed by BES*

The Undated Deeply Subordinated Notes are undated securities in respect of which there is no fixed redemption or maturity date. BES is under no obligation to redeem the Undated Deeply Subordinated Notes at any time (and any redemption has to comply with the provisions of Condition 6 of the Undated Deeply Subordinated Notes (“*Redemption and Purchase*”) and, in any event, be subject to the prior approval of the Bank of Portugal). BES may only redeem the Undated Deeply Subordinated Notes within the five years subsequent to their issue date if: (i) the Bank of Portugal is of the opinion that the relevant Tranche of Undated Deeply Subordinated Notes being redeemed is replaced with another Tranche which in the opinion of the Bank of Portugal satisfies at least the same requirements as the Redeemed Notes in terms of eligibility as Tier 1 capital of BES; (ii) the proceeds of the issue of the Undated Deeply Subordinated Notes cease to be eligible as Tier 1 Capital for BES; or (iii) certain tax events occur, in any case provided that the Bank of Portugal has previously approved such redemption. For further details see Condition 6 (“*Redemption and Purchase*”).

The holders of Undated Deeply Subordinated Notes have no right to require redemption of the Undated Deeply Subordinated Notes, except if a judgment is issued for the insolvent judicial liquidation of BES or if BES is wound up for any other reason. The holders of Undated Deeply Subordinated Notes have no right to file for the insolvent judicial liquidation of BES for reason of no payment of any amounts under the Undated Deeply Subordinated Notes.

### 3.5 *Risks relating to Interbolsa Notes*

*Reliance upon Interbolsa procedures and Portuguese law*

Investments in Interbolsa Notes will be subject to Interbolsa procedures and Portuguese law with respect to the following:

#### (a) *Form and Transfer of Interbolsa Notes*

Notes held through accounts of financial institutions, which are licensed to act as financial intermediaries and which are entitled to hold control accounts with Interbolsa on behalf of their customers and which include any depository banks appointed by Euroclear and Clearstream, Luxembourg for the purpose of holding accounts on behalf of Euroclear and Clearstream, Luxembourg (each such institution an “Affiliate Member of Interbolsa”) will be represented in book-entry form (*forma escritural*) and can be either registered notes (*nominativas*) or bearer notes (*ao portador*) as specified in the applicable Final Terms. Interbolsa Notes shall not be issued in definitive form, whether in definitive bearer form or otherwise. Interbolsa Notes will be registered in the relevant issue account opened by the Issuer with Interbolsa and will be held in control accounts by the Affiliate Members of Interbolsa on behalf of the relevant Noteholders. Such control accounts will reflect at all times the aggregate number of Interbolsa Notes held in the individual securities accounts opened by the clients of the Affiliate Members of Interbolsa (which may include Euroclear and Clearstream, Luxembourg). The transfer of Interbolsa Notes and their beneficial interests will be made through Interbolsa.

#### (b) *Payments on Interbolsa Notes*

All payments on Interbolsa Notes (including without limitation the payment of accrued interest and principal) will be made by the Issuer to the Portuguese Paying Agent and (i) **if made in euro** will be (a) credited, according to the procedures and regulations of Interbolsa, by the Portuguese Paying Agent to the payment current-accounts held in the payment system of the Bank of Portugal by the Affiliate Members of Interbolsa whose control accounts with Interbolsa are credited with such Notes and thereafter (b) credited by such Interbolsa Affiliate

Members from the aforementioned payment current-accounts to the accounts of the Noteholders or through Euroclear and Clearstream, Luxembourg to the accounts with Euroclear and Clearstream, Luxembourg of the beneficial owners of those Notes, in accordance with the rules and procedures of Interbolsa, Euroclear or Clearstream, Luxembourg, as the case may be; (ii) **if made in currencies other than euro** will be (a) transferred, on the payment date and according to the procedures and regulations applicable by Interbolsa, from the account held by the Portuguese Paying Agent in the Foreign Currency Settlement System (*Sistema de Liquidação em Moeda Estrangeira*), managed by Caixa Geral de Depósitos, S.A., to the relevant accounts of the relevant Affiliate Members of Interbolsa, and thereafter (b) transferred by such Affiliate Members of Interbolsa from such relevant accounts to the accounts of the Noteholders of those Notes or through Euroclear and Clearstream, Luxembourg to the accounts with Euroclear and Clearstream, Luxembourg of the beneficial owners of those Notes, in accordance with the rules and procedures of Interbolsa, Euroclear or Clearstream, Luxembourg, as the case may be.

The Issuer must provide Interbolsa with a prior notice of all payments in relation to the Interbolsa Notes and all necessary information for that purpose. In particular, such notice must contain:

- (a) the identity of the Portuguese Paying Agent responsible for the relevant payment; and
- (b) a statement of acceptance of such responsibility by the Portuguese Paying Agent.

Interbolsa shall notify the Portuguese Paying Agent of the amounts to be settled, which Interbolsa calculates on the basis of the balances and on the tax rules governing the accounts of the Affiliate Members of Interbolsa.

In the case of a partial payment, the amount held in the relevant current account of the Portuguese Paying Agent must be apportioned pro-rata between the accounts of the Affiliate Members of Interbolsa. After a payment has been processed, such process shall be confirmed to Interbolsa.

The Noteholders must rely on the procedures of Interbolsa to receive payment under the Interbolsa Notes. The records relating to payments made in respect of beneficial interests in the Interbolsa Notes are maintained by the Affiliate Members of Interbolsa and the Issuer accepts no responsibility for, and will not be liable in respect of, the maintenance of such records.

(c) *Portuguese Tax Rules*

Pursuant to Decree-Law 193/2005, of 7th November, 2005, as amended from time to time, investment income paid to holders of Interbolsa Notes, and capital gains derived from a sale or other disposition of such Notes, will be exempt from Portuguese income tax only if certain documentation requirements are duly complied with.

If the Notes are held in an account with an international clearing system (such as Euroclear or Clearstream, Luxembourg), the management entity of such clearing system may not provide the necessary registration services in respect of the Interbolsa Notes, and, therefore, to be eligible for the exemption, the holders of the Interbolsa Notes are required to submit to the management entity of the relevant clearing system, by courier, hand delivery or mail (there is no procedure for electronic filing), on an annual basis:

- (i) a certificate with the name of each beneficial owner, address, tax payer number (if applicable), the identity of the securities, the quantity held and also the reference to the legislation supporting the exemption or the waiver of Portuguese withholding tax; or
- (ii) a declaration that the beneficial owners are exempt from, or not subject to, Portuguese withholding tax.

The certificate and declaration are set out in “*Taxation in Portugal (including Madeira)*” on page 300 hereto.

**The Issuer will not gross up payments in respect of any such withholding tax in any of the cases indicated in Condition 8 of the Interbolsa Notes, including failure to deliver or incorrect filling of the certificate or declaration referred to above. Accordingly, holders of Interbolsa Notes must seek their own advice to ensure that they comply with all procedures to ensure correct tax treatment of their Interbolsa Notes.**

### 3.6 *Risks related to the market generally*

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

#### *The secondary market generally*

Notes may have no established trading market when issued, and one may never develop. If a market does develop, it may not be very liquid. Therefore, investors may not be able to sell their Notes easily or at prices that will provide them with a yield comparable to similar investments that have a developed secondary market. This is particularly the case for Notes that are especially sensitive to interest rate, currency or market risks, are designed for specific investment objectives or strategies or have been structured to meet the investment requirements of limited categories of investors. These types of Notes generally would have a more limited secondary market and more price volatility than conventional debt securities. Illiquidity may have a severely adverse effect on the market value of Notes.

#### *Exchange rate risks and exchange controls*

The Issuer will pay principal and interest on the Notes and the Guarantor will make any payments under the Guarantee in the Specified Currency. This presents certain risks relating to currency conversions if an investor’s financial activities are denominated principally in a currency or currency unit (the “Investor’s Currency”) other than the Specified Currency. These include the risk that exchange rates may significantly change (including changes due to devaluation of the Specified Currency or revaluation of the Investor’s Currency) and the risk that authorities with jurisdiction over the Investor’s Currency may impose or modify exchange controls. An appreciation in the value of the Investor’s Currency relative to the Specified Currency would decrease (1) the Investor’s Currency-equivalent yield on the Notes, (2) the Investor’s Currency-equivalent value of the principal payable on the Notes and (3) the Investor’s Currency-equivalent market value of the Notes.

Government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable exchange rate. As a result, investors may receive less interest or principal than expected, or no interest or principal.

#### *Interest rate risks*

Investment in Fixed Rate Notes involves the risk that subsequent changes in market interest rates may adversely affect the value of the Fixed Rate Notes.

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

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

In general, European regulated investors are restricted under Regulation (EC) No. 1060/2009 (the “CRA Regulation”) from using credit ratings for regulatory purposes, unless such ratings are issued by a credit rating agency established in the EU and registered under the CRA Regulation (and such registration has not been withdrawn or suspended). Such general restriction will also apply in the case of credit ratings issued by non-EU credit rating agencies, unless the relevant credit ratings are endorsed by an EU-registered credit rating agency or the relevant non-EU rating agency is certified in accordance with the CRA Regulation (and such endorsement action or certification, as the case may be, has not been withdrawn or suspended). The list of registered and certified rating agencies published by the European Securities and Markets Authority (“ESMA”) on its website in accordance with the CRA Regulation is not conclusive evidence of the status of the relevant rating agency included in such list, as there may be delays between certain supervisory measures being taken against a relevant rating agency and the publication of the updated ESMA list. Certain information with respect to the credit rating agencies and ratings will be disclosed in the Final Terms.

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

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

## GENERAL DESCRIPTION OF THE PROGRAMME

Under the Programme, the Issuers may from time to time issue Notes denominated in any currency agreed between the relevant Issuer and the relevant Dealer, subject as set out herein. A summary of the terms and conditions of the Programme and the Notes is set out in “Summary of the Programme” above. The applicable terms of any Notes will be agreed between the Issuer and the relevant Dealer prior to the issue of the Notes and will be set out either in the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” or in the “Terms and Conditions of the Undated Deeply Subordinated Notes” endorsed on, attached to, or incorporated by reference into, the Notes, as modified by Part A of the applicable Final Terms attached to, endorsed on or incorporated by reference into such Notes, as more fully described under “Form of the Notes” below.

This Prospectus and any supplement to this Prospectus will only be valid for listing Notes on the Official List of the Luxembourg Stock Exchange and their admission to trading on the regulated market of the Luxembourg Stock Exchange, or any other stock exchange in the European Economic Area, in an aggregate nominal amount which, when added to the aggregate nominal amount then outstanding of all Notes previously or simultaneously issued under the Programme, does not exceed €20,000,000,000 or its equivalent in other currencies. For the purpose of calculating the euro equivalent of the aggregate nominal amount of Notes issued under the Programme from time to time:

- (a) the euro equivalent of Notes denominated in another Specified Currency (as specified in the applicable Final Terms in relation to the relevant Notes, described under “Applicable Final Terms”) shall be determined, at the discretion of the Issuer, either as of the date on which agreement is reached for the issue of Notes or on the preceding day on which commercial banks and foreign exchange markets are open for general business in London and Lisbon, in each case on the basis of the spot rate for the sale of the euro against the purchase of such Specified Currency in the London foreign exchange market quoted by any leading international bank selected by the Issuer on the relevant day of calculation;
- (b) the euro equivalent of Dual Currency Notes, Index Linked Notes and Partly Paid Notes (each as specified in the applicable Final Terms in relation to the relevant Notes, described under “Form of the Notes”) shall be calculated in the manner specified above by reference to the original nominal amount on issue of such Notes (in the case of Partly Paid Notes, regardless of the subscription price paid); and
- (c) the euro equivalent of Zero Coupon Notes (as specified in the applicable Final Terms in relation to the relevant Notes, described under “Form of the Notes”) and other Notes issued at a discount or a premium shall be calculated in the manner specified above by reference to the net proceeds received by the Issuer for the relevant issue.

## DOCUMENTS INCORPORATED BY REFERENCE

The following documents which have been filed with the CSSF shall be incorporated in, and form part of, this Prospectus. Information contained in the documents incorporated by reference other than information listed in the table below is given for information purposes only.

- (a) The press release of the Bank dated 15th May, 2012 entitled “Banco Espírito Santo Group Activity and Results in 1Q 2012” presenting the unaudited consolidated financial results for the three month period ended on 31st March, 2012, including:
  - (i) income statement (page 43) and;
  - (ii) balance sheet (page 42).
- (b) The auditors’ report and audited consolidated and non-consolidated annual financial statements of the Bank for the financial year ended 31st December, 2011, as set out on pages 98-203 of the Bank’s 2011 annual report including:
  - (i) statements of income (pages 100, 101, 127 and 128);
  - (ii) balance sheet (pages 102, 129 and 130);
  - (iii) statement of changes in equity (page 103);
  - (iv) cashflow statements (page 104);
  - (v) accounting policies and explanatory notes (pages 105-199); and
  - (vi) auditors’ report (pages 200-202).
- (c) The auditors’ report and audited consolidated and non-consolidated annual financial statements of the Bank for the financial year ended 31st December, 2010, as set out on pages 78-191 of the Bank’s 2010 annual report including:
  - (i) statements of income (pages 79, 81, 92 and 93);
  - (ii) balance sheet (pages 78, 80 and 94);
  - (iii) statement of changes in equity (page 95);
  - (iv) cashflow statements (page 96);
  - (v) accounting policies and explanatory notes (pages 97-187); and
  - (vi) auditors’ report (page 190).
- (d) The auditors’ report and audited annual financial statements of BES Finance for the financial year ended 31st December, 2011, as set out in BES Finance’s financial statements and notes to the financial statements for the years ended 31st December, 2011 and 2010, including:
  - (i) income statement (pages 2 and 3);
  - (ii) balance sheet (page 4);
  - (iii) statement of changes in equity (page 5);
  - (iv) cashflow statements (page 6);
  - (v) accounting policies and explanatory notes (pages 7 to 44); and
  - (vi) auditors’ report (pages 45 and 46).



- (e) The auditors' report and audited annual financial statements of BES Finance for the financial year ended 31st December, 2010, as set out in BES Finance's financial statements and notes to the financial statements for the years ended 31st December, 2010 and 2009, including:
- (i) income statement (pages 2 and 3);
  - (ii) balance sheet (page 4);
  - (iii) statement of changes in equity (page 5);
  - (iv) cashflow statements (page 6);
  - (v) accounting policies and explanatory notes (pages 7 to 50); and
  - (vi) auditors' report (pages 51 and 52).

All information included in the 2011 and 2010 Annual Reports and in the interim financial statements of BES Finance and the Bank but not expressly identified above is provided for information purposes only.

Following the publication of this Prospectus a supplement to this Prospectus may be prepared by the relevant Issuer and approved by the CSSF in accordance with Article 16 of the Prospectus Directive. Statements contained in any such supplement to this Prospectus (or contained in any document incorporated by reference therein) shall, to the extent applicable, be deemed to modify or supersede statements contained in this Prospectus or in a document which is incorporated by reference in this Prospectus. Any statement so modified or superseded shall not, except as so modified or superseded, constitute a part of this Prospectus.

Copies of documents incorporated by reference in this Prospectus can be obtained from the registered office of the relevant Issuer and from the specified office of the Paying Agent for the time being in Luxembourg.

In addition, such documents will be published on the Luxembourg Stock Exchange's web site ([www.bourse.lu](http://www.bourse.lu)).

BES Finance and the Bank will, in the event of any significant new factor, material mistake or inaccuracy relating to information included in this Prospectus which is capable of affecting the assessment of any Notes, prepare a supplement to this Prospectus or publish a new Prospectus for use in connection with any subsequent issue of Notes.

## FORM OF THE NOTES

### 1. Bearer Notes

Each Tranche of Notes (not applicable to Interbolsa Notes) will be initially represented by a temporary global Note without receipts, interest coupons or talons, which on issue will:

- (i) if the temporary global Note is intended to be issued in new global note (“NGN”) form, as stated in the applicable Final Terms, be delivered on or prior to the original issue date of the relevant Tranche to a common safekeeper (the “Common Safekeeper”) outside the United States for Euroclear and Clearstream, Luxembourg; and
- (ii) if the temporary global Note is not intended to be issued in NGN form, as stated in the applicable Final Terms, be delivered on or prior to the original issue date of the relevant Tranche to a common depository (the “Common Depository”) outside the United States for Euroclear and Clearstream, Luxembourg.

Whilst any Note is represented by a temporary global Note, payments of principal and interest (if any) due prior to the Exchange Date (as defined below) will be made outside the United States (against presentation of the temporary global Note if the temporary global Note is not intended to be issued in NGN form) only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in such Note are not U.S. persons or persons who have purchased for resale to any U.S. person, as required by U.S. Treasury regulations, has been received by Euroclear and/or Clearstream, Luxembourg and Euroclear and/or Clearstream, Luxembourg, as applicable, has given a like certification (based on the certifications it has received) to the Agent. Any reference in this section “Form of the Notes” to Euroclear and/or Clearstream, Luxembourg shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system approved by the Issuer, the Agent and the Trustee.

On and after the date (the “Exchange Date”) which is 40 days after the date on which any temporary global Note is issued, interests in such temporary global Note unless otherwise specified in the applicable Final Terms or the temporary global Note will be exchangeable (free of charge) upon a request as described therein either for interests in a permanent global Note without receipts, interest coupons or talons or, subject to the following proviso, for definitive Notes with, where applicable, receipts, interest coupons and talons attached (as indicated in the applicable Final Terms and subject, in the case of definitive Notes, to such notice period as is specified in the applicable Final Terms) in each case against certification of beneficial ownership as described in the immediately preceding paragraph unless such certification has already been given; provided that a temporary global Note representing Notes having denominations consisting of a minimum Specified Denomination and one or more higher Specified Denominations which are not an integral amount of such minimum Specified Denomination may only be exchanged for definitive Notes upon an Exchange Event (as defined below). The holder of a temporary global Note will not be entitled to collect any payment of interest or principal due on or after the Exchange Date unless upon due certification exchange of the temporary global Note is improperly withheld or refused. Pursuant to the Principal Agency Agreement (as defined under “Terms and Conditions of the Notes” below) the Agent shall arrange that, where a further Tranche of Notes is issued, the Notes of such Tranche shall be assigned a common code and ISIN by Euroclear and Clearstream, Luxembourg which are different from the common code and ISIN assigned to Notes of any other Tranche of the same Series until at least 40 days (as notified by the Agent to the relevant Dealer) after the completion of the distribution of the Notes of such Tranche.

Payments of principal and interest (if any) on a permanent global Note will be made through Euroclear and/or Clearstream, Luxembourg (against presentation or surrender (as the case may be) of the permanent global Note if the permanent global Note is not intended to be issued in NGN form) without any requirement for certification. Unless otherwise specified in the applicable Final Terms, a permanent global Note will be exchangeable (free of charge), in whole but not in part, for definitive Notes with, where applicable, receipts, interest coupons and talons attached upon not less than 60 days’ written notice to the Agent as described therein, save that a permanent global Note representing Notes having denominations consisting of a minimum Specified Denomination and one or more higher Specified Denominations which are not an

integral multiple of such minimum Specified Denomination may only be exchanged for definitive Notes upon an Exchange Event. “Exchange Event” means that the Issuer and/or the Guarantor has been notified that both Euroclear and Clearstream, Luxembourg have been closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or have announced an intention permanently to cease business or have in fact done so and no alternative clearance system satisfactory to the Trustee is available. The Issuer shall promptly give notice to the Noteholders in accordance with the Terms and Conditions if an Exchange Event occurs. Global Notes and definitive Notes will be issued pursuant to the Principal Agency Agreement.

The following legend will appear on all bearer Notes which have an original maturity of more than one year and on all receipts, interest coupons and talons relating to such Notes:

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

The sections referred to provide that United States holders, with certain exceptions, will not be entitled to deduct any loss on Notes, receipts or interest coupons and will not be entitled to capital gains treatment of any gain on any sale, disposition, redemption or payment of principal in respect of Notes, receipts or interest coupons.

## **2. Interbolsa Notes**

Notes held through Interbolsa – *Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários, S.A.* (“Interbolsa”) (each an “Interbolsa Note”) will be represented in book-entry (“*forma escritural*”) form and can be either a registered Note (“*nominativas*”) or a bearer Note (“*ao portador*”), as specified in the applicable Final Terms.

Title to Interbolsa Notes will be evidenced by book-entries in accordance with the Portuguese Securities Code and the regulations issued by *Comissão do Mercado de Valores Mobiliários* (Portuguese Securities Market Commission, the “CMVM”), by Interbolsa or otherwise applicable thereto. Each person shown in the book-entry records of a financial institution, which is licensed to act as a financial intermediary and which is entitled to hold control accounts with Interbolsa on behalf of their customers and which includes any depository banks appointed by Euroclear and Clearstream, Luxembourg for the purpose of holding accounts on behalf of Euroclear and Clearstream, Luxembourg (each such institution an “Affiliate Member of Interbolsa”), as having an interest in the Interbolsa Notes shall be the holder of the principal amount of the Interbolsa Notes recorded.

Title to the Interbolsa Notes is subject to compliance with all rules, restrictions and requirements applicable to the activities of Interbolsa and to Portuguese law.

One or more certificates in relation to the Interbolsa Notes (each, a “Certificate”) will be delivered by the relevant financial intermediary through which Interbolsa Notes are held in individual securities accounts in respect of a registered holding of Interbolsa Notes upon the request by the relevant Noteholder and in accordance with that financial intermediary’s procedures pursuant to article 78 of the Portuguese Securities Code.

The Interbolsa Notes will be registered in the relevant control issue account of the Issuer with Interbolsa and will be held in control accounts by each Affiliate Member of Interbolsa on behalf of the Noteholders. Such control accounts will reflect at all times the aggregate number of Interbolsa Notes held in individual securities accounts opened with the Affiliate Members of Interbolsa by Noteholders, which are clients of the Affiliate Members of Interbolsa and include Euroclear and Clearstream, Luxembourg.

The person or entity registered in the relevant individual securities accounts of an Affiliate Member of Interbolsa (the “Book-Entry Registry” and each such entry therein, a “Book Entry”) as the holder of any Interbolsa Note shall (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any other interest therein).

The Issuer and the Paying Agents may (to the fullest extent permitted by applicable law) deem and treat the person or entity registered in the Book-Entry Registry as the holder of any Interbolsa Note and the absolute owner for all purposes. Proof of such registration is made by means of a Certificate issued by the relevant financial intermediary through which Interbolsa Notes are held in individual securities accounts pursuant to article 78 of the Portuguese Securities Code.

No Noteholder will be able to transfer Interbolsa Notes, or any interest therein, except in accordance with Portuguese law and regulations. Interbolsa Notes may only be transferred in accordance with the applicable procedures established by the Portuguese Securities Code and the regulations issued by the CMVM and Interbolsa.

## APPLICABLE FINAL TERMS

*Set out below is the form of Final Terms which will be completed for each Tranche of Notes issued under the Programme with a denomination of less than €100,000 (or its equivalent in another currency).*

[Date]

**[BES FINANCE LTD./BANCO ESPÍRITO SANTO, S.A.  
(acting through its [head office]/[Madeira Free Trade Zone branch]/  
[Cayman Islands branch]/[London branch]/[Luxembourg branch])]**

**Issue of [Aggregate Nominal Amount of Tranche] [Title of Notes]  
[Guaranteed by Banco Espírito Santo, S.A.  
[acting through London branch]]<sup>1</sup>  
under the €20,000,000,000  
Euro Medium Term Note Programme**

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

- (i) in circumstances in which no obligation arises for the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer; or
- (ii) in those Public Offer Jurisdictions mentioned in Paragraph 36 of Part A below, provided such person is one of the persons mentioned in Paragraph 36 of Part A below and that such offer is made during the Offer Period specified for such purpose therein.

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

The expression “Prospectus Directive” means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in the Relevant Member State and the expression “2010 PD Amending Directive” means Directive 2010/73/EU<sup>2</sup>.

[The Prospectus referred to below (as completed by these Final Terms) has been prepared on the basis that any offer of Notes in any Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “Relevant Member State”) will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of the Notes. Accordingly any person making or intending to make an offer in that Relevant Member State of the Notes may only do so in circumstances in which no obligation arises for the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer. Neither the Issuer nor any Dealer has authorised, nor do they authorise, the making of any offer of Notes in any other circumstances.

The expression “Prospectus Directive” means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in the Relevant Member State and the expression “2010 PD Amending Directive” means Directive 2010/73/EU<sup>3</sup>.

<sup>1</sup> Delete as appropriate.

<sup>2</sup> Include this legend where a non-exempt offer of Notes is anticipated.

<sup>3</sup> Include this legend where only an exempt offer of Notes is anticipated.

## PART A – CONTRACTUAL TERMS

Terms used herein shall be deemed to be defined as such for the purposes of the [“Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”/“Terms and Conditions of the Undated Deeply Subordinated Notes”] (the “Terms and Conditions”) set forth in the Prospectus dated [date] [and the supplement to the Prospectus dated [date]] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive (Directive 2003/71/EC) (the “Prospectus Directive”) as amended (which includes the amendments made by Directive 2010/73/EU (the “2010 PD Amending Directive”) to the extent that such amendments have been implemented in a relevant Member State). This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with the Prospectus [as so supplemented]. Full information on the Issuer[, the Guarantor] and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Prospectus [as so supplemented]. The Prospectus [and the supplement to the Prospectus] [is/are] available for viewing at [address] and [website] and copies may be obtained during normal business hours from [address].

*[The following alternative language applies if the first tranche of an issue which is being increased was issued under a Prospectus (or equivalent) with an earlier date.]*

Terms used herein shall be deemed to be defined as such for the purposes of the [“Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”/“Terms and Conditions of the Deeply Subordinated Notes”] (the “Terms and Conditions”) set forth in the [Prospectus/Offering Circular] dated [original date] which are incorporated by reference in the [Prospectus/Offering Circular] dated [current date] and are attached hereto [and the supplement to the Prospectus/Offering Circular dated [date]]. This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive (Directive 2003/71/EC) (the “Prospectus Directive”) and must be read in conjunction with the Prospectus dated [current date] [and the supplement to the Prospectus dated [date]] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive. Full information on the Issuer[, the Guarantor] and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Prospectus dated [current date] [as so supplemented]. Copies of the [Offering Circular/Prospectus] [as so supplemented] are available for viewing at [address] [and] [website] and copies may be obtained during normal business hours from [address].

*[Include whichever of the following apply or specify as “Not Applicable” (N/A). Note that the numbering should remain as set out below, even if “Not Applicable” is indicated for individual paragraphs or subparagraphs. Italics denote directions for completing the Final Terms.]*

*[When adding any other final terms or information consideration should be given as to whether such terms or information constitute “significant new factors” and consequently trigger the need for a supplement to the Prospectus under Article 16 of the Prospectus Directive.]*

*[In respect of Notes issued by BES Finance Ltd. which have a maturity of less than one year, the minimum denomination may need to be £100,000 or its equivalent in any other currency.]*

- |    |                  |  |
|----|------------------|--|
| 1. | Issuer:          | [BES Finance Ltd./Banco Espírito Santo, S.A. (acting through its [head office]/[Madeira Free Trade Zone branch]/[Cayman Islands branch]/[London branch]/[Luxembourg branch])] <sup>4</sup> |
|    | [Guarantor:      | Banco Espírito Santo, S.A. (acting through its London branch)] <sup>1</sup>  |
| 2. | Series Number:   | [●]  |
|    | [Tranche Number: | [●]<br><i>(If fungible with an existing Series, details of that Series, including the date on which the Notes become fungible)]</i>  |

<sup>4</sup> Delete as appropriate.



3. Specified Currency or Currencies: [●]
4. Aggregate Nominal Amount
- Series: [●]
- Tranche: [●]
5. Issue Price of Tranche: [●] per cent. of the Aggregate Nominal Amount [plus accrued interest from *[insert date]* (in the case of fungible issues only, if applicable)]
6. (i) Specified Denominations: [●]  
*(N.B. If an issue of Notes is (i) NOT admitted to trading on a European Economic Area exchange; and (ii) only offered in the European Economic Area in circumstances where a prospectus is not required to be published under the Prospectus Directive the €1,000 minimum denomination is not required.)*  
  
*(N.B. Notes issued after the implementation of the 2010 PD Amending Directive in a Member State must have a minimum denomination of €100,000 (or equivalent) in order to benefit from the wholesale exemption set out in Article 3.2(d) of the Prospectus Directive in that Member State.)*
- (ii) Calculation Amount: [●]  
*(If only one Specified Denomination, insert the Specified Denomination. If more than one Specified Denomination, insert the highest common factor. Note, there must be a common factor in the case of two or more Specified Denominations.)*
7. [(i)] Issue Date [and Interest Commencement Date]: [●]
- [(ii)] Interest Commencement Date (if different from the Issue Date): [●]
8. Maturity Date: *[Fixed rate – specify date/Floating rate where the Interest Period and date(s) are adjusted or any other rate where the Interest Period end date(s) are adjusted – Interest Payment Date falling in or nearest to [specify month and year] [(the “Scheduled Maturity Date”), subject as provided in Condition 24(e)[, and] [Condition 24(f)] [and] [Condition 24(g)] [and] [Condition 24(h)] [and] [Condition 24(k)] of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” (include for Credit Linked Notes as applicable: see below)]]*
9. Interest Basis: [[●] per cent. Fixed Rate]  
 [[LIBOR/EURIBOR]+/- [●] per cent. Floating Rate]  
 [Zero Coupon]  
 [Index Linked Interest]  
 [Dual Currency Interest]  
 [specify other]  
 (further particulars specified below)

10. Redemption/Payment Basis: [Redemption at par]  
[Index Linked Redemption]  
[Dual Currency Redemption]  
[Partly Paid]  
[Instalment]  
[Credit Linked Redemption]  
[specify other]  
*(N.B. If the Final Redemption Amount is other than 100 per cent. of the nominal value the Notes will be derivative securities for the purposes of the Prospectus Directive and the requirements of Annex XII to the Prospectus Directive Regulation will apply.)*
11. Change of Interest Basis or Redemption/Payment Basis: *[Specify details of any provision for change of Notes into another Interest Basis or Redemption/Payment Basis]*
12. Put/Call Options: [Investor Put]  
[Issuer Call]  
(further particulars specified below)
13. [(i)] Status of the Notes: [Senior/Dated Subordinated/Undated Subordinated/Undated Deeply Subordinated]
- [(ii)] Status of the Guarantee: [Senior/Dated Subordinated/Undated Subordinated]]1
- [(iii)] [Date [Board] approval for issuance of Notes [and Guarantee] obtained: [●] [and [●], respectively]] *(N.B. Only relevant where Board (or similar) authorisation is required for the particular tranche of Notes or related Guarantee)*
14. Method of distribution: [Syndicated/Non-syndicated]

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

15. Fixed Rate Note Provisions [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Rate[(s)] of Interest: [●] per cent. per annum [payable [annually/semi-annually/quarterly/other (specify)] in arrear] *(If payable other than annually, consider amending [Condition 5(a) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”/Condition 4(a) of the “Terms and Conditions of the Undated Deeply Subordinated Notes”, if applicable])*
- (ii) Interest Payment Date(s): [[●] in each year up to and including the Maturity Date]/[specify other]  
*(NB: This will need to be amended in the case of long or short coupons)*
- (iii) Fixed Coupon Amount(s): [●] per Calculation Amount
- (iv) Broken Amount(s): [●] per Calculation Amount, payable on the Interest Payment Date falling [in/on] [●]
- (v) Day Count Fraction: [Actual/Actual (ICMA) or 30/360 or specify other] *(NB: if interest is not payable on a regular basis (for example, if there are Broken Amounts specified) Actual/Actual (ICMA) may not be a suitable Day Count Fraction)*

- (vi) Determination Date(s): ☐ in each year  
*[Insert interest payment dates except where there are long or short periods. In these cases, insert regular interest payment dates] (NB: Only relevant where Day Count Fraction is Actual/ Actual (ICMA))*
- (vii) Other terms relating to the method of calculating interest for Fixed Rate Notes: ☐ [None/Give details]
16. Floating Rate Note Provisions ☐ [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Specified Period(s)/Specified Interest Payment Dates: ☐
- (ii) Business Day Convention: ☐ [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/*[specify other]*]
- (iii) Additional Business Centre(s): ☐
- (iv) Manner in which the Rate of Interest and Interest Amount is to be determined: ☐ [Screen Rate Determination/ISDA Determination/*specify other*]
- (v) Party responsible for calculating the Rate of Interest and Interest Amount (if not the Agent): ☐
- (vi) Screen Rate Determination:
- Reference Rate: ☐  
*(Either LIBOR, EURIBOR or other, although additional information is required if other – including fallback provisions in the Agency Agreement)*
  - Interest Determination Date(s): ☐  
*(Second day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in London prior to the start of each Interest Period if LIBOR (other than sterling or euro LIBOR), first day of each Interest Period if sterling LIBOR and the second day on which the TARGET2 System is open prior to the start of each Interest Period if EURIBOR or euro LIBOR)*
  - Relevant Screen Page: ☐  
*(In the case of EURIBOR, if not Reuters EURIBOR01 ensure it is a page which shows a composite rate or amend the fallback provisions approximately)*
- (vii) If ISDA Determination:
- Floating Rate Option: ☐
  - Designated Maturity: ☐
  - Reset Date: ☐

- (viii) Margin(s): ☐ [+/7] ☐ [●] per cent. per annum
- (ix) Minimum Rate of Interest: ☐ [●] per cent. per annum
- (x) Maximum Rate of Interest: ☐ [●] per cent. per annum
- (xi) Day Count Fraction: ☐ [Actual/Actual (ISDA)  
Actual/365 (Fixed)  
Actual/365 (Sterling)  
Actual/360  
30/360  
30E/360  
30E/360 (ISDA)  
Other]  
(See 5(b)(iv) for alternatives)
- (xii) Fallback provisions, rounding provisions and any other terms relating to the method of calculating interest on Floating Rate Notes, if different from those set out in the Terms and Conditions: ☐ [●]
17. Zero Coupon Note Provisions ☐ [Applicable/Not Applicable]  
(If not applicable, delete the remaining sub-paragraphs of this paragraph)
- (i) Accrual Yield: ☐ [●] per cent. per annum
- (ii) Reference Price: ☐ [●]
- (iii) Any other formula/basis of determining amount payable: ☐ [●]  
(Consider applicable day count fraction if euro denominated)
- (iv) Day Count Fraction in relation to Early Redemption amounts and late payment: ☐ [Conditions 7(e)(iii) and 7(j) apply/specify other]
18. Index Linked Interest Note Provisions ☐ [Applicable/Not applicable]  
(If not applicable, delete the remaining sub-paragraphs of this paragraph)
- (i) Index/Formula: ☐ [give or annex details]
- (ii) Calculation Agent: ☐ [give name and address]
- (iii) Party responsible for calculating the Rate of Interest (if not the Calculation Agent) and Interest Amount (if not the Agent): ☐ [give name and address]
- (iv) Provisions for determining Coupon where calculation by reference to Index and/or Formula is impossible or impracticable: ☐ [need to include a description of market disruption or settlement disruption events and adjustment provisions] ☐ [●]

- (v) Specified Period(s)/Specified Interest Payment Dates: [●]
  - (vi) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/*specify other*]
  - (vii) Additional Business Centre(s): [●]
  - (viii) Minimum Rate of Interest: [●] per cent. per annum
  - (ix) Maximum Rate of Interest: [●] per cent. per annum
  - (x) Day Count Fraction: [●]
19. Dual Currency Interest Note Provisions [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Rate of Exchange/method of calculating Rate of Exchange: *[give or annex details]*
  - (ii) Party, if any, responsible for calculating the principal and/or interest due (if not the Agent): *[give name and address]*
  - (iii) Provisions applicable where calculation by reference to Rate of Exchange impossible or impracticable: *[need to include a description of market disruption or settlement disruption events and adjustment provisions]* [●]
  - (iv) Person at whose option Specified Currency(ies) is/ are payable: [●]

## PROVISIONS RELATING TO REDEMPTION

20. Issuer Call: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [●]
  - (ii) Optional Redemption Amount(s) and method, if any, of calculating of such amount(s): [●] per Calculation Amount
  - (iii) If redeemable in part:
    - (a) Minimum Redemption Amount: [●]
    - (b) Higher Redemption Amount: [●]
  - (iv) Notice period (if other than as set out in the Terms and Conditions): [●]  
*(N.B. If setting notice periods which are different to those provided in the Terms and Conditions, the Issuer is advised*

*to consider the practicalities of distribution of information through intermediaries, for example, clearing systems and custodians, as well as any other notice requirements which may apply, for example, as between the Issuer and the Agent or Trustee)*

21. Investor Put: [Applicable/Not Applicable]  
(If not applicable, delete the remaining sub-paragraphs of this paragraph)
- (i) Optional Redemption Date(s): [●]
- (ii) Optional Redemption Amount(s) and method, if any, of calculating of such amount(s): [●] per Calculation Amount
- (iii) Notice period (if other than as set out in the Terms and Conditions): [●]  
(N.B. If setting notice periods which are different to those provided in the Terms and Conditions, the Issuer is advised to consider the practicalities of distribution of information through intermediaries, for example, clearing systems and custodians, as well as any other notice requirements which may apply, for example, as between the Issuer and the Agent or Trustee)
22. Final Redemption Amount: [[●] per Calculation Amount/specify other/see Appendix/see item 24(i) below]  
  
(N.B. If the Final Redemption Amount is other than 100 per cent. of the nominal value the Notes will be derivative securities for the purposes of the Prospectus Directive and the requirements of Annex XII to the Prospectus Directive Regulation will apply.)
23. Early Redemption Amount(s) payable on redemption for taxation reasons or on event of default [or under Condition 24(l) or under Condition 24(m) if a Substitute Reference Obligation has not been identified and/or the method of calculating the same (if required or if different from that set out in Condition 7(e))]: [[●] per Calculation Amount/specify other/see Appendix]  
(N.B. Specify the basis for determining the Early Redemption Amount in the case of Credit Linked Notes)
24. Credit Linked Note Provisions: [Applicable/Not Applicable]  
(If not applicable, delete the remaining sub-paragraphs of this paragraph)  
(Consider whether definitions included in “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” are up to date)

#### General

- (i) Final Redemption Amount: [●] per Calculation Amount
- (ii) Settlement Method: [Auction Settlement/Cash Settlement/Physical Delivery]  
[If Auction Settlement:  
The provisions of Condition 24(b) shall apply]



- [If Cash Settlement:  
The provisions of Condition 24(c) shall apply]  
[If Physical Delivery:  
The Provisions of Condition 24(d) shall apply]
- (iii) Trade Date: [●]
- (iv) Scheduled Termination Date: [The day falling five] Business Days prior to the Scheduled Maturity Date/*specify other*]
- (v) Calculation Agent responsible for making calculations and determinations pursuant to Condition 24: [*give name and address*]
- (vi) Calculation Agent City: [●]
- Credit Provisions
- (vii) Reference Entity(ies): [●]
- (viii) Reference Obligation(s): [●]  
[The obligation[s]  
identified as follows:  
Primary Obligor: [●]  
Guarantor: [●]  
Maturity: [●]  
Coupon: [●]  
CUSIP/ISIN: [●]]
- (ix) All Guarantees: [Applicable/Not Applicable]  
– Provisions relating to Qualifying Guarantee and Underlying Obligation: Condition 24(q) [Applicable/Not Applicable]
- (x) Credit Events: [Bankruptcy]  
[Failure to Pay]  
[Grace Period Extension (Condition 24(f)) [Applicable/Not Applicable]  
[If Applicable:  
Grace Period: [●]]  
[Obligation Acceleration]  
[Obligation Default]  
[Repudiation/Moratorium]  
[Maturity Date Extension: Condition 24(h): [Applicable/Not Applicable]]  
[Restructuring]  
– Provisions relating to Restructuring Credit Event: Condition 24(n) [Applicable/Not Applicable]  
– Provisions relating to Multiple Holder Obligation: Condition 24(o) [Applicable/Not Applicable]  
– [Restructuring Maturity Limitation and Fully Transferable Obligation [Applicable/Not Applicable]]  
– [Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation [Applicable/Not Applicable]]  
[*other*]

Default Requirement:	<input type="checkbox"/>
Payment Requirement:	<input type="checkbox"/>
(xi) Conditions to Settlement:	<p>Notice of Publicly Available Information [Applicable/Not Applicable]          [If Applicable:          Public Source(s): <input type="checkbox"/>  <i>(If other than in the definition in Condition 24(j))</i> Specified Number: <input type="checkbox"/>  <i>(If none specified, then it is deemed to be two.)</i></p>
(xii) Obligation(s):	
Obligation Category ( <i>select one only</i> ):	<p><input type="checkbox"/> [Payment] <input type="checkbox"/> [Borrowed Money] <input type="checkbox"/> [Reference Obligations Only]  <input type="checkbox"/> [Bond]  <input type="checkbox"/> [Loan]  <input type="checkbox"/> [Bond or Loan]  <input type="checkbox"/> [Not Subordinated] <input type="checkbox"/> [Specified Currency:  <i>[specify currency]</i> <input type="checkbox"/> [Standard Specified Currencies]  <input type="checkbox"/> [Not Sovereign Lender]  <input type="checkbox"/> [Not Domestic Currency:]  <input type="checkbox"/> [Domestic Currency means: <i>[specify currency]</i>]  <input type="checkbox"/> [Not Domestic Law]  <input type="checkbox"/> [Listed]  <input type="checkbox"/> [Not Domestic Issuance]</p>
Additional Obligation(s):	<input type="checkbox"/>
(xiii) Provisions relating to Monoline Insurer to Reference Entity:	Condition 24(p) [Applicable/Not Applicable]
(xiv) Excluded Obligation(s):	<input type="checkbox"/>
(xv) Accrual of Interest upon Credit Event:	[Applicable/Not Applicable]
(xvi) Merger Event: Condition 24(l):	<p>[Applicable/Not Applicable]  <input type="checkbox"/></p>
(xvii) [Unwind Costs:	[Standard Unwind Costs/ <i>other</i> /Not Applicable]
<i>Terms relating to Cash Settlement</i>	<p>[Applicable/Not Applicable]  <i>(If not applicable, delete the remaining sub-paragraphs of this paragraph)</i></p>
(xviii) Credit Event Redemption Amount:	<input type="checkbox"/> per Calculation Amount/As provided in Condition 24(m)]
(xix) Credit Event Redemption Date:	<input type="checkbox"/> Business Days
(xx) Valuation Date:	<p>[Single Valuation Date:  <input type="checkbox"/> Business Days]          [Multiple Valuation Dates:  <input type="checkbox"/> Business Days; and each <input type="checkbox"/> Business Days thereafter          Number of Valuation Dates: <input type="checkbox"/></p>

(xxi)	Valuation Time:	<input type="radio"/>
(xxii)	Quotation Method:	[Bid/Offer/Mid-market]
(xxiii)	Quotation Amount:	<input type="radio"/> /Representative Amount]
(xxiv)	[Minimum Quotation Amount:	<input type="radio"/>
(xxv)	Quotation Dealers:	<input type="radio"/>
(xxvi)	Quotations:	[Include Accrued Interest/Exclude Accrued Interest]
(xxvii)	Valuation Method:	[Market/Highest] [Average Market/Highest/Average Highest] [Blended Market/Blended Highest] [Average Blended Market/Average Blended Highest]
(xxviii)	Other terms or special conditions:	<input type="radio"/>
<i>Terms relating to Physical Delivery</i>		[Applicable/Not Applicable] <i>(If not applicable, delete the remaining sub-paragraphs of this paragraph)</i>
(xxix)	Physical Settlement Period:	<input type="radio"/> Business Days
(xxx)	Asset Amount:	[Include Accrued Interest/Exclude Accrued Interest]
(xxxi)	Settlement Currency:	<input type="radio"/>
(xxxii)	Deliverable Obligations:	
	Deliverable Obligation Category ( <i>select one only</i> ):	[Payment] [Borrowed Money] [Reference Obligations Only] [Bond] [Loan] [Bond or Loan]
	Deliverable Obligation Characteristics ( <i>select all of which apply</i> ):	[Not Subordinated] [Specified Currency: <i>specify currency</i> ] [Standard Specified Currencies] [Not Sovereign Lender] [Not Domestic Currency] [Domestic Currency means: <i>specify currency</i> ] [Not Domestic Law] [Listed] [Not Contingent] [Not Domestic Issuance] [Assignable Loan] [Consent Required Loan] [Direct Loan Participation] [Qualifying Participation Seller: – <i>insert details</i> ] [Transferable] [Maximum Maturity: <input type="radio"/> [Accelerated or Matured] [Not Bearer]
	Additional Deliverable Obligation(s):	<input type="radio"/>
(xxxiii)	Excluded Deliverable Obligation(s):	<input type="radio"/>

- |   |  |  |
|---|--|--|
| (xxxiv)   | Indicative Quotations:   | [Applicable/Not Applicable]  |
| (xxxv)  | Cut-Off Date:  | [●]  |
| (xxxvi)   | Delivery provisions for Asset Amount (including details of who is to make such delivery) if different from Terms and Conditions: | [●]  |
| (xxxvii)  | Other terms or special conditions:   | [●]  |
| <i>Additional terms relating to Auction Settlement:</i> |  |  |
| (xxxviii)   | Fallback Settlement Method:  | [Cash Settlement/Physical Delivery] <i>[If Physical Delivery: The provisions of Condition 24(i) shall apply]</i> |
| (xxxix)   | Additional Business Centre(s):   | [●]  |
| (xl)  | Business Day Convention for purposes of Condition 24:  | [Following/Modified Following/Preceding]   |
| (xli)   | Succession Event Backstop Date subject to adjustment in accordance with Business Day Convention:                                 | [Yes/No]   |
| (xlii)  | Limitation Dates subject to adjustment in accordance with Business Day Convention:   | [Yes/No]   |

## GENERAL PROVISIONS APPLICABLE TO THE NOTES

25. (i) Form of Notes: [Temporary Global Note exchangeable for a Permanent Global Note which is exchangeable for Definitive Notes [on not less than 60 days' notice given at any time]/[only upon an Exchange Event].]
- (The 'exchange upon 60 days' notice' option should not be expressed to be applicable if the Specified Denomination in paragraph 6 includes language substantially to the following effect: "[€100,000] and integral multiples of [€1,000] in excess thereof up to and including [€199,000].")*
- [Temporary Global Note exchangeable for Definitive Notes on and after the Exchange Date.]
- [Book-entry form registered Notes (Interbolsa Notes)]
- [Book-entry form bearer Notes (Interbolsa Notes)]
- [Notes shall not be physically delivered in Belgium, except to a clearing system, a depository or other institution for the purpose of their immobilisation in accordance with article 4 of the Belgian Law of 14th December, 2005.]*

- (ii) New Global Note: [Yes/No]
26. Additional Financial Centre(s) or other special provisions relating to Payment Days: [Not Applicable/give details]
- (Note that this item relates to the place of payment and not Interest Period end dates to which sub-paragraphs 16 (iii) and 18 (vii) relate)*
27. Talons for future Coupons or Receipts to be attached to Definitive Notes (and dates on which such Talons mature): [Yes/No. If yes, give details]
28. Details relating to Partly Paid Notes: amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences of failure to pay, including any rights of the Issuer to forfeit the Notes and interest due on late payment: [Not Applicable/give details. NB: a new form of Temporary Global Note and/or Permanent Global Note may be required for Partly Paid issues]
29. Details relating to Instalment Notes: amount of each instalment, date on which each payment is to be made: [Not Applicable/give details]
30. Redenomination: Redenomination [not] applicable  
*(If Redenomination is applicable, specify the applicable Day Count Fraction and any provisions necessary to deal with floating rate interest calculation (including alternative reference rates))*
31. Governing Law: [English law [except that Conditions 2(ii) and 2(iii) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” in relation to the Bank only (whether in its capacity as issuer or guarantor) shall be governed by Portuguese law], [except that Conditions 4(ii) and 4(iii) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” shall be governed by Portuguese law] [except that Conditions 2, 4 and 6 of the “Terms and Conditions of the Undated Deeply Subordinated Notes” shall be governed by Portuguese law].]
32. Other final terms: [Not Applicable/give details]  
*(When adding any other final terms consideration should be given as to whether such terms constitute “significant new factors” and consequently trigger the need for a supplement to the Prospectus under Article 16 of the Prospectus Directive.)*

## DISTRIBUTION

33. (i) If syndicated, names and addresses of Managers and underwriting commitments: [Not Applicable/give names and addresses and underwriting commitments]

*(Include names and addresses of entities agreeing to underwrite the issue on a firm commitment basis and names and addresses of the entities agreeing to place the issue without a firm commitment or on a “best efforts” basis if such entities are not the same as the Managers)*

- (ii) Date of Subscription Agreement: [●]
- (iii) Stabilising Manager(s) (if any): [Not Applicable/give name(s)]
34. If non-syndicated, name and address of relevant Dealer: [Name and address]
35. Total commission and concession: [●] per cent. of the Aggregate Nominal Amount
36. U.S. Selling Restrictions: [Reg. S Compliance Category 2; TEFRA C/TEFRA D/TEFRA not applicable]  
(N.B. Interbolsa Notes must not be TEFRA D)
37. Non exempt Offer: [Not Applicable] [An offer of the Notes may be made by the Managers [and [specify names of other financial intermediaries/placers making non-exempt offers, to the extent known OR consider a generic description of other parties involved in non-exempt offers (e.g. “other parties authorised by the Managers”) or (if relevant) note that other parties may make non-exempt offers in the Public Offer Jurisdictions during the Offer Period, if not known]] (together with the Managers, the “Financial Intermediaries”) other than pursuant to Article 3(2) of the Prospectus Directive in [specify relevant Member State(s) – which must be jurisdictions where the Prospectus and any supplements have been passported (in addition to the jurisdiction where approved and published)] (“Public Offer Jurisdictions”) during the period from [specify date] until [specify date or a formula such as “the Issue Date” or “the date which falls [●] Business Days thereafter”] (the “Offer Period”). See further Paragraph [11] of Part B below.
- (N.B. Consider any local regulatory requirements necessary to be fulfilled so as to be able to make a non-exempt offer in relevant jurisdictions. No such offer should be made in any relevant jurisdiction until those requirements have been met. Non-exempt offers may only be made into jurisdictions in which the base prospectus (and any supplement) has been notified/passported.)*
38. Additional Selling Restrictions: [Not Applicable/give details]

## PURPOSE OF FINAL TERMS

These Final Terms comprise the final terms required for issue [and] [public offer in the Public Offer Jurisdictions] [and admission to listing on the [Official List of the Luxembourg Stock Exchange/specify other]] and admission to trading on [the Regulated Market of the Luxembourg Stock Exchange/specify other] of the Notes described herein pursuant to the €20,000,000,000 Euro Medium Term Note Programme of [ISSUER].



## RESPONSIBILITY

The Issuer [and the Guarantor] accept[s] responsibility for the information contained in these Final Terms. [[*Relevant third party information, for example in compliance with Annex XII to the Prospectus Directive Regulation in relation to an index or its components*] has been extracted from [*specify source*]. [Each of the/The] Issuer [and the Guarantor] confirm[s] that such information has been accurately reproduced and that, so far as it is aware and is able to ascertain from information published by [*specify source*], no facts have been omitted which would render the reproduced information inaccurate or misleading].

Signed on behalf of [ISSUER]:

[Signed on behalf of Banco Espírito Santo, S.A.  
(acting through its London branch)]

By: .....

*Duly authorised*

By: .....

*Duly authorised*

## PART B – OTHER INFORMATION

### 1. LISTING AND ADMISSION TO TRADING

Listing and admission to trading: [Not Applicable]/[Application [has been/is expected to be] made by the Issuer (or on its behalf) for the Notes to be admitted to listing on [the Official List of the Luxembourg Stock Exchange/*specify other*] and to trading on [the Regulated Market of the Luxembourg Stock Exchange/*specify other*] with effect from [●].]

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

### 2. RATINGS

Ratings: [The Notes to be issued [[have been]/[are expected to be]] rated [*insert details*] by [*insert the legal name of the relevant credit rating agency entity(ies)*].]

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

*[[Insert the legal name of the relevant credit rating agency entity] is established in the European Union and is registered under Regulation (EC) No. 1060/2009 (as amended). [As such [*insert the legal name of the relevant credit rating agency entity*] is included in the list of credit ratings agencies published by the European Securities and Markets Authority on its website in accordance with such Regulation.]]*

*[[Insert the legal name of the relevant non-EU credit rating agency entity] is not established in the European Union and is not registered in accordance with Regulation (EC) No. 1060/2009 (as amended). [[Insert the legal name of the relevant non-EU credit rating agency entity] is therefore not included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with such Regulation.]*

*[Insert the legal name of the relevant non-EU credit rating agency entity] is not established in the European Union and has not applied for registration under Regulation (EC) No. 1060/2009 (as amended) (the “CRA Regulation”). The ratings have been endorsed by [*insert the legal name of the relevant EU-registered credit rating agency entity*] in accordance with the CRA Regulation. [*Insert the legal name of the relevant EU credit rating agency entity*] is established in the European Union and registered under the CRA Regulation [. As such [*insert the legal name of the relevant EU credit rating agency entity*] is included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with the CRA Regulation.] The European Securities Markets Authority has indicated that ratings issued in [Japan/Australia/the USA/Canada/Hong Kong/Singapore/Argentina/Mexico (*delete**

*as appropriate*)] which have been endorsed by *[insert the legal name of the relevant EU credit rating agency entity that applied for registration]* may be used in the EU by the relevant market participants.]

*[[Insert the legal name of the relevant non-EU credit rating agency entity]* is not established in the European Union and has not applied for registration under Regulation (EC) No. 1060/2009 (as amended) (the “CRA Regulation”), but it *[is]/[has applied to be]* certified in accordance with the CRA Regulation *[[EITHER:]* and is included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with the CRA Regulation.] *[OR:]* although notification of the corresponding certification decision has not yet been provided by the European Securities and Markets Authority and *[insert the legal name of the relevant non-EU credit rating agency entity]* is not included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with the CRA Regulation].]

*[[Insert the legal name of the relevant credit rating agency entity]* is established in the European Union and has applied for registration under Regulation (EC) No. 1060/2009 (as amended) although notification of the corresponding registration decision has not yet been provided by the European Securities and Markets Authority and *[insert the legal name of the relevant credit rating agency entity]* is not included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with such Regulation].

*[[Insert the legal name of the relevant non-EU credit rating agency entity]* is not established in the European Union and has not applied for registration under Regulation (EC) No. 1060/2009 (as amended) (the “CRA Regulation”). However, the application for registration under the CRA Regulation of *[insert the legal name of the relevant EU credit rating agency entity that applied for registration]*, which is established in the European Union, disclosed the intention to endorse credit ratings of *[insert the legal name of the relevant non-EU credit rating agency entity]*], although notification of the corresponding registration decision has not yet been provided by the European Securities and Markets Authority and *[insert the legal name of the relevant EU credit rating agency entity]* is not included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with the CRA Regulation].] The European Securities Markets Authority has indicated that ratings issued in *[Japan/Australia/the USA/Canada/Hong Kong/Singapore/Argentina/Mexico (delete as*

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\* Notes:

If an issue of Notes is (i) NOT admitted to trading on a regulated market within the European Economic Area and (ii) only offered in the European Economic Area in circumstances in which a prospectus is not required to be published under the Prospectus Directive, the Issuer may elect to amend and/or delete certain of the above paragraphs of Part B.

*appropriate)] which have been endorsed by [insert the legal name of the relevant EU credit rating agency entity that applied for registration] may be used in the EU by the relevant market participants.]*

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

[Save for any fees payable to the [Managers/Dealers], so far as the Issuer is aware, no person involved in the issue of the Notes has an interest material to the offer. – *Amend as appropriate if there are other interests*]

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

[(i) Reasons for the offer [●]

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

[(ii) Estimated net proceeds: [●]

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

[(iii) Estimated total expenses:

[●] *[Expenses are required to be broken down into each principal intended “use” and presented in order of priority of such “uses”.]*

*(N.B.: If the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies (i) above is required where the reasons for the offer are different from making profit and/or hedging certain risks regardless of the minimum denomination of the securities and where this is the case disclosure of net proceeds and total expenses at (ii) and (iii) above are also required.)*

**5. YIELD (Fixed Rate Notes only)**

Indication of yield: [●]

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

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

**6. HISTORIC INTEREST RATES (Floating Rate Notes only)**

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

**7. PERFORMANCE OF INDEX/FORMULA, EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS AND OTHER INFORMATION CONCERNING THE UNDERLYING (Index-Linked Notes only)**

*[If there is a derivative component in the interest or the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies, need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

*(N.B. The requirements below only apply if the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies.)*

*[Need to include details of where past and future performance and volatility of the index/formula can be obtained.]*

*[Where the underlying is an index need to include the name of the index and a description if composed by the Issuer and if the index is not composed by the Issuer need to include details of where the information about the index can be obtained.]*

*[Include other information concerning the underlying required by paragraph 4.2 of Annex XII of the Prospectus Directive Regulation.]*

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

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

*[If there is a derivative component in the interest or the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies, need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

*(N.B. The requirement below only applies if the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies.)*

*[Need to include details of where past and future performance and volatility of the relevant rates can be obtained.]*

## **9. INFORMATION IN RELATION TO THE REFERENCE ENTITY(IES), EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS AND OTHER INFORMATION CONCERNING THE REFERENCE ENTITY(IES) (Credit Linked Notes only)**

*[Include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

*The details of past and future performance and volatility of the Reference Entity can be obtained on [insert relevant Bloomberg page].*

## **10. OPERATIONAL INFORMATION**

- |       |   |  |
|-------|---|--|
| (i)   | ISIN Code:  | [●]  |
| (ii)  | Common Code:  | [●]  |
| (iii) | Any clearing system(s) other than Euroclear Bank S.A./ N.V. and Clearstream Banking, société anonyme and the relevant identification number(s): | [Not Applicable/give name(s) and number(s)/LCH Clearnet, S.A., identification number [ ]*] |
| (iv)  | Delivery:   | Delivery [against/free of] payment   |

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\* For Interbolsa Notes only.

- |      |   |   |
|------|---|---|
| (v)  | Names and addresses of additional Paying Agent(s) (if any):               | [●]   |
| (vi) | Intended to be held in a manner which would allow Eurosystem eligibility: | <p>[Yes/No]</p> <p>[Note that the designation “yes” simply means that the Notes are intended upon issue to be deposited with one of the international central securities depositaries (“ICSD”) as common safekeeper and does not necessarily mean that the Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.] <i>[include this text if “yes” selected, in which case Notes other than Interbolsa Notes must be issued in NGN form.]</i></p> |

## 11. TERMS AND CONDITIONS OF THE OFFER

- |        |  |                                      |
|--------|--|--------------------------------------|
| (i)    | Offer Price:   | [Issue Price/Not applicable/specify] |
| (ii)   | [Conditions to which the offer is subject:]  | [Not applicable/give details]        |
| (iii)  | [Description of the application process:]  | [Not applicable/give details]        |
| (iv)   | [Details of the minimum and/or maximum amount of application:]   | [Not applicable/give details]        |
| (v)    | [Description of possibility to reduce subscriptions and manner for refunding excess amount paid by applicants:]                                | [Not applicable/give details]        |
| (vi)   | [Details of the method and time limits for paying up and delivering the Notes:]  | [Not applicable/give details]        |
| (vii)  | [Manner in and date on which results of the offer are to be made public:]  | [Not applicable/give details]        |
| (viii) | [Procedure for exercise of any right of pre-emption, negotiability of subscription rights and treatment of subscription rights not exercised:] | [Not applicable/give details]        |
| (ix)   | [Categories of potential investors to which the Notes are offered and whether tranche(s) have been reserved for certain countries:]            | [Not applicable/give details]        |



- |       |   |  |
|-------|---|--|
| (x)   | [Process for notification to applicants of the amount allotted and the indication whether dealing may begin before notification is made:] | [Not applicable/ <i>give details</i> ] |
| (xi)  | [Amount of any expenses and taxes specifically charged to the subscriber or purchaser:]   | [Not applicable/ <i>give details</i> ] |
| (xii) | [Name(s) and address(es), to the extent known to the Issuer, of the placers in the various countries where the offer takes place.]        | [Not applicable/ <i>give details</i> ] |

*[Consider also whether language to the following effect would be appropriate:*

Any person (an “Investor”) intending to acquire or acquiring any securities from any person (an “Offeror”) should be aware that, in the context of an offer to the public, the Issuer may be responsible to the Investor for the Prospectus only if (i) the Issuer has authorised that Offeror to make the offer to the Investor and (ii) such Offeror has confirmed to the Manager(s) that it will comply with all applicable selling restrictions (any such Offeror complying with (i) and (ii) being an “Authorised Offeror”). Each Investor should therefore enquire whether the Offeror is an Authorised Offeror. If the Offeror is not an Authorised Offeror, the Investor should check with the Offeror whether anyone is responsible for the Prospectus for the purposes of the offer to the public by such Offeror and, if so, who that person is. If the Investor is in any doubt about whether it can rely on the Prospectus and/or who is responsible for its contents it should take legal advice.]

## APPLICABLE FINAL TERMS

*Set out below is the form of Final Terms which will be completed for each Tranche of Notes issued under the Programme with a denomination of at least €100,000 (or its equivalent in another currency).*

[Date]

**[BES FINANCE LTD./BANCO ESPÍRITO SANTO, S.A.  
(acting through its [head office]/[Madeira Free Trade Zone branch]/  
[Cayman Islands branch]/[London branch]/[Luxembourg branch])**

**Issue of [Aggregate Nominal Amount of Tranche] [Title of Notes]  
[Guaranteed by Banco Espírito Santo, S.A.  
[acting through London branch]]<sup>1</sup>  
under the €20,000,000,000  
Euro Medium Term Note Programme**

### PART A – CONTRACTUAL TERMS

Terms used herein shall be deemed to be defined as such for the purposes of the [“Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”/“Terms and Conditions of the Undated Deeply Subordinated Notes”] (the “Terms and Conditions”) set forth in the Prospectus dated [date] [and the supplement to the Prospectus dated [date]] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive (Directive 2003/71/EC) (the “Prospectus Directive”) as amended (which includes the amendments made by Directive 2010/73/EU (the “2010 PD Amending Directive”) to the extent that such amendments have been implemented in a relevant Member State). This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with the Prospectus [as so supplemented]. Full information on the Issuer [, the Guarantor] and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Prospectus [as so supplemented]. The Prospectus [and the supplement to the Prospectus] [is/are] available for viewing at [address] and [website] and copies may be obtained during normal business hours from [address].

*[The following alternative language applies if the first tranche of an issue which is being increased was issued under a Prospectus (or equivalent) with an earlier date.*

Terms used herein shall be deemed to be defined as such for the purposes of the [“Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”/“Terms and Conditions of the Undated Deeply Subordinated Notes”] (the “Terms and Conditions”) set forth in the [Prospectus/Offering Circular] dated [original date] which are incorporated by reference in the [Prospectus/Offering Circular] dated [current date] and are attached hereto [and the supplement to the Prospectus/Offering Circular dated [date]]. This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive (Directive 2003/71/EC) (the “Prospectus Directive”) as amended (which includes the amendments made by Directive 2010/73/EU (the “2010 PD Amending Directive”) to the extent that such amendments have been implemented in a relevant Member State) and must be read in conjunction with the Prospectus dated [current date] [and the supplement to the Prospectus dated [date]] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive. Full information on the Issuer [, the Guarantor] and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Prospectus dated [current date] [as so supplemented]. Copies of the [Offering Circular/Prospectus] [as so supplemented] are available for viewing at [address] [and] [website] and copies may be obtained during normal business hours from [address].

*[Include whichever of the following apply or specify as “Not Applicable” (N/A). Note that the numbering should remain as set out below, even if “Not Applicable” is indicated for individual paragraphs or subparagraphs. Italics denote directions for completing the Final Terms.]*

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<sup>1</sup> Delete as appropriate.

*[When adding any other final terms or information consideration should be given as to whether such terms or information constitute “significant new factors” and consequently trigger the need for a supplement to the Prospectus under Article 16 of the Prospectus Directive.]*

*[In respect of Notes issued by BES Finance Ltd. which have a maturity of less than one year, the minimum denomination may need to be £100,000 or its equivalent in any other currency.]*

1. Issuer: [BES Finance Ltd./Banco Espírito Santo, S.A. (acting through its [head office]/[Madeira Free Trade Zone branch]/[Cayman Islands branch]/[London branch]/[Luxembourg branch])<sup>2</sup>  
  
[Guarantor: Banco Espírito Santo, S.A. (acting through its London branch)]<sup>3</sup>
2. Series Number: [●]  
[Tranche Number: [●]  
  
*(If fungible with an existing Series, details of that Series, including the date on which the Notes become fungible)]*
3. Specified Currency or Currencies: [●]
4. Aggregate Nominal Amount:  
– Series: [●]  
– Tranche: [●]
5. Issue Price of Tranche: [●] per cent. of the Aggregate Nominal Amount [plus accrued interest from [insert date] (in the case of fungible issues only, if applicable)]
6. (i) Specified Denominations: [●]

*(N.B. Following the entry into force of the 2010 PD Amending Directive on 31 December 2010, Notes to be admitted to trading on a regulated market within the European Economic Area with a maturity date which will fall after the implementation date of the 2010 PD Amending Directive in the relevant European Economic Area Member State (which is due to be no later than 1 July 2012) must have a minimum denomination of €100,000 (or equivalent) in order to benefit from Transparency Directive exemptions in respect of wholesale securities. Similarly, Notes issued after the implementation of the 2010 PD Amending Directive in a Member State must have a minimum denomination of €100,000 (or equivalent) in order to benefit from the wholesale exemption set out in Article 3.2(d) of the Prospectus Directive in that Member State.)*

*(Note – where multiple denominations above [€100,000] or equivalent are being used the following sample wording should be followed:*

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<sup>2</sup> Delete as appropriate.

<sup>3</sup> Delete as appropriate.

*“[€100,000] and integral multiples of [€1,000] in excess thereof up to and including [€199,000]. No Notes in definitive form will be issued with a denomination above [€199,000].”*)

*(N.B. If an issue of Notes is (i) NOT admitted to trading on a European Economic Area exchange; and (ii) only offered in the European Economic Area in circumstances where a prospectus is not required to be published under the Prospectus Directive the €100,000 minimum denomination is not required.)*

(ii) Calculation Amount:

☐

*(If only one Specified Denomination, insert the Specified Denomination. If more than one Specified Denomination, insert the highest common factor. Note, there must be a common factor in the case of two or more Specified Denominations.)*

7. [(i) Issue Date [and Interest Commencement Date]:

☐

[(ii) Interest Commencement Date (if different from the Issue Date):

☐

8. Maturity Date:

*[Fixed rate – specify date/Floating rate where the Interest Period and date(s) are adjusted or any other rate where the Interest Period end date(s) are adjusted – Interest Payment Date falling in or nearest to [specify month and year] [(the “Scheduled Maturity Date”), subject as provided in Condition 24(e)[, and] [Condition 24(f)] [and] [Condition 24(g)] [and] [Condition 24(h)] [and] [Condition 24(k)] of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” (include for Credit Linked Notes as applicable: see below)]]*

9. Interest Basis:

☐ per cent. Fixed Rate]  
☐ [LIBOR/EURIBOR]+/- ☐ per cent. Floating Rate]  
☐ Zero Coupon]  
☐ Index Linked Interest]  
☐ Dual Currency Interest]  
☐ [specify other]  
 (further particulars specified below)

10. Redemption/Payment Basis:

☐ Redemption at par]  
☐ Index Linked Redemption]  
☐ Dual Currency Redemption]  
☐ Partly Paid]  
☐ Instalment]  
☐ Credit Linked Redemption]  
☐ [specify other]  
*(N.B. If the Final Redemption Amount is other than 100 per cent. of the nominal value the Notes will be derivative securities for the purposes of the Prospectus Directive and the requirements of Annex XII to the Prospectus Directive Regulation will apply.)*

11. Change of Interest Basis or Redemption/Payment Basis: *[Specify details of any provision for change of Notes into another Interest Basis or Redemption/Payment Basis]*
12. Put/Call Options: [Investor Put]  
[Issuer Call]  
(further particulars specified below)
13. [(i)] Status of the Notes: [Senior/Dated Subordinated/Undated Subordinated/Undated Deeply Subordinated]
- [(ii)] Status of the Guarantee: [Senior/Dated Subordinated/Undated Subordinated]]<sup>4</sup>
- [(iii)] [Date [Board] approval for issuance of Notes [and Guarantee] obtained: [●] [and [●], respectively]] (*N.B. Only relevant where Board (or similar) authorisation is required for the particular tranche of Notes or related Guarantee*)
14. Method of distribution: [Syndicated/Non-syndicated]

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

15. Fixed Rate Note Provisions [Applicable/Not Applicable]  
(*If not applicable, delete the remaining sub-paragraphs of this paragraph*)
- (i) Rate[(s)] of Interest: [●] per cent. per annum [payable [annually/semi-annually/quarterly/other (*specify*)] in arrear]  
(*If payable other than annually, consider amending [Condition 5(a)] of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)”/Condition 4(a) of the “Terms and Conditions Undated Deeply Subordinated Notes”, if applicable*)
- (ii) Interest Payment Date(s): [[●] in each year up to and including the Maturity Date]/[specify other]  
(*NB: This will need to be amended in the case of long or short coupons*)
- (iii) Fixed Coupon Amount(s): [●] per Calculation Amount
- (iv) Broken Amount(s): [●] per Calculation Amount, payable on the Interest Payment Date falling [in/on] [●]
- (v) Day Count Fraction: [Actual/Actual (ICMA) or 30/360 or specify other] (*NB: if interest is not payable on a regular basis (for example, if there are Broken Amounts specified) Actual/Actual (ICMA) may not be a suitable Day Count Fraction*)
- (vi) Determination Date(s): [●] in each year  
(*Insert interest payment dates except where there are long or short periods. In these cases, insert regular interest payment dates*) (*NB: Only relevant where Day Count Fraction is Actual/ Actual (ICMA)*)
- (vii) Other terms relating to the method of calculating interest for Fixed Rate Notes: [None/Give details]

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4 Delete as appropriate.

16. Floating Rate Note Provisions [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Specified Period(s)/ Specified Interest Payment Dates: [●]
  - (ii) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/ Preceding Business Day Convention/[specify other]]
  - (iii) Additional Business Centre(s): [●]
  - (iv) Manner in which the Rate of Interest and Interest Amount is to be determined: [Screen Rate Determination/ISDA Determination/specify other]
  - (v) Party responsible for calculating the Rate of Interest and Interest Amount (if not the Agent): [●]
  - (vi) Screen Rate Determination:
    - Reference Rate: [●]  
*(Either LIBOR, EURIBOR or other, although additional information is required if other – including fallback provisions in the Agency Agreement)*
    - Interest Determination Date(s): [●]  
*(Second day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in London prior to the start of each Interest Period if LIBOR (other than sterling or euro LIBOR), first day of each Interest Period if sterling LIBOR and the second day on which the TARGET2 System is open prior to the start of each Interest Period if EURIBOR or euro LIBOR)*
    - Relevant Screen Page: [●]  
*(In the case of EURIBOR, if not Reuters EURIBOR01 ensure it is a page which shows a composite rate or amend the fallback provisions approximately)*
  - (vii) If ISDA Determination:
    - Floating Rate Option: [●]
    - Designated Maturity: [●]
    - Reset Date: [●]
  - (viii) Margin(s): [+/-] [●] per cent. per annum
  - (ix) Minimum Rate of Interest: [●] per cent. per annum
  - (x) Maximum Rate of Interest: [●] per cent. per annum
  - (xi) Day Count Fraction: [Actual/Actual (ISDA) Actual/365 (Fixed)]



- Actual/365 (Sterling)  
Actual/360  
30/360  
30E/360  
30E/360 (ISDA)  
*Other]*  
*(See 5(b)(iv) for alternatives)*
- (xii) Fallback provisions, rounding provisions and any other terms relating to the method of calculating interest on Floating Rate Notes, if different from those set out in the Conditions: [●]
17. Zero Coupon Note Provisions [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Accrual Yield: [●] per cent. per annum
- (ii) Reference Price: [●]
- (iii) Any other formula/basis of determining amount payable: [●]  
*(Consider applicable day count fraction if euro denominated)*
- (iv) Day Count Fraction in relation to Early Redemption amounts and late payment: [Conditions 7(e)(iii) and 7(j) apply/specify other]
18. Index Linked Interest Note Provisions [Applicable/Not applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Index/Formula: *[give or annex details]*
- (ii) Calculation Agent: *[give name (and, if the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies, address)]*
- (iii) Party responsible for calculating the Rate of Interest (if not the Calculation Agent) and Interest Amount (if not the Agent): [●]
- (iv) Provisions for determining Coupon where calculation by reference to Index and/or Formula is impossible or impracticable: *[need to include a description of market disruption or settlement disruption events and adjustment provisions]*  
[●]
- (v) Specified Period(s)/Specified Interest Payment Dates: [●]

- (vi) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/*specify other*]
  - (vii) Additional Business Centre(s): [●]
  - (viii) Minimum Rate of Interest: [●] per cent. per annum
  - (ix) Maximum Rate of Interest: [●] per cent. per annum
  - (x) Day Count Fraction: [●]
19. Dual Currency Interest Note Provisions [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Rate of Exchange/method of calculating Rate of Exchange: *[give or annex details]*
  - (ii) Party, if any, responsible for calculating the principal and/or interest due (if not the Agent): [●]
  - (iii) Provisions applicable where calculation by reference to Rate of Exchange impossible or impracticable: *[need to include a description of market disruption or settlement disruption events and adjustment provisions]* [●]
  - (iv) Person at whose option Specified Currency(ies) is/are payable: [●]

## PROVISIONS RELATING TO REDEMPTION

20. Issuer Call: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [●]
  - (ii) Optional Redemption Amount(s) and method, if any, of calculating of such amount(s): [●] per Calculation Amount
  - (iii) If redeemable in part:
    - (a) Minimum Redemption Amount: [●]
    - (b) Higher Redemption Amount: [●]
  - (iv) Notice period (if other than as set out in the Conditions): [●]  
*(N.B. If setting notice periods which are different to those provided in the Conditions, the Issuer is advised to consider the practicalities of distribution of information through intermediaries, for example, clearing systems and*

*custodians, as well as any other notice requirements which may apply, for example, as between the Issuer and the Agent or Trustee)*

21. Investor Put: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [●]
- (ii) Optional Redemption Amount(s) and method, if any, of calculating of such amount(s): [●] per Calculation Amount
- (iii) Notice period (if other than as set out in the Conditions): [●]  
*(N.B. If setting notice periods which are different to those provided in the Conditions, the Issuer is advised to consider the practicalities of distribution of information through intermediaries, for example, clearing systems and custodians, as well as any other notice requirements which may apply, for example, as between the Issuer and the Agent or Trustee)*
22. Final Redemption Amount : [[●] per Calculation Amount/specify other/see Appendix/see item 24(i) below]  
  
*(N.B. If the Final Redemption Amount is other than 100 per cent. of the nominal value the Notes will be derivative securities for the purposes of the Prospectus Directive and the requirements of Annex XII to the Prospectus Directive Regulation will apply.)*
23. Early Redemption Amount(s) payable on redemption for taxation reasons or on event of default [or under Condition 24(l) or under Condition 24(m) if a Substitute Reference Obligation has not been identified and/or the method of calculating the same (if required or if different from that set out in Condition 7(e))]: [[●] per Calculation Amount/specify other/see Appendix]  
*(N.B. Specify the basis for determining the Early Redemption Amount in the case of Credit Linked Notes)*
24. Credit Linked Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*  
*(Consider whether definitions included in “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” are up to date)*

#### General

- (i) Final Redemption Amount: [●] per Calculation Amount
- (ii) Settlement Method: [Auction Settlement/Cash Settlement/Physical Delivery]  
[If Auction Settlement:  
The provisions of Condition 24(b) shall apply]  
[If Cash Settlement:

The provisions of Condition 24(c) shall apply]

[If Physical Delivery:

The Provisions of Condition 24(d) shall apply]

- (iii) Trade Date: [●]
- (iv) Scheduled Termination Date: [The day falling [five] Business Days prior to the Scheduled Maturity Date/*specify other*]
- (v) Calculation Agent responsible for making calculations and determinations pursuant to Condition 24: [*give name and address*]
- (vi) Calculation Agent City: [●]
- Credit Provisions
- (vii) Reference Entity(ies): [●]
- (viii) Reference Obligation(s): [●]
- [The obligation[s] identified as follows:
- Primary Obligor: [●]
- Guarantor: [●]
- Maturity: [●]
- Coupon: [●]
- CUSIP/ISIN: [●]]
- (ix) All Guarantees: [Applicable/Not Applicable]
- Provisions relating to Qualifying Guarantee and Underlying Obligation: Condition 24(q) [Applicable/Not Applicable]
- (x) Credit Events: [Bankruptcy]
- [Failure to Pay]
- [Grace Period Extension (Condition 24(f)) [Applicable/Not Applicable]
- [If Applicable:
- Grace Period: [●]]
- [Obligation Acceleration]
- [Obligation Default]
- [Repudiation/Moratorium]
- [Maturity Date Extension: Condition 24(h): [Applicable/Not Applicable]]
- [Restructuring]
- Provisions relating to Restructuring Credit Event: Condition 24(n) [Applicable/Not Applicable]
- Provisions relating to Multiple Holder Obligation: Condition 24(o) [Applicable/Not Applicable]
- [Restructuring Maturity Limitation and Fully Transferable Obligation [Applicable/Not Applicable]]
- [Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation [Applicable/Not Applicable]]
- [*other*]

Default Requirement:	<input type="checkbox"/>
Payment Requirement:	<input type="checkbox"/>
(xi) Conditions to Settlement:	Notice of Publicly Available Information [Applicable/Not Applicable] [If Applicable: Public Source(s): <input type="checkbox"/> <i>(If other than in the definition in Condition 24(j))</i> Specified Number: <input type="checkbox"/> <i>(If none specified, then it is deemed to be two.)</i>
(xii) Obligation(s):	
Obligation Category ( <i>select one only</i> ):	<input type="checkbox"/> [Payment] <input type="checkbox"/> [Borrowed Money] <input type="checkbox"/> [Reference Obligations Only] <input type="checkbox"/> [Bond] <input type="checkbox"/> [Loan] <input type="checkbox"/> [Bond or Loan]
Obligation Characteristics ( <i>select all of which apply</i> ):	<input type="checkbox"/> [Not Subordinated] <input type="checkbox"/> [Specified Currency: <i>[specify currency]</i> <input type="checkbox"/> [Standard Specified Currencies] <input type="checkbox"/> [Not Sovereign Lender] <input type="checkbox"/> [Not Domestic Currency:] <input type="checkbox"/> [Domestic Currency means: <i>[specify currency]</i> ] <input type="checkbox"/> [Not Domestic Law] <input type="checkbox"/> [Listed] <input type="checkbox"/> [Not Domestic Issuance]
Additional Obligation(s):	<input type="checkbox"/>
(xiii) Provisions relating to Monoline Insurer to Reference Entity:	Condition 24(p) [Applicable/Not Applicable]
(xiv) Excluded Obligation(s):	<input type="checkbox"/>
(xv) Accrual of Interest upon Credit Event:	[Applicable/Not Applicable]
(xvi) Merger Event: Condition 24(l):	[Applicable/Not Applicable]
If Applicable: Merger Event Redemption Date:	<input type="checkbox"/>
(xvii) [Unwind Costs:	[Standard Unwind Costs/ <i>other</i> /Not Applicable]]
<i>Terms relating to Cash Settlement</i>	<input type="checkbox"/> [Applicable/Not Applicable] <i>(If not applicable, delete the remaining sub-paragraphs of this paragraph)</i>
(xviii) Credit Event Redemption Amount:	<input type="checkbox"/> per Calculation Amount/As provided in Condition 24(m)]
(xix) Credit Event Redemption Date:	<input type="checkbox"/> Business Days
(xx) Valuation Date:	<input type="checkbox"/> [Single Valuation Date: <input type="checkbox"/> Business Days] <input type="checkbox"/> [Multiple Valuation Dates: <input type="checkbox"/> Business Days; and each <input type="checkbox"/> Business Days thereafter Number of Valuation Dates: <input type="checkbox"/> ]
(xxi) Valuation Time:	<input type="checkbox"/>

(xxii)	Quotation Method:	[Bid/Offer/Mid-market]
(xxiii)	Quotation Amount:	[[●]/Representative Amount]
(xxiv)	[Minimum Quotation Amount: [●]]	
(xxv)	Quotation Dealers:	[●]
(xxvi)	Quotations:	[Include Accrued Interest/Exclude Accrued Interest]
(xxvii)	Valuation Method:	[Market/Highest] [Average Market/Highest/Average Highest] [Blended Market/Blended Highest] [Average Blended Market/Average Blended Highest]
(xxviii)	Other terms or special conditions:	[●]
	<i>Terms relating to Physical Delivery</i>	[Applicable/Not Applicable] <i>(If not applicable, delete the remaining sub-paragraphs of this paragraph)</i>
(xxix)	Physical Settlement Period:	[●] Business Days
(xxx)	Asset Amount:	[Include Accrued Interest/Exclude Accrued Interest]
(xxxi)	Settlement Currency:	[●]
(xxxii)	Deliverable Obligations:	
	Deliverable Obligation Category ( <i>select one only</i> ):	[Payment] [Borrowed Money] [Reference Obligations Only] [Bond] [Loan] [Bond or Loan]
	Deliverable Obligation Characteristics ( <i>select all of which apply</i> ):	[Not Subordinated] [Specified Currency: <i>[specify currency]</i> ] [Standard Specified Currencies] [Not Sovereign Lender] [Not Domestic Currency] [Domestic Currency means: <i>[specify currency]</i> ] [Not Domestic Law] [Listed] [Not Contingent] [Not Domestic Issuance] [Assignable Loan] [Consent Required Loan] [Direct Loan Participation] [Qualifying Participation Seller: – <i>insert details</i> ] [Transferable] [Maximum Maturity: [●]] [Accelerated or Matured] [Not Bearer]
	Additional Deliverable Obligation(s):	[●]
(xxxiii)	Excluded Deliverable Obligation(s):	[●]



- (xxxiv) Indicative Quotations: [Applicable/Not Applicable]
- (xxxv) Cut-Off Date: [●]
- (xxxvi) Delivery provisions for Asset Amount (including details of who is to make such delivery) if different from Terms and Conditions: [●]
- (xxxvii) Other terms or special conditions: [●]
- Additional terms relating to Auction Settlement:*
- (xxxviii) Fallback Settlement Method: [Cash Settlement/Physical Delivery] *[If Physical Delivery: The provisions of Condition 24(i) shall apply]*
- (xxxix) Additional Business Centre(s): [●]
- (xl) Business Day Convention for purposes of Condition 24: [Following/Modified Following/Preceding]
- (xli) Succession Event Backstop Date subject to adjustment in accordance with Business Day Convention: [Yes/No]
- (xlii) Limitation Dates subject to adjustment in accordance with Business Day Convention: [Yes/No]

## GENERAL PROVISIONS APPLICABLE TO THE NOTES

25. (i) Form of Notes: [Temporary Global Note exchangeable for a Permanent Global Note which is exchangeable for Definitive Notes [on not less than 60 days' notice given at any time]/[only upon an Exchange Event].]
- (The 'exchange upon 60 days' notice' option should not be expressed to be applicable if the Specified Denomination in paragraph 6 includes language substantially to the following effect: "[€100,000] and integral multiples of [€1,000] in excess thereof up to and including [€199,000].")*
- [Temporary Global Note exchangeable for Definitive Notes on and after the Exchange Date.]
- [Book-entry form registered Notes (Interbolsa Notes)]
- [Book-entry form bearer Notes (Interbolsa Notes)]
- [Notes shall not be physically delivered in Belgium, except to a clearing system, a depository or other institution for the purpose of their immobilisation in accordance with article 4 of the Belgian Law of 14th December, 2005.]*

- (ii) New Global Note: [Yes/No]
26. Additional Financial Centre(s) or other special provisions relating to Payment Days: [Not Applicable/give details]  
*(Note that this item relates to the place of payment and not Interest Period end dates to which sub-paragraphs 16 (iii) and 18 (vii) relate)*
27. Talons for future Coupons or Receipts to be attached to Definitive Notes (and dates on which such Talons mature): [Yes/No. If yes, give details]
28. Details relating to Partly Paid Notes: amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences of failure to pay, including any rights of the Issuer to forfeit the Notes and interest due on late payment: [Not Applicable/give details. NB: a new form of Temporary Global Note and/or Permanent Global Note may be required for Partly Paid issues]
29. Details relating to Instalment Notes: amount of each instalment, date on which each payment is to be made: [Not Applicable/give details]
30. Redenomination: Redenomination [not] applicable  
*(If Redenomination is applicable, specify the applicable Day Count Fraction and any provisions necessary to deal with floating rate interest calculation (including alternative reference rates))*
31. Governing Law: [English law [except that Conditions 2(ii) and 2(iii) of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” in relation to the Bank only (whether in its capacity as issuer or guarantor shall be governed by Portuguese law] [except that Conditions 4(ii) and 4(iii) of the “Terms and Conditions Notes (other than Undated Deeply Subordinated Notes)” shall be governed by Portuguese law] [except that Conditions 2, 4 and 6 of the “Terms and Conditions of the Undated Deeply Subordinated Notes” shall be governed by Portuguese law].]
32. Other final terms: [Not Applicable/give details]  
*(When adding any other final terms consideration should be given as to whether such terms constitute “significant new factors” and consequently trigger the need for a supplement to the Prospectus under Article 16 of the Prospectus Directive.)*

## DISTRIBUTION

33. (i) If syndicated, names of Managers: [Not Applicable/give names]  
*(If the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies, include names of entities agreeing to underwrite the issue on a firm commitment basis and names of the entities agreeing to place*

*the issue without a firm commitment or on a “best efforts” basis if such entities are not the same as the Managers)*

- (ii) Date of Subscription Agreement: [●]  
*(The above is only relevant if the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies).*
- (iii) Stabilising Manager(s) (if any): [Not Applicable/give name(s)]
34. If non-syndicated, name of relevant Dealer: [Name]
35. U.S. Selling Restrictions: [Reg.S Compliance Category 2; TEFRA C/TEFRA D/TEFRA not applicable]  
*(N.B. Interbolsa notes must not be TEFRA D)*
36. Additional selling restrictions: [Not Applicable/give details]

## PURPOSE OF FINAL TERMS

These Final Terms comprise the final terms required for issue [and admission to listing on the [Official List of the Luxembourg Stock Exchange/specify other] and admission to trading on [the Regulated Market of the Luxembourg Stock Exchange/specify other]] of the Notes described herein pursuant to the €20,000,000,000 Euro Medium Term Note Programme of [ISSUER].

## RESPONSIBILITY

The Issuer [and the Guarantor] accept[s] responsibility for the information contained in these Final Terms. *[[Relevant third party information, for example in compliance with Annex XII to the Prospectus Directive Regulation in relation to an index or its components]* has been extracted from [specify source]. [Each of the/The] Issuer [and the Guarantor] confirm[s] that such information has been accurately reproduced and that, so far as it is aware and is able to ascertain from information published by [specify source], no facts have been omitted which would render the reproduced information inaccurate or misleading]

By: .....  
*Duly authorised*

By: .....  
*Duly authorised*

## PART B – OTHER INFORMATION

### 1. LISTING AND ADMISSION TO TRADING

- (i) Listing and admission to trading: [Not Applicable]/[Application [has been/is expected to be] made by the Issuer (or on its behalf) for the Notes to be admitted to listing on [the Official List of the Luxembourg Stock Exchange/*specify other*] and to trading on [the Regulated Market of the Luxembourg Stock Exchange/*specify other*] with effect from [●].]
- (ii) Estimate of total expenses related to admission to trading: [●]

### 2. RATINGS

Ratings: [The Notes to be issued [[have been]/[are expected to be]] rated [*insert details*] by [*insert the legal name of the relevant credit rating agency entity(ies)*].]

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

[[*Insert the legal name of the relevant credit rating agency entity*] is established in the European Union and is registered under Regulation (EC) No. 1060/2009 (as amended). [As such [*insert the legal name of the relevant credit rating agency entity*] is included in the list of credit ratings agencies published by the European Securities and Markets Authority on its website in accordance with such Regulation.]]

[[*Insert the legal name of the relevant non-EU credit rating agency entity*] is not established in the European Union and is not registered in accordance with Regulation (EC) No. 1060/2009 (as amended). [[*Insert the legal name of the relevant non-EU credit rating agency entity*] is therefore not included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with such Regulation.]

[*Insert the legal name of the relevant non-EU credit rating agency entity*] is not established in the European Union and has not applied for registration under Regulation (EC) No. 1060/2009 (as amended) (the “CRA Regulation”). The ratings have been endorsed by [*insert the legal name of the relevant EU-registered credit rating agency entity*] in accordance with the CRA Regulation. [*Insert the legal name of the relevant EU credit rating agency entity*] is established in the European Union and registered under the CRA Regulation [. As such [*insert the legal name of the relevant EU credit rating agency entity*] is included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with the CRA Regulation.) The European Securities Markets Authority

has indicated that ratings issued in [Japan/Australia/the USA/Canada/Hong Kong/Singapore/Argentina/Mexico (*delete as appropriate*)] which have been endorsed by [*insert the legal name of the relevant EU credit rating agency entity that applied for registration*] may be used in the EU by the relevant market participants.]

[[*Insert the legal name of the relevant non-EU credit rating agency entity*] is not established in the European Union and has not applied for registration under Regulation (EC) No. 1060/2009 (as amended) (the “CRA Regulation”), but it [is]/[has applied to be] certified in accordance with the CRA Regulation [[EITHER:] and is included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with the CRA Regulation.] [OR:] although notification of the corresponding certification decision has not yet been provided by the European Securities and Markets Authority and [*insert the legal name of the relevant non-EU credit rating agency*] is not included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with the CRA Regulation].]

[[*Insert the legal name of the relevant credit rating agency entity*] is established in the European Union and has applied for registration under Regulation (EC) No. 1060/2009 (as amended) although notification of the corresponding registration decision has not yet been provided by the European Securities and Markets Authority and [*insert the legal name of the relevant credit rating agency entity*] is not included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with such Regulation].

[[*Insert the legal name of the relevant non-EU credit rating agency entity*] is not established in the European Union and has not applied for registration under Regulation (EC) No. 1060/2009 (as amended) (the “CRA Regulation”). However, the application for registration under the CRA Regulation of [*insert the legal name of the relevant EU credit rating agency entity that applied for registration*], which is established in the European Union, disclosed the intention to endorse credit ratings of [*insert the legal name of the relevant non-EU credit rating agency entity*][, although notification of the corresponding registration decision has not yet been provided by the European Securities and Markets Authority and [*insert the legal name of the relevant EU credit rating agency entity*] is not included in the list of credit rating agencies published by the European Securities and Markets Authority on its website in accordance with the CRA Regulation].] The European Securities Markets Authority has indicated that ratings issued in [Japan/Australia/the USA/Canada/Hong Kong/Singapore/Argentina/Mexico (*delete as appropriate*)] which have been endorsed by [*insert the legal name of the relevant EU credit rating agency entity that*

*applied for registration]* may be used in the EU by the relevant market participants.]

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

[Save for any fees payable to the [Managers/Dealers], so far as the Issuer is aware, no person involved in the issue of the Notes has an interest material to the offer. – *Amend as appropriate if there are other interests*]

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

[(i) Reasons for the offer ☐

[(ii)] Estimated net proceeds: ☐

[(iii)] Estimated total expenses: ☐

*(N.B.: Delete unless the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies, in which case (i) above is required where the reasons for the offer are different from making profit and/or hedging certain risks and, where such reasons are inserted in (i), disclosure of net proceeds and total expenses at (ii) and (iii) above are also required.)]*

**5. YIELD (Fixed Rate Notes only)**

Indication of yield: ☐

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

**6. PERFORMANCE OF INDEX/FORMULA, EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS AND OTHER INFORMATION CONCERNING THE UNDERLYING (Index-Linked Notes only)**

*[Need to include details of where past and future performance and volatility of the index/formula can be obtained.]*

*[Where the underlying is an index need to include the name of the index and a description if composed by the Issuer and if the index is not composed by the Issuer need to include details of where the information about the index can be obtained.]*

*[Include other information concerning the underlying required by paragraph 4.2 of Annex XII of the Prospectus Directive Regulation.]*

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

*(N.B. This paragraph 6 only applies if the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies.)*

**7. PERFORMANCE OF RATE[S] OF EXCHANGE AND EXPLANATION OF EFFECT ON VALUE OF INVESTMENT (Dual Currency Notes only)**

*[Need to include details of where past and future performance and volatility of the relevant rates can be obtained.]*

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Notes:

If an issue of Notes is (i) NOT admitted to trading on a regulated market within the European Economic Area and (ii) only offered in the European Economic Area in circumstances in which a prospectus is not required to be published under the Prospectus Directive, the Issuer may elect to amend and/or delete certain of the above paragraphs of Part B.



*(N.B. This paragraph 7 only applies if the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies.)*

**8. INFORMATION IN RELATION TO THE REFERENCE ENTITY(IES), EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS AND OTHER INFORMATION CONCERNING THE REFERENCE ENTITY(IES) (Credit Linked Notes only)**

The details of past and future performance and volatility of the Reference Entity can be obtained on [insert relevant Bloomberg page].

**9. OPERATIONAL INFORMATION**

- |       |   |   |
|-------|---|---|
| (i)   | ISIN Code:  | [●]   |
| (ii)  | Common Code:  | [●]   |
| (iii) | Any clearing system(s) other than Euroclear Bank S.A./ N.V. and Clearstream Banking, société anonyme and the relevant identification number(s): | [Not Applicable/give name(s) and number(s)/LCH Clearnet, S.A., identification number [ ]*]  |
| (iv)  | Delivery:   | Delivery [against/free of] payment  |
| (v)   | Names and addresses of additional Paying Agent(s) (if any):   | [●]   |
| (vi)  | Intended to be held in a manner which would allow Eurosystem eligibility:   | <p>[Yes/No]</p> <p>[Note that the designation “yes” simply means that the Notes are intended upon issue to be deposited with one of the international central securities depositories (“ICSD”) as common safekeeper and does not necessarily mean that the Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.] <i>[include this text if “yes” selected, in which case Notes other than Interbolsa Notes must be issued in NGN form.]</i></p> |

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\* For Interbolsa Notes only.

**TERMS AND CONDITIONS OF THE NOTES**  
**(OTHER THAN UNDATED DEEPLY SUBORDINATED NOTES)**

*The following are the Terms and Conditions of the Notes which will be incorporated by reference into each Note cleared by LCH Clearnet, S.A. the clearing system operated at Interbolsa – Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários S.A., each global Note and each definitive Note, in the latter case only if permitted by the rules of the relevant stock exchange or other relevant authority (if any) and agreed by the relevant Issuer and the relevant Dealer at the time of issue. If not so permitted and agreed, such definitive Note will have endorsed thereon or attached thereto such Terms and Conditions. The applicable Final Terms in relation to any Tranche of Notes may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the following Terms and Conditions, replace or modify the following Terms and Conditions for the purpose of such Notes. The applicable Final Terms (or the relevant provisions thereof) will be endorsed upon, or attached to, each temporary global Note, permanent global Note and definitive Note and will be incorporated into and applicable to each Interbolsa Note (as defined below). Reference should be made to “Form of the Notes” above for the form of the Final Terms which will include the definitions of certain terms used in the following Terms and Conditions or specify which of such terms are to apply in relation to the relevant Notes.*

This Note is one of a Series (as defined below) of Notes issued by Banco Espírito Santo, S.A. (the “Bank”), or BES Finance Ltd. (“BES Finance” and, together with the Bank in its capacity as an issuer of Notes, the “Issuers” and each an “Issuer”) as specified in the applicable Final Terms constituted, except in the case of Interbolsa Notes (as defined below), by a Trust Deed dated 3rd February, 1997 (such Trust Deed as modified and/or supplemented and/or restated from time to time, the “Trust Deed”) made between the Issuers, the Bank in its capacity as guarantor of Notes issued by BES Finance (in such capacity, the “Guarantor”) and The Bank of New York Mellon (formerly J.P. Morgan Trustee and Depositary Company Limited and Chase Manhattan Trustees Limited) (the “Trustee”, which expression shall wherever the context permits include all other persons or companies for the time being acting as trustee under the Trust Deed). Interbolsa Notes are constituted by entries in the individual securities accounts opened by Noteholders with the Affiliate Members of Interbolsa (as defined below).

References herein to the “Notes” shall be references to the Notes of this Series and shall mean:

- (i) in relation to any Notes represented by a global Note, units of each Specified Denomination in the Specified Currency;
- (ii) definitive Notes issued in exchange for a global Note;
- (iii) any global Note; and
- (iv) Notes held through *Interbolsa – Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários, S.A.* (“Interbolsa”) (each an “Interbolsa Note”). Interbolsa Notes will only be issued by the Bank acting through its head office, and will not be issued by BES Finance.

References herein to “the Issuer” shall be to whichever of the Bank or BES Finance is specified as the Issuer in the applicable Final Terms.

The Notes (other than Interbolsa Notes), the Receipts (as defined below) and the Coupons (as defined below) also have the benefit of an amended and restated Agency Agreement (the “Principal Agency Agreement”) dated 29th May, 2012 made among the Issuers, the Guarantor, the Trustee, The Bank of New York Mellon (formerly JPMorgan Chase Bank, N.A.) as issuing and principal paying agent and agent bank (the “Agent”, which expression shall include any successor agent specified in the applicable Final Terms) and the other paying agents named therein. The Interbolsa Notes have the benefit of the Principal Agency Agreement, as amended by an amendment agreement (the “Interbolsa Notes Agency Agreement”) dated 29th May, 2012 made among the Issuers, the Guarantor, the Trustee, the Agent, the Bank acting through its head office acting as paying agent in Portugal (the “Portuguese Paying Agent” which expression shall include any successor Portuguese Paying Agent) and the other paying agents named therein (together with the Agent, the

Portuguese Paying Agent and the other paying agents named in the Principal Agency Agreement, the “Paying Agents”, which expression shall include any additional or successor paying agents) and of the common representative appointment agreement dated 29th May, 2012 such agreement as amended and/or supplemented and/or restated from time to time (the “Common Representative Appointment Agreement”) made between the Bank, as issuer, and Vieira de Almeida & Associados – Sociedade de Advogados R.L., as common representative of the holders of Interbolsa Notes (*representante comum dos obrigacionistas*) (the “Common Representative”).

Interest bearing definitive Notes (unless otherwise indicated in the applicable Final Terms) have interest coupons (“Coupons”) and, if indicated in the applicable Final Terms, talons for further Coupons (“Talons”) attached on issue. Any reference herein to Coupons or coupons shall, unless the context otherwise requires, be deemed to include a reference to Talons or talons. Definitive Notes repayable in instalments have receipts (“Receipts”) for the payment of the instalments of principal (other than the final instalment) attached on issue. Neither Interbolsa Notes nor global Notes have Receipts, Coupons or Talons attached on issue.

The Final Terms for this Note (or the relevant provisions thereof) are set out in Part A of the Final Terms attached to, endorsed on or incorporated into this Note which supplement these Terms and Conditions and may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with these Terms and Conditions, replace or modify these Terms and Conditions for the purposes of this Note. References herein to the “applicable Final Terms” are to Part A of the Final Terms (or the relevant provisions thereof) attached to, endorsed on or incorporated into this Note.

The applicable Final Terms will state whether this Note is (i) a senior Note issued by BES Finance or the Bank and, where the Issuer is BES Finance, that such Note is guaranteed on an unsubordinated basis by the Bank, acting through its London branch, as described in Condition 4(i) (a “Senior Note”), (ii) a dated subordinated Note issued by BES Finance or the Bank and, where the Issuer is BES Finance, guaranteed on a subordinated basis by the Bank, acting through its London branch, as described in Condition 4(ii) (a “Dated Subordinated Note”) or (iii) an undated subordinated Note issued by BES Finance or the Bank and, where the Issuer is BES Finance, guaranteed on a subordinated basis by the Bank, acting through its London branch, as described in Condition 4(iii) (an “Undated Subordinated Note”). In each case, where a Note is issued by the Bank, the applicable Final Terms will state whether such Note is being issued by the Bank through its head office, its Madeira Free Trade Zone branch or its Cayman Islands branch or its London branch or its Luxembourg branch.

Any reference to “Noteholders” or “holders” in relation to any Notes shall mean (i) in the case of bearer Notes other than Interbolsa Notes, the holders of the global Notes and definitive Notes and shall, in relation to any Notes represented by a global Note, be construed as provided below or (ii) in the case of Interbolsa Notes, each person shown in the book-entry records of a financial institution, which is licensed to act as a financial intermediary under the Portuguese Securities Code (“*Código dos Valores Mobiliários*”) (the “Portuguese Securities Code”) and which is entitled to hold control accounts with Interbolsa on behalf of their customers (and includes any depositary banks appointed by Euroclear and/or Clearstream, Luxembourg for the purpose of holding accounts on behalf of Euroclear and/or Clearstream, Luxembourg) (each such institution an “Affiliate Member of Interbolsa”), as having an interest in the principal amount of the Interbolsa Notes. Any reference herein to “Receiptholders” shall mean the holders of the Receipts and any reference herein to “Couponholders” shall mean the holders of the Coupons and shall, unless the context otherwise requires, include the holders of the Talons.

The Trustee acts for the benefit of the holders of the Notes, other than Interbolsa Notes, and for the Receiptholders and the Couponholders, all in accordance with the provisions of the Trust Deed. The holders of Interbolsa Notes shall at all times be entitled, by means of an Extraordinary Resolution, to appoint and dismiss a Common Representative to act as their common representative, as further described in Condition 23.

As used herein, “Tranche” means Notes which are identical in all respects (including as to listing and admission to trading) and “Series” means a Tranche of Notes together with any further Tranche or Tranches of Notes which are (i) expressed to be consolidated and form a single series and (ii) identical in all respects

(including as to listing and admission to trading) except for their respective Issue Dates, Interest Commencement Dates and/or Issue Prices.

Copies of the Trust Deed, the Principal Agency Agreement, the Interbolsa Notes Agency Agreement and the Common Representative Appointment Agreement are available for inspection at, and a copy of the applicable Final Terms may be obtained from, the specified office of each of the Trustee (being as at 29th May, 2012 at One Canada Square, London E14 5AL, the Agent, the Paying Agent whose specified office is in Luxembourg (in relation to any Notes listed on the Official List of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange) and the other Paying Agents during normal business hours save that, if this Note is neither admitted to trading on a regulated market in the European Economic Area nor offered in the European Economic Area in circumstances where a prospectus is required to be published under the Prospectus Directive, the applicable Final Terms will only be obtainable by a Noteholder holding one or more Notes and such Noteholder must produce evidence satisfactory to the Issuer and the Trustee or, as the case may be, and the relevant Paying Agent as to its holding of such Notes and identity. In the case of bearer Notes other than Interbolsa Notes, the Noteholders, the Receiptholders and the Couponholders are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Trust Deed, the Principal Agency Agreement and the applicable Final Terms which are applicable to them. In the case of Interbolsa Notes, the Noteholders are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Principal Agency Agreement, to the extent amended by the Interbolsa Notes Agency Agreement and the applicable Final Terms which are applicable to them.

Words and expressions defined in the Trust Deed or the Principal Agency Agreement or used in the applicable Final Terms shall have the same meanings where used in these Terms and Conditions unless the context otherwise requires or unless otherwise stated and provided that, in the event of inconsistency between the Trust Deed and the Principal Agency Agreement, the Principal Agency Agreement will prevail in respect of Interbolsa Notes and the Trust Deed will prevail in all other cases and, in the event of inconsistency between the Trust Deed or the Principal Agency Agreement and the applicable Final Terms, the applicable Final Terms will prevail.

Where the Bank is acting as an Issuer through its head office or its Madeira Free Trade Zone branch or its Cayman Islands branch or its London branch or its Luxembourg branch in relation to the relevant Notes as specified in the applicable Final Terms, all references in these Terms and Conditions to the Bank shall be deemed to be references to the Bank acting through its head office or the branch specified therein. Where the Bank is acting as Guarantor in relation to Notes issued by BES Finance, as indicated in the applicable Final Terms, all references in these Terms and Conditions to the Bank shall be deemed to be references to the Bank acting through its London branch.

## **1. Form, Denomination, Title and Transfer**

The Notes other than Interbolsa Notes are in bearer form. Interbolsa Notes are in book-entry form (*forma escritural*) and can be either registered Notes (*nominativas*) (in which case Interbolsa, at the Issuer's request can ask the Affiliate Members of Interbolsa for information regarding the identity of the Noteholders and transmit such information to the Issuer) or bearer Notes (*ao portador*) (in which case Interbolsa cannot inform the Issuer of the identity of the Noteholders), as specified in the applicable Final Terms. Definitive Notes shall be serially numbered, and in the Specified Currency and the Specified Denomination(s). Notes of one Specified Denomination may not be exchanged for Notes of another Specified Denomination.

This Note is a Senior Note, a Dated Subordinated Note or an Undated Subordinated Note, as indicated in the applicable Final Terms.

This Note may be a Fixed Rate Note, a Floating Rate Note, a Zero Coupon Note, an Index Linked Interest Note a Dual Currency Interest Note, a Credit Linked Note or a combination of any of the foregoing, depending upon the Interest Basis shown in the applicable Final Terms.

This Note may be an Index Linked Redemption Note, an Instalment Note, a Dual Currency Redemption Note, a Partly Paid Note or a combination of any of the foregoing, depending on the Redemption/Payment Basis shown in the applicable Final Terms.

Definitive Notes are issued with Coupons attached, and if applicable Talons for further Coupons unless they are Zero Coupon Notes in which case references to interest (other than in relation to interest due after the Maturity Date), Coupons and Couponholders in these Terms and Conditions are not applicable.

Subject as set out below, title to the Notes (except Interbolsa Notes), Receipts and Coupons will pass by delivery. The Issuer, the Bank (where the Issuer is BES Finance), the Trustee and any Paying Agent may deem and treat the bearer of any such Note, Receipt or Coupon as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) for all purposes but, in the case of any global Note, without prejudice to the provisions set out in the next succeeding paragraph.

For so long as any of the Notes is represented by a global Note held on behalf of Euroclear S.A./ N.V. (“Euroclear”) and/or Clearstream Banking, société anonyme (“Clearstream, Luxembourg”) each person (other than Euroclear or Clearstream, Luxembourg) who is for the time being shown in the records of Euroclear or of Clearstream, Luxembourg as the holder of a particular nominal amount of such Notes (in which regard any certificate or other document issued by Euroclear or Clearstream, Luxembourg as to the nominal amount of such Notes standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest error) shall be treated by the Issuer, the Bank (where the Issuer is BES Finance), the Trustee and any Paying Agent as the holder of such nominal amount of such Notes for all purposes other than with respect to the payment of principal or interest on the Notes, for which purpose the bearer of the relevant global Note shall be treated by the Issuer, the Bank (where the Issuer is BES Finance), the Trustee and any Paying Agent as the holder of such nominal amount of such Notes in accordance with and subject to the terms of the relevant global Note and the Trust Deed and the expressions “Noteholder” and “holder of Notes” and related expressions shall be construed accordingly. Notes which are represented by a global Note will be transferable only in accordance with the rules and procedures for the time being of Euroclear or of Clearstream, Luxembourg, as the case may be.

References to Euroclear and/or Clearstream, Luxembourg and/or Interbolsa shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system approved by the Issuer, the Bank (where the Issuer is BES Finance), the Trustee (except in respect of references to Interbolsa), the Common Representative (in respect of references to Interbolsa only) and the Agent or specified in the applicable Final Terms.

Title to the Interbolsa Notes will be evidenced by book-entries in accordance with the Portuguese Securities Code and the regulations issued by *Comissão do Mercado de Valores Mobiliários* (Portuguese Securities Market Commission, the “CMVM”), by Interbolsa or otherwise applicable thereto. Each person shown in the book-entry records of financial institutions, which are licensed to act as financial intermediaries and which are entitled to hold control accounts with Interbolsa on behalf of their customers and which include any depository banks appointed by Euroclear and Clearstream, Luxembourg for the purpose of holding accounts on behalf of Euroclear and Clearstream, Luxembourg (each such institution an “Affiliate Member of Interbolsa”), as having an interest in the Interbolsa Notes shall be the holder of the principal amount of the Interbolsa Notes recorded.

Title to the Interbolsa Notes is subject to compliance with all rules, restrictions and requirements applicable to the activities of Interbolsa.

One or more certificates in relation to the Interbolsa Notes (each, a “Certificate”) will be delivered by the relevant financial intermediary through which Interbolsa Notes are held in individual securities accounts in respect of a registered holding of Interbolsa Notes upon the request by the relevant Noteholder and in accordance with that financial intermediary’s procedures pursuant to article 78 of the Portuguese Securities Code.

The Interbolsa Notes will be registered in the relevant control issue account of the Issuer with Interbolsa and will be held in control accounts by each Affiliate Member of Interbolsa on behalf of the Noteholders. Such control accounts will reflect at all times the aggregate number of Interbolsa Notes held in individual securities accounts opened with the Affiliate Members of Interbolsa by Noteholders, which are clients of the Affiliate Members of Interbolsa and include Euroclear and Clearstream, Luxembourg.



The person or entity registered in the relevant individual securities accounts of an Affiliate Member of Interbolsa book-entry registry of the *Central de Valores Mobiliários* (the “Book-Entry Registry” and each such entry therein, a “Book Entry”) as the holder of any Interbolsa Note shall (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any other interest therein).

The Issuer and the Paying Agents may (to the fullest extent permitted by applicable law) deem and treat the person or entity registered in the Book-Entry Registry as the holder of any Interbolsa Note and the absolute owner for all purposes. Proof of such registration is made by means of a Certificate issued by the relevant financial intermediary through which Interbolsa Notes are held in individual securities accounts pursuant to article 78 of the Portuguese Securities Code.

No Noteholder will be able to transfer Interbolsa Notes, or any interest therein, except in accordance with Portuguese law and regulations. Interbolsa Notes may only be transferred in accordance with the applicable procedures established by the Portuguese Securities Code and the regulations issued by the CMVM and Interbolsa.

## **2. Status of the Notes**

- (i) The Senior Notes and any relative Receipts and Coupons are direct, unconditional, unsecured (subject A to the provisions of Condition 3) and unsubordinated obligations of the Issuer and rank and will rank *pari passu* with all present and future unsecured and unsubordinated obligations of the Issuer, without any preference among themselves by reason of priority of date of issue, currency of payment or otherwise, except for obligations given priority by law.
- (ii) Dated Subordinated Notes and any relative Receipts and Coupons are direct, unsecured obligations of the Issuer and rank and will rank *pari passu* among themselves and at least *par passu* with all other present and future dated subordinated obligations of the Issuer, save for those that have been accorded by law preferential rights.

In the event of the insolvency or winding up of the Issuer, the claims of the holders of the Dated Subordinated Notes and any relative Receipts and Coupons against the Issuer will be subordinated in right of payment to the claims of depositors and all other unsecured creditors (other than holders of Subordinated Indebtedness, if any) of the Issuer.

“Subordinated Indebtedness” means all indebtedness of the Issuer under the terms of which the right to payment of the person(s) entitled thereto is, or is expressed to be, subordinated, in the event of the winding up of the Issuer, to the right to payment of all unsubordinated creditors of the Issuer and so that for the purpose of this definition indebtedness shall include all liabilities, whether actual or contingent, under guarantees or indemnities.

- (iii) The Undated Subordinated Notes and any relative Receipts and Coupons relating thereto constitute direct, unsecured obligations of the Issuer which are subordinated to the claims of Senior Creditors of the Issuer in that payments are conditional upon the Issuer and (where the Issuer is BES Finance) the Bank being solvent at the time of payment and no such payment shall be made except to the extent that such payment could be made and the Issuer and (where the Issuer is BES Finance) the Bank would still be solvent immediately thereafter. For this purpose, BES Finance or, as the case may be, the Bank shall be considered to be solvent if both (i) it is able to pay its debts to its Senior Creditors as they fall due and (ii) its Assets exceed its Liabilities to its Senior Creditors.

Furthermore, in order to allow each of the Issuer and the Bank to continue its business activities (in accordance with the Bank of Portugal Regulation 12/92 as amended), any amounts which, under these Terms and Conditions, would be payable as principal or interest under the Undated Subordinated Notes, will be available to meet the losses of the Issuer or of the Bank, provided: (a) that there has been (i) consumption of the whole of the reserves and retained earnings; (ii) writing down of the ordinary share capital of the Issuer and the Bank and (iii) writing down of the Issuer’s and the Bank’s preference shares (including any preference share capital guaranteed by the Bank); and (b) that



therefore the Issuer's and the Bank's total shareholders' equity and the preference shares interests of the Issuer and the Bank have been reduced to zero.

In the above circumstances where unpaid principal and interest may be used to meet the losses of the Issuer or of the Bank, the unpaid amounts of interest first and then principal will be cancelled and utilised to the extent that may be necessary to meet the losses of the Issuer or of the Bank. The cancelled amounts will only be reinstated as subordinated credits of the corresponding holders as if such amounts had never been written down or cancelled in the event of (i) the winding-up, liquidation or bankruptcy of the Issuer or of the Bank, in which event such reinstatement will be deemed to take effect at the moment which immediately precedes the commencement of the winding-up, liquidation or bankruptcy proceedings; or of (ii) a decision being taken by the shareholders of the Issuer or of the Bank to allow a dividend to be paid or to reinstate the cancelled or written down amounts, in each case subject to the approval of the Bank of Portugal. In both the above cases and at all times, cancelled or written down amounts will revert to being treated as subordinated credits of the corresponding holders, without prejudice to the subordination regime applying thereto.

During any period of cancellation or writing down such cancelled or written down amounts shall not bear interest.

In the event of liquidation, bankruptcy or analogous proceedings of the Issuer, no Noteholder (having a debt or a liability towards the Issuer) may exercise any set-off or other similar rights against any amounts held by the Issuer.

Without prejudice to the foregoing, the Undated Subordinated Notes will, in the event of a distribution of the assets in the dissolution or liquidation of the Issuer, rank senior to the share capital of the Issuer.

A report as to the solvency of BES Finance or, as the case may be, the Bank by (a) two directors of BES Finance or, as the case may be, the Bank or, if the directors have not reported to BES Finance or, as the case may be, the Bank within 14 days before any payment needs to be made pursuant to Condition 6, the auditors of BES Finance or, as the case may be, the Bank or (b) if BES Finance or, as the case may be, the Bank is being wound up, its liquidator shall, in each case in the absence of manifest error, be treated and accepted by the Issuer, the Bank (where the Issuer is BES Finance), the Trustee and the holders of Undated Subordinated Notes as correct and sufficient evidence thereof.

For the purposes of this Condition 2(iii):

- (A) "Assets" means, in the case of BES Finance, the total gross assets of BES Finance and, in the case of the Bank, the total consolidated gross assets of the Bank and "Liabilities" means, in the case of BES Finance, the total gross liabilities of BES Finance and, in the case of the Bank, the total consolidated gross liabilities of the Bank, all as shown by, in the case of BES Finance, the latest published audited balance sheet of BES Finance and, in the case of the Bank, the latest published audited consolidated balance sheet of the Bank, but in each case adjusted for contingencies and for subsequent events in such manner and to such extent as such directors, auditors or liquidator, as the case may be, may determine to be appropriate; and
- (B) "Senior Creditors" means creditors of the Issuer or, as the case may be, the Bank who (x) are depositors or other unsubordinated creditors of the Issuer or, as the case may be, the Bank or (y) are subordinated creditors of the Issuer or, as the case may be, the Bank other than those whose claims rank *pari passu* with or junior to the claims of the holders of Undated Subordinated Notes or (in respect of the Bank) persons entitled to claim under the Guarantee in respect of such Notes.

### **3. Negative Pledge**

This Condition 3 shall apply only to Senior Notes and references to "Notes" shall be construed accordingly.

So long as any of the Notes remains outstanding (as defined in the Trust Deed or, in respect of Interbolsa Notes, as defined in the Principal Agency Agreement, as amended by the Interbolsa Notes Agency

Agreement), neither the Issuer nor the Bank (where the Issuer is BES Finance) shall create or permit to be outstanding any mortgage, charge, lien, pledge or other similar encumbrance or security interest upon the whole or any part of its undertaking or assets, present or future (including any uncalled capital), to secure any Indebtedness (as defined below) or any guarantee or indemnity given in respect of any Indebtedness, without, in the case of the creation of an encumbrance or security interest, at the same time and, in any other case, promptly granting to the Noteholders either, at the option of the relevant Issuer, an equal and rateable interest in the same or providing to the Noteholders such other security as either (i) (except in the case of Interbolsa Notes) the Trustee shall, in its absolute discretion, deem to be not materially less beneficial to the Noteholders or (ii) (in the case of any Notes, including Interbolsa Notes) as shall be approved by an Extraordinary Resolution (as described in Condition 15 and in the Trust Deed or, in respect of Interbolsa Notes, in the Principal Agency Agreement, as amended by the Interbolsa Notes Agency Agreement) of the Noteholders.

“Indebtedness” means any borrowings having an original maturity of more than one year in the form of or represented by bonds, notes, debentures or other securities (not comprising, for the avoidance of doubt preference shares or other equity securities) but excluding any Covered Bonds (as defined below):

- (1) where more than 50 per cent. in aggregate principal amount of such bonds, notes, debentures or other securities are initially offered outside the Portuguese Republic; and
- (2) which with the consent of the Issuer or the Bank (where the Issuer is BES Finance), are, or are intended to be, listed or traded on any non-Portuguese domestic stock exchange, over-the-counter or other organised market for securities (whether or not initially distributed by way of private placing).

“Covered Bonds” means any mortgage-backed bonds and/or covered bonds or notes (*Obrigações Hipotecárias*) issued by any of the Issuers, the obligations of which benefit from a special creditor privilege (“*privilégio creditório especial*”) as a result of them being collateralised by a defined pool of assets comprised of mortgage loans or other loans permitted by applicable Portuguese legislation to be included in the pool of assets and where the requirements for that collateralisation are regulated by applicable Portuguese legislation.

#### **4. Status of the Guarantee**

The Bank, acting through its London branch, has in the Trust Deed unconditionally and irrevocably guaranteed the due and punctual payment by BES Finance of the principal of, and interest on, the Notes issued by BES Finance and all other amounts payable under or pursuant to the Trust Deed.

The obligations of the Bank, acting through its London branch, under the Guarantee constitute:

- (i) in the case of Senior Notes issued by BES Finance, direct, unconditional, unsecured (subject to the provisions of Condition 3) and unsubordinated obligations of the Bank and rank and will rank *pari passu* with all present and future unsecured (subject as aforesaid) and unsubordinated obligations (including those arising under deposits received in its banking business) of the Bank, except for obligations given priority by law;
- (ii) in the case of Dated Subordinated Notes issued by BES Finance, direct, unsecured obligations of the Bank but, in the event of the insolvency or liquidation of the Bank, subordinated in right of payment to the claims of depositors and all other unsecured creditors of the Bank (other than creditors in respect of indebtedness of the Bank which is subordinated to at least the same extent as the obligations of the Bank under its guarantee in respect of such Dated Subordinated Notes); and
- (iii) in the case of Undated Subordinated Notes issued by BES Finance, direct, unsecured obligations of the Bank which, to the extent permitted by Portuguese law, are subordinated to the claims of Senior Creditors of the Bank, in that payment under the Guarantee is conditional upon the Bank being solvent at the time of payment and that no such payment shall be made except to the extent that the Bank could make such payment and still be solvent immediately thereafter. For this purpose, the Bank shall be considered to be solvent if both (i) it is able to pay its debts to the Senior Creditors of the Bank as they fall due and (ii) its Assets exceed its Liabilities to Senior Creditors of the Bank.

Without prejudice to the foregoing, the obligations of the Bank, acting through its London branch, under the Guarantee in respect of Undated Subordinated Notes issued by BES Finance will, in the event of a distribution of the assets in the dissolution or liquidation of the Bank, rank senior to the share capital of the Bank.

A report as to the solvency of the Bank by (a) two directors of the Bank or, if the directors have not reported to BES Finance within 14 days before any payment needs to be made pursuant to this Condition 4(iii), the auditors of the Bank or (b) if the Bank is being wound up, its liquidator shall, in each case in the absence of manifest error, be treated and accepted by BES Finance, the Bank, the Trustee and the holders of Undated Subordinated Notes issued by BES Finance as correct and sufficient evidence thereof.

For the purposes of this Condition 4(iii):

- (A) “Assets” means the total consolidated gross assets of the Bank and “Liabilities” means the total consolidated gross liabilities of the Bank, all as shown by the latest published audited consolidated balance sheet of the Bank but adjusted for contingencies and for subsequent events in such manner and to such extent as such directors, auditors or liquidator, as the case may be, may determine to be appropriate; and
- (B) “Senior Creditors of the Bank” means creditors of the Bank who (x) are depositors or other unsubordinated creditors of the Bank or (y) are subordinated creditors of the Bank other than those whose claims rank *pari passu* with or junior to the claims of the holders of Undated Subordinated Notes and persons entitled to claim under the Guarantee in respect of such Notes.

The obligations of the Bank under the Guarantee in respect of Undated Subordinated Notes issued by BES Finance are conditional upon the Bank being solvent immediately before and after payment by the Bank. Any amount which might otherwise have been allocated in or towards payment by BES Finance of principal and interest in respect of the Undated Subordinated Notes will be available to meet the losses of the Bank.

Furthermore, in order to allow the Bank to continue its business activities (in accordance with the Bank of Portugal Regulation 12/92, as amended), any amounts which, under these Terms and Conditions, would be payable as principal or interest under the Guarantee in respect of Undated Subordinated Notes issued by BES Finance, will be available to meet the losses of the Bank, provided: (a) that there has been (i) consumption of the whole of the reserves and retained earnings; (ii) writing down of the ordinary share capital of the Bank and (iii) writing down of the Bank’s preference shares (including any preference share capital guaranteed by the Bank); and (b) that therefore the Bank’s total shareholders’ equity and the preference shares interests of the Bank have been reduced to zero.

In the above circumstances where unpaid principal and interest may be used to meet the losses of the Bank, the unpaid amounts of interest first and then principal will be cancelled and utilised to the extent that may be necessary to meet the losses of the Bank. The cancelled amounts will only be reinstated as subordinated credits of the corresponding holders as if such amounts had never been written down or cancelled in the event of (i) the winding-up, liquidation or bankruptcy of the Bank, in which event such reinstatement will be deemed to take effect at the moment which immediately precedes the commencement of the winding-up, liquidation or bankruptcy proceedings; or of (ii) a decision being taken by the shareholders of the Issuer or of the Bank to allow a dividend to be paid or to reinstate the cancelled or written down amounts, in each case subject to the approval of the Bank of Portugal. In both the above cases and at all times, cancelled or written down amounts will revert to being treated as subordinated credits of the corresponding holders, without prejudice to the subordination regime applying thereto.

During any period of cancellation or writing down such cancelled or written down amounts shall not bear interest.

In the event of liquidation, bankruptcy or analogous proceedings of the Bank, no Noteholder (having a debt or a liability towards the Bank) may exercise any set-off or other similar rights against any amounts held by the Bank.

## 5. Interest

If the Notes are specified in the applicable Final Terms as Credit Linked Notes, then the provisions of this Condition 5 are subject to Condition 24.

### (a) *Interest on Fixed Rate Notes*

Each Fixed Rate Note bears interest from (and including) the Interest Commencement Date at the rate(s) per annum equal to the Rate(s) of Interest. Interest will be payable in arrear on the Interest Payment Date(s) in each year up to (and including) the Maturity Date. For so long as any of the Fixed Rate Notes is represented by a global Note held on behalf of Clearstream, Luxembourg and/or Euroclear, interest will be paid to Clearstream, Luxembourg and Euroclear for distribution by them to entitled accountholders in accordance with their usual rules and operating procedures. Interest on Fixed Rate Notes which are Interbolsa Notes will be paid to the Affiliate Members of Interbolsa for distribution by them to the accounts of entitled Noteholders in accordance with Interbolsa's usual rules and operating procedures.

If the Notes are in definitive form, except as provided in the applicable Final Terms, the amount of interest payable on each Interest Payment Date in respect of the Fixed Interest Period ending on (but excluding) such date will amount to the Fixed Coupon Amount. Payments of interest on any Interest Payment Date will, if so specified in the applicable Final Terms, amount to the Broken Amount so specified.

As used in these Terms and Conditions, "Fixed Interest Period" means the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date.

Except in the case of Notes in definitive form where an applicable Fixed Coupon Amount or Broken Amount is specified in the applicable Final Terms, interest shall be calculated in respect of any period by applying the Rate of Interest to:

- (A) in the case of Fixed Rate Notes which are either Interbolsa Notes or are represented by a global Note held on behalf of Clearstream, Luxembourg and/or Euroclear, the full nominal amount outstanding of the Fixed Rate Notes (or, if they are Partly Paid Notes, the full amount paid up); or
- (B) in the case of Fixed Rate Notes in definitive form, the Calculation Amount;

and, in each case, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Fixed Rate Note in definitive form is a multiple of the Calculation Amount, the amount of interest payable in respect of such Fixed Rate Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding.

"Day Count Fraction" means, in respect of the calculation of an amount of interest in accordance with this Condition 5(a):

- (i) if "Actual/Actual (ICMA)" is specified in the applicable Final Terms:
  - (A) in the case of Notes where the number of days in the relevant period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (the "Accrual Period") is equal to or shorter than the Determination Period during which the Accrual Period ends, the number of days in such Accrual Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination

Dates (as specified in the applicable Final Terms) that would occur in one calendar year;  
or

- (B) in the case of Notes where the Accrual Period is longer than the Determination Period during which the Accrual Period ends, the sum of:
  - (1) the number of days in such Accrual Period falling in the Determination Period in which the Accrual Period begins divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates (as specified in the applicable Final Terms) that would occur in one calendar year; and
  - (2) the number of days in such Accrual Period falling in the next Determination Period divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates that would occur in one calendar year; and
- (ii) if “30/360” is specified in the applicable Final Terms, the number of days in the period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (such number of days being calculated on the basis of a year of 360 days with 12 30-day months) divided by 360.

In these Terms and Conditions:

“Determination Period” means the period from (and including) a Determination Date to (but excluding) the next Determination Date (including, where either the Interest Commencement Date or the final Interest Payment Date is not a Determination Date, the period commencing on the first Determination Date prior to, and ending on the first Determination Date falling after, such date); and

“sub-unit” means, with respect to any currency other than euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, with respect to euro, means one cent.

(b) ***Interest on Floating Rate Notes and Index Linked Interest Notes***

(i) ***Interest Payment Dates***

Each Floating Rate Note and Index Linked Interest Note bears interest from (and including) the Interest Commencement Date and such interest will be payable in arrear on either:

- (A) the Specified Interest Payment Date(s) in each year specified in the applicable Final Terms; or
- (B) if no Specified Interest Payment Date(s) is/are specified in the applicable Final Terms, each date (each such date, together with each Specified Interest Payment Date, an “Interest Payment Date”) which falls on the number of months or other period specified as the Specified Period in the applicable Final Terms after the preceding Interest Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date.

Such interest will be payable in respect of each Interest Period (which expression shall, in these Terms and Conditions, mean the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date). For so long as any of the Floating Rate Notes or Index Linked Interest Notes is represented by a global Note held on behalf of Clearstream, Luxembourg and/or Euroclear, interest will be paid to Clearstream, Luxembourg and Euroclear for distribution by them to entitled accountholders in accordance with their usual rules and operating procedures. Interest on Floating Rate Notes or Index Linked Interest Notes which are Interbolsa Notes will be paid to the Affiliate Members



of Interbolsa for distribution by them to the accounts of entitled Noteholders in accordance with Interbolsa's usual rules and operating procedures.

If a Business Day Convention is specified in the applicable Final Terms and (x) there is no numerically corresponding day in the calendar month on which an Interest Payment Date should occur or (y) if any Interest Payment Date would otherwise fall on a day which is not a Business Day, then, if the Business Day Convention specified is:

- (1) in any case where Specified Periods are specified in accordance with Condition 5(b)(i)(B), the Floating Rate Convention, such Interest Payment Date (i) in the case of (x) above, shall be the last day that is a Business Day in the relevant month and the provisions of (B) below shall apply *mutatis mutandis* or (ii) in the case of (y) above, shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event (A) such Interest Payment Date shall be brought forward to the immediately preceding Business Day and (B) each subsequent Interest Payment Date shall be the last Business Day in the month which falls the Specified Period after the preceding applicable Interest Payment Date occurred; or
- (2) the Following Business Day Convention, such Interest Payment Date shall be postponed to the next day which is a Business Day; or
- (3) the Modified Following Business Day Convention, such Interest Payment Date shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such Interest Payment Date shall be brought forward to the immediately preceding Business Day; or
- (4) the Preceding Business Day Convention, such Interest Payment Date shall be brought forward to the immediately preceding Business Day.

In these Terms and Conditions, "Business Day" means a day which is both:

- (A) 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 Lisbon in the case of Interbolsa Notes and any Additional Business Centre specified in the applicable Final Terms; and
- (B) either (1) in relation to any sum payable in a Specified Currency other than euro, 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 principal financial centre of the country of the relevant Specified Currency (which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System (the "TARGET2 System") is open.

Interest will be paid subject to and in accordance with the provisions of Condition 6.

(ii) *Rate of Interest*

The Rate of Interest payable from time to time in respect of Floating Rate Notes and Index Linked Interest Notes will be determined in the manner specified in the applicable Final Terms.

(A) ISDA Determination for Floating Rate Notes

Where ISDA Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will be the relevant ISDA Rate plus or minus (as indicated in the applicable Final Terms) the Margin (if any). For the purposes of this sub-paragraph (A), "ISDA Rate" for an Interest Period means a rate equal to the Floating Rate that would be determined



by the Agent or other person specified in the applicable Final Terms under an interest rate swap transaction if the Agent or that other person were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the 2006 ISDA Definitions (as published by the International Swaps and Derivatives Association, Inc. and amended and updated as at the Issue Date of the first Tranche of Notes and as published by the International Swaps and Derivatives Association, Inc. (the “ISDA Definitions”)) and under which:

- (1) the Floating Rate Option is as specified in the applicable Final Terms;
- (2) the Designated Maturity is a period specified in the applicable Final Terms; and
- (3) the relevant Reset Date is either (i) if the applicable Floating Rate Option is based on the London inter-bank offered rate (“LIBOR”) or on the Euro-zone inter-bank offered rate (“EURIBOR”) for a currency, the first day of that Interest Period or (ii) in any other case, as specified in the applicable Final Terms.

For the purposes of this sub-paragraph (A), “Euro-zone”, “Floating Rate”, “Calculation Agent”, “Floating Rate Option”, “Designated Maturity” and “Reset Date” have the meanings given to those terms in the ISDA Definitions.

Unless otherwise stated in the applicable Final Terms the Minimum Rate of Interest shall be deemed to be zero.

When this sub-paragraph (A) applies, in respect of each relevant Interest Period the Agent will be deemed to have discharged its obligations under Condition 5(b)(ii) in respect of the determination of the Interest Rate if it has determined the Rate of Interest in respect of such Interest Period in the manner provided in this sub-paragraph (A).

(B) Screen Rate Determination for Floating Rate Notes

Where Screen Rate Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will, subject as provided below, be either:

- (1) the offered quotation; or
- (2) the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations,

(expressed as a percentage rate per annum) for the Reference Rate which appears or appear, as the case may be, on the Relevant Screen Page as at 11.00 a.m. (London time, in the case of LIBOR, or Brussels time, in the case of EURIBOR) on the Interest Determination Date in question plus or minus (as indicated in the applicable Final Terms) the Margin (if any), all as determined by the Agent. If five or more of such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Agent for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations.

The Principal Agency Agreement contains provisions for determining the Rate of Interest in the event that the Relevant Screen Page is not available or if, in the case of (1) above, no such quotation appears or, in the case of (2) above, fewer than three such offered quotations appear, in each case as at the time specified in the preceding paragraph.

If the Reference Rate from time to time in respect of Floating Rate Notes is specified in the applicable Final Terms as being other than LIBOR or EURIBOR, the Rate of Interest in respect of such Notes will be determined as provided in the applicable Final Terms.

(iii) *Minimum Rate of Interest and/or Maximum Rate of Interest*

If the applicable Final Terms specifies a Minimum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of paragraph (ii) above is less than such Minimum Rate of Interest, the Rate of Interest for such Interest Period shall be such Minimum Rate of Interest.

If the applicable Final Terms specifies a Maximum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of paragraph (ii) above is greater than such Maximum Rate of Interest, the Rate of Interest for such Interest Period shall be such Maximum Rate of Interest.

(iv) *Determination of Rate of Interest and Calculation of Interest Amounts*

The Agent, in the case of Floating Rate Notes, and the Calculation Agent, in the case of Index Linked Interest Notes, will at or as soon as practicable after each time at which the Rate of Interest is to be determined, determine the Rate of Interest for the relevant Interest Period. In the case of Index Linked Interest Notes, the Calculation Agent will notify the Agent of the Rate of Interest for the relevant Interest Period as soon as practicable after calculating the same.

The Agent will calculate the amount of interest (the “Interest Amount”) payable on the Floating Rate Notes or Index Linked Interest Notes for the relevant Interest Period by applying the Rate of Interest to:

- (A) in the case of Floating Rate Notes or Index Linked Interest Notes which are either Interbolsa Notes or are represented by a global Note held on behalf of Clearstream, Luxembourg and/or Euroclear, the full nominal amount outstanding of the relevant Notes (or, if they are Partly Paid Notes, the full amount paid up); or
- (B) in the case of Floating Rate Notes or Index Linked Interest Notes in definitive form, the Calculation Amount;

and, in each case, multiplying such sum by the applicable Day Count Fraction and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Floating Rate Note or an Index Linked Interest Note in definitive form is a multiple of the Calculation Amount, the Interest Amount payable in respect of such Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding.

“Day Count Fraction” means, in respect of the calculation of an amount of interest for any Interest Period:

- (i) if “Actual/Actual” or “Actual/Actual (ISDA)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365);
- (ii) if “Actual/365 (Fixed)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365;
- (iii) if “Actual/365 (Sterling)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 or, in the case of an Interest Payment Date falling in a leap year, 366;

- (iv) if “Actual/360” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 360;
- (v) if “30/360”, “360/360” or “Bond Basis” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

- (vi) if “30E/360” or “Eurobond Basis” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

- (vii) if “30E/360 (ISDA)” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

(v) *Notification of Rate of Interest and Interest Amounts*

The Agent will cause the Rate of Interest and each Interest Amount for each Interest Period and the relevant Interest Payment Date to be notified to the Issuer, the other Paying Agents and any stock exchange or other relevant authority on which the relevant Floating Rate Notes or Index Linked Interest Notes are for the time being listed (by no later than the first day of each Interest Period) or by which they have been admitted to listing and notice thereof to be published in accordance with Condition 14 as soon as possible after their determination but in no event later than the fourth London Business Day thereafter. Each Interest Amount and Interest Payment Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without prior notice in the event of an extension or shortening of the Interest Period. Any such amendment will be promptly notified to each stock exchange or other relevant authority on which the relevant Floating Rate Notes or Index Linked Interest Notes are for the time being listed or by which they have been admitted to listing and to the Noteholders in accordance with Condition 14. “London Business Day” means a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for business in London.

(vi) *Determination or calculation by Trustee or by a designated bank*

If for any reason the Agent at any time after the Issue Date defaults in its obligation to determine the Rate of Interest or calculate any Interest Amount in accordance with sub-paragraph (ii) above, then (A) (except in respect of Interbolsa Notes), the Trustee or (B) (in respect of Interbolsa Notes), any bank designated by the Common Representative for such purpose or, if no such bank is designated, a meeting of the Noteholders by Extraordinary Resolution, shall determine the Rate of Interest at such rate as, in its absolute discretion (having such regard as it shall think fit to the foregoing provisions of this Condition but subject always to any Minimum Rate of Interest and/or Maximum Rate of Interest specified in the applicable Final Terms) it shall deem fair and reasonable in all the circumstances or, as the case may be, the Trustee, designated bank or meeting of holders of Interbolsa Notes, as the case may be, shall calculate the Interest Amount(s) in such manner as it shall deem fair and reasonable in all the circumstances and each such determination or calculation shall be deemed to have been made by the Agent.

(vii) *Certificates to be Final*

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this

Condition 5(b), whether by the Agent or (except in respect of Interbolsa Notes) the Trustee, or (in the case of Interbolsa Notes), by or on behalf of the Common Representative or, if applicable, the Calculation Agent, shall (in the absence of negligence, wilful default, bad faith or manifest error) be binding on the Issuer, the Bank (where the Issuer is BES Finance), the Agent, the Trustee, the Common Representative the Calculation Agent (if applicable), the other Paying Agents and all Noteholders, Receiptholders and Couponholders and (in the absence as aforesaid) no liability to the Issuer, the Bank (where the Issuer is BES Finance), the Noteholders, the Receiptholders or the Couponholders shall attach to the Agent or the Trustee or the Common Representative or the Calculation Agent (if applicable) in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

(c) ***Interest on Dual Currency Interest Notes***

In the case of Dual Currency Notes, if the rate or amount of interest falls to be determined by reference to an exchange rate, the rate or amount of interest payable shall be determined in the manner specified in the applicable Final Terms.

(d) ***Interest on Partly Paid Notes***

In the case of Partly Paid Notes (other than Partly Paid Notes which are Zero Coupon Notes), interest will accrue as aforesaid on the paid-up nominal amount of such Notes and otherwise as specified in the applicable Final Terms.

(e) ***Undated Subordinated Notes***

Interest on Undated Subordinated Notes shall accrue from day to day and shall be payable on each Compulsory Interest Payment Date (as defined below) in respect of the interest accrued in the Interest Period ending on (but excluding) such Compulsory Interest Payment Date. On any Optional Interest Payment Date (as defined below) there may be paid (if the Issuer so elects and gives not less than 30 days' notice of such election to the holders of Undated Subordinated Notes in accordance with Condition 14) the interest accrued in the Interest Period ending on (but excluding) such Optional Interest Payment Date (an "Accrual Period") but the Issuer shall not have any obligation to make such payment and any failure to pay shall not constitute a default by the Issuer for any purpose; and any interest not so paid shall, so long as the same remains unpaid, constitute "Arrears of Interest". The Issuer may at its option, after giving notice to the holders of Undated Subordinated Notes in accordance with Condition 14 at any time pay all or part of the Arrears of Interest (being, if part only, the whole of the interest accrued on all the Undated Subordinated Notes during any one or more accrual Period(s)) but so that, in the case of any such partial payment, the interest accrued during any Accrual Period shall not be paid prior to that accrued during any earlier Accrual Period. All Arrears of Interest shall become due in full on whichever is the earliest of (i) the date on which any dividend or other distribution is next declared, paid or made on any class of stock or share capital of the Issuer or (where the Issuer is BES Finance) the Bank, (ii) the date set for any repayment permitted under Condition 7(b) or (c) and (iii) the commencement of winding up of the Issuer or (where the Issuer is BES Finance) the Bank. If notice is given by the Issuer of its intention to pay all or part of the Arrears of Interest, the Issuer shall be obliged to do so upon the expiry of such notice. Neither Arrears of Interest nor any Interest due but unpaid shall bear interest. Payment of Arrears of Interest is subject to the approval of the Bank of Portugal.

For the purposes of this paragraph (e):

"Compulsory Interest Payment Date" means any Interest Payment Date in relation to which any dividend or other distribution has been declared, paid or made on any class of the stock or share capital of the Issuer or (where the Issuer is BES Finance) the Bank in the immediately preceding interest period; and

"Optional Interest Payment Date" means any Interest Payment Date other than a Compulsory Interest Payment Date.

(f) ***Accrual of Interest***

Each Note (or in the case of the redemption of part only of a Note, that part only of such Note) will cease to bear interest (if any) from the date scheduled for its redemption unless payment of principal is improperly withheld or refused. In such event, interest will continue to accrue, in the case of Notes other than Interbolsa Notes, as provided in the Trust Deed or, in the case of Interbolsa Notes, until whichever is the earlier of:

- (i) the date on which all amounts due in respect of such Interbolsa Note have been paid; and
- (ii) five days after the date on which the full amount of the moneys payable in respect of such Interbolsa Note has been received by the Agent and notice to that effect has been given to the Noteholders in accordance with Condition 14.

Provided That if the Notes become redeemable pursuant to Condition 24(b), Condition 24(c) or Condition 24(d); and

- (i) “Accrual of Interest upon Credit Event” is specified as Not Applicable in the applicable Final Terms, each Note shall cease to bear interest from the Interest Payment Date immediately preceding the Credit Event Determination Date (as defined in Condition 24(m)) or, if the Credit Event Determination Date is an Interest Payment Date such Interest Payment Date or, if the Credit Event Determination Date falls prior to the first Interest Payment Date, no interest shall accrue on the Notes; or
- (ii) “Accrual of Interest upon Credit Event” is specified as being Applicable in the applicable Final Terms, each Note shall cease to bear interest from the Credit Event Determination Date; and

Provided Further That, if:

- (i) Condition 24(e), Condition 24(f) or Condition 24(g) applies in respect of the Notes and, in the case of Condition 24(e), a Repudiation/Moratorium has not occurred on or prior to the Repudiation/Moratorium Evaluation Date or, in the case of Condition 24(f), a Failure to Pay has not occurred on or prior to the Grace Period Extension Date or, in the case of Condition 24(g), a Credit Event has not occurred prior to the DC Cut-off Date, as the case may be; and/or
- (ii) Condition 24(h) applies in respect of the Notes and the Maturity Date, the Repudiation/Moratorium Evaluation Date or the Grace Period Extension Date, as the case may be, is postponed as provided therein,

then interest will accrue as provided in Condition 24(e), Condition 24(f), Condition 24(g) or Condition 24(h), as the case may be.

**6. Payments**

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

Subject as provided below:

- (i) payments in a Specified Currency other than euro will be made by transfer to an account in the relevant Specified Currency maintained by the payee with a bank in the principal financial centre of the country of such Specified Currency (which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively); and
- (ii) payments will be made in euro by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee.

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

Payments will be subject in all cases, but without prejudice to the provisions of Condition 8, to (i) any fiscal or other laws and regulations applicable thereto in any jurisdiction, and (ii) any withholding or



deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the “Code”) or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, official interpretations thereof, or law implementing an intergovernmental approach thereto.

(c) ***Presentation of definitive Notes, Receipts and Coupons***

Payments of principal in respect of definitive Notes will (subject as provided below) be made in the manner provided in paragraph (a) above only against surrender of definitive Notes, and payments of interest in respect of definitive Notes will (subject as provided below) be made as aforesaid only against surrender of Coupons, in each case at the specified office of any Paying Agent outside the United States (which expression, as used herein, means the United States of America (including the States and the District of Columbia) and its possessions).

Payments of instalments of principal (if any) in respect of definitive Notes, other than the final instalment, will (subject as provided below) be made in the manner provided in paragraph (a) above against surrender of the relevant Receipt. Payment of the final instalment will be made in the manner provided in paragraph (a) above only against surrender of the relevant Note. Each Receipt must be presented for payment of the relevant instalment together with the definitive Note to which it appertains. Receipts presented without the definitive Note to which they appertain do not constitute valid obligations of the Issuer. Upon the date on which any definitive Note becomes due and repayable, unmatured Receipts (if any) relating thereto (whether or not attached) shall become void and no payment shall be made in respect thereof.

Fixed Rate Notes in definitive form (other than Dual Currency Notes, Index Linked Notes or Credit Linked Notes) should be presented for payment together with all unmatured Coupons appertaining thereto (which expression shall for this purpose include Coupons falling to be issued on exchange of matured Talons), failing which the amount of any missing unmatured Coupon (or, in the case of payment not being made in full, the same proportion of the amount of such missing unmatured Coupon as the sum so paid bears to the sum due) will be deducted from the sum due for payment. Each amount of principal so deducted will be paid in the manner mentioned above against surrender of the relative missing Coupon at any time before the expiry of 10 years after the Relevant Date (as defined in Condition 8) in respect of such principal (whether or not such Coupon would otherwise have become void under Condition 9) or, if later, five years from the date on which such Coupon would otherwise have become due, but in no event thereafter.

Upon any Fixed Rate Note in definitive form becoming due and repayable prior to its Maturity Date, all unmatured Talons (if any) appertaining thereto will become void and no further Coupons will be issued in respect thereof.

Upon the date on which any Floating Rate Note, Dual Currency Note, Index Linked Note, Long Maturity Note or Credit Linked Note in definitive form becomes due and repayable, unmatured Coupons and Talons (if any) relating thereto (whether or not attached) shall become void and no payment or, as the case may be, exchange for further Coupons shall be made in respect thereof. A “Long Maturity Note” is a Fixed Rate Note (other than a Fixed Rate Note which on issue had a Talon attached) whose nominal amount on issue is less than the aggregate interest payable thereon provided that such Note shall cease to be a Long Maturity Note on the Interest Payment Date on which the aggregate amount of interest remaining to be paid after that date is less than the nominal amount of such Note.

If the due date for redemption of any definitive Note is not an Interest Payment Date, interest (if any) accrued in respect of such Note from (and including) the preceding Interest Payment Date or, as the case may be, the Interest Commencement Date shall be payable only against surrender of the relevant definitive Note.

(d) ***Payments in respect of global Notes***

Payments of principal and interest (if any) in respect of Notes represented by any global Note will (subject as provided below) be made in the manner specified above in relation to definitive Notes or otherwise in the manner specified in the relevant global Note, where applicable against presentation or surrender, as the case may be, of such global Note, if the global Note is not issued in new global note form, at the specified office of any Paying Agent outside the United States. A record of each payment made, distinguishing between any payment of principal and any payment of interest, will be made on such global Note either by the Paying Agent to which it was presented or, in the records of Euroclear and Clearstream, Luxembourg, as applicable.

The holder of a global Note (or, as provided in the Trust Deed, the Trustee) shall be the only person entitled to receive payments in respect of Notes represented by such global Note and the Issuer or, as the case may be, the Bank (where the Issuer is BES Finance) will be discharged by payment to, or to the order of, the holder of such global Note (or, as provided in the Trust Deed, the Trustee) in respect of each amount so paid. Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the beneficial holder of a particular nominal amount of Notes represented by such global Note must look solely to Euroclear or Clearstream, Luxembourg, as the case may be, for his share of each payment so made by the Issuer or, as the case may be, the Bank (where the Issuer is BES Finance) to, or to the order of, the holder of such global Note (or, as provided in the Trust Deed, the Trustee).

(e) ***Payments in respect of Interbolsa Notes***

All payments on Interbolsa Notes (including without limitation the payment of accrued interest and principal) will be made by the Issuer to the Portuguese Paying Agent and (i) **if made in euro** will be (a) credited, according to the procedures and regulations of Interbolsa, by the Portuguese Paying Agent to the payment current-accounts held in the payment system of the Bank of Portugal by the Affiliate Members of Interbolsa whose control accounts with Interbolsa are credited with such Notes and thereafter (b) credited by such Interbolsa Affiliate Members from the aforementioned payment current-accounts to the accounts of the Noteholders or through Euroclear and Clearstream, Luxembourg to the accounts with Euroclear and Clearstream, Luxembourg of the beneficial owners of those Notes, in accordance with the rules and procedures of Interbolsa, Euroclear or Clearstream, Luxembourg, as the case may be; (ii) **if made in currencies other than euro** will be (a) transferred, on the payment date and according to the procedures and regulations applicable by Interbolsa, from the account held by the Portuguese Paying Agent in the Foreign Currency Settlement System (*Sistema de Liquidação em Moeda Estrangeira*), managed by Caixa Geral de Depósitos, S.A., to the relevant accounts of the relevant Affiliate Members of Interbolsa, and thereafter (b) transferred by such Affiliate Members of Interbolsa from such relevant accounts to the accounts of the Noteholders of those Notes or through Euroclear and Clearstream, Luxembourg to the accounts with Euroclear and Clearstream, Luxembourg of the beneficial owners of those Notes, in accordance with the rules and procedures of Interbolsa, Euroclear or Clearstream, Luxembourg, as the case may be.

The Issuer must provide Interbolsa with a prior notice of all payments in relation to the Interbolsa Notes and all necessary information for that purpose. In particular, such notice must contain:

- (a) the identity of the Portuguese Paying Agent responsible for the relevant payment; and
- (b) a statement of acceptance of such responsibility by the Portuguese Paying Agent.

Interbolsa shall notify the Portuguese Paying Agent of the amounts to be settled, which Interbolsa calculates on the basis of the balances and on the tax rules governing the accounts of the Affiliate Members of Interbolsa.

In the case of a partial payment, the amount held in the relevant current account of the Portuguese Paying Agent must be apportioned pro-rata between the accounts of the Affiliate Members of Interbolsa. After a payment has been processed, such process shall be confirmed to Interbolsa.

The holders of Interbolsa Notes are reliant upon the procedures of Interbolsa to receive payment in respect of Interbolsa Notes.

(f) ***Amounts payable in U.S. dollars (not applicable to Interbolsa Notes)***

Notwithstanding the foregoing provisions of this Condition, if any amount of principal and/or interest in respect of this Note is payable in U.S. dollars, such U.S. dollar payments of principal and/or interest in respect of this Note will be made at the specified office of a Paying Agent in the United States if:

- (i) the Issuer has appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment in U.S. dollars at such specified offices outside the United States of the full amount of principal and interest on the Notes in the manner provided above when due;
- (ii) payment of the full amount of such principal and interest at all such specified offices outside the United States is illegal or effectively precluded by exchange controls or other similar restrictions on the full payment or receipt of principal and interest in U.S. dollars; and
- (iii) such payment is then permitted under United States law without involving, in the opinion of the Issuer, adverse tax consequences to the Issuer or the Bank (where the Issuer is BES Finance).

(g) ***Payment Day***

If the date for payment of any amount in respect of any Note, Receipt or Coupon is not a Payment Day, the holder thereof shall not be entitled to payment until the next following Payment Day in the relevant place and shall not be entitled to further interest or other payment in respect of such delay. For these purposes, "Payment Day" means any day which (subject to Condition 9) is:

- (i) 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:
  - (A) the relevant place of presentation (if presentation is required);
  - (B) in respect of Interbolsa Notes only, Lisbon;
  - (C) any Additional Financial Centre specified in the applicable Final Terms; and
- (ii) either (1) in relation to any sum payable in a Specified Currency other than euro, 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 principal financial centre of the country of the relevant Specified Currency (which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which the TARGET2 System is open.

(h) ***Interpretation of Principal and Interest***

Any reference in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable:

- (i) any additional amounts which may be payable with respect to principal under Condition 8 or, except in the case of Interbolsa Notes, pursuant to any undertakings given in addition thereto or in substitution therefore pursuant to the Trust Deed;
- (ii) the Final Redemption Amount of the Notes;
- (iii) the Early Redemption Amount of the Notes;
- (iv) the Optional Redemption Amount(s) (if any) of the Notes;

- (v) in relation to Notes redeemable in instalments, the Instalment Amounts;
- (vi) in relation to Credit Linked Notes, the Credit Event Redemption Amount (if any);
- (vii) in relation to Zero Coupon Notes, the Amortised Face Amount; and
- (viii) any premium and any other amounts (other than interest) which may be payable by the Issuer under or in respect of the Notes.

Any reference in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any additional amounts which may be payable with respect to interest under Condition 8 or, except in the case of Interbolsa Notes, pursuant to any undertakings given in addition thereto or in substitution therefor pursuant to the Trust Deed.

## **7. Redemption and Purchase**

### **(a) *At Maturity***

Except in the case of Credit Linked Notes, in which case the provisions of Condition 24 will apply, unless previously redeemed or purchased and cancelled as specified below, each Note (including each Index Linked Redemption Note and Dual Currency Redemption Note) will be redeemed by the Issuer at its Final Redemption Amount specified in, or determined in the manner specified in, the applicable Final Terms in the relevant Specified Currency on the Maturity Date.

### **(b) *Redemption for Tax Reasons***

The Notes may be redeemed at the option of the Issuer (after obtaining the consent of the Bank of Portugal wherever it is required in the case of Dated Subordinated Notes and Undated Subordinated Notes) in whole, but not in part, at any time (if this Note is neither a Floating Rate Note nor an Index Linked Interest Note) or on any Interest Payment Date (if this Note is either a Floating Rate Note or an Index Linked Interest Note), on giving not less than 30 nor more than 60 days' notice to the Agent, the Trustee (except in respect of Interbolsa Notes), the Common Representative (in respect of Interbolsa Notes) and, in accordance with Condition 14, the Noteholders (which notice shall be irrevocable), if:

- (i) on the occasion of the next payment due under the Notes, the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 8 or the Bank (where the Issuer is BES Finance) would be unable for reasons outside its control to procure payment by BES Finance and in making payment itself would be required to pay such additional amounts, in either case as a result of any change in, or amendment to, the laws or regulations of any Relevant Tax Jurisdiction or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the Issue Date of the first Tranche of the Notes;
- (ii) the Issuer satisfies the Trustee (except in the case of Interbolsa Notes) or the Common Representative and the Portuguese Paying Agent (in the case of Interbolsa Notes) immediately prior to the giving of such notice as to (i) above; and
- (iii) such obligation cannot be avoided by the Issuer or the Bank (where the Issuer is BES Finance) taking reasonable measures available to it,

provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer or the Bank (where the Issuer is BES Finance) would be obliged to pay such additional amounts were a payment in respect of the Notes then due.

Prior to the publication of any notice of redemption pursuant to this Condition 7(b), the Issuer shall deliver to the Agent and the Common Representative (in respect of Interbolsa Notes) or to the Trustee (in respect of any Note other than an Interbolsa Note) a certificate signed by two Directors of the

Issuer or two Directors of the Bank (where the Issuer is BES Finance) stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal advisers of recognised standing to the effect that the Issuer or the Bank (where the Issuer is BES Finance) has or will become obliged to pay such additional amounts as a result of such change or amendment. The Trustee or, as the case may be, the Agent and the Common Representative, shall be entitled to accept any such certificate and opinion delivered to it as sufficient evidence of the satisfaction of such conditions precedent in which event they shall be conclusive and binding on the Noteholders, the Receipholders and the Couponholders.

Notes redeemed pursuant to this Condition 7(b) will be redeemed at their Early Redemption Amount referred to in paragraph (e) below together (if appropriate) with interest accrued to (but excluding) the date of redemption.

“Relevant Tax Jurisdiction” means (i), in respect of payments made by BES Finance, the Cayman Islands, (ii) in respect of payments where the Bank is specified in the applicable Final Terms as Issuer and is acting through its head office or its Madeira Free Trade Zone branch, Portugal (including Madeira); (iii) in respect of payments where the Bank is specified in the applicable Final Terms as Issuer and is acting through its Cayman Islands branch, the Cayman Islands; (iv) in respect of payments where the Bank is specified in the applicable Final Terms as Issuer and is acting through its Luxembourg branch, Luxembourg; and (v) in respect of payments made by the Bank, acting through its London branch, either as Issuer or as Guarantor where the Issuer is BES Finance, the United Kingdom.

(c) ***Redemption at the Option of the Issuer (Issuer Call)***

If Issuer Call is specified in the applicable Final Terms, the Issuer shall (after obtaining the consent of the Bank of Portugal whenever it is required in the case of Dated Subordinated Notes and Undated Subordinated Notes), having given:

- (i) not less than 30 nor more than 60 days’ notice to the Noteholders in accordance with Condition 14; and
- (ii) not less than 15 days before the giving of the notice referred to in (i), notice to the Agent and (except in respect of Interbolsa Notes) to the Trustee and (in respect of Interbolsa Notes) to the Common Representative,

(which notices shall be irrevocable), redeem all or some only of the Notes then outstanding on any Optional Redemption Date and at the Optional Redemption Amount(s) specified in, or determined in the manner specified in, the applicable Final Terms together, if appropriate, with interest accrued to (but excluding) the relevant Optional Redemption Date. Any such redemption must be of a nominal amount not less than the Minimum Redemption Amount or not more than a Higher Redemption Amount, in each case as may be specified in the applicable Final Terms. In the case of a partial redemption of Notes, the Notes to be redeemed (“Redeemed Notes”) will, not more than 30 days prior to the date fixed for redemption (such date of selection being hereinafter called the “Selection Date”), be selected (i) individually by lot, in the case of Redeemed Notes represented by definitive Notes, (ii) in accordance with the rules of Euroclear and/ or Clearstream, Luxembourg (to be reflected in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in nominal amount, at their discretion), in the case of Redeemed Notes represented by a global Note and (iii) in accordance with the rules of Interbolsa, in the case of Redeemed Notes that are Interbolsa Notes. In the case of Redeemed Notes represented by definitive Notes, a list of the serial numbers of such Redeemed Notes will be published in accordance with Condition 14 not less than 15 days prior to the date fixed for redemption. No exchange of the relevant global Note will be permitted during the period from and including the Selection Date to and including the date fixed for redemption pursuant to this paragraph (c) and notice to that effect shall be given by the Issuer to the Noteholders in accordance with Condition 14 at least five days prior to the Selection Date.



(d) ***Redemption at the Option of the Noteholders (Investor Put)***

If Investor Put is specified in the applicable Final Terms (provided that Investor Put may not be specified if this is a Dated Subordinated Note or an Undated Subordinated Note), upon the holder of any Note giving to the Issuer in accordance with Condition 14 not less than 30 nor more than 60 days' notice (which notice shall be irrevocable) or such other period of notice as is specified in the applicable Final Terms the Issuer will, upon the expiry of such notice, redeem, subject to, and in accordance with, the terms specified in the applicable Final Terms, in whole (but not in part), such Note on the Optional Redemption Date and at the Optional Redemption Amount specified in, or determined in the manner specified in, the applicable Final Terms together, if appropriate, with interest accrued to (but excluding) the Optional Redemption Date. It may be that before an Investor Put can be exercised, certain conditions and/or circumstances will need to be satisfied. Where relevant, the provisions will be set out in the applicable Final Terms.

If this Note is in definitive form, to exercise the right to require redemption of this Note the holder of this Note must deliver such Note at the specified office of any Paying Agent at any time during normal business hours of such Paying Agent falling within the notice period, accompanied by a duly completed and signed notice of exercise in the form (for the time being current) obtainable from any specified office of any Paying Agent (a "Eurobond Put Notice") and in which the holder must specify a bank account (or, if payment is by cheque, an address) to which payment is to be made under this Condition accompanied by, if this Note is in definitive form, this Note or evidence satisfactory to the Paying Agent concerned that this Note will, following delivery of the Put Notice, be held to its order or under its control.

If this Note is an Interbolsa Note, to exercise the right to require redemption of this Note the holder of this Note must, during normal business hours on a day falling within the notice period, deliver to the Portuguese Paying Agent a Certificate and a duly completed and signed notice of exercise in the form obtainable from the specified office of the Portuguese Paying Agent (an "Interbolsa Notes Put Notice", each Interbolsa Notes Put Notice or Eurobond Put Notice being a "Put Notice") and in which the holder of the Notes must specify a bank account or, if payment is required to be made by cheque, an address to which payment is to be made under this Condition.

(e) ***Early Redemption Amounts***

For the purpose of paragraph (b) above and Condition 10, the Notes will be redeemed at the Early Redemption Amount calculated as follows:

- (i) in the case of Notes with a Final Redemption Amount equal to the Issue Price, at the Final Redemption Amount thereof;
- (ii) in the case of Notes (other than Zero Coupon Notes but including Instalment Notes and Partly Paid Notes) with a Final Redemption Amount which is or may be less or greater than the Issue Price or which is payable in a Specified Currency other than that in which the Notes are denominated, at the amount specified in, or determined in the manner specified in, the applicable Final Terms or, if no such amount or manner is so specified in the Final Terms, at their nominal amount; or
- (iii) in the case of a Zero Coupon Note, at an amount (the "Amortised Face Amount") calculated in accordance with the following formula:

$$\text{Early Redemption Amount} = \text{RP} \times (1 + \text{AY})^y$$

where:

"RP" means the Reference Price;

"AY" means the Accrual Yield expressed as a decimal; and

"y" is a fraction the numerator of which is equal to the number of days (calculated on the basis of a 360-day year consisting of 12 months of 30 days each) from (and including) the Issue Date



of the first Tranche of the Notes to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable and the denominator of which is 360,

or on such other calculation basis as may be specified in the applicable Final Terms.

(f) ***Instalments***

If the Notes are repayable in instalments, they will be redeemed in the Instalment Amounts and on the Instalment Dates. In the case of early redemption, the Early Redemption Amount will be determined pursuant to paragraph (e) above.

(g) ***Partly Paid Notes***

If the Notes are Partly Paid Notes, they will be redeemed, whether at maturity, early redemption or otherwise, in accordance with the provisions of this Condition and the applicable Final Terms.

(h) ***Purchases***

The Issuer, the Bank (where the Issuer is BES Finance) or any of its Subsidiaries (as defined in the Principal Agency Agreement) may (after obtaining the consent of the Bank of Portugal whenever it is required in the case of Dated Subordinated Guaranteed Notes and Undated Subordinated Guaranteed Notes) at any time purchase Notes (provided that, in the case of definitive Notes, all unmatured Receipts, Coupons and Talons appertaining thereto are purchased therewith) at any price in the open market or otherwise. Such Notes may be held, reissued, resold or, at the option of the Issuer or the Bank (where the Issuer is BES Finance), surrendered to any Paying Agent for cancellation or, in the case of Interbolsa Notes, cancelled by Interbolsa following receipt by Interbolsa of notice thereof by the Portuguese Paying Agent.

(i) ***Cancellation***

All global Notes and definitive Notes which are redeemed will forthwith be cancelled (together with all unmatured Receipts and Coupons attached thereto or surrendered therewith at the time of redemption). All global Notes and definitive Notes so cancelled and the global Notes and definitive Notes purchased and cancelled pursuant to paragraph (h) above (together with all unmatured Receipts and Coupons cancelled therewith) shall be forwarded to the Agent and cannot be reissued or resold.

All Interbolsa Notes which are (a) redeemed or (b) purchased by or on behalf of the Issuer or the Bank (where the Issuer is BES Finance) or any of its Subsidiaries will forthwith be cancelled, by Interbolsa following receipt by Interbolsa of notice thereof by the Portuguese Paying Agent, and accordingly such Interbolsa Notes may not be held, reissued or resold and shall not entitle the holder to vote at any meetings of the Noteholders and shall not be deemed to be outstanding for the purposes of calculating quorums at meetings of the Noteholders or for the purposes of Condition 15 or the Principal Agency Agreement, as amended by the Interbolsa Notes Agency Agreement.

(j) ***Late payment on Zero Coupon Notes***

If the amount payable in respect of any Zero Coupon Note upon redemption of such Zero Coupon Note pursuant to paragraph (a), (b), (c) or (d) above or upon its becoming due and repayable as provided in Condition 10 is improperly withheld or refused, the amount due and repayable in respect of such Zero Coupon Note shall be the amount calculated as provided in paragraph (e)(iii) above as though the references therein to the date fixed for the redemption or the date upon which such Zero Coupon Note becomes due and payable were replaced by references to the date which is the earlier of:

- (i) the date on which all amounts due in respect of such Zero Coupon Note have been paid; and

- (ii) the fifth day after the date on which the full amount of the moneys payable has been received by the Agent or (except in the case of Interbolsa Notes) the Trustee or (in the case of Interbolsa Notes) the Portuguese Paying Agent and notice to that effect has been given to the Noteholders either in accordance with Condition 14 or individually.

## 8. Taxation

All payments of principal and interest in respect of the Notes, Receipts and Coupons by BES Finance or the Bank will be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by or on behalf of any Relevant Tax Jurisdiction as defined in Condition 7(b) or any political subdivision or any authority thereof or therein having power to tax unless such withholding or deduction is required by law. In such event, BES Finance or the Bank will pay such additional amounts as shall be necessary in order that the net amounts received by the holders of the Notes, Receipts or Coupons after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes, Receipts or Coupons, as the case may be, in the absence of such withholding or deduction; except that no such additional amounts shall be payable with respect to any Note, Receipt or Coupon:

- (i) the Noteholder, Receiptholder or Couponholder of which is liable to such taxes, duties, assessments or governmental charges in respect of such Note, Receipt or Coupon by reason of its having some connection with the Relevant Tax Jurisdiction by which such taxes, duties, assessments or charges have been imposed, levied, collected, withheld or assessed other than the mere holding of the Note, Receipt or Coupon; and/or
- (ii) where such withholding or deduction is imposed on a payment to or for an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive; and/or
- (iii) in the case of bearer Notes other than Interbolsa Notes, the Noteholder, Receiptholder or Couponholder of which would be able to avoid such withholding or deduction by presenting the relevant Note, Receipt or Coupon to another Paying Agent in a Member State of the European Union; and/or
- (iv) in the case of Interbolsa Notes, to, or to a third party on behalf of, a Noteholder, Receiptholder or Couponholder in respect of whom the information and documentation (which may include certificates) required in order to comply with Portuguese Decree-Law 193/2005 of 7th November, 2005, and any implementing legislation, is not received before the Income Payment Date or which does not comply with the formalities in order to benefit from tax treaty benefits, where applicable; and/or
- (v) in the case of Interbolsa Notes, to, or to a third party on behalf of, a Noteholder, Receiptholder or Couponholder resident for tax purposes in the Republic of Portugal or any political subdivision or any authority thereof or therein having power to tax or a resident in a tax haven jurisdiction as defined in Order 150/2004, of 13th February, 2004 (*Portaria do Ministro das Finanças e da Administração Pública no 150/2004*) as amended from time to time, issued by the Portuguese Minister of Finance and Public Administration, with the exception of central banks and governmental agencies of those blacklisted jurisdictions, or a non-resident legal entity held, directly or indirectly, in more than 20 per cent. by entities resident in the Republic of Portugal; and/or
- (vi) in the case of Interbolsa Notes, to, or to a third party on behalf of, (i) a Portuguese resident legal entity subject to Portuguese corporation tax with the exception of entities that benefit from a Portuguese withholding tax waiver or from Portuguese income tax exemptions, or (ii) a legal entity not resident in Portugal acting with respect to the holding of the Notes through a permanent establishment in Portugal; and/or
- (vii) in the case of bearer Notes other than Interbolsa Notes, where presentation of the Note, Receipt or Coupon is required, presented for payment more than 30 days after the Relevant Date except to the

extent that the holder thereof would have been entitled to an additional amount on presenting the same for payment on such thirtieth day, assuming that day to have been a Payment Day (as defined in Condition 6).

As used herein, the “Relevant Date” means the date on which such payment first becomes due, except that, if the full amount of the moneys payable has not been duly received by the Agent or (other than in the case of Interbolsa Notes) the Trustee on or prior to such due date, it means the date on which, the full amount of such moneys having been so received, notice to that effect is duly given to the Noteholders in accordance with Condition 14.

## **9. Prescription**

The global Notes, definitive Notes, Receipts and Coupons will become void unless claims in respect of principal and/or interest are made within a period of 10 years (in the case of principal) and five years (in the case of interest) after the Relevant Date (as defined in Condition 8) therefor.

There shall not be included in any Coupon sheet issued on exchange of a Talon any Coupon the claim for payment in respect of which would be void pursuant to this Condition 9 or Condition 6(c) or any Talon which itself would be void pursuant to Condition 6(c).

Claims for principal and interest in respect of the Interbolsa Notes shall become void unless the relevant Certificates are surrendered within 20 years and five years respectively of the Relevant Date.

## **10. Events of Default**

- (A) This Condition 10(A) applies only to Senior Notes and in this Condition 10(A) references to “Notes” shall be construed accordingly.

If any one or more of the following events (each an “Event of Default”) shall occur and be continuing:

- (i) default is made in the payment in the Specified Currency of any principal or interest due in respect of the Notes or any of them and such default continues, in the case of principal, for a period of five Portuguese Business Days or, in the case of interest, for a period of 10 Portuguese Business Days; or
- (ii) the Issuer or the Bank (where the Issuer is BES Finance) fails to perform or observe any of its other obligations in respect of the Notes or, in respect of Notes other than Interbolsa Notes, under the Trust Deed and (except where, (a) for Notes other than Interbolsa Notes, in the opinion of the Trustee, or (b) for Interbolsa Notes, in the opinion of the Common Representative, such default is not capable of remedy where no such continuation or notice as is hereinafter referred to will be required) such failure continues for the period of 30 days (or such longer period as the Trustee (in respect of Notes other than Interbolsa Notes) or the Common Representative (in respect of Interbolsa Notes), may permit) after notice has been given to the Issuer or, as the case may be, the Bank requiring the same to be remedied; or
- (iii) the repayment of any indebtedness owing by the Issuer or by the Bank (where the Issuer is BES Finance) is accelerated by reason of default and such acceleration has not been rescinded or annulled, or the Issuer or the Bank (where the Issuer is BES Finance) defaults (after whichever is the longer of any originally applicable period of grace and 14 days after the due date) in any payment of any indebtedness or in the honouring of any guarantee or indemnity in respect of any indebtedness provided that no such event shall constitute an Event of Default unless the indebtedness whether alone or when aggregated with other indebtedness relating to all (if any) other such events which shall have occurred shall exceed U.S.\$10,000,000 (or its equivalent in any other currency or currencies) or, if greater, an amount equal to 1 per cent. of the Bank’s Shareholders’ Funds; or
- (iv) any order shall be made by any competent court or resolution passed for the winding up or dissolution of the Issuer or the Bank (where the Issuer is BES Finance) (other than for the

purpose of an amalgamation, merger or reconstruction approved (i) by the Trustee or by an Extraordinary Resolution of the Noteholders in the case of bearer Notes other than Interbolsa Notes or (ii) by an Extraordinary Resolution of the Noteholders in the case of Interbolsa Notes); or

- (v) the Issuer or the Bank (where the Issuer is BES Finance) shall cease to carry on the whole or substantially the whole of its business (other than for the purpose of an amalgamation, merger or reconstruction approved (i) by the Trustee or by an Extraordinary Resolution of the Noteholders in the case of bearer Notes other than Interbolsa Notes or (ii) by an Extraordinary Resolution (as described in Condition 15(b)) of the Noteholders in the case of Interbolsa Notes); or
- (vi) the Issuer or the Bank (where the Issuer is BES Finance) shall stop payment or shall be unable to, or shall admit inability to, pay its debts as they fall due, or shall be adjudicated or found bankrupt or insolvent by a court of competent jurisdiction or shall make a conveyance or assignment for the benefit of, or shall enter into any composition or other arrangement with, its creditors generally; or
- (vii) a receiver, trustee or other similar official shall be appointed in relation to the Issuer or the Bank (where the Issuer is BES Finance) or in relation to the whole or a substantial part of the assets of either of them or a temporary manager of the Bank is appointed by the Bank of Portugal or an encumbrancer shall take possession of the whole or a substantial part of the assets of the Issuer or the Bank (where the Issuer is BES Finance), or a distress or execution or other process shall be levied or enforced upon or sued out against the whole or a substantial part of the assets of either of them and in any of the foregoing cases it or he shall not be discharged within 60 days; or
- (viii) the Bank sells, transfers, lends or otherwise disposes of the whole or a major part of its undertaking or assets (including shareholdings in its Subsidiaries or associated companies) and such disposal is substantial in relation to the assets of the Bank and its Subsidiaries as a whole, other than selling, transferring, lending or otherwise disposing on an arm's length basis; or
- (ix) except where the Issuer has been substituted as principal debtor pursuant to Condition 18, the Issuer (where the Issuer is BES Finance) ceases to be a Subsidiary wholly owned and controlled, directly or indirectly, by the Bank; or
- (x) (where the Issuer is BES Finance) the Guarantee is terminated or shall cease to be in full force and effect,

then:

- (a) in respect of Notes other than Interbolsa Notes, the Trustee at its discretion may, and if so requested in writing by the holders of not less than 20 per cent. of the nominal amount of the Notes then outstanding or if so directed by an Extraordinary Resolution of the Noteholders shall (subject in each case to being indemnified to its satisfaction), give notice to the Issuer that the Notes are, and they shall accordingly thereby forthwith become, immediately due and repayable at their Early Redemption Amount (as described in Condition 7(e)) together with accrued interest (as provided in the Trust Deed) provided that, in the case of any such Events of Default other than those described in sub-paragraphs (i) and (iv) above, the Trustee shall have certified to the Issuer that such Event of Default is in its opinion materially prejudicial to the interests of the Noteholders; or
- (b) in respect of any Interbolsa Notes, the Common Representative shall, if so requested in writing through a request addressed to it and to the Bank by the holders of not less than 20 per cent. of the nominal amount of the Notes then outstanding, or if so directed by an Extraordinary Resolution of the Noteholders, give notice to the Issuer (the "Acceleration Notice") and to the Portuguese Paying Agent at the respective specified office, effective upon the date of receipt thereof by the Portuguese Paying Agent, that the Interbolsa Notes are, and they shall

accordingly thereby forthwith become, immediately due and payable at the Early Redemption Amount (as described in Condition 7(e)) together with accrued interest (if any) to the date of repayment, without demand, protest or other notice of any kind.

As used above:

“Bank’s Shareholders’ Funds” means, at any relevant time, a sum equal to the aggregate of the Bank’s shareholders’ equity as certified by the Auditors (as defined in the Paying Agency Agreement) of the Bank by reference to the latest audited consolidated financial statements of the Bank; and

“Portuguese Business Day” means a day on which commercial banks are open for business in Lisbon.

- (B) This Condition 10(B) applies only to Dated Subordinated Notes and Undated Subordinated Notes and in this Condition 10(B) references to “Notes” shall be construed accordingly.

If any one or more of the following events (each an “Event of Default”) shall occur:

- (i) default is made in the payment of any principal or interest due in respect of the Notes or any of them and such default continues, in the case of principal, for a period of five Portuguese Business Days (as defined in Condition 10(A)) or, in the case of interest, for a period of 10 Portuguese Business Days; or
- (ii) any order shall be made by any competent court or resolution passed for the winding up or dissolution of the Issuer or the Bank (where the Issuer is BES Finance) (other than for the purpose of an amalgamation, merger or reconstruction approved by the Trustee (except in the case of Interbolsa Notes) or by an Extraordinary Resolution of the Noteholders),

then:

- (a) in respect of Notes other than Interbolsa Notes the Trustee at its discretion may, and if so requested in writing by the holders of not less than 20 per cent. of the nominal amount of the Notes then outstanding or if so directed by an Extraordinary Resolution of the Noteholders shall (subject in each case to being indemnified to its satisfaction), give notice to the Issuer that the Notes are, and they shall accordingly thereby forthwith become, immediately due and repayable at their Early Redemption Amount (as described in Condition 7(e)) together with accrued interest (as provided in the Trust Deed); or
- (b) in respect of any Interbolsa Notes, the Common Representative shall, if so requested in writing through a request addressed to it and to the Bank by the holders of not less than 20 per cent. of the nominal amount of the Notes then outstanding, or if so directed by an Extraordinary Resolution of the Noteholders, give notice to the Issuer (the “Acceleration Notice”) and to the Portuguese Paying Agent at the respective specified office, effective upon the date of receipt thereof by the Portuguese Paying Agent, that the Interbolsa Notes are, and they shall accordingly thereby forthwith become, immediately due and payable at the Early Redemption Amount (as described in Condition 7(e)) together with accrued interest (if any) to the date of repayment, without demand, protest or other notice of any kind.

Notwithstanding the giving of any such notice that the Dated Subordinated Notes or, as the case may be, the Undated Subordinated Notes are immediately due and repayable, the Issuer may only redeem such Notes with the prior approval of the Bank of Portugal.

*There can be no assurance that the Bank of Portugal will give its approval to any such redemption. Noteholders should be aware of the fact that the Bank of Portugal’s approval will depend on the capital adequacy of the Bank.*

## **11. Replacement of global Notes, definitive Notes, Receipts, Coupons and Talons**

Should any global Note, definitive Note, Receipt, Coupon or Talon be lost, stolen, mutilated, defaced or destroyed, it may be replaced at the specified office of the Agent upon payment by the claimant of such costs and expenses as may be incurred in connection therewith and on such terms as to evidence and indemnity as the Issuer may reasonably require. Mutilated or defaced global Notes, definitive Notes, Receipts, Coupons or Talons must be surrendered before replacements will be issued.

## **12. Agent and Paying Agents**

The names of the initial Agent and the other initial Paying Agents and their initial specified offices are set out below.

The Issuer and the Bank (where the Issuer is BES Finance) are entitled (with the prior written consent of the Trustee, save that such consent will not be required in respect of the Portuguese Paying Agent) to vary or terminate the appointment of any Paying Agent and/or appoint additional or other Paying Agents and/ or approve any change in the specified office through which any Paying Agent acts, provided that:

- (i) so long as the Notes are listed on any stock exchange or admitted to listing by any relevant authority, there will at all times be a Paying Agent with a specified office in such place as may be required by the rules and regulations of the relevant stock exchange or such other relevant authority;
- (ii) there will at all times be maintained a Paying Agent in a Member State of the European Union that is not obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/ EC or any law implementing or complying with, or introduced in order to conform to, such Directive;
- (iii) there will at all times be a Paying Agent outside the United Kingdom and Portugal (including Madeira); and
- (iv) there will at all times be a Paying Agent in Portugal capable of making payment in respect of the Interbolsa Notes as contemplated by these terms and conditions, the Principal Agency Agreement, as amended by the Interbolsa Notes Agency Agreement and applicable Portuguese law and regulation.

In addition, the Issuer and the Bank (where the Issuer is BES Finance) shall forthwith appoint a Paying Agent having a specified office in New York City in the circumstances described in the final paragraph of Condition 6(f). Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency or where the Agent is an FFI and does not become, or ceases to be, a Participating FFI, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the Noteholders in accordance with Condition 14.

As used hererin:

“**FATCA**” means Sections 1471 through 1474 of the Code and any regulations or agreements thereunder, official interpretations thereof, or law implementing an intergovernmental approach thereto.

“**FATCA Withholding Tax**” means any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the Code or any withholding or deduction otherwise imposed pursuant to FATCA.

“**FFI**” means a “foreign financial institution” as such term is defined pursuant to FATCA.

“**Participating FFI**” means an FFI that has, on or before the date that any payment to it in connection with the Notes would be subject to FATCA Withholding Tax, entered into an agreement under Section 1471(b) of the Code (or is otherwise deemed to be compliant with Section 1471(b) of the Code) and that has not elected withholding pursuant to Section 1471(b)(3) of the Code.

## **13. Exchange of Talons**

On and after the Interest Payment Date on which the final Coupon comprised in any Coupon sheet matures, the Talon (if any) forming part of such Coupon sheet may be surrendered at the specified office of the Agent



or any other Paying Agent in exchange for a further Coupon sheet including (if such further Coupon sheet does not include Coupons to (and including) the final date for the payment of interest due in respect of the Note to which it appertains) a further Talon, subject to the provisions of Condition 9.

#### **14. Notices**

All notices regarding the Notes shall be published (i) in a leading English language daily newspaper of general circulation in London, (ii) if and for so long as the Notes are listed on the Official List of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange, in a daily newspaper of general circulation in Luxembourg and (iii) if the Notes are Interbolsa Notes, by registered mail, by publication in a leading newspaper having general circulation in Portugal (which is expected to be *Diário de Notícias*) or by any other way which complies with the Portuguese Securities Code and Interbolsa's rules on notices to investors, including the disclosure of information through the CMVM official website ([www.cmvm.pt](http://www.cmvm.pt)). It is expected that publication under (i) and (ii) above will be made in the *Financial Times* or any other daily newspaper in London (which, unless such Notice is given in respect of Interbolsa Notes only, shall be approved by the Trustee) and the *Luxemburger Wort* in Luxembourg, respectively. In addition, all notices regarding the Notes may be published on the Luxembourg Stock Exchange's web site ([www.bourse.lu](http://www.bourse.lu)). The Issuer shall also ensure that notices are duly published in a manner which complies with the rules and regulations of any other stock exchange or any other relevant authority on which the Notes are for the time being listed or by which they have been admitted to trading. Any such notice will be deemed to have been given on the date of the first publication or, where required to be published in more than one newspaper, on the date of the first publication in all the required newspapers.

Until such time as any definitive Notes are issued, there may (provided that, in the case of Notes listed on a stock exchange or admitted to listing by another relevant authority, the rules of such stock exchange or other relevant authority permits), so long as the global Note(s) is or are held in its/their entirety on behalf of Euroclear and Clearstream, Luxembourg, be substituted for such publication in such newspaper(s) the delivery of the relevant notice to Euroclear and Clearstream, Luxembourg for communication by them to the holders of the Notes and, in addition, for so long as any Notes are listed on a stock exchange or are admitted to trading by another relevant authority and the rules of that stock exchange or relevant authority so require, such notice will be published in a daily newspaper of general circulation in the place or places required by those rules. Any such notice shall be deemed to have been given to the holders of the Notes on the seventh day after the day on which the said notice was given to Euroclear and Clearstream, Luxembourg. However, all notices regarding Notes which are listed on the Official List of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange must be published in a daily newspaper of general circulation in Luxembourg which is expected to be the "*Luxemburger Wort*".

Notices to be given by any holder of the Notes shall be in writing and given by lodging the same with the Portuguese Paying Agent in the case of Interbolsa Notes and by lodging the same, together with the relative Note or Notes, with the Agent in the case of bearer Notes other than Interbolsa Notes. Whilst any of the Notes are represented by a global Note, such notice may be given by any holder of a Note to the Agent via Euroclear and/or Clearstream, Luxembourg, as the case may be, in such manner as the Agent and Euroclear and/or Clearstream, Luxembourg, as the case may be, may approve for this purpose.

Any holder of an Interbolsa Note may give notice to the Portuguese Paying Agent and the Agent through Interbolsa in such manner as the Portuguese Paying Agent, the Agent and Interbolsa may approve for this purpose.

#### **15. Meetings of Noteholders, Modification and Waiver**

##### **(a) *Meetings in respect of Notes other than Interbolsa Notes***

This Condition 15(a) does not apply to Interbolsa Notes. The Trust Deed contains provisions for convening meetings of the Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of the terms and conditions of the Notes, the Receipts, the Coupons or any of the provisions of the Trust Deed. Such a meeting may be convened by the Issuer or Noteholders holding not less than 5 per cent. in nominal amount of the Notes for the time being remaining outstanding. The quorum at any such meeting for passing an

Extraordinary Resolution is one or more persons holding or representing not less than a clear majority in nominal amount of the Notes for the time being outstanding, or at any adjourned meeting one or more persons being or representing Noteholders whatever the nominal amount of the Notes so held or represented, except that at any meeting the business of which includes the modification of certain provisions of the Notes, Receipts or Coupons (including modifying the date of maturity of the Notes or any date for payment of interest thereof, reducing or cancelling the amount of principal on maturity or otherwise, modification of any Minimum Rate of Interest or Maximum Rate of Interest or altering the currency of payment of the Notes, Receipts or Coupons, modification of the majority required to pass an Extraordinary Resolution or modification of the Trust Deed concerning this exception), the quorum shall be one or more persons holding or representing not less than two-thirds, or at any adjourned such meeting one or more persons holding or representing not less than one-third, in nominal amount of the Notes for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Noteholders shall be binding on all the Noteholders, whether or not they are present at the meeting, and on all Receiptholders and Couponholders.

The Trustee and the Issuer may agree, without the consent of the Noteholders, Receiptholders or Couponholders, to:

- (i) any modification (except as mentioned above) of the Notes, the Receipts, the Coupons or the Trust Deed which is not, in the opinion of the Trustee, materially prejudicial to the interests of the Noteholders; or
- (ii) any modification of the Notes, the Receipts, the Coupons or the Trust Deed which is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the law of the jurisdiction in which the Issuer is incorporated.

Any such modification shall be binding on the Noteholders, the Receiptholders and the Couponholders and any such modification shall be notified to the Noteholders in accordance with Condition 14 as soon as practicable thereafter.

The Trustee may also waive or authorise any breach or proposed breach of any of the provisions of the Trust Deed or any of these Terms and Conditions which, in the opinion of the Trustee, is not materially prejudicial to the interests of the Noteholders.

In connection with the exercise by it of any of its trusts, powers or discretions (including, without limitation, any modification, waiver, authorisation or substitution), the Trustee shall have regard to the general interests of the Noteholders as a class and shall not have regard to any interests arising from circumstances particular to individual Noteholders (whatever their number) and, in particular, but without limitation, shall not have regard to the consequences of the exercise of its trusts, powers or discretions for individual Noteholders or Couponholders (whatever their number) resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory and the Trustee shall not be entitled to require, nor shall any Noteholder or Couponholder be entitled to claim, from the Issuer, the Bank (where the Issuer is BES Finance) or any other person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders or Couponholders except to the extent already provided for in Condition 8 and/or any undertaking given in addition to, or in substitution for, Condition 8 pursuant to the Trust Deed.

Nothing in these Terms and Conditions or the Trust Deed shall require the Trustee to have regard to the interests of Noteholders insofar as those interests arise by virtue of a holding of Interbolsa Notes. For the avoidance of doubt, without prejudice to any rights assumed under Notes which are not Interbolsa Notes, a holder of Interbolsa Notes shall neither, by virtue of such holding of Interbolsa Notes, count towards a quorum, nor be entitled to vote, in respect of a resolution to amend the Trust Deed.

(b) ***Meetings in respect of Interbolsa Notes***

The remainder of this Condition 15 applies only to Interbolsa Notes.

*Meetings*

Meetings of the holders of Interbolsa Notes may be convened to consider any matter affecting their interests, including the appointment or dismissal of the Common Representative and the sanctioning by Extraordinary Resolution of a modification of the terms and conditions of the Notes and are governed by the Portuguese Commercial Companies Code enacted by Decree-Law 262/86 of 2nd September, as amended, and by the Common Representative Appointment Agreement.

Such meetings may be convened by the Common Representative (if any) or, if no Common Representative has been appointed, or an appointed Common Representative fails to convene a meeting, by the chairman of the general meeting of shareholders of the Issuer, and shall be convened if requested by Noteholders holding not less than 5 per cent. in principal amount of the Notes for the time being outstanding.

The quorum required for a meeting convened to pass a resolution other than an Extraordinary Resolution will be any person or persons holding or representing Notes then outstanding, regardless of the principal amount thereof. The quorum required for a meeting convened to pass an Extraordinary Resolution will be a person or persons holding or representing at least 50 per cent. of the Notes then outstanding or, at any adjourned meeting, any person or persons holding or representing any of the Notes then outstanding, regardless of the principal amount thereof.

The number of votes required to pass a resolution other than an Extraordinary Resolution is a majority of the votes cast at the relevant meeting. The majority required to pass an Extraordinary Resolution is at least 50 per cent. of the principal amount of the Notes then outstanding or, at any adjourned meeting, two-thirds of the votes cast at the relevant meeting.

Resolutions passed at any meeting of the Noteholders will be binding on all Noteholders, whether or not they are present at the meeting or have voted against the approved resolutions.

*Dismissal and substitution of the Common Representative*

The Noteholders may dismiss and substitute the Common Representative by means of a resolution passed for such purpose upon the terms and conditions of the Common Representative Appointment Agreement.

*Notification*

Any modification, abrogation, waiver or authorisation in accordance with this Condition 15 shall be binding on the Noteholders and shall be notified by the Issuer to the Noteholders as soon as practicable thereafter in accordance with Condition 14 (Notices).

*Matters required to be approved by Extraordinary Resolution*

An Extraordinary Resolution will be required to effect any of the following:

- (i) to change any date fixed for payment of principal or interest in respect of the Notes, reduction of the amount of principal or interest due on any date in respect of the Notes or variation of the method of calculating the amount of any payment in respect of the Notes on redemption or maturity;
- (ii) to approve the modification or abrogation of any of the provisions of these Terms and Conditions;
- (iii) to approve any amendment of this definition;

- (iv) to waive or authorise any breach or proposed breach of any of these Terms and Conditions; and
- (v) to approve any other matter in respect of which these Terms and Conditions require an Extraordinary Resolution to be passed.

*Matters in the discretion of the Agent and the Issuer*

Except for those matters required to be approved by Extraordinary Resolution, the Agent, the Common Representative and the Issuer may agree, without the consent of the Noteholders, to:

- (i) any modification of the Notes which is not materially prejudicial to the interests of the Noteholders; or
- (ii) any modification of the Notes which is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the law of the jurisdiction in which the Issuer is incorporated.

Any such modification shall be binding on the Noteholders and shall be notified to the Noteholders in accordance with Condition 14 as soon as practicable thereafter.

## **16. Further Issues**

The Issuer shall be at liberty from time to time without the consent of the Noteholders, Receiptholders or Couponholders to create and issue further notes having terms and conditions the same as the Notes or the same in all respects save for the amount and date of the first payment of interest thereon (the “Further Notes”) and so that the same shall be consolidated and form a single Series with the outstanding Notes provided, however, that (i) the Issuer will not issue any Further Notes unless such Further Notes have no more than a *de minimis* amount of original issue discount or such issuance would constitute a “qualified reopening” for U.S. federal income tax purposes; and (ii) any Further Notes issued after 31st December, 2012 do not cause Noteholders, Receiptholders, or Couponholders to become subject to any U.S. reporting obligation or any U.S. withholding obligation that they would not otherwise have been subject to had the Issuer not issued the Further Notes.

In the case of bearer Notes other than Interbolsa Notes, the Trust Deed contains provisions for convening a single meeting of the Noteholders and the holders of notes of other Series of bearer Notes other than Interbolsa Notes in certain circumstances where the Trustee so decides.

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

This Condition applies if the Notes are governed by English law. No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Notes, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

## **18. Substitution**

In the case of Notes other than Interbolsa Notes, the Trustee may, without the consent of the Noteholders, the Receiptholders or the Couponholders but (in the case of Dated Subordinated Notes and Undated Subordinated Notes) only with the prior consent of the Bank of Portugal, agree with the Issuer and the Bank (where the Issuer is BES Finance) to the substitution in place of the Issuer (or of any previous substitute under this Condition) as the principal debtor in respect of the Notes of either the Bank or another wholly-owned Subsidiary of the Bank, subject to:

- (a) where the new principal debtor is a wholly-owned Subsidiary of the Bank, the Notes being unconditionally and irrevocably guaranteed by the Bank on the same basis as that on which they were guaranteed prior to the substitution (where, immediately prior to the substitution, the Issuer is BES Finance or (being a previous substitute under this Condition) another wholly-owned subsidiary of the Bank) or on an equivalent basis to that on which they would have been guaranteed immediately prior

to the substitution had the Issuer been BES Finance (where immediately prior to the substitution, the Issuer is the Bank);

- (b) the Trustee being satisfied that the interests of the Noteholders will not be materially prejudiced by the substitution; and
- (c) certain other conditions set out in the Trust Deed being complied with.

Any such substitution shall be notified, if the Notes are listed on the Official List of the Luxembourg Stock Exchange or any other stock exchange, to such stock exchange and to the Noteholders in accordance with Condition 14.

## **19. Enforcement**

In the case of Notes other than Interbolsa Notes, the Trustee may at any time, at its discretion and without notice, take such proceedings against the Issuer and/or the Bank (where the Issuer is BES Finance) as it may think fit to enforce the provisions of the Trust Deed, the Notes, the Receipts and the Coupons, but it shall not be bound to take any such proceedings or any other action in relation to the Trust Deed, the Notes, the Receipts or the Coupons unless:

- (a) it shall have been so directed by an Extraordinary Resolution of the Noteholders or so requested in writing by the holders of at least 20 per cent. in nominal amount of the Notes then outstanding; and
- (b) It shall have been indemnified to its satisfaction.

No Noteholder, Receiptholder or Couponholder shall be entitled to take proceedings directly against the Issuer or the Bank (where the Issuer is BES Finance) unless the Trustee, having become bound to proceed in accordance with the terms of the Trust Deed fails to do so within a reasonable time and such failure is continuing.

In the case of Interbolsa Notes, the Common Representative may at any time, or, if so directed by an Extraordinary Resolution of the Noteholders or so requested in writing by the holders of at least 20 per cent. in nominal amount of the Notes then outstanding, shall, take such proceedings against the Issuer as it may think fit to enforce the provisions of the Notes.

## **20. Indemnification of Trustee**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including provisions relieving it from any obligation to take proceedings to enforce repayment unless indemnified to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer and/or the Bank (where the Issuer is BES Finance) without accounting for any profit resulting therefrom and to act as trustee for the holders of any other securities issued by the Issuer or the Bank (where the Issuer is BES Finance).

## **21. Redenomination and Exchange**

This Condition 21 does not apply to Interbolsa Notes.

### **(a) *Redenomination***

Where redenomination is specified in the applicable Final Terms as being applicable, the Issuer may, without the consent of the Noteholders, the Receiptholders and the Couponholders, on giving prior notice to the Agent, the Trustee, Euroclear and Clearstream, Luxembourg and at least 30 days' prior notice to the Noteholders in accordance with Condition 14, elect that, with effect from the Redenomination Date specified in the notice, the Notes shall be redenominated in euro.

The election will have effect as follows:

- (i) the Notes and the Receipts shall be deemed to be redenominated into euro in the denomination of euro 0.01 with a principal amount for each Note and Receipt equal to the principal amount

of that Note or Receipt in the Specified Currency, converted into euro at the Established Rate, provided that, if the Issuer determines, after consultation with the Agent and with the approval of the Trustee, that the then market practice in respect of the redenomination into euro of internationally offered securities is different from the provisions specified in this Condition 21, such provisions shall be deemed to be amended so as to comply with such market practice and the Issuer shall promptly notify the Noteholders, the stock exchange (if any) on which the Notes may be listed, the Paying Agents and the Trustee of such deemed amendments;

- (ii) save to the extent that an Exchange Notice has been given in accordance with paragraph (iv) below, the amount of interest due in respect of the Notes will be calculated by reference to the aggregate principal amount of Notes held (or, as the case may be, in respect of which Coupons are presented) for payment by the relevant holder and the amount of such payment shall be rounded down to the nearest euro 0.01;
- (iii) if definitive Notes are required to be issued after the Redenomination Date, they shall be issued at the expense of the Issuer in the denominations of euro 1,000, euro 10,000, euro 100,000 and (but only to the extent of any remaining amounts less than euro 1,000 or such smaller denominations as the Agent may approve) euro 0.01 and/or such other denominations as the Agent shall determine and notify to the Noteholders;
- (iv) if issued prior to the Redenomination Date, all unmatured Coupons denominated in the Specified Currency (whether or not attached to the Notes) will become void with effect from the date on which the Issuer gives notice (the "Exchange Notice") that replacement euro-denominated Notes, Receipts and Coupons are available for exchange (provided that such securities are so available) and no payments will be made in respect of them. The payment obligations contained in any Notes and Receipts so issued will also become void on that date although those Notes and Receipts will continue to constitute valid exchange obligations of the Issuer. New euro-denominated Notes, Receipts and Coupons will be issued in exchange for Notes, Receipts and Coupons denominated in the Specified Currency in such manner as the Agent may specify and as shall be notified to the Noteholders in the Exchange Notice. No Exchange Notice may be given less than 15 days prior to any date for payment of principal or interest on the Notes;
- (v) after the Redenomination Date, all payments in respect of the Notes, the Receipts and the Coupons, other than payments of interest in respect of periods commencing before the Redenomination Date, will be made solely in euro as though references in the Notes to the Specified Currency were to euro. Payments will be made in euro by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee or, at the option of the payee, by a euro cheque;
- (vi) if the Notes are Fixed Rate Notes and interest for any period ending on or after the Redenomination Date is required to be calculated for a period ending other than on an Interest Payment Date, it will be calculated by applying the Rate of Interest to:
  - (A) in the case of Fixed Rate Notes which are either Interbolsa Notes or are represented by a global Note held on behalf of Clearstream, Luxembourg and/or Euroclear, the full nominal amount outstanding of the Fixed Rate Notes (or, if they are Partly Paid Notes, the full amount paid up); or
  - (B) in the case of Fixed Rate Notes in definitive form, the Calculation Amount,

and, in each case, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such subunit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Fixed Rate Note in definitive form is a multiple of the Calculation Amount, the amount of interest payable in respect of such Fixed Rate Note shall be the product of the amount (determined in the manner provided above) for the Calculation



Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding;

- (vii) if the Notes are Floating Rate Notes the applicable Final Terms specifies any relevant changes to the provisions relating to interest; and
- (viii) such other changes shall be made to these Terms and Conditions and/or the Trust Deed and/ or the Principal Agency Agreement as the Issuer and the Bank (where the Issuer is BES Finance) may decide, after consultation with the Agent and with the approval of the Trustee; and as may be specified in the notice, to conform them to conventions then applicable to instruments denominated in euro or to enable the Notes to be consolidated with one or more issues of other notes, whether or not originally denominated in the Specified Currency or euro. Any such other changes will not take effect until after they have been notified to the Noteholders in accordance with Condition 14.

(b) ***Exchange***

Where exchange is specified in the applicable Final Terms as being applicable, the Issuer may, without the consent of the Noteholders, the Receiptholders and the Couponholders, on giving prior notice to the Agent, the Trustee, Euroclear and Clearstream, Luxembourg and not less than 30 days' prior notice to the Noteholders in accordance with Condition 14, elect that, with effect from the Redenomination Date specified in the notice, the Notes shall be exchangeable for Notes expressed to be denominated in euro in accordance with such arrangements as the Issuer may decide, after consultation with the Agent and with the approval of the Trustee and as may be specified in the notice, including arrangements under which Receipts and Coupons unmaturing at the date so specified become void.

(c) ***Definitions***

In these Terms and Conditions, the following expressions have the following meanings:

“Established Rate” means the rate for the conversion of the Specified Currency (including compliance with rules relating to roundings in accordance with applicable European Union regulations) into euro established by the Council of the European Union pursuant to Article 1091(4) of the Treaty;

“Euro” or “euro” means the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty;

“Redenomination Date” means (in the case of interest bearing Notes) any date for payment of interest under the Notes or (in the case of Zero Coupon Notes) any date, in each case specified as such by the Issuer in the notice given to the Noteholders pursuant to paragraph (a) or, as the case may be, (b) above and which falls on or after the date on which the country of the Specified Currency first participates in the third stage of European economic and monetary union; and

“Treaty” means the Treaty on the Functioning of the European Union, as amended.

**22. Governing law and submission to jurisdiction**

- (a) The Trust Deed (except clause 7 insofar as it relates to Dated Subordinated Notes and Undated Subordinated Notes), the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, bearer Notes other than Interbolsa Notes (except Conditions 2(ii) and 2(iii) in relation to the Bank only (whether in its capacity as issuer or guarantor), and Conditions 4(ii) and 4(iii)), the Receipts and the Coupons (and any non-contractual obligations arising out of or in connection with the Trust Deed (except clause 7 insofar as it relates to Dated Subordinated Notes and Undated Subordinated Notes), the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, bearer Notes other than Interbolsa Notes (except Conditions 2(ii) and 2(iii) in relation to the Bank only (whether in its capacity as issuer or guarantor), and Conditions 4(ii) and 4(iii)), the Receipts and the Coupons) are governed by, and shall be construed in accordance with, English law.

Interbolsa Notes, clause 7 of the Trust Deed (insofar as it relates to Dated Subordinated Notes and Undated Subordinated Notes), the Principal Agency Agreement, in respect of the Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and Conditions 2(ii) and 2(iii) in relation to the Bank only (whether in its capacity as issuer or guarantor) and Conditions 4(ii) and 4(iii) (and any non-contractual obligations arising out of or in connection with the Interbolsa Notes, clause 7 of the Trust Deed (insofar as it relates to dated Subordinated Notes and Undated Subordinated Notes), the Principal Agency Agreement, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement and the Common Representative Appointment Agreement and Conditions 2(ii) and 2(iii) in relation to the Bank only (whether in its capacity as issuer or guarantor) and Conditions 4(ii) and 4(iii)) are governed by, and shall be construed in accordance with, Portuguese law. In each case, the application of such governing law shall be without prejudice to the applicability, under the conflicts of rules applicable in the relevant forum, in the light of such submission, of Cayman Islands law (in relation to matters concerning BES Finance) or Portuguese law (in relation to matters concerning the Bank as an Issuer or as a guarantor, as the case may be).

- (b) Each of BES Finance and the Bank agrees, for the exclusive benefit of the Trustee, the Noteholders, the Receiptholders and the Couponholders that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with the Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the bearer Notes other than Interbolsa Notes, the Receipts and/or the Coupons (including a dispute relating to any non-contractual obligations arising out of or in connection with Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the bearer Notes other than Interbolsa Notes, the Receipts and/or the Coupons) and that accordingly any suit, action or proceedings (together referred to as “Proceedings”) arising out of or in connection with the Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the bearer Notes other than Interbolsa Notes, the Receipts and/or the Coupons (including any Proceedings relating to any non-contractual obligations arising out of or in connection with the Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the bearer Notes other than Interbolsa Notes, the Receipts and/or the Coupons) may be brought in such courts.

The Bank agrees for the exclusive benefit of the Noteholders that the courts of Portugal are to have jurisdiction to settle any disputes which may arise out of or in connection with the Principal Agency Agreement, in respect of the Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and/or the Interbolsa Notes and that accordingly any suit action or proceedings (together referred to as “Proceedings in Respect of Interbolsa Notes”) arising out of or in connection with the Principal Agency Agreement, in respect of the Interbolsa Notes to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and/or the Interbolsa Notes (including any Proceedings in Respect of Interbolsa Notes relating to any non-contractual obligations arising out of or in connection with the Principal Agency Agreement, in respect of the Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and/or the Interbolsa Notes) may be brought in such courts.

Each of BES Finance and the Bank hereby irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any such Proceedings and Proceedings in respect of Interbolsa Notes (including any Proceedings and Proceedings in respect of Interbolsa Notes relating to any non-contractual obligations arising out of or in connection with the Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes to the extent amended by the Interbolsa Notes Agency Agreement, the bearer Notes other than Interbolsa Notes, the Receipts and/or the Coupons, the Principal Agency Agreement in respect of the Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and/or the Interbolsa Notes) in any such court and any claim that any such Proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any such

Proceedings brought in the English courts or in the Portuguese courts, as the case may be, shall be conclusive and binding upon it and may be enforced in the courts of any other jurisdiction.

Nothing contained in this Condition shall limit any right to take Proceedings against BES Finance or the Bank in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.

Each of the Issuers appoints the London branch of the Bank at its office in London for the time being (being as at 29th May, 2012 at 10 Paternoster Square, London EC4M 7AL) as its agent for service of process, and undertakes that, in the event of the London branch of the Bank ceasing so to act, it will appoint another person as its agent for service of process in England in respect of any Proceedings.

Nothing herein shall affect the right to serve proceedings in any other manner permitted by law.

### **23. Common Representative**

In the case of Interbolsa Notes, the holders of the Notes shall at all times be entitled to appoint and dismiss a Common Representative by means of a resolution and pursuant to the Common Representative Appointment Agreement. Upon the appointment of a new Common Representative by the holders of the Notes pursuant to this Condition, any previously appointed and dismissed Common Representative will immediately cease its engagement and will be under the obligation immediately to transfer to the new Common Representative appointed by the holders of the Notes all documents and information then held by such Common Representative pertaining to the Notes.

### **24. Credit Linked Notes**

If the Notes are specified as Credit Linked Notes in the applicable Final Terms then the provisions of this Condition 24 apply as modified by the applicable Final Terms.

Unless otherwise stated in this Condition 24 or in the applicable Final Terms, in the event that any day specified in the section “Credit Linked Notes” in the applicable Final Terms or the last day of any period calculated by reference to calendar days falls on a day that is not a Business Day, such day or last day shall be postponed to the next day which is a Business Day.

#### **(a) *Redemption of Credit Linked Notes***

Unless previously redeemed or purchased and cancelled and subject as provided in Condition 24(b), Condition 24(c) and Condition 24(d), as applicable, each nominal amount of Notes equal to the Calculation Amount set out in the applicable Final Terms will be redeemed by the Issuer at its Final Redemption Amount specified in, or determined in the manner specified in, the applicable Final Terms in the relevant Specified Currency on the Maturity Date.

#### **(b) *Auction Settlement***

If Conditions to Settlement are satisfied, then where Auction Settlement is specified as the applicable Settlement Method in the applicable Final Terms and a Credit Event Determination Date occurs on or prior to the Auction Final Price Determination Date, the Issuer shall give notice (such notice an “Auction Settlement Notice”) to the Noteholders in accordance with Condition 14 and, subject to any adjustment in accordance with Condition 24(n), redeem all but not some only of the Notes, each nominal amount of Notes equal to the Calculation Amount set out in the applicable Final Terms being redeemed by the Issuer at the Credit Event Redemption Amount in the relevant Specified Currency on the Credit Event Redemption Date.

Unless settlement has occurred in accordance with the paragraph above, if:

- (i) an Auction Cancellation Date occurs;

- (ii) a No Auction Announcement Date occurs (and in circumstances where such No Auction Announcement Date occurs pursuant to paragraph (b) of the definition of No Auction Announcement Date, the Issuer has not exercised the Movement Option);
- (iii) ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved, following a Credit Event Resolution Request Date, not to determine the matters described in paragraphs (a) and (b) of the definition of Credit Event Resolution Request Date;
- (iv) a Credit Event Determination Date was determined pursuant to paragraph (a) of the definition of Credit Event Determination Date and no Credit Event Resolution Request Date has occurred on or prior to the date falling three Business Days after such Credit Event Determination Date; or
- (v) a Credit Event Determination Date was determined pursuant to paragraph (b)(B)(I) or (b)(B)(II) of the definition of Credit Event Determination Date,

then:

- (A) if Fallback Settlement Method – Cash Settlement is specified as applicable in the applicable Final Terms, the Issuer shall redeem the Notes in accordance with Condition 24(c) below; or
- (B) if Fallback Settlement Method – Physical Delivery is specified as applicable in the applicable Final Terms, the Issuer shall redeem the Notes in accordance with Condition 24(d) below.

***If Conditions to Settlement are satisfied and the Notes become redeemable in accordance with this Condition 24(b), upon payment of the Credit Event Redemption Amounts in respect of the Notes, the Issuer shall have discharged its obligations in respect of the Notes and shall have no other liability or obligation whatsoever in respect thereof. The Credit Event Redemption Amount may be less than the Calculation Amount of a Note. Any shortfall shall be borne by the Noteholders and no liability shall attach to the Issuer or the Guarantor.***

(c) **Cash Settlement**

If Conditions to Settlement are satisfied, then where Cash Settlement is specified as the applicable Settlement Method in the applicable Final Terms or if Condition 24(b)(A) above applies, the Issuer shall give notice (such notice a “Cash Settlement Notice”) to the Noteholders in accordance with Condition 14 and redeem all but not some only of the Notes, each nominal amount of Notes equal to the Calculation Amount set out in the applicable Final Terms being redeemed by the Issuer at the Credit Event Redemption Amount in the relevant Specified Currency on the Credit Event Redemption Date.

***If Conditions to Settlement are satisfied and the Notes become redeemable in accordance with this Condition 24(c), upon payment of the Credit Event Redemption Amounts in respect of the Notes, the Issuer shall have discharged its obligations in respect of the Notes and shall have no other liability or obligation whatsoever in respect thereof. The Credit Event Redemption Amount may be less than the Calculation Amount of a Note. Any shortfall shall be borne by the Noteholders and no liability shall attach to the Issuer or the Guarantor.***

(d) **Physical Settlement**

If Conditions to Settlement are satisfied, then where Physical Delivery is specified as the applicable Settlement Method in the applicable Final Terms or if Condition 24(b)(B) above applies, the Issuer shall, following the receipt of a Calculation Agent Physical Settlement Notice, give notice (such notice a “Notice of Physical Settlement”) to the Noteholders in accordance with Condition 14 and redeem all but not some only of the Notes, each nominal amount of Notes equal to the Calculation Amount being redeemed by the Issuer by Delivery of the Deliverable Obligations comprising the Asset Amount on the Settlement Date, subject to and in accordance with Conditions 24(i) and (j).

In the Notice of Physical Settlement, the Issuer shall specify the Deliverable Obligations comprising the Asset Amount that it reasonably expects to Deliver. For the avoidance of doubt, the Issuer shall be entitled to select any of the Deliverable Obligations to constitute the Asset Amount, irrespective of their market value.

The Issuer may, from time to time, amend a Notice of Physical Settlement by delivering a notice to Noteholders in accordance with Condition 14 (each such notification, a “Physical Settlement Amendment Notice”) that the Issuer is replacing, in whole or in part, one or more Deliverable Obligations specified in the Notice of Physical Settlement or a prior Physical Settlement Amendment Notice, as applicable, (to the extent the relevant Deliverable Obligation has not been Delivered as of the date such Physical Settlement Amendment Notice is effective). A Physical Settlement Amendment Notice shall specify each replacement Deliverable Obligation that the Issuer will Deliver (each, a “Replacement Deliverable Obligation”) and shall also specify the Outstanding Principal Balance or Due and Payable Amount (determined on the same basis as in the definition of Asset Amount) of each Deliverable Obligation identified in the Notice of Physical Settlement or a prior Physical Settlement Amendment Notice, as applicable, that is being replaced or the equivalent Currency Amount of any such amount (with respect to each such Deliverable Obligation, the “Replaced Deliverable Obligation Outstanding Amount”). The Replacement Deliverable Obligation(s), taken together, shall have an aggregate Replaced Deliverable Obligation Outstanding Amount at least equal to the Outstanding Principal Balance(s) and/or Due and Payable Amount(s) (or the equivalent Currency Amount(s) of any such amount(s)) of the Deliverable Obligations being replaced. Each such Physical Settlement Amendment Notice must be effective on or prior to the Settlement Date (determined without reference to any change resulting from such Physical Settlement Amendment Notice). Notwithstanding the foregoing, the Issuer may correct any errors or inconsistencies contained in the Notice of Physical Settlement or any Physical Settlement Amendment Notice, as applicable, by notice to Noteholders (in accordance with Condition 14) prior to the relevant Delivery Date; it being understood that such notice of correction shall not constitute a Physical Settlement Amendment Notice.

If “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms and Restructuring is the only Credit Event specified in a Credit Event Notice, then a Deliverable Obligation may be included in the Asset Amount only if it (i) is a Fully Transferable Obligation and (ii) has a final maturity date not later than the applicable Restructuring Maturity Limitation Date.

If “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms and Restructuring is the only Credit Event specified in a Credit Event Notice, then a Deliverable Obligation may be included in the Asset Amount only if it (i) is a Conditionally Transferable Obligation and (ii) has a final maturity date not later than the applicable Modified Restructuring Maturity Limitation Date.

***If Conditions to Settlement are satisfied and the Notes become redeemable in accordance with this Condition 24(d), upon Delivery of the Deliverable Obligations and/or payment of the Partial Cash Settlement Amounts, as the case may be, the Issuer shall have discharged its obligations in respect of the Notes and shall have no other liability or obligation whatsoever in respect thereof. The value of such Deliverable Obligations and/or the Partial Cash Settlement Amount, as the case may be, may be less than the Calculation Amount of a Note. Any shortfall shall be borne by the Noteholders and no liability shall attach to the Issuer or the Guarantor.***

(e) ***Repudiation/Moratorium Extension***

If Repudiation/Moratorium is specified as a Credit Event in the applicable Final Terms, the provisions of this Condition 24(e) shall apply.

Where Conditions to Settlement have not been satisfied on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time) but, in the determination of the Calculation Agent, the Repudiation/Moratorium Extension Condition has been satisfied on or prior to the Scheduled Termination Date or, if Condition 24(h)(y) applies, the Postponed Maturity Date (as defined in



Condition 24(h)) and the Repudiation/Moratorium Evaluation Date in respect of such Potential Repudiation Moratorium will, in the sole determination of the Calculation Agent, fall after the Scheduled Termination Date, then the Calculation Agent shall notify the Noteholders in accordance with Condition 14 that a Potential Repudiation/Moratorium has occurred and:

- (i) where a Repudiation/Moratorium has not occurred on or prior to the Repudiation/Moratorium Evaluation Date:
  - (A) each nominal amount of Notes equal to the Calculation Amount will be redeemed by the Issuer at the Final Redemption Amount on the fifth Business Day following the Repudiation/Moratorium Evaluation Date; and
  - (B) in the case of interest bearing Notes, the Issuer shall be obliged to pay interest calculated as provided herein, accruing from (and including) the Interest Payment Date immediately preceding the Scheduled Maturity Date or, if none, the Interest Commencement Date to (but excluding) the Scheduled Maturity Date but shall only be obliged to make such payment of interest on the fifth Business Day following the Repudiation/Moratorium Evaluation Date and no further or other amount in respect of interest shall be payable and no additional amount shall be payable in respect of such delay; and
- (ii) where a Repudiation/Moratorium has occurred on or prior to the Repudiation/ Moratorium Evaluation Date and Conditions to Settlement are satisfied, the provisions of Condition 24(b), Condition 24(c) or Condition 24(d), as applicable, shall apply to the Notes.

(f) ***Grace Period Extension***

If “Grace Period Extension” is specified as applying in the applicable Final Terms, the provisions of this Condition 24(f) shall apply.

Where Conditions to Settlement have not been satisfied on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time) but, in the determination of the Calculation Agent, a Potential Failure to Pay has occurred with respect to one or more Obligation(s) in respect of which a Grace Period is applicable on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time) (and such Grace Period(s) is/are continuing as at the Scheduled Termination Date), then the Calculation Agent shall notify the Noteholders in accordance with Condition 14 that a Potential Failure to Pay has occurred and:

- (i) where a Failure to Pay has not occurred on or prior to the Grace Period Extension Date:
  - (A) each nominal amount of Notes equal to the Calculation Amount will be redeemed by the Issuer at the Final Redemption Amount on the fifth Business Day following the Grace Period Extension Date; and
  - (B) in the case of interest bearing Notes, the Issuer shall be obliged to pay interest calculated as provided herein, accruing from (and including) the Interest Payment Date immediately preceding the Scheduled Maturity Date or, if none, the Interest Commencement Date to (but excluding) the Scheduled Maturity Date but shall only be obliged to make such payment of interest on the fifth Business Day following the Grace Period Extension Date and no further or other amount in respect of interest shall be payable and no additional amount shall be payable in respect of such delay; and
- (ii) where a Failure to Pay has occurred on or prior to the Grace Period Extension Date and Conditions to Settlement are satisfied, the provisions of Condition 24(b), Condition 24(c) or Condition 24(d), as applicable, shall apply to the Notes.



(g) ***Credit Derivatives Determinations Committee Extension***

If, in the determination of the Calculation Agent, a Potential Credit Event has occurred and the Credit Derivatives Determinations Committee has not made its determination on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time) then the Calculation Agent shall notify Noteholders in accordance with Condition 14 that the Maturity Date has been postponed to a date (the “DC Cut-off Date”) being the earliest of: (i) 15 Business Days following the date on which the Credit Derivatives Determinations Committee Resolves that a Credit Event has occurred; (ii) the date on which the Credit Derivatives Determinations Committee Resolves that a Credit Event has not occurred and (iii) 15 Business Days following the date on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine whether a Credit Event has occurred and:

- (i) where a Credit Event has not occurred on or prior to the DC Cut-off Date:
  - (A) each nominal amount of Notes equal to the Calculation Amount will be redeemed by the Issuer at the Final Redemption Amount on the fifth Business Day following the DC Cut-off Date; and
  - (B) in the case of interest bearing Notes, the Issuer shall be obliged to pay interest calculated as provided herein, accruing from (and including) the Interest Payment Date immediately preceding the Scheduled Maturity Date or if none the Interest Commencement Date to (but excluding) the Scheduled Maturity Date but shall only be obliged to make such payment of interest on the fifth Business Day following the DC Cut-off Date and no further or other amount in respect of interest shall be payable and no additional amount shall be payable in respect of such delay; or
- (ii) where a Credit Event has occurred on or prior to the DC Cut-off Date and Conditions to Settlement are satisfied, the provisions of Condition 24(b), Condition 24(c) or Condition 24(d), as applicable, shall apply to the Notes.

(h) ***Maturity Date Extension***

Without prejudice to Condition 24(k), if:

- (x) on (A) the Scheduled Termination Date, (B), if applicable, the Repudiation/Moratorium Evaluation Date or (C) if Grace Period Extension is specified as applying in the applicable Final Terms, the Grace Period Extension Date, Conditions to Settlement have not been satisfied but, in the determination of the Calculation Agent, a Credit Event may have occurred; or
- (y) on the Scheduled Termination Date, in the determination of the Calculation Agent, a Potential Repudiation/Moratorium may have occurred,

the Calculation Agent may at its option notify the Noteholders in accordance with Condition 14 that the Maturity Date, the Repudiation/Moratorium Evaluation Date or the Grace Period Extension Date, as the case may be, has been postponed to a date (such date the “Postponed Maturity Date”) specified in such notice falling 15 Business Days after the Scheduled Maturity Date, the Repudiation/Moratorium Evaluation Date or the Grace Period Extension Date, as the case may be, and:

where:

- (i) in the case of Condition 24(h)(x), Conditions to Settlement are not satisfied on or prior to the Postponed Maturity Date or, in the case of Condition 24(h)(y), the Repudiation/Moratorium Extension Condition is not satisfied on or prior to the Postponed Maturity Date:
  - (A) subject as provided below, each nominal amount of Notes equal to the Calculation Amount will be redeemed by the Issuer at the Final Redemption Amount on the fifth Business Day following the Postponed Maturity Date; and

- (B) in the case of interest bearing Notes, the Issuer shall be obliged to pay interest calculated as provided herein accruing from (and including) the Interest Payment Date immediately preceding the Scheduled Maturity Date or, if none, the Interest Commencement Date to (but excluding) the Scheduled Maturity Date but shall only be obliged to make such payment of interest on the fifth Business Day following the Postponed Maturity Date and no further or other amount in respect of interest shall be payable and no additional amount shall be payable in respect of such delay; or
- (ii) where:
  - (A) in the case of Condition 24(h)(x), Conditions to Settlement are satisfied on or prior to the Postponed Maturity Date, the provisions of Condition 24(b), Condition 24(c) or Condition 24(d), as applicable, shall apply to the Notes; or
  - (B) in the case of Condition 24(h)(y), the Repudiation/Moratorium Extension Condition is satisfied on or prior to the Postponed Maturity Date, the provisions of Condition 24(e) shall apply to the Notes.

(i) ***Physical Delivery***

- (i) If any Note is to be redeemed by delivery of the Asset Amount(s), in order to obtain delivery of such Asset Amount(s):
  - (A) if such Note is represented by a Global Note, the relevant Noteholder must deliver to Euroclear or Clearstream, Luxembourg (as applicable), with a copy to the Issuer not later than the close of business in each place of reception on the Cut-Off Date, a duly completed Asset Transfer Notice;
  - (B) if such Note is represented in book-entry form, the relevant Noteholder must deliver the Certificate to the Portuguese Paying Agent with a copy to the Issuer not later than the close of business in each place of reception on the Cut-Off Date, together with a duly completed Asset Transfer Notice; and
  - (C) if such Note is in definitive form, the relevant Noteholder must deliver this Note to any Paying Agent with a copy to the Issuer not later than the close of business in each place of reception on the Cut-Off Date, together with a duly completed Asset Transfer Notice.

Forms of the Asset Transfer Notice may be obtained during normal business hours from the specified office of any Paying Agent.

An Asset Transfer Notice may only be delivered (i) if such Note is represented by a Global Note, in such manner as is acceptable to Euroclear or Clearstream, Luxembourg, as the case may be, (ii) if such Note is an Interbolsa Note, in such manner as is acceptable to the Portuguese Paying Agent, or (iii) if such Note is in definitive form, in writing or by authenticated SWIFT message.

If this Note is in definitive form, this Note must be delivered together with the duly completed Asset Transfer Notice.

An Asset Transfer Notice must:

- (1) specify the name and address of the relevant Noteholder, the person from whom the Issuer may obtain details for the delivery of the Asset Amount and any details required for delivery of the Asset Amount set out in the applicable Final Terms;
- (2) in the case of (i) Notes represented by a Global Note, specify the nominal amount of Notes which are the subject of such notice and the number of the Noteholder's account at Euroclear or Clearstream, Luxembourg, as the case may be, to be debited with such Notes and irrevocably instruct and authorise Euroclear or Clearstream, Luxembourg, as

the case may be, to debit the relevant Noteholder's account with such Notes, or (ii) Interbolsa Notes, specify the nominal amount of Notes which are the subject of such notice and relevant individual securities account to be debited with such Notes and irrevocably instruct and authorise the Portuguese Paying Agent to debit the relevant individual securities account with such Notes, in each case, on or before the Settlement Date;

- (3) include an undertaking to pay all Delivery Expenses and, in the case of (i) Notes represented by a Global Note, an authority to debit a specified account of the Noteholder at Euroclear or Clearstream, Luxembourg, as the case may be, in respect thereof or (ii) Interbolsa Notes, an authority to debit a specified individual securities account, and in case, to pay such Delivery Expenses;
- (4) specify an account to which any amounts payable pursuant to Condition 24(j) or any other cash amounts specified in the applicable Final Terms as being payable are to be paid; and
- (5) authorise the production of such notice in any applicable administrative or legal proceedings.

No Asset Transfer Notice may be withdrawn after receipt thereof by Euroclear or Clearstream, Luxembourg, the Portuguese Paying Agent or a Paying Agent, as the case may be, as provided above. After delivery of an Asset Transfer Notice, the relevant Noteholder may not transfer the Notes which are the subject of such notice.

In the case of (i) Notes represented by a Global Note, upon receipt of such notice, Euroclear or Clearstream, Luxembourg, as the case may be, shall verify that the person specified therein as the Noteholder is the holder of the specified nominal amount of Notes according to its books or (ii) Interbolsa Notes, upon receipt of such notice, the Portuguese Paying Agent shall verify that the person specified therein as the Noteholder is the holder of the specified nominal amount of Notes according to the Book Entry Registry.

Failure properly to complete and deliver an Asset Transfer Notice may result in such notice being treated as null and void. Any determination as to whether such notice has been properly completed and delivered as provided in these Terms and Conditions shall be made, in the case of (i) Notes represented by a Global Note, by Euroclear or Clearstream, Luxembourg, as the case may be, (ii) Interbolsa Notes, by the Portuguese Paying Agent, or (iii) Notes in definitive form, by the relevant Paying Agent, in each case, after consultation with the Issuer or the Guarantor, as applicable, and shall be conclusive and binding on the Issuer, the Guarantor and the relevant Noteholder.

Delivery of the Asset Amount(s) in respect of each Note shall be made at the risk of the relevant Noteholder in such commercially reasonable manner as the Calculation Agent shall determine and notify to the person designated by the Noteholder in the relevant Asset Transfer Notice or in such manner as is specified in the applicable Final Terms.

If a Noteholder fails to give an Asset Transfer Notice as provided herein on or prior to the Cut-Off Date specified in the applicable Final Terms, the Issuer or the Guarantor, as the case may be, will, subject as provided above, deliver the Deliverable Obligations constituting the Asset Amount in respect of the relevant Notes as soon as practicable after the receipt of the duly completed Asset Transfer Notice, provided that if, in respect of a Note, a Noteholder fails to give an Asset Transfer Notice prior to the day falling 180 calendar days after the Cut-Off Date, the obligations of the Issuer and the Guarantor in respect of such Notes shall be discharged and neither the Issuer nor the Guarantor shall have any liability in respect thereof.

- (ii) All Delivery Expenses arising from the delivery of the Asset Amount in respect of any Notes shall be for the account of the relevant Noteholder and no delivery of any Asset Amount shall be made until all Delivery Expenses have been paid to the satisfaction of the Issuer by the relevant Noteholder.

After delivery of an Asset Amount in respect of a Note and for the Intervening Period, none of the Issuer, the Guarantor, the Calculation Agent and any other person shall at any time (i) be under any obligation to deliver or procure delivery to any Noteholder any letter, certificate, notice, circular or any other document or, except as provided herein, payment whatsoever received by that person in respect of the securities or obligations included in such Asset Amount, (ii) be under any obligation to exercise or procure exercise of any or all rights attaching to such securities or obligations included in such Asset Amount or (iii) be under any liability to a Noteholder in respect of any loss or damage which such Noteholder may sustain or suffer as a result, whether directly or indirectly, of that person being registered during such Intervening Period as legal owner of such securities or obligations included in such Asset Amount.

- (iii) In relation to each Deliverable Obligation constituting any Asset Amount, the Issuer will Deliver or procure the Delivery of the relevant Deliverable Obligation as provided below on the Settlement Date Provided That if all or some of the Deliverable Obligations included in the Asset Amount in respect of a Note are Undeliverable Obligations and/or Hedge Disruption Obligations, then the Issuer shall continue to attempt to Deliver all or a portion of such Undeliverable Obligations or Hedge Disruption Obligations, as the case may be, on or before the 30th Business Day following the Settlement Date (the “Final Delivery Date”),

Provided Further That if all or a portion of such Undeliverable Obligations or Hedge Disruption Obligations, as the case may be, are not Delivered by the Final Delivery Date the provisions of Condition 24(j) shall apply.

(j) ***Partial Cash Settlement***

If all or a portion of the Obligations comprising the Asset Amount are Undeliverable Obligations and/or Hedge Disruption Obligations, the Issuer shall give notice (a “Partial Cash Settlement Notice”) to the Noteholders in accordance with Condition 14 and the Issuer shall pay in respect of each Undeliverable Obligation and/or Hedge Disruption Obligation, as the case may be, the Partial Cash Settlement Amount on the Partial Cash Settlement Date.

In the Partial Cash Settlement Notice, the Issuer must give details of why it is unable to deliver the relevant Undeliverable Obligations or Hedge Disruption Obligation, as the case may be.

Unless otherwise specified in the applicable Final Terms, for the purposes of this Condition 24(j) only the following terms shall be defined as follows:

“Indicative Quotation” means, in accordance with the Quotation Method, each quotation obtained from a Quotation Dealer at the Valuation Time for (to the extent reasonably practicable) an amount of the Undeliverable Obligation or Hedge Disruption Obligations, as the case may be, equal to the Quotation Amount, which reflects such Quotation Dealer’s reasonable assessment of the price of such Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, based on such factors as such Quotation Dealer may consider relevant, which may include historical prices and recovery rates.

“Market Value” means, with respect to an Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, on a Valuation Date, (i) if more than three Full Quotations are obtained, the arithmetic mean of such Full Quotations, disregarding the Full Quotations having the same highest and lowest values (and, if more than one such Full Quotations have the same highest or lowest value, then one of such highest or lowest Full Quotations shall be disregarded); (ii) if exactly three Full Quotations are obtained, the Full Quotation remaining after disregarding the highest and lowest Full Quotations (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded); (iii) if exactly two Full Quotations are obtained, the arithmetic mean of such Full Quotations; (iv) if fewer than two Full Quotations are obtained and a Weighted Average Quotation is obtained, such Weighted Average Quotation; (v) if Indicative Quotations are specified as applying in the applicable Final Terms and

exactly three Indicative Quotations are obtained, the Indicative Quotation remaining after disregarding the highest and lowest Indicative Quotations (and, if more than one such Indicative Quotations have the same highest or lowest value, then one of such highest or lowest Indicative Quotations shall be disregarded); (vi) if fewer than two Full Quotations are obtained and no Weighted Average Quotation is obtained (and, if Indicative Quotations are applicable, fewer than three Indicative Quotations are obtained) then, subject to paragraph (ii) of the definition of “Quotation” below, an amount as determined by the Calculation Agent on the next Business Day on which at least two Full Quotations or a Weighted Average Quotation or, if applicable, three Indicative Quotations are obtained; and (vii) if the Quotations are deemed to be zero, the Market Value shall be zero.

“Partial Cash Settlement Amount” is deemed to be, for an Undeliverable Obligation or a Hedge Disruption Obligation, as the case may be, an amount calculated by the Calculation Agent equal to the greater of (i) (A) the Outstanding Principal Balance, the Due and Payable Amount or the Currency Amount, as applicable, of each Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, multiplied by (B) the Final Price or the Auction Final Price, if applicable, with respect to such Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, less if applicable (C) Unwind Costs, if any (but excluding any Unwind Costs already taken into account in calculating the relevant Asset Amount), and (ii) zero.

“Partial Cash Settlement Date” is deemed to be the date falling three Business Days after (i) the calculation of the Final Price or (ii) the Auction Final Price Determination Date, if applicable.

“Quotation” means each Full Quotation, the Weighted Average Quotation and, if Indicative Quotations are specified as applying in the applicable Final Terms, each Indicative Quotation obtained and expressed as a percentage with respect to a Valuation Date in the manner that follows:

- (i) The Calculation Agent shall attempt to obtain Full Quotations with respect to each Valuation Date from five or more Quotation Dealers. If the Calculation Agent is unable to obtain two or more such Full Quotations on the same Business Day within three Business Days of a Valuation Date, then on the next following Business Day (and, if necessary, on each Business Day thereafter until the tenth Business Day following the relevant Valuation Date) the Calculation Agent shall attempt to obtain Full Quotations from five or more Quotation Dealers, and, if two or more Full Quotations are not available, a Weighted Average Quotation. If two or more such Full Quotations or a Weighted Average Quotation are not available on any such Business Day and Indicative Quotations are specified as applying in the applicable Final Terms, the Calculation Agent shall attempt to obtain three Indicative Quotations from five or more Quotation Dealers.
- (ii) If the Calculation Agent is unable to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are specified as applying in the applicable Final Terms, three Indicative Quotations) on the same Business Day on or prior to the tenth Business Day following the Valuation Date, the Quotations shall be deemed to be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day of, if no Full Quotation is obtained, the weighted average of any firm quotations (or, if applicable, Indicative Quotations) for the Undeliverable Obligation or the Hedge Disruption Obligation, as the case may be, obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations (or, if applicable, Indicative Quotations) were not obtained on such day.
- (iii) The Calculation Agent shall determine, based on the then current market practice in the market of the relevant Undeliverable Obligation or Hedge Disruption Obligations, as the case may be, whether such Quotations shall include or exclude accrued but unpaid interest. All Quotations shall be obtained in accordance with this specification or determination.
- (iv) If any Quotation obtained with respect to an Accreting Obligation is expressed as a percentage of the amount payable in respect of such obligation at maturity, such Quotation will instead be



expressed as a percentage of the Outstanding Principal Balance for purposes of determining the Final Price.

“Quotation Amount” is deemed to be, with respect to each type or issue of Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, an amount equal to the Outstanding Principal Balance or Due and Payable Amount (or, in either case, its equivalent in the relevant Obligation Currency converted by the Calculation Agent by reference to exchange rates in effect at the time that the relevant Quotation is being obtained), as applicable, of such Undeliverable Obligation or Hedge Disruption Obligations, as the case may be.

“Quotation Method” is deemed to be Bid.

“Reference Obligation” is deemed to be each Undeliverable Obligation or Hedge Disruption Obligation, as the case may be.

“Valuation Method” is deemed to be Highest unless fewer than two Full Quotations are obtained or a Weighted Average Quotation applies (or, if applicable, Indicative Quotations), in which case “Valuation Method” is deemed to be Market.

“Valuation Time” is the time specified as such in the applicable Final Terms, or, if no time is so specified, 11.00 a.m. in the principal trading market for the Undeliverable Obligation or the Hedge Disruption Obligation, as the case may be.

“Weighted Average Quotation” means, in accordance with the Quotation Method, the weighted average of firm quotations obtained from Quotation Dealers at the Valuation Time, to the extent reasonably practicable, each for an amount of the Undeliverable Obligation or the Hedge Disruption Obligation, as the case may be, with an Outstanding Principal Balance of as large a size as available but less than the Quotation Amount that in aggregate are approximately equal to the Quotation Amount.

(k) ***Settlement Suspension***

(i) ***Suspension***

Without prejudice to Condition 24(h) above, if, following the determination of a Credit Event Determination Date in accordance with sub-paragraph (a) of the definition of Credit Event Determination Date but prior to the Settlement Date or, to the extent applicable, a Valuation Date, ISDA publicly announces that the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in sub-paragraphs (a) and (b) of the definition of Credit Event Resolution Request Date are satisfied in accordance with the Rules, the Calculation Agent may, at its option, determine that the applicable timing requirements of this Condition 24 and the definitions of Credit Event Redemption Date, Valuation Date, Physical Settlement Period, and any other provision in this Condition 24 as determined by the Calculation Agent, shall toll and be suspended and remain suspended (such period of suspension, a “Suspension Period”) until such time as ISDA subsequently publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved (a) the matters described in sub-paragraphs (a) and (b) of the definition of Credit Event Resolution Request Date or (b) not to determine such matters. Once ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has Resolved (A) the matters described in sub-paragraphs (a) and (b) of the definition of Credit Event Resolution Request Date or (B) not to determine such matters, the relevant timing requirements of this Condition 24 that have previously tolled or been suspended shall resume on the Business Day following such public announcement by ISDA.

In the event of any such Suspension Period, the Calculation Agent may make (x) such consequential or other adjustment(s) or determination(s) to or in relation to these Terms and Conditions as may be desirable or required either during or following any relevant Suspension



Period to account for or reflect such suspension and (y) determine the effective date of such adjustment(s) or determination(s).

(ii) *Interest*

In the case of interest bearing Notes:

- (A) if a Suspension Period falls in any one or more Interest Period(s), then no interest (or any interest on any delayed payment of interest) shall accrue during each portion of an Interest Period during which a Suspension Period exists; and
- (B) if an Interest Payment Date falls in a Suspension Period, such Interest Payment Date will be deferred until such date as determined by the Calculation Agent falling no earlier than the first Interest Payment Date and no later than the fifth Interest Payment Date following the end of the Suspension Period, all subject to the provisions of Condition 5 and Conditions 24(e), (f) and (g).

(l) *Redemption following a Merger Event*

If “Merger Event” is specified as applying in the applicable Final Terms, in the event that in the determination of the Calculation Agent a Merger Event has occurred, the Issuer may give notice to the Noteholders in accordance with Condition 14 and redeem all but not some only of the Notes and pay in respect of each nominal amount of the Notes equal to the Calculation Amount the Early Redemption Amount on the Merger Event Redemption Date.

(m) *Definitions applicable to Credit Linked Notes*

“2.5-year Limitation Date” has the meaning given to that term in the definition of “Limitation Date”.

“5-year Limitation Date” has the meaning given to that term in the definition of “Limitation Date”.

“20-year Limitation Date” has the meaning given to that term in the definition of “Limitation Date”.

“2005 Matrix Supplement” means the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions as published by ISDA on 7th March, 2005.

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

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

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

“Asset Amount” means, in respect of each nominal amount of Notes equal to the Calculation Amount, Deliverable Obligations, as selected by the Calculation Agent, with:

- (i) in the case of Deliverable Obligations that are Borrowed Money, an Outstanding Principal Balance (including accrued but unpaid interest (as determined by the Calculation Agent) if “Include Accrued Interest” is specified as applying in the applicable Final Terms, but excluding accrued but unpaid interest if “Exclude Accrued Interest” is specified as applying in the applicable Final Terms, and if neither “Include Accrued Interest” nor “Exclude Accrued Interest” is specified as applying in the applicable Final Terms, excluding accrued but unpaid interest); or
- (ii) in the case of Deliverable Obligations that are not Borrowed Money, a Due and Payable Amount,

(or, in the case of either (i) or (ii), the equivalent Currency Amount of any such amount), in an aggregate amount as of the relevant Delivery Date equal to the Calculation Amount less, if Unwind Costs are specified as applying in the applicable Final Terms, Deliverable Obligations with a market value determined by the Calculation Agent on the Business Day selected by the Calculation Agent falling during the period from and including the Credit Event Determination Date to and including the Delivery Date equal to the Unwind Costs.

If an obligation by its terms represents or contemplates an obligation to pay an amount greater than the Outstanding Principal Balance of such obligation as of the Delivery Date as a result of the occurrence or non-occurrence of an event or circumstance, the Outstanding Principal Balance of such obligation shall not include any additional amount that would be payable upon the occurrence or non-occurrence of such event or circumstance.

“Asset Transfer Notice” means a duly completed asset transfer notice which as at the Issue Date is substantially in the form set out in the relevant Part of the Schedule to these Terms and Conditions, and may be amended from time to time by the Issuer and is available on request from any of the Paying Agents.

“Auction” shall have the meaning as shall be set forth in the relevant Transaction Auction Settlement Terms.

“Auction Cancellation Date” shall have the meaning as shall be set forth in the relevant Transaction Auction Settlement Terms.

“Auction Covered Transaction” shall have the meaning as shall be set forth in the relevant Transaction Auction Settlement Terms.

“Auction Final Price” shall have the meaning as shall be set forth in the relevant Transaction Auction Settlement Terms.

“Auction Final Price Determination Date” shall have the meaning as shall be set forth in the relevant Transaction Auction Settlement Terms.

“Auction Settlement Date” shall mean the date that is the number of Business Days as shall be specified in the relevant Transaction Auction Settlement Terms (or, if a number of Business Days is not so specified, five Business Days) immediately following the Auction Final Price Determination Date.

“Auction Settlement Notice” has the meaning given to that term in Condition 24(b).

“Bankruptcy” means a Reference Entity:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding or filing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (ii) is not dismissed, discharged, stayed or restrained in each case within 30 calendar days of the institution or presentation thereof or before the Scheduled Termination Date, whichever is earlier;
- (e) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 calendar days thereafter or before the Scheduled Termination Date, whichever is earlier; or
- (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has any analogous effect to any of the events specified in clauses (a) to (g) (inclusive).

“Best Available Information” means:

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

the best publicly available information at the disposal of the Calculation Agent to allow it to make a determination for the purposes of the definition of “Successor”.

Information which is made available more than 14 calendar days after the legally effective date of the Succession Event shall not constitute “Best Available Information”.

“Calculation Agent City Business Day” means a day on which commercial banks and foreign exchange markets are generally open to settle payments in the Calculation Agent City specified in the applicable Final Terms.

“Calculation Agent Physical Settlement Notice” has the meaning given to that term in the definition of Conditions to Settlement.

“Cash Settlement Notice” has the meaning given to that term in Condition 24(c).

“Conditionally Transferable Obligation” means a Deliverable Obligation that is either Transferable, in the case of Bonds, or capable of being assigned or novated to all Modified Eligible Transferees without the consent of any person being required, in the case of any Deliverable Obligation other than Bonds, provided, however, that a Deliverable Obligation other than Bonds will be a Conditionally Transferable Obligation notwithstanding that consent of the Reference Entity or the guarantor, if any, of a Deliverable Obligation other than Bonds (or the consent of the relevant obligor if a Reference Entity is guaranteeing such Deliverable Obligation) or any agent is required for such novation, assignment or transfer so long as the terms of such Deliverable Obligation provide that such consent may not be unreasonably withheld or delayed. Any requirement that notification of novation, assignment or transfer of a Deliverable Obligation be provided to a trustee, fiscal agent, administrative agent, clearing agent or paying agent for a Deliverable Obligation shall not be considered to be a requirement for consent for purposes of this definition of “Conditionally Transferable Obligation”.

For purposes of determining whether a Deliverable Obligation satisfies the requirements of the definition of Conditionally Transferable Obligation, such determination shall be made as of the Delivery Date for the Deliverable Obligation, taking into account only the terms of the Deliverable Obligation and any related transfer or consent documents which have been obtained by the Issuer or the Guarantor, as the case may be.

“Conditions to Settlement” means the requirements set out in each of (a), (b) and (c), as applicable, below:

- (a) all of the Conditions to Settlement shall be deemed to be satisfied by the occurrence of a Credit Event Determination Date except where such Credit Event Determination Date is subsequently reversed prior to the Auction Final Price Determination Date, a Valuation Date, the Settlement Date, the Credit Event Redemption Date or the Maturity Date, as applicable, unless Physical Delivery is specified as the applicable Settlement Method in the applicable Final Terms (or is applicable pursuant to the Fallback Settlement Method) in which case all of the Conditions to Settlement shall be deemed to be satisfied by delivery of a Calculation Agent Physical Settlement Notice as described in (c) below on or following the occurrence of a Credit Event Determination Date;
- (b) if Notice of Publicly Available Information is specified as applicable in the applicable Final Terms, the Notice of Publicly Available Information Condition to Settlement is satisfied if either (i) the Calculation Agent delivers to the Issuer a Notice of Publicly Available Information that is effective during one of the periods specified in paragraph (a) of the definition of Credit Event Determination Date or (ii) ISDA publicly announces on or prior to the last day of the Notice Delivery Period (including prior to the Trade Date) that the relevant Credit Derivatives Determinations Committee has Resolved that an event that constitutes a Credit Event for purposes of the relevant Notes has occurred with respect to the relevant Reference Entity or Obligation thereof; and

- (c) the Calculation Agent delivers to the Issuer a notice of physical settlement (a “Calculation Agent Physical Settlement Notice”), subject where applicable to Condition 24(k), on or prior to:
- (i) the later of:
    - (A) the 32nd calendar day (subject to adjustment in accordance with the applicable Business Day Convention) after the Credit Event Determination Date; and
    - (B) the 12th calendar day after either (I) the date of the relevant DC Credit Event Announcement, if any, or (II) the date on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine the matters described in paragraphs (a) and (b) of the definition of Credit Event Resolution Request Date; or
  - (ii) if “Physical Delivery” is applicable pursuant to the Fallback Settlement Method and:
    - (A) the relevant Credit Event is not a Restructuring (or, if such Credit Event is a Restructuring, such Restructuring has occurred where neither “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” nor “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms), the 32nd calendar day after the Auction Cancellation Date or the No Auction Announcement Date, as applicable; or
    - (B) the relevant Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms, either:
      - I. the 32nd calendar day after:
        - (1) a No Auction Announcement Date occurring pursuant to paragraph (a) of the definition of No Auction Announcement Date, if any; or
        - (2) a No Auction Announcement Date occurring pursuant to paragraph (c) of the definition of No Auction Announcement Date, if any, in circumstances where no Parallel Auction will be held; or
        - (3) the Auction Cancellation Date, if any; or
      - II. the second Relevant City Business Day immediately following the later of the Parallel Auction Final Price Determination Date, if any (or, if more than one should occur, the last Parallel Auction Final Price Determination Date), and the Parallel Auction Cancellation Date, if any (or, if more than one should occur, the last Parallel Auction Cancellation Date), as applicable, in circumstances where either:
        - (1) a No Auction Announcement Date occurs pursuant to paragraph (b) of the definition of No Auction Announcement Date and the Issuer has not exercised the Movement Option; or
        - (2) a No Auction Announcement Date occurs pursuant to paragraph (c) of the definition of No Auction Announcement Date in circumstances where one or more Parallel Auctions will be held,
- provided that in the case of paragraphs (c)(i)(B) and (c)(ii), the relevant Credit Event Resolution Request Date occurred on or prior to the date described in paragraph (c)(i)(A).

For purposes of determining whether the conditions of this paragraph (c) have been satisfied, the effective date of delivery of the Calculation Agent Physical Settlement Notice (whether or not subsequently changed) shall be used.

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

“Credit Derivatives Auction Settlement Terms” means any Credit Derivatives Auction Settlement Terms published by ISDA, in accordance with the Rules, a form of which will be published by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto) from time to time and may be amended from time to time in accordance with the Rules.

“Credit Derivatives Determinations Committees” and each a “Credit Derivatives Determinations Committee” means the committees established by ISDA for purposes of reaching certain DC Resolutions in connection with credit derivative transactions, as more fully described in the Credit Derivatives Determinations Committees Rules, as published by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto) from time to time and as amended from time to time in accordance with the terms thereof (the “Rules”).

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

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

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

“Credit Event Backstop Date” means:

- (a) for purposes of any event that constitutes a Credit Event (or with respect to Repudiation/Moratorium, the event described in paragraph (b) of the definition of Repudiation/Moratorium), as determined by DC Resolution, the date that is 60 calendar days prior to the Credit Event Resolution Request Date; or
- (b) otherwise, the date that is 60 calendar days prior to the earlier of:
  - (i) the first date on which both the Credit Event Notice and, if Notice of Publicly Available Information is specified as applicable in the applicable Final Terms, the Notice of Publicly Available Information are delivered by the Calculation Agent to the Issuer during the Notice Delivery Period; and
  - (ii) in circumstances where:



- (A) the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in paragraph (a) and (b) of the definition of Credit Event Resolution Request Date are satisfied in accordance with the Rules;
- (B) the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters; and
- (C) the Credit Event Notice and, if Notice of Publicly Available Information is specified as applicable in the applicable Final Terms, the Notice of Publicly Available Information are delivered by the Calculation Agent to the Issuer not more than 14 calendar days after the day on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters,

the Credit Event Resolution Request Date.

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

“Credit Event Determination Date” means, in respect of any Credit Event:

- (a) subject to subsection (b) below, if neither a DC Credit Event Announcement nor a DC No Credit Event Announcement has occurred, the first date on which both the Credit Event Notice and, if Notice of Publicly Available Information is specified as applicable in the applicable Final Terms, the Notice of Publicly Available Information are delivered by the Calculation Agent to the Issuer during either:
  - (A) the Notice Delivery Period; or
  - (B) the period (I) from, and including, the date on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine the matters described in paragraphs (a) and (b) of the definition of Credit Event Resolution Request Date (II) to, and including, the date that is 14 calendar days thereafter (provided that the relevant Credit Event Resolution Request Date occurred on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date)); or
- (b) notwithstanding paragraph (a) above, if a DC Credit Event Announcement has occurred, either:
  - (A) the Credit Event Resolution Request Date, if
    - I. either:
      - (1) Auction Settlement is specified as the applicable Settlement Method in the applicable Final Terms; or
      - (2) the relevant Credit Event is a Restructuring; and
    - II. the Credit Event Notice is delivered by the Calculation Agent to the Issuer on or prior to the date falling two Business Days after the Exercise Cut-off Date; or
  - (B) the first date on which the Credit Event Notice is delivered by the Calculation Agent to the Issuer during (I) the Notice Delivery Period or (II) the period from, and including, the date on which ISDA publicly announces the occurrence of the relevant DC Credit Event Announcement to, and including, the date that is 14 calendar days thereafter (provided that the relevant Credit Event Resolution Request Date occurred on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date)), if either:
    - I. Auction Settlement is not specified as the applicable Settlement Method in the applicable Final Terms; or

- II. Auction Settlement is specified as the applicable Settlement Method in the applicable Final Terms and the Credit Event Notice is delivered by the Calculation Agent to the Issuer on a date that is later than the date falling two Business Days after the relevant Exercise Cut-off Date,

provided that, in the case of paragraph (b) above, (1) this shall be subject to any adjustment in accordance with Condition 24(n) and (2) no Credit Event Notice specifying a Restructuring as the only Credit Event has previously been delivered by the Calculation Agent to the Issuer unless the Restructuring specified in such Credit Event Notice is also the subject of the notice to ISDA resulting in the occurrence of the Credit Event Resolution Request Date; and

provided further that no Credit Event Determination Date will occur, and any Credit Event Determination Date previously determined with respect to an event shall be deemed not to have occurred, if, or to the extent that, prior to the Auction Final Price Determination Date, a Valuation Date, the Settlement Date, the Credit Event Redemption Date or the Maturity Date, as applicable, a DC No Credit Event Announcement Date occurs with respect to the relevant Reference Entity or Obligation thereof.

If, in accordance with the provisions above, (i) following the determination of a Credit Event Determination Date, such Credit Event Determination Date is deemed (A) to have occurred on a date that is different from the date that was originally determined to be the Credit Event Determination Date or (B) not to have occurred or (ii) a Credit Event Determination Date is deemed to have occurred prior to one or more preceding Interest Payment Dates, the Calculation Agent will determine (1) such adjustment(s) to this Condition 24 (including any adjustment to payment amounts) as may be required to achieve as far as practicable the same economic position of Noteholders as would have prevailed had a Credit Event Determination Date occurred on such deemed date of occurrence and (2) the effective date of such adjustment(s).

“Credit Event Notice” means a notice from the Calculation Agent to the Issuer (which the Calculation Agent has the right but not the obligation to deliver) that describes a Credit Event that occurred at or after the Credit Backstop Date Time (determined by reference to the Relevant Time) and on or prior to the Extension Date (determined by reference to the Relevant Time).

A Credit Event Notice must contain a description in reasonable detail of the facts relevant to the determination that a Credit Event has occurred. The Credit Event that is the subject of the Credit Event Notice need not be continuing on the date the Credit Event Notice is effective. A Credit Event Notice shall be subject to the requirements regarding notices set out in Condition 14.

“Credit Event Redemption Amount” means the amount specified as such in the applicable Final Terms or if no such amount is specified in the applicable Final Terms, an amount calculated by the Calculation Agent equal to:

$$(A \times B) - C$$

where:

“A” is the Calculation Amount;

“B” is the Final Price or the Auction Final Price, as applicable; and

“C” is Unwind Costs,

provided that in no event shall the Credit Event Amount be less than zero.

“Credit Event Redemption Date” means, subject to Condition 24(k), the day falling the number of Business Days specified in the applicable Final Terms after (i) the calculation of the Final Price or (ii) the Auction Settlement Date, as applicable.

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

- (a) whether an event that constitutes a Credit Event has occurred with respect to the relevant Reference Entity or Obligation thereof; and
- (b) if the relevant Credit Derivatives Determinations Committee Resolves that such event has occurred, the date of the occurrence of such event,

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

*As at the date hereof, the Rules provide that each “Eligible Market Participant” (being each party which is a party to a credit derivatives transaction that have, or are deemed to have incorporated the March 2009 Supplement or the July 2009 Supplement in a confirmation) is permitted to deliver such a notice to ISDA pursuant to the Rules.*

“Currency Amount” means, with respect to (a) a Deliverable Obligation specified in a Notice of Physical Settlement that is denominated in a currency other than the Settlement Currency, an amount converted to the Settlement Currency using a conversion rate determined by reference to the Currency Rate and (b) a Replacement Deliverable Obligation specified in a Physical Settlement Amendment Notice, an amount converted to the Settlement Currency (or, if applicable, back into the Settlement Currency) using a conversion rate determined by reference to the Currency Rate, if any, and each Revised Currency Rate used to convert each Replaced Deliverable Obligation Outstanding Amount specified in each Physical Settlement Amendment Notice with respect to that portion of the relevant Notes into the currency of denomination of the relevant Replacement Deliverable Obligation.

“Currency Rate” means, with respect to (a) a Deliverable Obligation specified in the Notice of Physical Settlement, the rate of conversion between the Settlement Currency and the currency in which the Outstanding Principal Balance or Due and Payable Amount of such Deliverable Obligation is denominated that is either (i) determined by reference to the Currency Rate Source as at the Next Currency Fixing Time or (ii) if such rate is not available at such time, determined by the Calculation Agent and (b) a Replacement Deliverable Obligation specified in a Physical Settlement Amendment Notice, the Revised Currency Rate.

“Currency Rate Source” means the mid-point rate of conversion published by WM/Reuters at 4.00 p.m. (London time), or any successor rate source approved by the relevant Credit Derivatives Determinations Committee.

“DC Credit Event Announcement” means, with respect to a Reference Entity, a public announcement by ISDA that the relevant Credit Derivatives Determinations Committee has Resolved that (a) an event that constitutes a Credit Event has occurred with respect to such Reference Entity (or an Obligation thereof) and (b) such event occurred on or after the Credit Event Backstop Date (determined by reference to the Relevant Time) and on or prior to the Extension Date (determined by reference to the Relevant Time). A DC Credit Event Announcement will be deemed not to have occurred unless (i) the Credit Event Resolution Request Date with respect to such Credit Event occurred on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date) and (ii) the Trade Date occurs on or prior to the Auction Final Price Determination Date, the Auction Cancellation Date, or the date that is 21 calendar days following the No Auction Announcement Date, if any, as applicable.

“DC Cut-off Date” has the meaning given to that term in Condition 24(g).

“DC No Credit Event Announcement” means, with respect to a Reference Entity, a public announcement by ISDA that the relevant Credit Derivatives Determinations Committee has Resolved, following a Credit Event Resolution Request Date, that the event that is the subject of the notice to ISDA resulting in the occurrence of such Credit Event Resolution Request Date does not constitute a Credit Event with respect to such Reference Entity (or an Obligation thereof).

“DC Resolution” has the meaning set out in the Rules.

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

“Deliver” means to deliver, novate, transfer (including, in the case of a Qualifying Guarantee, transfer of the benefit of the Qualifying Guarantee), assign or sell, as appropriate, in the manner customary for the settlement of the applicable Deliverable Obligations (which shall include executing all necessary documentation and taking any other necessary actions), in order to convey all right, title and interest in the Asset Amount(s) to the relevant Noteholder free and clear of any and all liens, charges, claims or encumbrances (including without limitation any counterclaim, defence (other than a counterclaim or defence based on the factors set out in (a) to (d) in the definition of “Credit Event” above or right of set-off by or of the Reference Entity or, as applicable, an Underlying Obligor) provided that if all or a portion of an Asset Amount consists of Direct Loan Participations, “Deliver” means to create (or procure the creation) of a participation in favour of the relevant Noteholder and to the extent that the Deliverable Obligations consist of Qualifying Guarantees, “Deliver” means to Deliver both the Qualifying Guarantee and the Underlying Obligation. “Delivery” and “Delivered” will be construed accordingly. In the case of a Loan, Delivery shall be effected using documentation substantially in the form of the documentation customarily used in the relevant market for Delivery of such Loan at that time.

“Deliverable Obligation” means, subject as provided in Condition 24(c):

- (a) any obligation of a Reference Entity (either directly, as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) determined pursuant to the method described in “(A) Method for Determining Deliverable Obligations” below (but excluding any Excluded Deliverable Obligation specified in the applicable Final Terms) that (i) is payable in an amount equal to its Outstanding Principal Balance or Due and Payable Amount, as applicable, (ii) is not subject to any counterclaim, defence (other than a counterclaim or defence based on the factors set forth in paragraphs (a) to (d) of the definition of “Credit Event” above) or right of set off by or of a Reference Entity or, as applicable, an Underlying Obligor and (iii) in the case of a Qualifying Guarantee other than a Qualifying Affiliate Guarantee, is capable, at the Delivery Date, of immediate assertion or demand by or on behalf of the holder or holders against the Reference Entity for an amount at least equal to the Outstanding Principal Balance or Due and Payable Amount being Delivered apart from the giving of any notice of non-payment or similar procedural requirement, it being understood that acceleration of an Underlying Obligation shall not be considered a procedural requirement;
- (b) subject to the second paragraph of the definition of “Not Contingent” in “(A) Method for Determining Deliverable Obligations” below, each Reference Obligation, unless specified in the applicable Final Terms as an Excluded Deliverable Obligation;
- (c) solely in relation to a Restructuring Credit Event applicable to a Sovereign Reference Entity, any Sovereign Restructured Deliverable Obligation (but excluding any Excluded Deliverable Obligation) that (i) is payable in an amount equal to its Outstanding Principal Balance or Due and Payable Amount, as applicable, (ii) is not subject to any counterclaim, defence (other than a counterclaim or defence based on the factors set forth in paragraphs (a)-(d) of the definition of “Credit Event” above) or right of set-off by or of a Reference Entity or, as applicable, an

Underlying Obligor and (iii) in the case of a Qualifying Guarantee other than a Qualifying Affiliate Guarantee, is capable, at the Delivery Date, of immediate assertion or demand by or on behalf of the holder or holders against the Reference Entity for an amount at least equal to the Outstanding Principal Balance or Due and Payable Amount being Delivered apart from the giving of any notice of non-payment or similar procedural requirement, it being understood that acceleration of an Underlying Obligation shall not be considered a procedural requirement; and

- (d) any Additional Deliverable Obligation of a Reference Entity specified as such in the applicable Final Terms.

(A) *Method for Determining Deliverable Obligations.* For the purposes of this definition of “Deliverable Obligation”, the term “Deliverable Obligation” may be defined as each obligation of each Reference Entity described by the Deliverable Obligation Category specified in the applicable Final Terms, and, subject to (B)(3) below, having each of the Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms, in each case, as of the date of the event which constitutes the Credit Event which is the subject of either the Credit Event Notice or the notice to ISDA resulting in the occurrence of the Credit Event Resolution Request Date, as applicable. The following terms shall have the following meanings:

- (1) “Deliverable Obligation Category” means one of Payment, Borrowed Money, Reference Obligations Only, Bond, Loan, or Bond or Loan (each as defined in the definition of “Obligation” below, except that, for the purpose of determining Deliverable Obligations, the definition of “Reference Obligations Only” shall be amended to state that no Deliverable Obligation Characteristics shall be applicable to Reference Obligations Only).
- (2) “Deliverable Obligation Characteristics” means any one or more of Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency, Not Domestic Law, Listed, Not Domestic Issuance (each as defined in the definition of “Obligation” below), Not Contingent, Assignable Loan, Consent Required Loan, Direct Loan Participation, Transferable, Maximum Maturity, Accelerated or Matured and Not Bearer where:
  - (i) “Not Contingent” means any obligation having as of the Delivery Date and all times thereafter an Outstanding Principal Balance or, in the case of obligations that are not Borrowed Money, a Due and Payable Amount, that pursuant to the terms of such obligation may not be reduced as a result of the occurrence or non-occurrence of an event or circumstance (other than payment). A Convertible Obligation, an Exchangeable Obligation and an Accreting Obligation shall constitute Deliverable Obligations that are Not Contingent if such Deliverable Obligation otherwise meets the requirements of the preceding sentence so long as, in the case of a Convertible Obligation or an Exchangeable Obligation, the right (A) to convert or exchange such obligation or (B) to require the issuer to purchase or redeem such obligation (if the issuer has exercised the right to pay the purchase or redemption price, in whole or in part, in Equity Securities) has not been exercised (or such exercise has been effectively rescinded) on or before the Delivery Date.

If a Reference Obligation is a Convertible Obligation or an Exchangeable Obligation, then such Reference Obligation may be included as a Deliverable Obligation only if the rights referred to in clauses (A) and (B) of paragraph (i) above have not been exercised (or such exercise has been effectively rescinded) on or before the Delivery Date.

- (ii) “Assignable Loan” means a Loan that is capable of being assigned or novated to, at a minimum, commercial banks or financial institutions (irrespective of their jurisdiction or organisation) that are not then a lender or a member of the relevant lending syndicate, without the consent of the relevant Reference Entity or the guarantor, if any, of such Loan (or the consent of the applicable borrower if a Reference Entity is guaranteeing such Loan) or any agent;
- (iii) “Consent Required Loan” means a Loan that is capable of being assigned or novated with the consent of the relevant Reference Entity or the guarantor, if any, of such Loan (or the consent of the relevant borrower if a Reference Entity is guaranteeing such loan) or any agent;
- (iv) “Direct Loan Participation” means a Loan in respect of which, pursuant to a participation agreement, the Issuer is capable of creating, or procuring the creation of, a contractual right in favour of each Noteholder that provides each Noteholder with recourse to the participation seller for a specified share in any payments due under the relevant Loan which are received by such participation seller, any such agreement to be entered into between each Noteholder and either (A) the Issuer or the Guarantor, as the case may be, (to the extent that the Issuer or the Guarantor, as applicable, is then a lender or a member of the relevant lending syndicate), or (B) a Qualifying Participation Seller (if any) (to the extent such Qualifying Participation Seller is then a lender or a member of the relevant lending syndicate);
- (v) “Transferable” means an obligation that is transferable to institutional investors without any contractual, statutory or regulatory restriction, provided that none of the following shall be considered contractual, statutory or regulatory restrictions:
  - (a) contractual, statutory or regulatory restrictions that provide for eligibility for resale pursuant to Rule 144A or Regulation S promulgated under the United States Securities Act of 1933, as amended (and any contractual, statutory or regulatory restrictions promulgated under the laws of any jurisdiction having a similar effect in relation to the eligibility for resale of an obligation); or
  - (b) restrictions on permitted investments such as statutory or regulatory investment restrictions on insurance companies and pension funds;
- (vi) “Maximum Maturity” means an obligation that has a remaining maturity from the Settlement Date of not greater than the period specified in the applicable Final Terms;
- (vii) “Accelerated or Matured” means an obligation under which the total amount owed, whether at maturity, by reason of acceleration, upon termination or otherwise (other than amounts in respect of default interest, indemnities, tax gross-ups and other similar amounts), is, or on or prior to the Delivery Date will be, due and payable in full in accordance with the terms of such obligation, or would have been but for, and without regard to, any limitation imposed under any applicable insolvency laws; and
- (viii) “Not Bearer” means any obligation that is not a bearer instrument unless interests with respect to such bearer instrument are cleared via Euroclear, Clearstream, Luxembourg or any other internationally recognised clearing system.



(B) Interpretation of Provisions.

- (1) If the Obligation Characteristic “Listed” is specified in the applicable Final Terms, the Final Terms shall be construed as though Listed had been specified as an Obligation Characteristic only with respect to Bonds and shall only be relevant if Bonds are covered by the selected Obligation Category;
- (2) if (i) either of the Deliverable Obligation Characteristics “Listed” or “Not Bearer” is specified in the applicable Final Terms, the Final Terms shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Bonds and shall only be relevant if Bonds are covered by the selected Deliverable Obligation Category; (ii) the Deliverable Obligation Characteristic “Transferable” is specified in the applicable Final Terms, the Final Terms shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Deliverable Obligations that are not Loans (and shall only be relevant to the extent that obligations other than Loans are covered by the selected Deliverable Obligation Category); or (iii) any of the Deliverable Obligation Characteristics “Assignable Loan”, “Consent Required Loan” or “Direct Loan Participation” is specified in the applicable Final Terms, the Final Terms shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Loans and shall only be relevant if Loans are covered by the selected Deliverable Obligation Category;
- (3) if any of Payment, Borrowed Money, Loan or Bond or Loan is specified as the Deliverable Obligation Category and more than one of Assignable Loan, Consent Required Loan and Direct Loan Participation are specified as Deliverable Obligation Characteristics, the Deliverable Obligations may include any Loan that satisfies any one of such Deliverable Obligation Characteristics specified and need not satisfy all such Deliverable Obligation Characteristics; and
- (4) in the event that an Obligation or a Deliverable Obligation is a Qualifying Guarantee, the following will apply:
  - (i) For purposes of the application of the Obligation Category or the Deliverable Obligation Category, the Qualifying Guarantee shall be deemed to be described by the same category or categories as those that describe the Underlying Obligation.
  - (ii) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics, both the Qualifying Guarantee and the Underlying Obligation must satisfy on the relevant date each of the applicable Obligation Characteristics or the Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms from the following list: Specified Currency, Not Sovereign Lender, Not Domestic Currency and Not Domestic Law. For these purposes, unless otherwise specified in the applicable Final Terms, (A) the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro shall not be a Domestic Currency and (B) the laws of England and the laws of the State of New York shall not be a Domestic Law.
  - (iii) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics, only the Qualifying Guarantee must satisfy on the relevant date the Obligation Characteristic or the

Deliverable Obligation Characteristic of Not Subordinated, if specified in the applicable Final Terms.

- (iv) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics, only the Underlying Obligation must satisfy on the relevant date each of the applicable Obligation Characteristics or the Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms from the following list: Listed, Not Contingent, Not Domestic Issuance, Assignable Loan, Consent Required Loan, Direct Loan Participation, Transferable, Maximum Maturity, Accelerated or Matured and Not Bearer.
- (v) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics to an Underlying Obligation, references to the Reference Entity shall be deemed to refer to the Underlying Obligor.
- (vi) The terms “Outstanding Principal Balance” and “Due and Payable Amount” (as they are used in these Terms and Conditions, including without limitation, the definitions of “Cash Settlement Amount” and “Quotation Amount” in Condition 24(j)), when used in connection with Qualifying Guarantees are to be interpreted to be the then “Outstanding Principal Balance” or “Due and Payable Amount”, as applicable, of the Underlying Obligation which is supported by a Qualifying Guarantee.

For the avoidance of doubt the provisions of this paragraph (B) apply in respect of the definitions of Obligation and Deliverable Obligation as the context admits.

“Deliverable Obligation Terms” has the meaning set forth in the relevant Credit Derivatives Auction Settlement Terms.

“Delivery Date” means, with respect to a Deliverable Obligation, the date such Deliverable Obligation is Delivered.

“Delivery Expenses” means all costs, taxes, duties and/or expenses, including stamp duty, stamp duty reserve tax and/or other costs, duties or taxes arising from the Delivery of the Asset Amount.

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

“Downstream Affiliate” means an entity, at the date of the event giving rise to the Credit Event which is the subject of the Credit Event Notice, the Delivery Date or the time of identification of a Substitute Reference Obligation (as applicable), whose outstanding Voting Shares are more than 50 per cent. owned, directly or indirectly, by the Reference Entity. “Voting Shares” shall mean those shares or other interests that have the power to elect the board of directors or similar governing body of an entity.

“Due and Payable Amount” means, subject as provided in sub-paragraph (4)(vi) of paragraph (B) (Interpretation of Provisions) in the definition of Deliverable Obligation, the amount that is due and payable under (and in accordance with the terms of) a Deliverable Obligation on the Delivery Date,

whether by reason of acceleration, maturity, termination or otherwise (excluding sums in respect of default interest, indemnities, tax gross-ups and other similar amounts).

“Eligible Transferee” means:

- (a) any
  - (i) bank or other financial institution;
  - (ii) insurance or reinsurance company;
  - (iii) mutual fund, unit trust or similar collective investment vehicle (other than an entity specified in sub-paragraph (c)(i) below); and
  - (iv) registered or licensed broker or dealer (other than a natural person or proprietorship), provided, however, in each case that such entity has total assets or at least U.S.\$500 million;
- (b) an Affiliate of an entity specified in the preceding sub-paragraph (a);
- (c) each of a corporation, partnership, proprietorship, organisation, trust or other entity:
  - (i) that is an investment vehicle (including, without limitation, any hedge fund, issuer of collateralised debt obligations, commercial paper conduit or other special purpose vehicle) that (1) has total assets of at least U.S.\$100 million or (2) is one of a group of investment vehicles under common control or management having, in the aggregate, total assets of at least U.S.\$100 million; or
  - (ii) that has total assets of at least U.S.\$500 million; or
  - (iii) the obligations of which under an agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by an entity described in sub-paragraphs (a), (b), (c)(ii) or (d); or
- (d) a Sovereign, Sovereign Agency or Supranational Organisation;

All references in this definition to U.S.\$ include equivalent amounts in other currencies.

“Enabling Obligation” means an outstanding Deliverable Obligation that (i) is a Fully Transferable Obligation or a Conditionally Transferable Obligation, as applicable, and (ii) has a final maturity date occurring on or prior to the Scheduled Termination Date and following the Limitation Date immediately preceding the Scheduled Termination Date (or, in circumstances where the Scheduled Termination Date occurs prior to the 2.5-year Limitation Date, following the final maturity date of the Latest Maturity Restructured Bond or Loan, if any).

“Equity Securities” means:

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

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

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

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

“Exercise Cut-off Date” means, with respect to a Credit Event:

- (a) if such Credit Event is not a Restructuring (or if such Credit Event is a Restructuring, such Restructuring has occurred and neither “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” nor “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms), either:
  - (i) the Relevant City Business Day prior to the Auction Final Price Determination Date, if any;
  - (ii) the Relevant City Business Day prior to the Auction Cancellation Date, if any; or
  - (iii) the date that is 21 calendar days following the No Auction Announcement Date, if any, as applicable; or
- (b) if such Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms and:
  - (i) the relevant Credit Derivatives Determinations Committee has Resolved that Transaction Auction Settlement Terms and/or Parallel Auction Settlement Terms may be published, the date that is five Relevant City Business Days following the date on which ISDA publishes the Final List applicable to such Credit Derivatives Auction Settlement Terms in accordance with the Rules; or
  - (ii) a No Auction Announcement Date occurs pursuant to paragraph (a) of the definition of No Auction Announcement Date, the date that is 21 calendar days following such No Auction Announcement Date.

“Extension Date” means the latest of:

- (a) the Scheduled Termination Date;
- (b) the Grace Period Extension Date if (i) “Grace Period Extension” is specified as applying in the applicable Final Terms, (ii) the Credit Event that is the subject of the Credit Event Notice or the notice to ISDA resulting in the occurrence of the Credit Event Resolution Request Date, as applicable, is a Failure to Pay that occurs after the Scheduled Termination Date (determined by reference to the Relevant Time), and (iii) the Potential Failure to Pay with respect to such Failure to Pay occurs on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time); and
- (c) the Repudiation/Moratorium Evaluation Date if (i) “Repudiation Moratorium” is specified as a Credit Event in the applicable Final Terms, (ii) the Credit Event that is the subject of the Credit Event Notice or the notice to ISDA resulting in the occurrence of the Credit Event Resolution Request Date, as applicable, is a Repudiation/Moratorium for which the event described in paragraph (b) of the definition of Repudiation/Moratorium occurs after the Scheduled Termination Date (determined by reference to the Relevant Time), (iii) the Potential Repudiation/Moratorium with respect to such Repudiation/Moratorium occurs on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time) and (iv) the Repudiation/Moratorium Extension Condition is satisfied.

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

“Fallback Settlement Method” means, with respect to any Notes for which Auction Settlement is specified as the applicable Settlement Method in the applicable Final Terms, the fallback settlement method specified in the applicable Final Terms.

“Final Delivery Date” is as defined in Condition 24(i).

“Final List” has the meaning set out in the Rules.

“Final Price” means the price of the relevant Reference Obligation(s), as the case may be, expressed as a percentage, determined in accordance with the Valuation Method specified in the applicable Final Terms or, where applicable, Condition 24(j). The Calculation Agent shall as soon as practicable after obtaining all Quotations for a Valuation Date, make available for inspection by Noteholders at the specified office of the Agent and, for so long as the Notes are listed on the Official List of the Luxembourg Stock Exchange at the office of the Paying Agent in Luxembourg (i) each such Quotation that it receives in connection with the calculation of the Final Price and (ii) a written computation showing its calculation of the Final Price.

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

“Fully Transferable Obligation” means a Deliverable Obligation that is either Transferable, in the case of Bonds, or capable of being assigned or novated to all Eligible Transferees without the consent of any person being required in the case of any Deliverable Obligation other than Bonds. Any requirement that notification of novation, assignment or transfer of a Deliverable Obligation be provided to a trustee, fiscal agent, administrative agent, clearing agent or paying agent for a Deliverable Obligation shall not be considered as a requirement for consent for purposes of this definition of “Fully Transferable Obligation”. For purposes of determining whether a Deliverable Obligation satisfies the requirements of this definition of “Fully Transferable Obligation”, such determination shall be made as of the Delivery Date for the relevant Deliverable Obligation, taking into account only the terms of the Deliverable Obligation and any related transfer or consent documents which have been obtained by the Issuer or the Guarantor, as the case may be.

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

“Grace Period” means:

- (a) subject to paragraphs (b) and (c) below, the applicable grace period with respect to payments under the relevant Obligation under the terms of such Obligation in effect as of the date as of which such Obligation is issued or incurred;
- (b) if Grace Period Extension is specified as applying in the applicable Final Terms, a Potential Failure to Pay has occurred on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time) and the applicable grace period cannot, by its terms, expire on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time), the Grace Period shall be deemed to be the lesser of such grace period and the period specified as such in the applicable Final Terms or, if no period is specified in the applicable Final Terms, 30 calendar days; and

- (c) if, as of the date as of which an Obligation is issued or incurred, no grace period with respect to payments or a grace period with respect to payments of less than three Grace Period Business Days is applicable under the terms of such Obligation, a Grace Period of three Grace Period Business Days shall be deemed to apply to such Obligation; provided that, unless Grace Period Extension is specified as applying in the applicable Final Terms, such deemed Grace Period shall expire no later than the Scheduled Termination Date.

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

“Grace Period Extension Date” means, if:

- (a) Grace Period Extension is specified as applying in the applicable Final Terms; and
- (b) a Potential Failure to Pay occurs on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time),

the date falling the number of days in the Grace Period after the date of such Potential Failure to Pay.

“Hedge Disruption Event” means in the opinion of the Calculation Agent any event as a result of which the Issuer and/or any of its Affiliates has not received the relevant Deliverable Obligations under the terms of any transaction entered into by the Issuer and/or any such Affiliate to hedge the obligations or position of the Issuer in respect of the Notes.

“Hedge Disruption Obligation” means a Deliverable Obligation included in the Asset Amount which, on the Settlement Date for such Deliverable Obligation, the Calculation Agent determines cannot be Delivered as a result of a Hedge Disruption Event.

“Intervening Period” means such period of time as any person other than the relevant Noteholder shall continue to be registered as the legal owner of any securities or other obligations comprising the Asset Amount.

“ISDA” means the International Swaps and Derivatives Association, Inc.

“Latest Maturity Restructuring Bond or Loan” has the meaning given to that term in the definition of “Restructuring Maturity Limitation Date”.

“Limitation Date” means the first of 20th March, 20th June, 20th September or 20th December in any year to occur on or immediately following the date that is one of the following numbers of years after the Restructuring Date: 2.5 years (the “2.5-year Limitation Date”), 5 years (the “5-year Limitation Date”), 7.5 years, 10 years, 12.5 years, 15 years, or 20 years (the “20-year Limitation Date”), as applicable. Limitation Dates shall not be subject to adjustment in accordance with any Business Day Convention unless it is specified in the applicable Final Terms that Limitation Dates will be adjusted in accordance with a specified Business Day Convention.

“London Business Day” means a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for general business in London.

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

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



same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded);

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

“Merger Event” means that at any time during the period from (and including) the Trade Date to (but excluding) the Scheduled Termination Date the Guarantor or a Reference Entity consolidates or amalgamates with, or merges into, or transfers all or substantially all of its assets to, a Reference Entity or the Guarantor, as applicable, or the Guarantor and a Reference Entity become Affiliates.

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

“Modified Eligible Transferee” means any bank, financial institution or other entity which is regularly engaged in an established for the purpose of making, purchasing or investing in loans, securities and other financial assets.

“Modified Restructuring Maturity Limitation Date” means, with respect to a Deliverable Obligation, the Limitation Date occurring on or immediately following the Scheduled Termination Date, provided that, in circumstances where the Scheduled Termination Date is later than the 2.5-year Limitation Date, at least one Enabling Obligation exists. Where “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms and the Scheduled Termination Date is later than the 2.5-year Limitation Date and prior to the 5-year Limitation Date, a Restructured Bond or Loan will not constitute an Enabling Obligation. Notwithstanding the foregoing, if the Scheduled Termination Date is either (i) on or prior to the 2.5-year Limitation Date or (ii) later than the 2.5-year Limitation Date and on or prior to the 5-year Limitation Date and no Enabling Obligation exists, the Modified Restructuring Maturity Limitation Date will be the 5-year Limitation Date in the case of a Restructured Bond or Loan only.

Subject to the foregoing, in the event that the Scheduled Termination Date is later than (A) the 2.5 year Limitation Date and no Enabling Obligation exists or (B) the 20-year Limitation Date, the Modified Restructuring Maturity Limitation Date will be the Scheduled Termination Date.

“Movement Option” means, where either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms, and where a No Auction Announcement Date has occurred pursuant to paragraph (b) of the definition of No Auction Announcement Date, the option of the Issuer to apply to the Notes, for purposes of settlement, the Parallel Auction Settlement Terms, if any, for purposes of which the Permissible Deliverable Obligations are more limited than the Deliverable Obligations that could be specified in

any Calculation Agent Physical Settlement Notice (provided that if more than one such set of Parallel Auction Settlement Terms are published, the Parallel Auction Settlement Terms specifying the greatest number of such Permissible Deliverable Obligations shall apply). If no Notice to Exercise Movement Option is delivered by the Issuer on or prior to the Movement Option Cut-off Date, the Notes will be settled in accordance with the Fallback Settlement Method. If a Notice to Exercise Movement Option is delivered by the Issuer on or prior to the Movement Option Cut-off Date, such event will be notified to Noteholders in accordance with Condition 14.

“Movement Option Cut-off Date” means the date that is six Relevant City Business Days following the Exercise Cut-off Date.

“Next Currency Fixing Time” means 4.00 p.m. (London time) on such London Business Day as the Calculation Agent shall select falling no more than 5 London Business Days immediately preceding the date on which the Notice of Physical Settlement or relevant Physical Settlement Amendment Notice or relevant Partial Cash Settlement Notice, as applicable, is effective.

“No Auction Announcement Date” means, with respect to a Credit Event, the date on which ISDA first publicly announces that (a) no Transaction Auction Settlement Terms and, if applicable, no Parallel Auction Settlement Terms will be published, (b) following the occurrence of a Restructuring where either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms only, no Transaction Auction Settlement Terms will be published, but Parallel Auction Settlement Terms will be published or (c) the relevant Credit Derivatives Determinations Committee has Resolved that no Auction will be held following a prior public announcement by ISDA to the contrary.

“Notice Delivery Period” means the period from and including the Trade Date to and including the date that is 14 calendar days after the Extension Date.

“Notice of Physical Settlement” has the meaning given to that term in Condition 24(d).

“Notice of Publicly Available Information” means a notice from the Calculation Agent to the Issuer (which the Calculation Agent has the right but not the obligation to deliver) that cites Publicly Available Information confirming the occurrence of the Credit Event or Potential Repudiation/Moratorium, as applicable, described in the Credit Event Notice or Repudiation/Moratorium Extension Notice. In relation to a Repudiation/Moratorium Credit Event, the Notice of Publicly Available Information must cite Publicly Available Information confirming the occurrence of both clauses (i) and (ii) of the definition of Repudiation/Moratorium. The notice given must contain a copy or description in reasonable detail, of the relevant Publicly Available Information. If Notice of Publicly Available Information is specified as applicable in the applicable Final Terms and a Credit Event Notice or Repudiation/Moratorium Extension Notice, as applicable, contains Publicly Available Information, such Credit Event Notice or Repudiation/Moratorium Extension Notice will also be deemed to be a Notice of Publicly Available Information. A Notice of Publicly Available Information shall be subject to the requirements regarding notices in Condition 24(r).

“Notice to Exercise Movement Option” means, where (a) either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms and (b) the Fallback Settlement Method would otherwise be applicable pursuant to the Auction Settlement provisions, a notice from the Issuer to the Calculation Agent that (i) specifies the Parallel Auction Settlement Terms applicable in accordance with the definition of Movement Option and (ii) is effective on or prior to the Movement Option Cut-off Date.

“Obligation” means:

- (a) any obligation of a Reference Entity (either directly, as a provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as

provider of any Qualifying Guarantee) determined pursuant to the method described in “Method for Determining Obligations” below (but excluding any Excluded Obligation);

- (b) each Reference Obligation specified in the applicable Final Terms, unless specified as an Excluded Obligation; and
- (c) any Additional Obligation of a Reference Entity specified as such in the applicable Final Terms.

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

- (A) “Obligation Category” means Payment, Borrowed Money, Reference Obligations Only, Bond, Loan, or Bond or Loan, only one of which shall be specified in the applicable Final Terms, where:
  - (1) “Payment” means any obligation (whether present or future, contingent or otherwise) for the payment or repayment of money, including, without limitation, Borrowed Money;
  - (2) “Borrowed Money” means any obligation (excluding an obligation under a revolving credit arrangement for which there are no outstanding unpaid drawings in respect of principal) for the payment or repayment of borrowed money (which term shall include, without limitation, deposits and reimbursement obligations arising from drawings pursuant to letters of credit);
  - (3) “Reference Obligations Only” means any obligation that is a Reference Obligation and no Obligation Characteristics shall be applicable to Reference Obligations Only;
  - (4) “Bond” means any obligation of a type included in the “Borrowed Money” Obligation Category that is in the form of, or represented by, a bond, note (other than notes delivered pursuant to Loans), certificated debt security or other debt security and shall not include any other type of Borrowed Money;
  - (5) “Loan” means any obligation of a type included in the “Borrowed Money” Obligation Category that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement and shall not include any other type of Borrowed Money; and
  - (6) “Bond or Loan” means any obligation that is either a Bond or a Loan.
- (B) “Obligation Characteristics” means any one or more of Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency, Not Domestic Law, Listed and Not Domestic Issuance specified in the applicable Final Terms, where:
  - (1) (a) “Not Subordinated” means an obligation that is not Subordinated to (1) the most senior Reference Obligation in priority of payment or, (2) if no Reference Obligation is specified in the applicable Final Terms, any unsubordinated Borrowed Money obligation of the Reference Entity provided that, if any of the events set forth under paragraph (a) of the definition of Substitute Reference Obligation has occurred with respect to all of the Reference Obligations or if the final paragraph of the definition of Successor is applicable with respect to the Reference Obligation (each, in each case, a “Prior Reference Obligation”) and no Substitute Reference Obligation has been identified for any of the Prior Reference Obligations at the time of the determination of whether an obligation satisfies the “Not Subordinated” Obligation Characteristic or Deliverable Obligation

Characteristic, as applicable, “Not Subordinated” shall mean an obligation that would not have been Subordinated to the most senior such Prior Reference Obligation in priority of payment. For purposes of determining whether an obligation satisfies the “Not Subordinated” Obligation Characteristic or Deliverable Obligation Characteristic, the ranking in priority of payment of each Reference Obligation or each prior Reference Obligation, as applicable, shall be determined as of the date as of which the relevant Reference Obligation or Prior Reference Obligation, as applicable, was issued or incurred and shall not reflect any change to such ranking in priority of payment after such date;

- (b) “Subordination” means, with respect to an obligation (the “Subordinated Obligation”) and another obligation of the Reference Entity to which such obligation is being compared (the “Senior Obligation”), a contractual, trust or other similar arrangement providing that (i) upon the liquidation, dissolution, reorganisation or winding up of the Reference Entity, claims of the holders of the Senior Obligation will be satisfied prior to the claims of the holders of the Subordinated Obligation or (ii) the holders of the Subordinated Obligation will not be entitled to receive or retain payments in respect of their claims against the Reference Entity at any time that the Reference Entity is in payment arrears or is otherwise in default under the Senior Obligation. “Subordinated” will be construed accordingly. For purposes of determining whether Subordination exists or whether an obligation is Subordinated with respect to another obligation to which it is being compared, the existence of preferred creditors arising by operation of law or of collateral, credit support or other credit enhancement arrangements shall not be taken into account, except that, notwithstanding the foregoing, priorities arising by operation of law shall be taken into account where the Reference Entity is a Sovereign;
- (2) “Specified Currency” means an obligation that is payable in the currency or currencies specified as such in the applicable Final Terms (or, if Specified Currency is specified in the applicable Final Terms and no currency is so specified, any of the lawful currencies of Canada, Japan, Switzerland, the United Kingdom and the United States of America and the euro and any successor currency to any of the aforementioned currencies, which currencies shall be referred to collectively in the applicable Final Terms as the “Standard Specified Currencies”);
- (3) “Not Sovereign Lender” means any obligation that is not primarily owed to a Sovereign or Supranational Organisation, including, without limitation, obligations generally referred to as “Paris Club debt”;
- (4) “Not Domestic Currency” means any obligation that is payable in any currency other than the Domestic Currency;
- (5) “Not Domestic Law” means any obligation that is not governed by the laws of (a) the relevant Reference Entity, if such Reference Entity is a Sovereign, or (b) the jurisdiction of organisation of the relevant Reference Entity, if such Reference Entity is not a Sovereign;
- (6) “Listed” means an obligation that is quoted, listed or ordinarily purchased and sold on an exchange; and
- (7) “Not Domestic Issuance” means any obligation other than an obligation that was, at the time the relevant obligation was issued (or reissued, as the case may be) or incurred, intended to be offered for sale primarily in the domestic market of the relevant Reference Entity. Any obligation that is registered or qualified for sale outside the domestic market of the relevant Reference Entity (regardless of whether such obligation is also registered or qualified for sale within the domestic market of the relevant Reference Entity) shall

be deemed not to be intended for sale primarily in the domestic market of the Reference Entity.

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

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

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

“Outstanding Principal Balance” means, subject as provided in sub-paragraph (4)(vi) of paragraph (B) (Interpretation of Provisions) in the definition of Deliverable Obligation:

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

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

“Parallel Auction” means “Auction” as such term shall be defined in the relevant Parallel Auction Settlement Terms.

“Parallel Auction Cancellation Date” means “Auction Cancellation Date” as such term shall be defined in the relevant Parallel Auction Settlement Terms.

“Parallel Auction Final Price Determination Date” means “Auction Final Price Determination Date” as such term shall be defined in the relevant Parallel Auction Settlement Terms.

“Parallel Auction Settlement Date” means “Auction Settlement Date” as such term shall be defined in the relevant Parallel Auction Settlement Terms.

“Parallel Auction Settlement Terms” means, following the occurrence of a Restructuring where either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms, any Credit Derivatives Auction Settlement Terms published by ISDA with respect to such Restructuring in accordance with the Rules, and for which (i) the Deliverable Obligation Terms are the same as the Reference Transaction and (ii) the Reference Transaction would not be an Auction Covered Transaction.

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

“Permissible Deliverable Obligations” has the meaning set forth in the relevant Credit Derivatives Auction Settlement Terms, being either all or the portion of the Deliverable Obligations included in the Final List pursuant to the Deliverable Obligation Terms applicable to the relevant Auction.



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

“Physical Settlement Amendment Notice” has the meaning given to that term in Condition 24(d).

“Physical Settlement Period” means, subject to Condition 24(k), the number of Business Days specified as such in the applicable Final Terms or, if a number of Business Days is not so specified, then, with respect to a Deliverable Obligation comprising the Asset Amount, the longest number of Business Days for settlement in accordance with then current market practice of such Deliverable Obligation, as determined by the Calculation Agent.

“Potential Credit Event” means a Potential Failure to Pay (if Failure to Pay is an applicable Credit Event in respect of the Reference Entity), a Potential Repudiation/Moratorium (if Repudiation/Moratorium is an applicable Credit Event in respect of the Reference Entity) or if a Credit Event Resolution Request Date has occurred and the relevant Credit Derivatives Determinations Committee has not made its determination, such event will be deemed to be a Potential Credit Event. A Credit Derivatives Determinations Committee and the Calculation Agent may each determine whether a Potential Failure to Pay or a Potential Repudiation/Moratorium has occurred.

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

“Potential Repudiation/Moratorium” means the occurrence of an event described in paragraph (i) of the definition of Repudiation/Moratorium.

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

“Publicly Available Information” means:

- (a) information that reasonably confirms any of the facts relevant to the determination that the Credit Event or a Potential Repudiation/Moratorium, as applicable, described in a Credit Event Notice or Repudiation/Moratorium Extension Notice has occurred and which:
  - (i) has been published in or not less than the Specified Number of Public Sources, regardless of whether the reader or user thereof pays a fee to obtain such information provided that, if either the Calculation Agent or the Issuer, the Guarantor or any of their respective Affiliates is cited as the sole source of such information, then such information shall not be deemed to be Publicly Available Information unless either the Calculation Agent or the Issuer, the Guarantor or any of their Affiliates is acting in its capacity as trustee, fiscal agent, administrative agent, clearing agent, paying agent, facility agent or agent bank for an Obligation; or



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

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

“Qualifying Guarantee” means an arrangement evidenced by a written instrument pursuant to which a Reference Entity irrevocably agrees (by guarantee of payment or equivalent legal arrangement) to pay all amounts due under an obligation (the “Underlying Obligation”) for which another party is the obligor (the “Underlying Obligor”) and that is not at the time of the Credit Event Subordinated to any unsubordinated Borrowed Money obligation of the Underlying Obligor (with references in the definition of Subordination to the Reference Entity deemed to refer to the Underlying Obligor). Qualifying Guarantees shall exclude any arrangement structured as a surety bond, financial guarantee insurance policy, letter of credit or equivalent legal arrangement. The benefit of a Qualifying Guarantee must be capable of being Delivered together with the Delivery of the Underlying Obligation.

“Qualifying Participation Seller” means any participation seller that meets the requirements specified in the applicable Final Terms. If no such requirements are specified, there shall be no Qualifying Participation Seller.

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

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

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

“Quotation Dealer” means a dealer in obligations of the type of Obligation(s) for which Quotations are to be obtained including each Quotation Dealer specified in the applicable Final Terms. If no Quotation Dealers are specified in the applicable Final Terms, the Calculation Agent shall select the Quotation Dealers. Upon a Quotation Dealer no longer being in existence (with no successors), or not being an active dealer in the obligations of the type for which Quotations are to be obtained, the Calculation Agent may substitute any other Quotation Dealer(s) for such Quotation Dealer(s).

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

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

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

“Reference Entity” means the entity or entities specified as such in the applicable Final Terms. Any Successor to a Reference Entity either (a) identified pursuant to the definition of “Successor” in this Condition 24(m) on or following the Trade Date or (b) in respect of which ISDA publicly announces on or following the Trade Date that the relevant Credit Derivatives Determinations Committee has Resolved, in respect of a Succession Event Resolution Request Date, a Successor in accordance with the Rules shall, in each case, be the Reference Entity for the purposes of the relevant Series.

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

“Reference Transaction” means a hypothetical credit derivative transaction:

- (a) for which the Deliverable Obligation Terms and the Reference Obligation are (i) the same as in respect of the Notes (if such Deliverable Obligation Terms and Reference Obligation are specified in the applicable Final Terms) or (ii) if and to the extent the Deliverable Obligation Terms and/or the Reference Obligation are not specified, the Deliverable Obligation Terms and Reference Obligation determined by the Calculation Agent to be appropriate in respect of a credit derivative transaction linked to the relevant Reference Entity;
- (b) with a scheduled termination date matching the Scheduled Termination Date of the Notes; and
- (c) otherwise having such other characteristics as the Calculation Agent may determine appropriate by reference to, without limitation, the Issuer’s hedging arrangements and/or any credit derivative elections made in relation to the Notes.

“Relevant City Business Day” has the meaning set out in the Rules.

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

“Relevant Time” means Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign (as such terms are defined in the 2005 Matrix Supplement) Tokyo time.

“Replaced Deliverable Obligation Outstanding Amount” has the meaning given to that term in Condition 24(d).

“Replacement Deliverable Obligation” has the meaning given to that term in Condition 24(d).

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

“Repudiation/Moratorium” means the occurrence of both of the following events:

- (i) an authorised officer of a Reference Entity or a Governmental Authority:
  - (x) disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, one or more Obligations in an aggregate amount of not less than the Default Requirement; or
  - (y) declares or imposes a moratorium, standstill, roll-over or deferral, whether de facto or de jure, with respect to one or more Obligations in an aggregate amount of not less than the Default Requirement; and

- (ii) a Failure to Pay, determined without regard to the Payment Requirement, or a Restructuring, determined without regard to the Default Requirement, with respect to any such Obligation occurs on or prior to the Repudiation/Moratorium Evaluation Date.

“Repudiation/Moratorium Evaluation Date” means, if a Potential Repudiation/Moratorium occurs on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time) (i) if the Obligations to which such Potential Repudiation/Moratorium relates include Bonds, the date that is the later of (A) the date that is 60 days after the date of such Potential Repudiation/Moratorium and (B) the first payment date under any such Bond after the date of such Potential Repudiation/Moratorium (or, if later, the expiration date of any applicable Grace Period in respect of such payment date) and (ii) if the Obligations to which such Potential Repudiation/Moratorium relates do not include Bonds, the date that is 60 days after the date of such Potential Repudiation/Moratorium provided that, in either case, the Repudiation/Moratorium Evaluation Date shall occur no later than the Scheduled Termination Date unless the Repudiation/Moratorium Extension Condition is satisfied.

“Repudiation/Moratorium Extension Condition” will be satisfied:

- (i) if ISDA publicly announces, pursuant to a valid request that was delivered in accordance with the Rules and effectively received on or prior to the date that is 14 calendar days after the Scheduled Termination Date, that the relevant Credit Derivatives Determinations Committee has Resolved that an event that constitutes a Potential Repudiation/Moratorium has occurred with respect to an Obligation of the relevant Reference Entity and that such event occurred on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time); or
- (ii) otherwise, by the delivery by the Calculation Agent to the Issuer of a Repudiation/Moratorium Extension Notice and, if Notice of Publicly Available Information is specified as applicable in the applicable Final Terms, a Notice of Publicly Available Information that are each effective on or prior to the date that is 14 calendar days after the Scheduled Termination Date.

In all cases, the Repudiation/Moratorium Extension Condition will be deemed not to have been satisfied, or capable of being satisfied, if, or to the extent that, ISDA publicly announces, pursuant to a valid request that was delivered in accordance with the Rules and effectively received on or prior to the date that is 14 calendar days after the Scheduled Termination Date, that the relevant Credit Derivatives Determinations Committee has Resolved that either (A) an event does not constitute a Potential Repudiation/Moratorium with respect to an Obligation of the relevant Reference Entity or (B) an event that constitutes a Potential Repudiation/Moratorium has occurred with respect to an Obligation of the relevant Reference Entity but that such event occurred after the Scheduled Termination Date (determined by reference to the Relevant Time).

*As at the date hereof, the Rules provide that each “Eligible Market Participant” (being each party which is a party to a credit derivatives transaction that have, or are deemed to have incorporated the March 2009 Supplement or the July 2009 Supplement in a confirmation) is permitted to deliver such a notice to ISDA pursuant to the Rules.*

“Repudiation/Moratorium Extension Notice” means a notice from the Calculation Agent to the Issuer (which the Calculation Agent has the right but not the obligation to deliver) that describes a Potential Repudiation/Moratorium that occurred on or after the Trade Date and on or prior to the Scheduled Termination Date (determined by reference to the Relevant Time). A Repudiation/Moratorium Extension Notice must contain a description in reasonable detail of the facts relevant to the determination that a Potential Repudiation/Moratorium has occurred and indicate the date of the occurrence. The Potential Repudiation/Moratorium that is the subject of the Repudiation/Moratorium Extension Notice need not be continuing on the date the Repudiation/Moratorium Extension Notice is effective.

“Resolve” has the meaning set out in the Rules, and “Resolved” and “Resolves” shall be interpreted accordingly.

“Restructured Bond or Loan” means an Obligation which is a Bond or Loan and in respect of which the relevant Restructuring has occurred.

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

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

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

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

For purposes of the definition of Restructuring and Condition 24(o), the term Obligation shall be deemed to include Underlying Obligations for which the Reference Entity is acting as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee. In the case of a Qualifying Guarantee and an Underlying Obligation, references to the Reference Entity in the definition of Restructuring and the definition of Subordination shall be deemed to refer to the Underlying Obligor and the reference to the Reference Entity in the second paragraph of this definition of Restructuring shall continue to refer to the Reference Entity.

“Restructuring Date” means the date on which a Restructuring is legally effective in accordance with the terms of the documentation governing such Restructuring.

“Restructuring Maturity Limitation Date” means with respect to a Deliverable Obligation, the Limitation Date occurring on or immediately following the Scheduled Termination Date, provided that, in circumstances where the Scheduled Termination Date is later than the 2.5-year Limitation Date, at least one Enabling Obligation exists. Notwithstanding the foregoing, if the final maturity date of the Restructured Bond or Loan with the latest final maturity date of any Restructured Bond or Loan occurs prior to the 2.5-year Limitation Date (such Restructured Bond or Loan, a “Latest Maturity



Restructured Bond or Loan”) and the Scheduled Termination Date occurs prior to the final maturity date of such Latest Maturity Restructured Bond or Loan, then the Restructuring Maturity Limitation Date will be the final maturity date of such Latest Maturity Restructured Bond or Loan.

In the event that the Scheduled Termination Date is later than (i)(A) the final maturity date of the Latest Maturity Restructured Bond or Loan, if any, or (B) the 2.5-year Limitation Date, and, in either case, no Enabling Obligation exists or (ii) the 20-year Limitation Date, the Restructuring Maturity Limitation Date will be the Scheduled Termination Date.

“Revised Currency Rate” means, with respect to a Replacement Deliverable Obligation specified in a Physical Settlement Amendment Notice, the rate of conversion between the currency in which the Replaced Deliverable Obligation Outstanding Amount is denominated and the currency in which the Outstanding Principal Balance or Due and Payable Amount of such Replacement Deliverable Obligation is denominated that is determined either (a) by reference to the Currency Rate Source as at the Next Currency Fixing Time or (b) if such rate is not available at such time, by the Calculation Agent.

“Rules” has the meaning given to that term in the definition of “Credit Derivatives Determinations Committee” above.

“Settlement Currency” means the currency specified as such in the applicable Final Terms, or if no currency is specified in the applicable Final Terms, the Specified Currency of the Notes.

“Settlement Date” means the last day of the longest Physical Settlement Period following the satisfaction of Conditions to Settlement (the “Scheduled Settlement Date”) provided that if a Hedge Disruption Event has occurred and is continuing on the second Business Day immediately preceding the Scheduled Settlement Date, the Settlement Date shall be the earlier of (i) the second Business Day following the date on which no Hedge Disruption Event subsists and (ii) the day falling 60 Business Days following the Scheduled Settlement Date.

“Settlement Method” means, if (a) Auction Settlement is specified as the applicable Settlement Method in the applicable Final Terms, Auction Settlement, (b) Cash Settlement is specified as the applicable Settlement Method in the applicable Final Terms, Cash Settlement, or (c) Physical Delivery is specified as the applicable Settlement Method in the applicable Final Terms, Physical Delivery.

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

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

“Sovereign Restructured Deliverable Obligation” means an Obligation of a Sovereign Reference Entity (a) in respect of which a Restructuring that is the subject of the relevant Credit Event Notice has occurred and (b) described by the Deliverable Obligation Category specified in the applicable Final Terms, and, subject to paragraph (3) of “(B) Interpretation of Provisions” in the definition of “Deliverable Obligation”, having each of the Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms, in each case, immediately preceding the date on which such Restructuring is legally effective in accordance with the terms of the documentation governing such Restructuring without regard to whether the Obligation would satisfy such Deliverable Obligation Category or Deliverable Obligation Characteristics after such Restructuring.

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

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



one or more Reference Obligations in respect of such Reference Entity, identified by the Calculation Agent in accordance with the following procedures:

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

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

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

then the Calculation Agent shall continue to attempt to identify a Substitute Reference Obligation until the Extension Date. If (A) either (i) Cash Settlement is specified as the Settlement Method in the applicable Final Terms (or is applicable pursuant to the Fallback Settlement Method) and the Credit Event Redemption Amount is determined by reference to a Reference Obligation or (ii) either Auction Settlement or Physical Delivery is specified as the Settlement Method in the applicable Final Terms (or, in the case of Physical Delivery, is applicable pursuant to the Fallback Settlement Method) and, in each case, the Reference Obligation is the only Deliverable Obligation and (B) on or prior to the Extension Date (determined by reference to the Relevant Time), a Substitute Reference Obligation has not been identified, the Issuer may give notice to the Noteholders in accordance with Condition 14 and redeem all but not some only of the Notes and pay in respect of each nominal amount of the Notes equal to the Calculation Amount the Early Redemption Amount.

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

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

"Succession Event Backstop Date" means:

- (i) for purposes of any event that constitutes a Succession Event, as determined by DC Resolution, the date that is 90 calendar days prior to the Succession Event Resolution Request Date (determined by reference to the Relevant Time); or
- (ii) otherwise, the date that is 90 calendar days prior to the earlier of:
  - (A) the date on which the Succession Event Notice is effective; and
  - (B) in circumstances where (I) the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in paragraphs (a) and (b) of the definition of Succession Event Resolution Request Date are satisfied in accordance with the Rules, (II) the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters and (III) the Succession Event Notice is delivered by the Calculation Agent to the Issuer not more than 14 calendar days after the day on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters, the Succession Event Resolution Request Date.

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

“Succession Event Notice” means a notice from the Calculation Agent to the Issuer that describes a Succession Event that occurred on or after the Succession Event Backstop Date (determined by reference to the Relevant Time).

A Succession Event Notice must contain a description in reasonable detail of the facts relevant to the determination, of (i) whether a Succession Event has occurred and (ii) if relevant, the identity of any Successor(s).

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

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

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

*As at the date hereof, the Rules provide that each “Eligible Market Participant” (being each party which is a party to a credit derivatives transaction that have, or are deemed to have incorporated the March 2009 Supplement or the July 2009 Supplement in a confirmation) is permitted to deliver such a notice to ISDA pursuant to the Rules.*

“Successor” means:

- (a) in relation to a Reference Entity that is not a Sovereign, the entity or entities, if any, determined as set forth below:
  - (i) if one entity directly or indirectly succeeds to 75 per cent. or more of the Relevant Obligations of the Reference Entity by way of a Succession Event, that entity will be the sole Successor;
  - (ii) if only one entity directly or indirectly succeeds to more than 25 per cent. (but less than 75 per cent.) of the Relevant Obligations of the Reference Entity by way of a Succession Event, and not more than 25 per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, the entity that succeeds to more than 25 per cent. of the Relevant Obligations will be the sole Successor;
  - (iii) if more than one entity each directly or indirectly succeed to more than 25 per cent. of the Relevant Obligations of the Reference Entity by way of a Succession Event, and not more than 25 per cent. of the Relevant Obligations of the Reference Entity remain with Reference Entity, the entities that succeed to more than 25 per cent. of the Relevant Obligations will each be a Successor and these Terms and Conditions and/or the applicable Final Terms will be adjusted as provided below;
  - (iv) if one or more entity each directly or indirectly succeed to more than 25 per cent. of the Relevant Obligations of the Reference Entity by way of a Succession Event, and more than 25 per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, each such entity and the Reference Entity will each be a Successor and

these Terms and Conditions and/or the applicable Final Terms will be adjusted as provided below;

- (v) if one or more entities directly or indirectly succeed to a portion of the Relevant Obligations of the Reference Entity by way of a Succession Event, but no entity succeeds to more than 25 per cent. of the Relevant Obligations of the Reference Entity and the Reference Entity continues to exist, there will be no Successor and the Reference Entity will not be changed in any way as a result of the Succession Event; and
  - (vi) if one or more entities directly or indirectly succeed to a portion of the Relevant Obligations of the Reference Entity by way of a Succession Event, but no entity succeeds to more than 25 per cent. of the Relevant Obligations of the Reference Entity and the Reference Entity ceases to exist, the entity which succeeds to the greatest percentage of Relevant Obligations (or, if two or more entities succeed to an equal percentage of Relevant Obligations, the entity from among those entities which succeeds to the greatest percentage of obligations of the Reference Entity) will be the sole Successor; and
- (b) in relation to a Sovereign Reference Entity, each entity which becomes a direct or indirect successor to such Reference Entity by way of a Succession Event irrespective of whether any such successor assume(s) any of the obligations of such Reference Entity.

The Calculation Agent will be responsible for determining, as soon as reasonably practicable after it becomes aware of the relevant Succession Event (but no earlier than 14 calendar days after the legally effective date of the occurrence of the relevant Succession Event), and with effect from the legally effective date of the occurrence of the Succession Event, whether the relevant thresholds set forth above have been met, or which entity qualifies under (a)(vi) above, as applicable provided that the Calculation Agent will not make any such determination if, at such time, either (A) ISDA has publicly announced that the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in (a) above and paragraphs (a) and (b)(A) of the definition of Succession Event Resolution Request Date (in the case of a Reference Entity that is not a Sovereign) or (b) above and paragraphs (a) and (b)(B) of the definition of Succession Event Resolution Request Date (in the case of a Sovereign Reference Entity) are satisfied in accordance with the Rules (until such time (if any) that ISDA subsequently publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine a Successor) or (B) ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has Resolved that no event that constitutes a Succession Event has occurred. In calculating the percentages used to determine whether the relevant thresholds set forth above have been met, or which entity qualifies under (a)(vi) above, as applicable, the Calculation Agent shall use, in respect of each applicable Relevant Obligation included in such calculation, the amount of the liability in respect of such Relevant Obligation listed in the Best Available Information and shall, as soon as practicable after such calculation, make such calculation available for inspection by Noteholder(s) at the specified office of the Agent and, for so long as the Notes are listed on the Official List of the Luxembourg Stock Exchange, at the office of the Paying Agent in Luxembourg.

Where pursuant to paragraph (a)(iii) or (a)(iv) above, more than one Successor has been identified, the Calculation Agent shall adjust such of these Terms and Conditions and/or the applicable Final Terms as it shall determine to be appropriate to reflect that the relevant Reference Entity has been succeeded by more than one Successor and shall determine the effective date of that adjustment. The Calculation Agent shall be deemed to be acting in a commercially reasonable manner if it adjusts such of these Terms and Conditions and/or the applicable Final Terms in such a manner as to reflect the adjustment to and/or division of any credit derivative transaction(s) related to or underlying the Notes under the provisions of the 2003 ISDA Credit Derivatives Definitions.

Upon the Calculation Agent making such adjustment, the Issuer shall give notice as soon as practicable to Noteholders in accordance with Condition 14, stating the adjustment to these Terms and Conditions and/or the applicable Final Terms and giving brief details of the relevant Succession Event.

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

Where:

- (A) a Reference Obligation is specified in the applicable Final Terms; and
- (B) one or more Successors to the Reference Entity have been identified; and
- (C) any one or more such Successors have not assumed the Reference Obligation,

a Substitute Reference Obligation will be determined in accordance with the definition of “Substitute Reference Obligation” above.

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

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

“Transaction Auction Settlement Terms” means, with respect to a Credit Event, the Credit Derivatives Auction Settlement Terms selected by the Calculation Agent in accordance with this provision. In relation to a Credit Event (and as set out in the definition of Credit Derivatives Auction Settlement Terms), ISDA may publish one or more form(s) of Credit Derivatives Auction Settlement Terms on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto) and may amend such forms from time to time. Each such form of Credit Derivatives Auction Settlement Terms shall set out, *inter alia*, definitions of “Auction”, “Auction Cancellation Date”, “Auction Covered Transaction” and “Auction Final Price Determination Date” in relation to the relevant Credit Event. The Transaction Auction Settlement Terms for purposes of the Notes shall be the relevant form of Credit Derivatives Auction Settlement Terms for which the Reference Transaction would be an Auction Covered Transaction (as such term will be set out in the relevant Credit Derivatives Auction Settlement Terms). The Reference Transaction (as set out in the definition thereof) is a hypothetical credit derivative transaction included in this Condition 24 principally for the purpose of selecting the Credit Derivatives Auction Settlement Terms appropriate to the Notes.

“Undeliverable Obligation” means a Deliverable Obligation included in the Asset Amount which, on the Settlement Date for such Deliverable Obligation, the Calculation Agent determines for any reason (including without limitation, failure of the relevant clearance system or due to any law, regulation, court order or market conditions or the non-receipt of any requisite consents with respect to the Delivery of Loans) it is impossible or illegal to Deliver on the Settlement Date.

“Unwind Costs” means the amount specified in the applicable Final Terms or if “Standard Unwind Costs” are specified in the applicable Final Terms, an amount determined by the Calculation Agent



equal to the sum of (without duplication) all costs, fees, charges, expenses (including loss of funding), tax and duties incurred by the Issuer and/or any of its Affiliates in connection with the redemption of the Notes and the related termination, settlement or re-establishment of any hedge or related trading position, such amount to be apportioned *pro rata* amongst each nominal amount of Notes equal to the Calculation Amount.

“Valuation Date” means (a) where Physical Delivery is specified as applying in the applicable Final Terms the day falling three Business Days after the Final Delivery Date (as such term is defined in the Condition 24(i)), or (b) where Cash Settlement is specified as applying in the applicable Final Terms, if “Single Valuation Date” is specified in the applicable Final Terms, the date that is the number of Business Days specified in the Final Terms after the satisfaction of all Conditions to Settlement or, if the number of Business Days is not so specified, five Business Days after the satisfaction of all Conditions to Settlement (or, if Cash Settlement is applicable pursuant to the Fallback Settlement Method, the date that is the number of Business Days specified in the applicable Final Terms or, if the number of Business Days is not so specified, five Business Days after the Auction Cancellation Date, if any, or the relevant No Auction Announcement Date, if any, as applicable), and if “Multiple Valuation Dates” is specified in the applicable Final Terms, each of the following dates:

- (i) subject to Condition 24(k), the date that is the number of Business Days specified in the applicable Final Terms (or, if the number of Business Days is not specified, five Business Days) following the satisfaction of all Conditions to Settlement (or if Cash Settlement is the applicable Fallback Settlement Method, the date that is the number of Business Days specified in the applicable Final Terms (or, if the number of Business Days is not specified, five Business Days) following the Auction Cancellation Date, if any, or the relevant No Auction Announcement Date, if any, as applicable); and
- (ii) each successive date that is the number of Business Days specified in the applicable Final Terms or, if the number of Business Days is not so specified, five Business Days after the date on which the Calculation Agent obtains a Market Value with respect to the immediately preceding Valuation Date.

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

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

“Valuation Method”:

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

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

- (b) The following Valuation Methods may be specified in the applicable Final Terms with only one Reference Obligation and more than one Valuation Date:
  - (i) “Average Market” means the unweighted arithmetic mean of the Market Values determined by the Calculation Agent with respect to each Valuation Date; or



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

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

- (c) The following Valuation Methods may be specified in the applicable Final Terms with more than one Reference Obligation and only one Valuation Date:
  - (i) “Blended Market” means the unweighted arithmetic mean of the Market Value for each Reference Obligation determined by the Calculation Agent with respect to the Valuation Date; or
  - (ii) “Blended Highest” means the unweighted arithmetic mean of the highest Quotations obtained by the Calculation Agent for each Reference Obligation with respect to the Valuation Date.

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

- (d) The following Valuation Methods may be specified in the applicable Final Terms with more than one Reference Obligation and more than one Valuation Date:
  - (i) “Average Blended Market” means, using values with respect to each Valuation Date determined by the Calculation Agent in accordance with the Blended Market Valuation Method, the unweighted arithmetic mean of the values so determined with respect to each Valuation Date; or
  - (ii) “Average Blended Highest” means, using values with respect to each Valuation Date determined by the Calculation Agent in accordance with the Blended Highest Valuation Method, the unweighted arithmetic mean of the values so determined with respect to each Valuation Date.

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

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

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

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

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

If Condition 24(n) is specified as applicable in the applicable Final Terms, then, notwithstanding anything to the contrary in these Terms and Conditions, upon the occurrence of a Restructuring with

respect to a Series for which either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applicable in the applicable Final Terms:

- (i) the Calculation Agent may deliver multiple Credit Event Notices in respect of such Restructuring, each such Credit Event Notice setting forth an amount (the “Partial Redemption Amount”) that may be less than the nominal amount outstanding of each Note immediately prior to the delivery of such Credit Event Notice. In such circumstances the provisions of Condition 24 shall be deemed to apply to the Partial Redemption Amount only and each such Note shall be redeemed in part (such redeemed part being equal to the Partial Redemption Amount).
- (ii) For the avoidance of doubt (A) the nominal amount of each such Note not so redeemed in part shall remain outstanding and interest shall accrue on the nominal amount outstanding of such Note as provided in Condition 5 (adjusted in such manner as the Calculation Agent determines to be appropriate), (B) the provisions of Condition 24 shall apply to such nominal amount outstanding of such Note in the event that subsequent Credit Event Notices are delivered in respect of the Reference Entity that was the subject of the Restructuring Credit Event, (C) once a Credit Event Notice with respect to a Restructuring Credit Event has been delivered in respect of a Reference Entity, no further Credit Event Notices may be delivered in respect of any Reference Entity other than the Reference Entity that was the subject of the Restructuring Credit Event and (D) if, following a Restructuring Credit Event, different Credit Event Determination Dates have been determined with respect to different portions of amounts payable to Noteholders under the relevant Series, the Calculation Agent will (x) determine such adjustment(s) to these Terms and Conditions as may be required to achieve as far as practicable the same economic effect as if each such portion was a separate series or otherwise reflect or account for the effect of the above provisions of this Condition 24(n) and (y) the effective date of such adjustment(s).
- (c) If the provisions of this Condition 24(n) apply in respect of the Notes, on redemption of part of each such Note the relevant Note or, if the Notes are represented by a Global Note, such Global Note, shall be endorsed to reflect such part redemption.

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

If Condition 24(o) is specified as applicable in the applicable Final Terms, then, notwithstanding anything to the contrary in the definition of Restructuring and related provisions, the occurrence of, agreement to, or announcement of, any of the events described in sub-paragraphs (i) to (v) of the definition of “Restructuring” shall not be a Restructuring unless the Obligation in respect of any such events is a Multiple Holder Obligation.

“Multiple Holder Obligation” means an Obligation that (i) at the time of the event which constitutes a Restructuring Credit Event is held by more than three holders that are not Affiliates of each other and (ii) with respect to which a percentage of holders (determined pursuant to the terms of the Obligation as in effect on the date of such event) at least equal to 66<sup>2</sup>/<sub>3</sub> is required to consent to the event which constitutes a Restructuring Credit Event.

(p) ***Provisions taken from the ISDA supplement titled “Additional Provisions for Physically Settled Default Swaps – Monoline Insurer as Reference Entity (January 2005)”***

If Condition 24(p) is specified as applicable in the applicable Final Terms, the following provisions will apply:

- (a) Obligation and Deliverable Obligation. Paragraph (a) of the definition of “Obligation” in Condition 24(m) and paragraph (a) of the definition of “Deliverable Obligation” in Condition 24(m) are hereby amended by adding “or Qualifying Policy” after as provider of a Qualifying Affiliate Guarantee”.

- (b) Interpretation of Provisions. In the event that an Obligation or a Deliverable Obligation is a Qualifying Policy, paragraph (B) of the definition of “Deliverable Obligation” in Condition 24(m) will apply, with references to the Qualifying Guarantee, the Underlying Obligation and the Underlying Obligor deemed to include the Qualifying Policy, the Insured Instrument and the Insured Obligor, respectively, except that:
- (i) the Obligation Category Borrowed Money and the Obligation Category and Deliverable Obligation Category Bond shall be deemed to include distributions payable under an Insured Instrument in the form of a pass-through certificate or similar funded beneficial interest, the Deliverable Obligation Category Bond shall be deemed to include such an Insured Instrument, and the terms “obligation” and “obligor” as used in this Condition 24 in respect of such an Insured Instrument shall be construed accordingly;
  - (ii) references in the definitions of Assignable Loan and Consent Required Loan to “the guarantor” and “guaranteeing” shall be deemed to include “the insurer” and “insuring”, respectively;
  - (iii) neither the Qualifying Policy nor the Insured Instrument must satisfy on the relevant date the Deliverable Obligation Characteristic of Accelerated or Matured, whether or not that characteristic is otherwise specified as applicable in the applicable Final Terms;
  - (iv) if the Assignable Loan, Consent Required Loan, Direct Loan Participation or Transferable Deliverable Obligation Characteristics are specified in the applicable Final Terms and if the benefit of the Qualifying Policy is not transferred as part of any transfer of the Insured Instrument, the Qualifying Policy must be transferable at least to the same extent as the Insured Instrument; and
  - (v) with respect to an Insured Instrument in the form of a pass-through certificate or similar funded beneficial interest, the term “Outstanding Principal Balance” shall mean the outstanding Certificate Balance and “maturity”, as such term is used in the Maximum Maturity Deliverable Obligation Characteristic, shall mean the specified date by which the Qualifying Policy guarantees or insures, as applicable, that the ultimate distribution of the Certificate Balance will occur.

For the avoidance of doubt, if Condition 24 is specified as applying in the applicable Final Terms, the amendments to paragraph (B) of the definition of “Deliverable Obligation” provided in Condition 24(q)(ii) shall not be construed to apply to Qualifying Policies and Insured Instruments.

- (c) Not Contingent. An Insured Instrument will not be regarded as failing to satisfy the Not Contingent Deliverable Obligation Characteristic solely because such Insured Instrument is subject to provisions limiting recourse in respect of such Insured Instrument to the proceeds of specified assets (including proceeds subject to a priority of payments) or reducing the amount of any Instrument Payments owing under such Insured Instrument, provided that such provisions are not applicable to the Qualifying Policy by the terms thereof and the Qualifying Policy continues to guarantee or insure, as applicable, the Instrument Payments that would have been required to be made absent any such limitation or reduction. By specifying that this Condition 24(p) is applicable, no inference should be made as to the interpretation of the “Not Contingent” Deliverable Obligation Characteristic in the context of limited recourse or similar terms applicable to Deliverable Obligations other than Qualifying Policies.
- (d) Deliver. For the purposes of the definition of “Deliver” in Condition 24(m), “Deliver” with respect to an obligation that is a Qualifying Policy means to Deliver both the Insured Instrument and the benefit of the Qualifying Policy (or a custodial receipt issued by an internationally recognised custodian representing an interest in such an Insured Instrument and the related Qualifying Policy), and “Delivery” and “Delivered” will be construed accordingly.

- (e) Provisions for Determining a Successor. The paragraph commencing “For the purposes of this definition of “Successor”...” in the definition of “Successor” in Condition 24(m) is hereby amended by adding “or insurer” after “or guarantor”.
- (f) Substitute Reference Obligation. The first paragraph of the definition of “Substitute Reference Obligation” and paragraph (b) thereof in Condition 24(m) is hereby amended by adding “or Qualifying Policy” after “or as provider of a Qualifying Affiliate Guarantee”. For the purposes of sub-paragraph (a)(ii)(B) the definition of “Substitute Reference Obligation” references to “the Qualifying Guarantee” and the “Underlying Obligation” shall be deemed to include “the Qualifying Policy” and “the Insured Instrument”, respectively.
- (g) Restructuring
  - (a) With respect to an Insured Instrument that is in the form of a pass-through certificate or similar funded beneficial interest or a Qualifying Policy with respect thereto, paragraphs (i) to (v) inclusive of the definition of “Restructuring” are hereby amended to read as follows:
    - “(i) a reduction in the rate or amount or the Instrument Payments in paragraph (A)(x) of the definition thereof that are guaranteed or insured by the Qualifying Policy;
    - (ii) a reduction in the amount of the Instrument Payments described in paragraph (A)(y) of the definition thereof that are guaranteed or insured by the Qualifying Policy;
    - (iii) a postponement or other deferral of a date or dates for either (x) the payment or accrual of the Instrument Payments described in paragraph (A)(x) of the definition thereof or (y) the payment of the Instrument Payments described in paragraph (A)(y) of the definition thereof, in each case that are guaranteed or insured by the Qualifying Policy;
    - (iv) a change in the ranking in priority of payment of (x) any Obligation under a Qualifying Policy in respect of Instrument Payments, causing the Subordination of such Obligation to any other Obligation or (y) any Instrument Payments, causing the Subordination of such Insured Instrument to any other instrument in the form of a pass-through certificate or similar funded beneficial interest issued by the Insured Obligor, it being understood that, for this purpose, Subordination will be deemed to include any such change that results in a lower ranking under a priority of payments provision applicable to the relevant Instrument Payments; or
    - (v) any change in the currency or composition of any payment of Instrument Payments that are guaranteed or insured by the Qualifying Policy to any currency which is not a Permitted Currency.”
  - (b) Paragraph (c) of the definition of “Restructuring” is hereby amended by adding “or, in the case of a Qualifying Policy and an Insured Instrument, where (A) the Qualifying Policy continues to guarantee or insure, as applicable, that the same Instrument Payments will be made on the same dates on which the Qualifying Policy guaranteed or insured that such Instrument Payments would be made prior to such event and (B) such event is not a change in the ranking in the priority of payment of the Qualifying Policy” after “Reference Entity”.
  - (c) The definition of “Restructuring” is hereby amended by the insertion of the following paragraph after the final paragraph thereof:
 

“For purposes of the definition of “Restructuring” and if Condition 24(o) is specified as applying in the applicable Final Terms, for the purposes of the Conditions the term Obligation shall be deemed to include Insured Instruments for which the Reference

Entity is acting as provider of a Qualifying Policy. In the case of a Qualifying Policy and an Insured Instrument, references to the Reference Entity in the definition of “Restructuring” shall be deemed to refer to the Insured Obligor and the references to the Reference Entity in paragraphs (a) to (c) inclusive in the definition of “Restructuring” shall continue to refer to the Reference Entity.”

- (h) Fully Transferable Obligation and Conditionally Transferable Obligation. In the event that “Restructuring Maturity Limitation and Fully Transferable Obligation” and/or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation” is specified as applying in the applicable Final Terms and a Fully Transferable Obligation or Conditionally Transferable Obligation is a Qualifying Policy, the Insured Instrument must meet the requirements of the relevant definition. References in the definition of “Conditionally Transferable Obligation” to the “guarantor” and “guaranteeing” shall be deemed to include “the “insurer” and “insuring” respectively. With respect to an Insured Instrument in the form of a pass-through certificate or similar funded beneficial interest, the term “final maturity date”, as such term is used in Condition 24(d) and the definition of “Restructuring Maturity Limitation Date”, shall mean the specified date by which the Qualifying Policy guarantees or insures, as applicable, that the ultimate distribution of the Certificate Balance will occur.
- (i) Other Provisions. For purposes of paragraph (a)(ii) of the definition of “Deliverable Obligation” and the definitions of “Credit Event” and “Deliver” in Condition 24(m) references to “the Underlying Obligation” and “the Underlying Obligor” shall be deemed to include “Insured Instruments” and the “Insured Obligor”, respectively.

(j) *Additional Definitions*

“Qualifying Policy” means a financial guaranty insurance policy or similar financial guarantee pursuant to which a Reference Entity irrevocably guarantees or insures all Instrument Payments of an instrument that constitutes Borrowed Money (modified as set forth in this Condition 24(m)) (the “Insured Instrument”) for which another party (including a special purpose entity or trust) is the obligor (the “Insured Obligor”). Qualifying Policies shall exclude any arrangement (i) structured as a surety bond, letter of credit or equivalent legal arrangement or (ii) pursuant to the express contractual terms of which the payment obligations of the Reference Entity can be discharged or reduced as a result of the occurrence or non-occurrence of an event or circumstance (other than the payment of Instrument Payments).

“Instrument Payments” means (A) in the case of any Insured Instrument that is in the form of a pass-through certificate or similar funded beneficial interest, (x) the specified periodic distributions in respect of interest or other return on the Certificate Balance on or prior to the ultimate distribution of the Certificate Balance and (y) the ultimate distribution of the Certificate Balance on or prior to a specified date and (B) in the case of any other Insured Instrument, the scheduled payments of principal and interest, in the case of both (A) and (B) (1) determined without regard to limited recourse or reduction provisions of the type described in Condition 24(n)(c) above and (2) excluding sums in respect of default interest, indemnities, tax gross-ups, make-whole amounts, early redemption premiums and other similar amounts (whether or not guaranteed or insured by the Qualifying Policy).

“Certificate Balance” means, in the case of an Insured Instrument that is in the form of a pass-through certificate or similar funded beneficial interest, the unit principal balance, certificate balance or similar measure of unreimbursed principal investment.

(q) *Supplement to provisions relating to Qualifying Guarantee and Underlying Obligation*

- (a) If Condition 24(q) is specified as applicable in the applicable Final Terms, Condition 24(m) shall be amended by:
  - (i) the deletion of the definition of “Downstream Affiliate” and the substitution of the following therefor:



“Downstream Affiliate” means an entity whose outstanding Voting Shares were, at the date of issuance of the Qualifying Guarantee, more than 50 per cent. owned, directly or indirectly, by the Reference Entity.”;

- (ii) the deletion of paragraphs (B)(4)(ii) and (B)(4)(iii) of the definition of “Deliverable Obligation”, the substitution of the following therefor and the re-numbering of the remaining paragraphs accordingly:

“(ii) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics, both the Qualifying Guarantee and the Underlying Obligation must satisfy on the relevant date each of the applicable Obligation Characteristics or Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms from the following list: Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency and Not Domestic Law. For these purposes, unless otherwise specified in the applicable Final Terms, (A) the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro shall not be a Domestic Currency and (B) the laws of England and the laws of the State of New York shall not be a Domestic Law.”; and

- (iii) the deletion of the definition of “Qualifying Guarantee” and the substitution of the following therefor:

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

- (b) Condition 24(o) shall be amended by the insertion of the following at the end of the first paragraph thereof:

“provided that any Obligation that is a Bond shall be deemed to satisfy the requirement in (ii) of the definition of “Multiple Holder Obligation” below”.

(r) ***Calculation Agent Notices***

Any notice to be delivered by the Calculation Agent to the Issuer or the Guarantor, as applicable, pursuant to this Condition 24 may be given in writing (including by facsimile and/or email) and/or by telephone. Any such notice delivered on or prior to 4.00 p.m. (Calculation Agent City time) on a Calculation Agent City Business Day will be effective on such Calculation Agent City Business Day. Any such notice delivered after 4.00 p.m. (Calculation Agent City time) on a Calculation Agent City Business Day or on a day which is not a Calculation Agent City Business Day will be deemed effective on the next following Calculation Agent City Business Day, regardless of the form in which it is delivered. For purposes of the two preceding sentences, a notice given by telephone will be deemed to have been delivered at the time the telephone conversation takes place. If the notice is delivered by telephone, a written confirmation will be executed and delivered confirming the substance of that notice within one Calculation Agent City Business Day of that notice. Failure to provide that written confirmation will not affect the effectiveness of that telephonic notice.



**SCHEDULE TO THE TERMS AND CONDITIONS OF THE NOTES  
(OTHER THAN UNDATED DEEPLY SUBORDINATED NOTES)**

**PART 1**

**FORM OF ASSET TRANSFER NOTICE**

*[For use in respect of Notes represented by a Global Note or Notes in definitive form]*

**[BES FINANCE LTD./BANCO ESPÍRITO SANTO, S.A.]<sup>1</sup>**

**[title of relevant Series of Notes]**

**issued pursuant to the**

**€20,000,000,000**

**Euro Medium Term Note Programme**

When completed, this Notice should be delivered (if the Note to which this Notice relates is represented by a Global Note) in such manner as is acceptable to Euroclear or Clearstream, Luxembourg, as the case may be, (which is expected to be by authenticated SWIFT message or by tested telex) to Euroclear or Clearstream, Luxembourg (as applicable) with a copy to the Issuer or (if the Note to which this Notice relates is in definitive form) in writing with the Note to any Paying Agent with a copy to the Issuer, as the case may be, in either case not later than the close of business in each place of reception on the Cut-Off Date.

[To: [Euroclear Bank S.A./N.V. 1 Boulevard du Roi Albert II B-1210 Brussels Belgium Attention: Custody Processing Department Telex: 61025 MGTEC B]*	[or: Clearstream Banking, <i>société anonyme</i> 42 Avenue JF Kennedy L-2967 Luxembourg Attention: OCE Department Telex: 2791]*] <sup>1</sup>
[To: [The Bank of New York Mellon, London Branch One Canada Square London E14 5AL Telefax: +44 20 7964 2536 Attention: Corporate Trust Administration]*	[or: The Bank of New York Mellon (Luxembourg) S.A. 2-4, rue Eugène Ruppert L-2453 Luxembourg Telefax: +352 34 2090 5630 Attention: Peter Bun]*] <sup>2</sup>
Copy: [Banco Espírito Santo, S.A. Avenida da Liberdade 195 1250 Lisbon Portugal Telefax: +351 213 501 180 Attention: Financial Markets and Research Department ]*	[or: BES Finance Ltd. PO Box 309, Ugland House Grand Cayman KY1-1104 Cayman Islands Telefax: +351 21 350 8687 Attention: International Debt Securities]*

**The Paying Agent with whom any definitive Notes are deposited will not in any circumstances be liable to the depositing Noteholder or any other person for any loss or damage arising from any act, default or omission of such Paying Agent in relation to the said definitive Notes or any of them unless such loss or damage was caused by the fraud or gross negligence of such Paying Agent or its directors, officers or employees.**

Failure properly to complete and deliver this Notice (in the determination of [[Euroclear/Clearstream, Luxembourg\*]<sup>1</sup>/the Issuer<sup>2</sup>]) may result in this Notice being treated as null and void.

Expressions defined in the Terms and Conditions of the Notes shall bear the same meanings herein.

I/We\*, the [Accountholder<sup>1</sup>/Noteholder<sup>2</sup>] specified in 1 below, being the holder of the Notes, request that Banco Espírito Santo, S.A./BES Finance Ltd.\* (the “Issuer”) deliver the relevant Asset Amount(s) to which I am/we are\* entitled in relation to such Notes, all in accordance with the Conditions.

1. **Name(s) and Address(es) of [Accountholder<sup>1</sup>/Noteholder<sup>2</sup>]**
2. **Details required for delivery of the relevant Asset Amount(s) as set out in applicable Final Terms**
3. **Name and address of person from whom details may be obtained for the delivery of the relevant Asset Amount**

**[4.] [Nominal amount of Notes subject of this Notice]<sup>1</sup>**

**[5.] [Instructions to Euroclear/Clearstream, Luxembourg\*]**

I/We\* hereby irrevocably authorise and instruct Euroclear/Clearstream, Luxembourg\* to debit the Note (s) referred to above from the Account referred to below on or before the Settlement Date.

Account

No:

Name: ]<sup>1</sup>

**[6.] Delivery Expenses**

I/We\* hereby irrevocably undertake to pay all Delivery Expenses in respect of the relevant Asset Amount(s) [and irrevocably authorise Euroclear/Clearstream, Luxembourg\* to debit my/our\* specified account at Euroclear/Clearstream, Luxembourg\* in respect thereof and to pay such Delivery Expenses]<sup>1</sup>

**[7.] Noteholder's [Euroclear/Clearstream, Luxembourg\*]<sup>1</sup> Account for payment of any amounts payable pursuant to Condition 24(j) or any other cash amount specified in the applicable Final Terms as being payable**

I/We\* hereby instruct that any amounts payable pursuant to Condition 24(j) or any other cash amount specified in the applicable Final Terms payable to me/us\* shall be credited to the [Euroclear/Clearstream, Luxembourg\*]<sup>1</sup> Account referred to below.

Account

No:

Name:

[Name and address of bank or institution  
at which such Account is held:]<sup>1</sup>

**[8.] Authorisation of production in proceedings**

I/We\* hereby authorise the production of this Notice in any administrative or legal proceedings instituted in connection with the Note or Notes to which this Notice relates.

Signed .....

Date .....

---

**Notes:**

- \* Delete as appropriate.
- Delete if the Note to which this Notice relates is in definitive form.
- Delete if the Note to which this Notice relates is represented by a Global Note.

**This Notice is not valid unless all of the paragraphs requiring completion are duly completed and, if the Notes which are the subject of this Notice are represented by a Global Note, this Notice is accompanied by evidence from either Euroclear or Clearstream, Luxembourg of the holder's entitlement to the Notes and that the holder's account with Euroclear or Clearstream, Luxembourg in which such Notes are held has been blocked. Once validly given this Notice is irrevocable except in any circumstances which may be set out in the Agency Agreement.**

**SCHEDULE TO THE TERMS AND CONDITIONS OF THE NOTES**  
**(OTHER THAN UNDATED DEEPLY SUBORDINATED NOTES)**

**PART 2**  
**FORM OF INTERBOLSA NOTES ASSET TRANSFER NOTICE**

*[For use in respect of Interbolsa Notes]*

**BANCO ESPÍRITO SANTO S.A.**

**€ [●] per cent. Interbolsa Notes due [●]**

**issued pursuant to the**  
**€20,000,000,000**  
**Euro Medium Term Note Programme**

When completed, this Notice should be delivered with the Certificate, in such manner as is acceptable to the Portuguese Paying Agent, to the Portuguese Paying Agent with a copy to the Issuer, not later than the close of business in each place of reception on the Cut-Off Date.

To: Banco Espírito Santo, S.A., as Portuguese Paying Agent  
Avenida da Liberdade 195  
1250 Lisbon  
Portugal  
Telefax: [+351 21 310 89 24]  
Attention: [Luis Miguel Aires]

Copy: [Banco Espírito Santo, S.A.  
Avenida da Liberdade 195  
1250 Lisbon  
Portugal  
Telefax: +351 213 501 180  
Attention: Financial Markets and  
Research Department ]\*

[or: BES Finance Ltd.  
PO Box 309, Ugland House  
Grand Cayman KY1-1104  
Cayman Islands  
Telefax: +351 21 350 8687  
Attention: International Debt  
Securities]\*

**The Portuguese Paying Agent with whom any Certificates are deposited will not in any circumstances be liable to the depositing Noteholder or any other person for any loss or damage arising from any act, default or omission of the Portuguese Paying Agent in relation to the said Certificates or any of them unless such loss or damage was caused by the fraud or gross negligence of the Portuguese Paying Agent or its directors, officers or employees.**

Failure properly to complete and deliver this Notice (in the determination of Portuguese Paying Agent) may result in this Notice being treated as null and void.

Expressions defined in the Terms and Conditions of the Notes shall bear the same meanings herein.

I/We\*, the Noteholder specified in 1 below, being the holder of the Notes, request that Banco Espírito Santo, S.A./BES Finance Ltd.\* (the "Issuer") deliver the relevant Asset Amount(s) to which I am/we are\* entitled in relation to such Notes, all in accordance with the Conditions.

- 1. Name(s) and Address(es) of Noteholder**
- 2. Details required for delivery of the relevant Asset Amount(s) as set out in applicable Final Terms**
- 3. Name and address of person from whom details may be obtained for the delivery of the relevant Asset Amount**
- 4. Nominal amount of Notes subject of this Notice**

## 5. Instructions to the Portuguese Paying Agent

I/We\* hereby irrevocably authorise and instruct the Portuguese Paying Agent to debit the Interbolsa Note(s) referred to above from the Account referred to below on or before the Settlement Date.

Account

No:

Name: ]

## 6. Delivery Expenses

I/We\* hereby irrevocably undertake to pay all Delivery Expenses in respect of the relevant Asset Amount(s) [and irrevocably authorise the Portuguese Paying Agent to debit my/our\* specified individual account specified below in respect thereof and to pay such Delivery Expenses]1

Account

No:

Name:

[Name and address of bank or institution  
at which such Account is held:]

## 7. Noteholder's details for payment of any amounts payable pursuant to Condition 24(j) or any other cash amount specified in the applicable Final Terms as being payable

I/We\* hereby instruct that any amounts payable pursuant to Condition 24(j) or any other cash amount specified in the applicable Final Terms payable to me/us\* shall:

[(a) be credited to the Account referred to below.

Account

No:

Name:

[Name and address of bank or institution  
at which such Account is held:]; or

(b) be sent by [*currency*] cheque drawn on a bank in [*currency centre*] and in favour of [*name of payee*] and mailed at the payee's risk by uninsured airmail post to [*name of addressee*] at [*addressee's address*].]\*

## 8. Authorisation of production in proceedings

I/We\* hereby authorise the production of this Notice in any administrative or legal proceedings instituted in connection with the Note or Notes to which this Notice relates.

Signed

Date

---

### Notes:

\* Delete as appropriate.

**This Notice is not valid unless all of the paragraphs requiring completion are duly completed and, if the Notes which are the subject of this Notice are represented by a Global Note, this Notice is accompanied by evidence from either Euroclear or Clearstream, Luxembourg of the holder's entitlement to the Notes and that the holder's account with Euroclear or Clearstream, Luxembourg in which such Notes are held has been blocked. Once validly given this Notice is irrevocable except in any circumstances which may be set out in the Agency Agreement.**

## TERMS AND CONDITIONS OF THE UNDATED DEEPLY SUBORDINATED NOTES

*The following are the Terms and Conditions of the Undated Deeply Subordinated Notes (the “Notes” or the “Undated Deeply Subordinated Notes”) which will be incorporated by reference into each Note cleared by LCH Clearnet, S.A. the clearing system operated at Interbolsa – Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários S.A., each global Note and each definitive Note, in the latter case only if permitted by the rules of the relevant stock exchange or other relevant authority (if any) and agreed by Banco Espírito Santo, S.A. and the relevant Dealer at the time of issue. If not so permitted and agreed, such definitive Note will have endorsed thereon or attached thereto such Terms and Conditions. The applicable Final Terms in relation to any Tranche of Notes may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the following Terms and Conditions, replace or modify the following Terms and Conditions for the purpose of such Notes. The applicable Final Terms (or the relevant provisions thereof) will be endorsed upon, or attached to, each temporary global Note, permanent global Note and definitive Note and will be incorporated into and applicable to each Interbolsa Note (as defined below). Reference should be made to “Form of the Notes” above for the form of the Final Terms which will include the definitions of certain terms used in the following Terms and Conditions or specify which of such terms are to apply in relation to the relevant Notes.*

This Note may only be issued by Banco Espírito Santo, S.A. (the “Bank”) acting through its head office and is one of a Series (as defined below) of Notes issued by the Bank as specified in the applicable Final Terms constituted, except in the case of Interbolsa Notes (as defined below), by a Trust Deed dated 3rd February, 1997 (such Trust Deed as modified and/or supplemented and/or restated from time to time, the “Trust Deed”) made between the Bank and BES Finance Ltd. (“BES Finance”), the Bank in its capacity as guarantor of Notes (other than Undated Deeply Subordinated Notes) issued by BES Finance (in such capacity, the “Guarantor”) and The Bank of New York Mellon (formerly J.P. Morgan Trustee and Depositary Company Limited and Chase Manhattan Trustees Limited) (the “Trustee”, which expression shall wherever the context permits include all other persons or companies for the time being acting as trustee under the Trust Deed). Interbolsa Notes are constituted by entries in the individual securities accounts opened by Noteholders with the Affiliate Members of Interbolsa (as defined below).

References herein to the “Notes” or to “Undated Deeply Subordinated Notes” shall be references to the Notes of this Series and shall mean:

- (i) in relation to any Notes represented by a global Note, units of each Specified Denomination in the Specified Currency;
- (ii) definitive Notes issued in exchange for a global Note;
- (iii) any global Note; and
- (iv) Notes held through *Interbolsa – Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários, S.A.* (“Interbolsa”) (each an “Interbolsa Note”).

The Notes (other than Interbolsa Notes) and the Coupons (as defined below) also have the benefit of an amended and restated Agency Agreement (the “Principal Agency Agreement”) dated 29th May, 2012 made among the Bank and BES Finance, the Guarantor, the Trustee, The Bank of New York Mellon (formerly JPMorgan Chase Bank, N.A.) as issuing and principal paying agent and agent bank (the “Agent”, which expression shall include any successor agent specified in the applicable Final Terms) and the other paying agents named therein. The Interbolsa Notes have the benefit of the Principal Agency Agreement, as amended by an amendment agreement (the “Interbolsa Notes Agency Agreement”) dated 29th May, 2012 made among the Bank, the Guarantor, the Trustee, the Agent, the Bank acting through its head office acting as paying agent in Portugal (the “Portuguese Paying Agent” which expression shall include any successor Portuguese Paying Agent) and the other paying agents named therein (together with the Agent, the Portuguese Paying Agent and the other paying agents named in the Principal Agency Agreement, the “Paying Agents”, which expression shall include any additional or successor paying agents) and of the common representative appointment agreement dated 29th May, 2012 such agreement as amended and/or supplemented and/or restated from time to time (the “Common Representative Appointment Agreement”) made between the



Bank, and Vieira de Almeida & Associados – Sociedade de Advogados R.L., as common representative of the holders of Interbolsa Notes (*representante comum dos obrigacionistas*) (the “Common Representative”).

Interest bearing definitive Notes (unless otherwise indicated in the applicable Final Terms) have interest coupons (“Coupons”) and, if indicated in the applicable Final Terms, talons for further Coupons (“Talons”) attached on issue. Any reference herein to Coupons or coupons shall, unless the context otherwise requires, be deemed to include a reference to Talons or talons. Neither Interbolsa Notes nor global Notes have Coupons or Talons attached on issue.

The Final Terms for this Note (or the relevant provisions thereof) are set out in Part A of the Final Terms attached to, endorsed on or incorporated into this Note which supplement these Terms and Conditions and may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with these Terms and Conditions, replace or modify these Terms and Conditions for the purposes of this Note. References herein to the “applicable Final Terms” are to Part A of the Final Terms (or the relevant provisions thereof) attached to, endorsed on or incorporated into this Note.

Any reference to “Noteholders” or “holders” in relation to any Notes shall mean (i) in the case of bearer Notes other than Interbolsa Notes, the holders of the global Notes and definitive Notes and shall, in relation to any Notes represented by a global Note, be construed as provided below or (ii) in the case of Interbolsa Notes, each person shown in the book-entry records of a financial institution, which is licensed to act as a financial intermediary under the Portuguese Securities Code (“*Código dos Valores Mobiliários*”) (the “Portuguese Securities Code”) and which is entitled to hold control accounts with Interbolsa on behalf of their customers (and includes any depositary banks appointed by Euroclear and/or Clearstream, Luxembourg for the purpose of holding accounts on behalf of Euroclear and/or Clearstream, Luxembourg) (each such institution an “Affiliate Member of Interbolsa”), as having an interest in the principal amount of the Interbolsa Notes. Any reference herein to “Couponholders” shall mean the holders of the Coupons and shall, unless the context otherwise requires, include the holders of the Talons.

The Trustee acts for the benefit of the holders of the Notes, other than Interbolsa Notes, and for the Couponholders, all in accordance with the provisions of the Trust Deed. The holders of Interbolsa Notes shall at all times be entitled, by means of an Extraordinary Resolution, to appoint and dismiss a Common Representative to act as their common representative, as further described in Condition 21 (*Common Representative*).

As used herein, “Tranche” means Notes which are identical in all respects (including as to listing and admission to trading) and “Series” means a Tranche of Notes together with any further Tranche or Tranches of Notes which are (i) expressed to be consolidated and form a single series and (ii) identical in all respects (including as to listing and admission to trading) except for their respective Issue Dates, Interest Commencement Dates and/or Issue Prices.

Copies of the Trust Deed, the Principal Agency Agreement, the Interbolsa Notes Agency Agreement and the Common Representative Appointment Agreement are available for inspection at, and a copy of the applicable Final Terms may be obtained from, the specified office of each of the Trustee (being as at 29th May, 2012 at One Canada Square, London E14 5AL, the Agent, the Paying Agent whose specified office is in Luxembourg (in relation to any Notes listed on the Official List of the Luxembourg Stock Exchange) and the other Paying Agents during normal business hours save that, if this Note is neither admitted to trading on a regulated market in the European Economic Area nor offered in the European Economic Area in circumstances where a prospectus is required to be published under the Prospectus Directive, the applicable Final Terms will only be obtainable by a Noteholder holding one or more Notes and such Noteholder must produce evidence satisfactory to the Bank and the Trustee or, as the case may be, and the relevant Paying Agent as to its holding of such Notes and identity. In the case of bearer Notes other than Interbolsa Notes, the Noteholders, the Couponholders are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Trust Deed, the Principal Agency Agreement and the applicable Final Terms which are applicable to them. In the case of Interbolsa Notes, the Noteholders are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Principal Agency Agreement, to the extent amended by the Interbolsa Notes Agency Agreement and the applicable Final Terms which are applicable to them.

Words and expressions defined in the Trust Deed or the Principal Agency Agreement or used in the applicable Final Terms shall have the same meanings where used in these Terms and Conditions unless the context otherwise requires or unless otherwise stated and provided that, in the event of inconsistency between the Trust Deed and the Principal Agency Agreement, the Principal Agency Agreement will prevail in respect of Interbolsa Notes and the Trust Deed will prevail in all other cases and, in the event of inconsistency between the Trust Deed or the Principal Agency Agreement and the applicable Final Terms, the applicable Final Terms will prevail.

## **1. Form, Denomination, Title and Transfer**

The Notes other than Interbolsa Notes are in bearer form. Interbolsa Notes are in book-entry form (“*forma escritural*”) and can be either registered notes (*nominativas*) (in which case Interbolsa, at the Bank’s request can ask the Affiliate Members of Interbolsa for information regarding the identity of the Noteholders and transmit such information to the Bank) or bearer notes (*ao portador*) (in which case Interbolsa cannot inform the Bank of the identity of the Noteholders), as specified in the applicable Final Terms. Definitive Notes shall be serially numbered, and in the Specified Currency and the Specified Denomination(s). Notes of one Specified Denomination may not be exchanged for Notes of another Specified Denomination.

This Note is an Undated Deeply Subordinated Note, as indicated in the applicable Final Terms.

This Note may be a Fixed Rate Note, a Floating Rate Note, an Index Linked Interest Note, a Dual Currency Interest Note or a combination of any of the foregoing, depending upon the Interest Basis shown in the applicable Final Terms.

Definitive Notes are issued with Coupons attached, and if applicable Talons for further Coupons

Subject as set out below, title to the Notes (except Interbolsa Notes) and Coupons will pass by delivery. The Bank, the Trustee and any Paying Agent may deem and treat the bearer of any such Note or Coupon as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) for all purposes but, in the case of any global Note, without prejudice to the provisions set out in the next succeeding paragraph.

For so long as any of the Notes is represented by a global Note held on behalf of Euroclear S.A./ N.V. (“Euroclear”) and/or Clearstream Banking, société anonyme (“Clearstream, Luxembourg”) each person (other than Euroclear or Clearstream, Luxembourg) who is for the time being shown in the records of Euroclear or of Clearstream, Luxembourg as the holder of a particular nominal amount of such Notes (in which regard any certificate or other document issued by Euroclear or Clearstream, Luxembourg as to the nominal amount of such Notes standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest error) shall be treated by, the Bank, the Trustee and any Paying Agent as the holder of such nominal amount of such Notes for all purposes other than with respect to the payment of principal or interest on the Notes, for which purpose the bearer of the relevant global Note shall be treated by the the Bank, the Trustee and any Paying Agent as the holder of such nominal amount of such Notes in accordance with and subject to the terms of the relevant global Note and the Trust Deed and the expressions “Noteholder” and “holder of Notes” and related expressions shall be construed accordingly. Notes which are represented by a global Note will be transferable only in accordance with the rules and procedures for the time being of Euroclear or of Clearstream, Luxembourg, as the case may be.

References to Euroclear and/or Clearstream, Luxembourg and/or Interbolsa shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system approved by the Bank, the Trustee (except in respect of references to Interbolsa), the Common Representative (in respect of references to Interbolsa only) and the Agent or specified in the applicable Final Terms.

Title to the Interbolsa Notes will be evidenced by book-entries in accordance with the Portuguese Securities Code and the regulations issued by *Comissão do Mercado de Valores Mobiliários* (Portuguese Securities Market Commission, the “CMVM”), by Interbolsa or otherwise applicable thereto. Each person shown in the book-entry records of financial institutions, which are licensed to act as financial intermediaries and which are entitled to hold control accounts with Interbolsa on behalf of their customers and which include

any depository banks appointed by Euroclear and Clearstream, Luxembourg for the purpose of holding accounts on behalf of Euroclear and Clearstream, Luxembourg (each such institution an “Affiliate Member of Interbolsa”), as having an interest in the Interbolsa Notes shall be the holder of the principal amount of the Interbolsa Notes recorded.

Title to the Interbolsa Notes is subject to compliance with all rules, restrictions and requirements applicable to the activities of Interbolsa.

One or more certificates in relation to the Interbolsa Notes (each, a “Certificate”) will be delivered by the relevant financial intermediary through which Interbolsa Notes are held in individual securities accounts in respect of a registered holding of Interbolsa Notes upon the request by the relevant Noteholder and in accordance with that financial intermediary’s procedures pursuant to article 78 of the Portuguese Securities Code.

The Interbolsa Notes will be registered in the relevant control issue account of the Bank with Interbolsa and will be held in control accounts by each Affiliate Member of Interbolsa on behalf of the Noteholders. Such control accounts will reflect at all times the aggregate number of Interbolsa Notes held in individual securities accounts opened with the Affiliate Members of Interbolsa by Noteholders, which are clients of the Affiliate Members of Interbolsa and include Euroclear and Clearstream, Luxembourg.

The person or entity registered in the relevant individual securities accounts of an Affiliate Member of Interbolsa book-entry registry of the *Central de Valores Mobiliários* (the “Book-Entry Registry” and each such entry therein, a “Book Entry”) as the holder of any Interbolsa Note shall (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any other interest therein).

The Bank and the Paying Agents may (to the fullest extent permitted by applicable law) deem and treat the person or entity registered in the Book-Entry Registry as the holder of any Interbolsa Note and the absolute owner for all purposes. Proof of such registration is made by means of a Certificate issued by the relevant financial intermediary through which Interbolsa Notes are held in individual securities accounts pursuant to article 78 of the Portuguese Securities Code.

No Noteholder will be able to transfer Interbolsa Notes, or any interest therein, except in accordance with Portuguese law and regulations. Interbolsa Notes may only be transferred in accordance with the applicable procedures established by the Portuguese Securities Code and the regulations issued by the CMVM and Interbolsa.

## **2. Status of the Notes**

### **(a) Status and Subordination of the Undated Deeply Subordinated Notes.**

- (i) The Undated Deeply Subordinated Notes and any relative Coupons relating thereto constitute direct, unsecured and, in accordance with paragraph (iii) below, subordinated obligations of the Bank and rank *pari passu* without any preference among themselves.
- (ii) The proceeds of the issue of the Undated Deeply Subordinated Notes will be treated for regulatory purposes as original own funds (*fundos próprios de base*) of the Bank. *Fundos próprios de base* (“original own funds” or “Tier 1 Capital”) shall have the meaning given to it in Article 5 and 17-A of *Aviso do Banco de Portugal n.º 12/92*, as amended issued by the Bank of Portugal, or otherwise recognised as *fundos próprios de base* by the Bank of Portugal, or any successor supervisory authority.
- (iii) In the event of bankruptcy or winding up of the Bank the holders of the Undated Deeply Subordinated Notes will be entitled to receive payment of the then outstanding nominal amount of the Undated Deeply Subordinated Notes – i.e., of the nominal amount prevailing at the relevant time after redenomination(s), if any, applied according to Condition 2(b) (*Loss Absorption*) – plus accrued interest, if any, on such nominal amount from and including the Issue Date (if such event occurs in the first Interest Period after the Issue Date) or the preceding

Interest Payment Date on which interest was either paid or cancelled pursuant to Condition 4(d) (*Interest Cancellation*) (if such event occurs after the first Interest Period), to the extent that there are available funds to this effect after payment to the higher ranking creditors of the Bank as described below. The claims of the holders of the Undated Deeply Subordinated Notes and the Coupons relating thereto (if any) will, in the event of the bankruptcy or winding up of the Bank, be subordinated in right of payment in the manner provided herein, and will:

- A. be subordinated to the claims of Senior Creditors of the Bank (as defined below). For the purpose of this sub-paragraph (iii), **Senior Creditors of the Bank** means creditors (1) who are unsubordinated creditors of the Bank; or (2) who are subordinated creditors of the Bank (including the holders of Dated Subordinated Notes and of Undated Subordinated Notes (each as defined in the Trust Deed) and Coupons relating thereto (if any)) other than those whose claims rank, or are expressed to rank, *pari passu* with or junior to the claims of the holders of the Undated Deeply Subordinated Notes and the Coupons relating thereto (if any) (whether only in the event of a bankruptcy or winding up of the Bank or otherwise);
- B. be subordinated to all other responsibilities of the Bank, including any undated subordinated debt of the Bank, to which a higher ranking has been assigned (except for the credits arising from any other guarantee or contractual obligation of the Bank which has expressly been ranked equally or junior to the Undated Deeply Subordinated Notes;
- C. rank equally with the credits arising from the Bank's preferential shares (if any) and any other obligations of the Bank which are or are expressed to be equally ranking with the Undated Deeply Subordinated Notes and the Coupons relating thereto, if any; and
- D. rank in priority to any payments in respect of the ordinary share capital of the Bank (including, if any, ordinary shares resulting from conversion of other instruments into ordinary share capital, upon such conversion having occurred) and of any other securities ranking or expressed to rank junior to the Undated Deeply Subordinated Notes, if any.

In the event of liquidation, bankruptcy or analogous proceedings of the Bank, no Noteholder (having a debt or a liability towards the Bank) may exercise any set-off or other similar rights against any amounts held by the Bank.

Without prejudice to the foregoing, the Undated Deeply Subordinated Notes will, in the event of a distribution of the assets in the dissolution or liquidation of the Bank, rank senior to the ordinary share capital of the Bank and *pari passu* with the entitlements of holders of preferential shares of the Bank.

(b) ***Loss Absorption***

Any amounts which, but for the provisions of Condition 4(d) (*Interest Cancellation*) or, as the case may be, the insolvency of the Bank, would be payable as principal or interest under the Undated Deeply Subordinated Notes will be available and may be used to absorb any losses of the Bank, in order to allow the Bank to continue its business activities (in accordance with the Regulation of the Bank of Portugal 12/92, as amended) as detailed below, further to a decision of the General Meeting of Shareholders, the Board of Directors or the Executive Committee of the Bank, as the case may be, or a direction received from the Bank of Portugal, taking into account the financial and solvency condition of the Bank.

In the above circumstances where unpaid principal and interest may be used to meet the losses of the Bank, the unpaid nominal amounts of interest first and then principal will be written down and utilised to the extent that may be necessary to meet the losses of the Bank. The Issuer will notify Interbolsa of any such reduction and the nominal amount of each Undated Deeply Subordinated Note will be reduced in the records of Interbolsa accordingly.

The reduction in the nominal amount of the Undated Deeply Subordinated Notes may take place whenever the Bank is at risk of noncompliance with the Own Funds Requirements Regulations, at an individual or consolidated level as appropriate, in the opinion of either the Bank or the Bank of Portugal taking into account the most recently available reports from the Bank of Portugal regarding the Bank's compliance with the Own Funds Requirements Regulations and all subsequent available information. Such reduction will be effected proportionally between the nominal amount of the Undated Deeply Subordinated Notes, instruments also eligible as Tier 1 Capital subject to limits ranking *pari passu* therewith and the shareholders' capital (equity items attributable to shareholders including share capital and respective share premiums, reserves and other retained earnings, profit and losses and other comprehensive income) of the Bank on a *pro rata* basis. Notwithstanding any other provision, the nominal amount of each Undated Deeply Subordinated Note shall never be reduced to an amount lower than euro 0.01.

In these Terms and Conditions, "Regulatory Capital" means the capital required to allow the Bank to comply with the capitalization requirements at any time applicable to credit institutions in Portugal, and calculated in accordance with Regulation of the Bank of Portugal 12/92, as amended.

Subject to prior approval of the Bank of Portugal, the nominal amount of the Undated Deeply Subordinated Notes so reduced can only be reinstated and registered as a subordinated credit as if it had never been reduced to the extent that the Bank's Regulatory Capital registers a positive variation resulting from an improvement in the Bank's financial condition as a consequence of gains obtained in the course of the Bank's activities, such reinstatement being made proportionally between the outstanding nominal amount of the Undated Deeply Subordinated Notes, and other instruments also eligible as Tier 1 Capital subject to limits ranking *pari passu* therewith and the shareholders' capital on a *pro rata* basis. In the above cases and at all times, the reinstated amounts previously written down will revert to being treated as subordinated credits of the corresponding holders with the same level of subordination as before being written down.

Without prejudice to the following paragraph, in the determination of the proportional amount to allocate to the Undated Deeply Subordinated Notes, the losses (being the negative variation in the Regulatory Capital ratio resulting from a deterioration of the Bank's financial condition as a consequence of losses incurred in the course of the Bank's activities) or the gains (being the positive variation in the Regulatory Capital ratio resulting from an improvement of the Bank's financial condition as a consequence of gains obtained in the course of the Bank's activities), as the case may be, will be multiplied by the quotient of (i) the nominal amount of the Undated Deeply Subordinated Notes and (ii) the sum of this nominal amount with the then existing nominal amount of other undated deeply subordinated notes, other instruments also eligible as Tier 1 Capital subject to limits and shareholders' capital. The determination of the proportional amount is based in individual or consolidated level, as appropriate and is determined at the discretion of the Bank or the Bank of Portugal, as the case may be, such determination being final, binding and conclusive.

The reinstatement of the previously reduced nominal amount of the Undated Deeply Subordinated Notes shall be made taking into account the existing elements that count for the denominator of the quotient referred to above immediately prior to such reinstatement, regardless of the fact that such elements at the time of the reduction could have been of a different amount.

During any period of writing down of the nominal amount of Undated Deeply Subordinated Notes pursuant to Condition 2(b) (*Loss Absorption*) and until such nominal amount has been reinstated in full and registered as a subordinated credit as if it had never been written down, the written down nominal amount of Undated Deeply Subordinated Notes shall not bear interest.

Whenever the nominal amount of the Undated Deeply Subordinated Notes is written down and/or reinstated in accordance with the provisions above (and, for the avoidance of doubt, this mechanism may be applied by the Bank as many times as it may be deemed necessary, subject only to the limit of euro 0.001 per Undated Deeply Subordinated Note) the Bank will publish, or cause to be published, notices informing the holders of Undated Deeply Subordinated Notes of such write down or reinstatement in accordance with the provision of Condition 13 (*Notices*).



### 3. Negative Pledge

There is no negative pledge in respect of the Undated Deeply Subordinated Notes.

### 4. Interest and Interest Cancellation

Payments of interest on the Undated Deeply Subordinated Notes will occur in accordance with the provisions of this Condition 4 (*Interest and Interest Cancellation*) and will be subject to a discretionary decision of the Board of Directors or the Executive Committee of the Bank, as the case may be, as specified in paragraph (d) below (*Interest Cancellation*), without prejudice to the provisions of subparagraphs (d) (ii) (second paragraph) (*No Obligation to Pay Interest*) and (iii) (*Priority of Interest*) below. If the Board of Directors or the Executive Committee of the Bank, as the case may be, decides not to make an interest payment on any Interest Payment Date, the amount of such interest payment will not be due, and will be forfeited in accordance with subparagraph (d) of this Condition 4 (*Interest and Interest Cancellation*).

#### (a) *Interest on Fixed Rate Notes*

Subject to the provisions of Condition 4(d) (*Interest Cancellation*), each Fixed Rate Note bears interest from (and including) the Interest Commencement Date at the rate(s) per annum equal to the Rate(s) of Interest. Subject to the provisions of Condition 4(d) (*Interest Cancellation*), interest will be payable in arrear on the Interest Payment Date(s) in each year. For so long as any of the Fixed Rate Notes is represented by a global Note held on behalf of Clearstream, Luxembourg and/or Euroclear, interest will be paid to Clearstream, Luxembourg and Euroclear for distribution by them to entitled accountholders in accordance with their usual rules and operating procedures. Interest on Fixed Rate Notes which are Interbolsa Notes will be paid to the Affiliate Members of Interbolsa for distribution by them to the accounts of entitled Noteholders in accordance with Interbolsa's usual rules and operating procedures.

If the Notes are in definitive form, except as provided in the applicable Final Terms, the amount of interest payable on each Interest Payment Date in respect of the Fixed Interest Period ending on (but excluding) such date will amount to the Fixed Coupon Amount. Payments of interest on any Interest Payment Date will, if so specified in the applicable Final Terms, amount to the Broken Amount so specified.

As used in these Terms and Conditions, "Fixed Interest Period" means the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date.

Except in the case of Notes in definitive form where an applicable Fixed Coupon Amount or Broken Amount is specified in the applicable Final Terms, interest shall be calculated in respect of any period by applying the Rate of Interest to:

- (A) in the case of Fixed Rate Notes which are either Interbolsa Notes or are represented by a global Note held on behalf of Clearstream, Luxembourg and/or Euroclear, the full nominal amount outstanding of the Fixed Rate Notes; or
- (B) in the case of Fixed Rate Notes in definitive form, the Calculation Amount; and, in each case, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Fixed Rate Note in definitive form is a multiple of the Calculation Amount, the amount of interest payable in respect of such Fixed Rate Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding.



“Day Count Fraction” means, in respect of the calculation of an amount of interest in accordance with this Condition 4(a) (*Interest on Fixed Rate Notes*):

- (i) if “Actual/Actual (ICMA)” is specified in the applicable Final Terms:
  - (A) in the case of Notes where the number of days in the relevant period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (the “Accrual Period”) is equal to or shorter than the Determination Period during which the Accrual Period ends, the number of days in such Accrual Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates (as specified in the applicable Final Terms) that would occur in one calendar year; or
  - (B) in the case of Notes where the Accrual Period is longer than the Determination Period during which the Accrual Period ends, the sum of:
    - (1) the number of days in such Accrual Period falling in the Determination Period in which the Accrual Period begins divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates (as specified in the applicable Final Terms) that would occur in one calendar year; and
    - (2) the number of days in such Accrual Period falling in the next Determination Period divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates that would occur in one calendar year; and
- (ii) if “30/360” is specified in the applicable Final Terms, the number of days in the period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (such number of days being calculated on the basis of a year of 360 days with 12 30-day months) divided by 360.

In these Terms and Conditions:

“Determination Period” means the period from (and including) a Determination Date to (but excluding) the next Determination Date (including, where either the Interest Commencement Date or the final Interest Payment Date is not a Determination Date, the period commencing on the first Determination Date prior to, and ending on the first Determination Date falling after, such date); and

“sub-unit” means, with respect to any currency other than euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, with respect to euro, means one cent.

(b) ***Interest on Floating Rate Notes and Index Linked Interest Notes***

(i) ***Interest Payment Dates***

Subject to the provisions of Condition 4(d) (*Interest Cancellation*), each Floating Rate Note and Index Linked Interest Note bears interest from (and including) the Interest Commencement Date and such interest will be payable in arrear on either:

- (A) the Specified Interest Payment Date(s) in each year specified in the applicable Final Terms; or
- (B) if no Specified Interest Payment Date(s) is/are specified in the applicable Final Terms, each date (each such date, together with each Specified Interest Payment Date, an “Interest Payment Date”) which falls on the number of months or other period specified as the Specified Period in the applicable Final Terms after the preceding Interest

Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date. Such interest will be payable in respect of each Interest Period (which expression shall, in these Terms and Conditions, mean the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date). For so long as any of the Floating Rate Notes or Index Linked Interest Notes is represented by a global Note held on behalf of Clearstream, Luxembourg and/or Euroclear, interest will be paid to Clearstream, Luxembourg and Euroclear for distribution by them to entitled accountholders in accordance with their usual rules and operating procedures. Interest on Floating Rate Notes or Index Linked Interest Notes which are Interbolsa Notes will be paid to the Affiliate Members of Interbolsa for distribution by them to the accounts of entitled Noteholders in accordance with Interbolsa's usual rules and operating procedures.

If a Business Day Convention is specified in the applicable Final Terms and (x) there is no numerically corresponding day in the calendar month on which an Interest Payment Date should occur or (y) if any Interest Payment Date would otherwise fall on a day which is not a Business Day, then, if the Business Day Convention specified is:

- (1) in any case where Specified Periods are specified in accordance with Condition 4(b)(i)(B), the Floating Rate Convention, such Interest Payment Date (i) in the case of (x) above, shall be the last day that is a Business Day in the relevant month and the provisions of (B) below shall apply *mutatis mutandis* or (ii) in the case of (y) above, shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event (A) such Interest Payment Date shall be brought forward to the immediately preceding Business Day and (B) each subsequent Interest Payment Date shall be the last Business Day in the month which falls the Specified Period after the preceding applicable Interest Payment Date occurred; or
- (2) the Following Business Day Convention, such Interest Payment Date shall be postponed to the next day which is a Business Day; or
- (3) the Modified Following Business Day Convention, such Interest Payment Date shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such Interest Payment Date shall be brought forward to the immediately preceding Business Day; or
- (4) the Preceding Business Day Convention, such Interest Payment Date shall be brought forward to the immediately preceding Business Day.

In these Terms and Conditions, "Business Day" means a day which is both:

- (A) 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 Lisbon in the case of Interbolsa Notes and any Additional Business Centre specified in the applicable Final Terms; and
- (B) either (1) in relation to any sum payable in a Specified Currency other than euro, 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 principal financial centre of the country of the relevant Specified Currency (which if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively), or (2) in relation to any sum payable in euro, a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System (the "TARGET2 System") is open.

Interest will be paid subject to and in accordance with the provisions of Condition 5 (*Payments*).

(ii) *Rate of Interest*

The Rate of Interest payable from time to time in respect of Floating Rate Notes and Index Linked Interest Notes will be determined in the manner specified in the applicable Final Terms.

- (A) ISDA Determination for Floating Rate Notes where ISDA Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will be the relevant ISDA Rate plus or minus (as indicated in the applicable Final Terms) the Margin (if any). For the purposes of this sub-paragraph (A), “ISDA Rate” for an Interest Period means a rate equal to the Floating Rate that would be determined by the Agent or other person specified in the applicable Final Terms under an interest rate swap transaction if the Agent or that other person were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the 2006 ISDA Definitions (as published by the International Swaps and Derivatives Association, Inc. and amended and updated as at the Issue Date of the first Tranche of Notes and as published by the International Swaps and Derivatives Association, Inc. (the “ISDA Definitions”)) and under which:
- (1) the Floating Rate Option is as specified in the applicable Final Terms;
  - (2) the Designated Maturity (if any) is a period specified in the applicable Final Terms; and
  - (3) the relevant Reset Date is either (i) if the applicable Floating Rate Option is based on the London inter-bank offered rate (“LIBOR”) or on the Euro-zone inter-bank offered rate (“EURIBOR”) for a currency, the first day of that Interest Period or (ii) in any other case, as specified in the applicable Final Terms.

For the purposes of this sub-paragraph (A), “Euro-zone”, “Floating Rate”, “Calculation Agent”, “Floating Rate Option”, and “Reset Date” have the meanings given to those terms in the ISDA Definitions.

Unless otherwise stated in the applicable Final Terms the Minimum Rate of Interest shall be deemed to be zero.

When this sub-paragraph (A) applies, in respect of each relevant Interest Period the Agent will be deemed to have discharged its obligations under Condition 4(b)(ii) in respect of the determination of the Interest Rate if it has determined the Rate of Interest in respect of such Interest Period in the manner provided in this sub-paragraph (A).

- (B) Screen Rate Determination for Floating Rate Notes Where Screen Rate Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will, subject as provided below, be either:
- (1) the offered quotation; or
  - (2) the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations, (expressed as a percentage rate per annum) for the Reference Rate which appears or appear, as the case may be, on the Relevant Screen Page as at 11.00 a.m. (London time, in the case of LIBOR, or Brussels time, in the case of EURIBOR) on the Interest Determination Date in question plus or minus (as indicated in the applicable Final Terms) the Margin (if any), all as determined by the Agent. If five or more of such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Agent for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations.

The Principal Agency Agreement contains provisions for determining the Rate of Interest in the event that the Relevant Screen Page is not available or if, in the case of (1) above, no such quotation appears or, in the case of (2) above, fewer than three such offered quotations appear, in each case as at the time specified in the preceding paragraph.

If the Reference Rate from time to time in respect of Floating Rate Notes is specified in the applicable Final Terms as being other than LIBOR or EURIBOR, the Rate of Interest in respect of such Notes will be determined as provided in the applicable Final Terms.

(iii) *Minimum Rate of Interest and/or Maximum Rate of Interest*

If the applicable Final Terms specifies a Minimum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of paragraph (ii) above is less than such Minimum Rate of Interest, the Rate of Interest for such Interest Period shall be such Minimum Rate of Interest.

If the applicable Final Terms specifies a Maximum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of paragraph (ii) above is greater than such Maximum Rate of Interest, the Rate of Interest for such Interest Period shall be such Maximum Rate of Interest.

(iv) *Determination of Rate of Interest and Calculation of Interest Amounts*

The Agent, in the case of Floating Rate Notes, and the Calculation Agent, in the case of Index Linked Interest Notes, will at or as soon as practicable after each time at which the Rate of Interest is to be determined, determine the Rate of Interest for the relevant Interest Period. In the case of Index Linked Interest Notes, the Calculation Agent will notify the Agent of the Rate of Interest for the relevant Interest Period as soon as practicable after calculating the same.

The Agent will calculate the amount of interest (the “Interest Amount”) payable on the Floating Rate Notes or Index Linked Interest Notes for the relevant Interest Period by applying the Rate of Interest to:

- (A) in the case of Floating Rate Notes or Index Linked Interest Notes which are either Interbolsa Notes or are represented by a global Note held on behalf of Clearstream, Luxembourg and/or Euroclear, the full nominal amount outstanding of the relevant Notes; or
- (B) in the case of Floating Rate Notes or Index Linked Interest Notes in definitive form, the Calculation Amount;

and, in each case, multiplying such sum by the applicable Day Count Fraction and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Floating Rate Note or an Index Linked Interest Note in definitive form is a multiple of the Calculation Amount, the Interest Amount payable in respect of such Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding.

“Day Count Fraction” means, in respect of the calculation of an amount of interest for any Interest Period:

- (i) if “Actual/Actual” or “Actual/Actual (ISDA)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (A) the actual number of days in that

portion of the Interest Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365);

- (ii) if “Actual/365 (Fixed)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365;
- (iii) if “Actual/365 (Sterling)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 or, in the case of an Interest Payment Date falling in a leap year, 366;
- (iv) if “Actual/360” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 360;
- (v) if “30/360”, “360/360” or “Bond Basis” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as

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

where:

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

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

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

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

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

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

- (vi) if “30E/360” or “Eurobond Basis” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

- (vii) if “30E/360 (ISDA)” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

(v) *Notification of Rate of Interest and Interest Amounts*

Subject to the provisions of Condition 4(d) (*Interest Cancellation*), the Agent will cause the Rate of Interest and each Interest Amount for each Interest Period and the relevant Interest Payment Date to be notified to the Bank, the other Paying Agents and any stock exchange or other relevant authority on which the relevant Floating Rate Notes or Index Linked Interest Notes are for the time being listed (by no later than the first day of each Interest Period) or by which they have been admitted to listing and notice thereof to be published in accordance with Condition 13 (*Notices*) as soon as possible after their determination but in no event later than the fourth London Business Day thereafter. Each Interest Amount and Interest Payment Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without prior notice in the event of an extension or shortening of the Interest Period. Any such amendment will be promptly notified to each stock exchange or other relevant authority on which the relevant Floating Rate Notes or Index Linked Interest Notes are for the time being listed or by which they have been admitted to listing and to the Noteholders in accordance with Condition 13 (*Notices*). “*London Business Day*” means a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for business in London.

(vi) *Determination or calculation by Trustee or by a designated bank*

If for any reason the Agent at any time after the Issue Date defaults in its obligation to determine the Rate of Interest or calculate any Interest Amount in accordance with subparagraph (ii) above, then (A) (except in respect of Interbolsa Notes), the Trustee or (B) (in respect of Interbolsa Notes), any bank designated by the Common Representative for such purpose or, if no such bank is designated, a meeting of the Noteholders by Extraordinary Resolution, shall determine the Rate of Interest at such rate as, in its absolute discretion (having such regard as it shall think fit to the foregoing provisions of this Condition but subject always



to any Minimum Rate of Interest and/or Maximum Rate of Interest specified in the applicable Final Terms) it shall deem fair and reasonable in all the circumstances or, as the case may be, the Trustee, designated bank or meeting of holders of Interbolsa Notes, as the case may be, shall calculate the Interest Amount(s) in such manner as it shall deem fair and reasonable in all the circumstances and each such determination or calculation shall be deemed to have been made by the Agent.

(vii) *Certificates to be Final*

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 4(b) (*Interest on Floating Rate Notes and Index Linked Interest Notes*), whether by the Agent or (except in respect of Interbolsa Notes) the Trustee, or (in the case of Interbolsa Notes), by or on behalf of the Common Representative or, if applicable, the Calculation Agent, shall (in the absence of negligence, wilful default, bad faith or manifest error) be binding on the Bank, the Agent, the Trustee, the Common Representative the Calculation Agent (if applicable), the other Paying Agents and all Noteholders and Couponholders and (in the absence as aforesaid) no liability to the Bank, the Noteholders or the Couponholders shall attach to the Agent or the Trustee or the Common Representative or the Calculation Agent (if applicable) in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

(c) *Interest on Dual Currency Interest Notes*

In the case of Dual Currency Notes, if the rate or amount of interest falls to be determined by reference to an exchange rate, the rate or amount of interest payable shall be determined in the manner specified in the applicable Final Terms.

(d) *Interest Cancellation*

The payment of interest is conditional upon, and dependent upon, a discretionary decision of the Bank, without prejudice to the provisions of subparagraph 4(d)(ii) (second paragraph) (*No Obligation to Pay Interest*) and 4(d)(iii) (*Priority of Interest*) below. The Board of Directors or the Executive Committee of the Bank, as the case may be, may in its discretion decide on the payment of interest, provided that no Interest Cancellation Event has occurred or is continuing on the relevant Interest Payment Date.

Subject to a decision to pay interest being taken by the Board of Directors or the Executive Committee of the Bank, as the case may be, and to the absence of an Interest Cancellation Event, interest shall be payable on the Undated Deeply Subordinated Notes in accordance with the relevant provisions of the applicable Final Terms.

(i) *Interest Cancellation Event*

The Bank will in any case be prevented from making any interest payments, and interest shall not accrue or otherwise become due and payable to the relevant holders on the relevant Interest Payment Date, regardless of a decision to that effect being taken by the Board of Directors or the Executive Committee of the Bank, as the case may be:

- (a) to the extent the sum of such envisaged interest payment and (i) the amount of dividends paid, decided or pending payment on the Bank's ordinary share capital or the amount of payments paid, decided or pending on the instruments mentioned in Condition 2(a)(iii)(D) and (ii) the amount of dividends relating to preferential shares of the Bank and the amount of other payments under obligations referred to in Condition 2(a)(iii)(C) which rank equally with the Undated Deeply Subordinated Notes in terms of their entitlement to the profits of the Bank, in each case which have already been paid in the

then current fiscal year, exceed the Bank's Distributable Funds with reference to the most recently available reports from the Bank of Portugal regarding the Bank's compliance with the Own Funds Requirements Regulation and all subsequent available information; or

- (b) if notwithstanding the fact that the sum mentioned in a) above does not exceed the Bank's Distributable Funds, the Bank is in violation of the Own Funds Requirements Regulation, or to the extent that such payment would cause a breach by the Bank of the Own Funds Requirements Regulation taking into account the most recently available reports from the Bank of Portugal regarding the Bank's compliance with the Own Funds Requirements Regulation and all subsequent available information; or
- (c) if, other than in the circumstances mentioned in a) and b) above, (i) the Executive Committee of the Bank, or (ii) the Bank of Portugal, are of the opinion that such payment may compromise compliance by the Bank with the Own Funds Requirements Regulation, taking into consideration the (past and expected) evolution of the financial situation of the Bank and the most recently available reports from the Bank of Portugal regarding the Bank's compliance with the Own Funds Requirements Regulation and all subsequent available information; or
- (d) if the nominal amount of the Undated Deeply Subordinated Notes has been reduced pursuant to Condition 2(b) (*Loss Absorption*) and such nominal amount has not been reinstated in full and registered as a subordinated credit has if it had never been reduced.

(each of the above events, an "Interest Cancellation Event").

**"Distributable Funds"** means, for the purposes hereof, and in respect of any fiscal year of the Bank, calculated by reference to the last day of the immediately preceding fiscal year, the sum of earned profits held and any other reserves and amounts capable of distribution to the shareholders of the Bank in accordance with Portuguese law, plus or less, as the case may be, the amount of any profits or losses arising on such preceding fiscal year, in any case net of (i) the amounts necessary to set up or reinstate any reserves which are mandatory pursuant to a legal or statutory requirement; and (ii) the amount which is to be statutorily applied by the Bank in making distributions to the Bank's employees and directors, but in any case prior to the deduction of the payment of any dividends or other payments in respect of the ordinary shares of the Bank or any other securities which are subordinated to the Undated Deeply Subordinated Notes, in respect of such fiscal year.

**"Own Funds Requirements Regulations"** means, at any given time, all regulations, requirements, directions and policies then in force relating to own funds requirements, issued by the Bank of Portugal or applicable to credit institutions in Portugal, including any such regulations, requirements, directions and policies as may be applicable in the future specifically to the Bank.

(ii) *No Obligation to Pay Interest*

In the event that:

- (1) no interest is paid on an Interest Payment Date or part of the interest that may otherwise have been due is not paid, in either case due to the occurrence of an Interest Cancellation Event; or
- (2) (subject as provided below in Condition 4(d)(iii) ("*Priority of Interest*")) the Board of Directors or the Executive Committee of the Bank, as the case may be, does not decide to make an interest payment on an Interest Payment Date,

the relevant interest amounts will not accrue or become due and payable, and shall be forfeited and the holders of the Undated Deeply Subordinated Notes will not be entitled to claim any

payments in respect of interest relating to the Interest Period ending on such Interest Payment Date.

Notwithstanding payment of interest being conditional upon a discretionary decision of the Bank, in the absence of an Interest Cancellation Event the distribution of any revenues or dividends to the holders of any ordinary shares issued by the Bank in a given Interest Period, shall necessarily determine the payment of interest on the Undated Deeply Subordinated Notes on the following Interest Payment Date, in accordance with Condition 4 (“*Interest and Interest Cancellation*”). To this effect and prior to the distribution of such dividends or revenues, the Bank will set aside enough monies for payment of such interest amounts which will become due under the Undated Deeply Subordinated Notes subsequently to such distribution or payment, provided that such amounts set aside remain available to meet losses of the Bank and, as such, will not be distributable to the holders of Undated Deeply Subordinated Notes if an Interest Cancellation Event has occurred and is continuing.

If other than in the circumstances described in subparagraphs a) to d) of Condition 4 (d)(i) (*Interest Cancellation Event*) either the Board of Directors or the Executive Committee of the Bank, as the case may be, decides in its discretion not to pay interest to the holders of Undated Deeply Subordinated Notes on a given Interest Payment Date, and no Interest Cancellation Event has occurred or is continuing on such Interest Payment Date, then the Bank’s Board of Directors undertakes not to propose the distribution of revenues or dividends to the holders of any ordinary shares of the Bank in such Interest Period in which the discretionary nonpayment of interest to the holders of Undated Deeply Subordinated Notes took place.

(iii) *Priority of Interest*

The Bank undertakes that, prior to the distribution of any revenues (including dividends to its shareholders), the amortisation or acquisition of own shares or other securities subordinated to the Undated Deeply Subordinated Notes and after the approval of such payments by the Bank’s General Meeting of Shareholders, Board of Directors or Executive Committee, as the case may be, (or, where such approval has not yet occurred, such payments have been formally proposed), the Bank will, in any circumstances, regardless of a decision of the Bank’s Board of Directors or Executive Committee, as the case may be, being taken to that effect, set aside enough monies for the payment of interest amounts which will (assuming there will be no Interest Cancellation Event on the relevant Interest Payment Date and on the basis that the relevant interest payment will be made on the relevant Interest Payment Date) become due on the next Interest Payment Date, provided that such amounts set aside remain available to meet losses of the Bank and, as such, will not be distributable to the holders of Undated Deeply Subordinated Notes if an Interest Cancellation Event has occurred or is continuing. In any case, no payment of interest will be made in violation of the Interest Cancellation Events provisions.

(e) *Accrual of Interest*

Without prejudice to the provisions of Condition 4 (d) (*Interest Cancellation*) above, each Undated Deeply Subordinated Note (or in the case of the redemption of part only of an Undated Deeply Subordinated Note, that part only of such Undated Deeply Subordinated Note) will cease to bear interest (if any) from the date scheduled for its redemption unless payment of principal is improperly withheld or refused. In such event interest will continue to accrue until due payment in accordance with the relevant provisions of the applicable Final Terms.

## **5. Payments**

Any payments made to the holders of Undated Deeply Subordinated Notes will be subject to the limitations established in these Terms and Conditions and the Bank will notify, or will cause the notification, of the holders of Undated Deeply Subordinated Notes of any such payments, as it may deem appropriate, and in accordance with Condition 13 (*Notices*) below.

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

Subject as provided below:

- (i) payments in a Specified Currency other than euro will be made by transfer to an account in the relevant Specified Currency maintained by the payee with a bank in the principal financial centre of the country of such Specified Currency (which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively); and
- (ii) payments will be made in euro by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee.

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

Payments will be subject in all cases, but without prejudice to the provisions of Condition 7, to (i) any fiscal or other laws and regulations applicable thereto in any jurisdiction, and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the “Code”) or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, official interpretations thereof, or law implementing an intergovernmental approach thereto.

(c) ***Presentation of definitive Notes, Receipts and Coupons***

Payments of principal in respect of definitive Notes will (subject as provided below) be made in the manner provided in paragraph (a) above only against surrender of definitive Notes, and payments of interest in respect of definitive Notes will (subject as provided below) be made as aforesaid only against surrender of Coupons, in each case at the specified office of any Paying Agent outside the United States (which expression, as used herein, means the United States of America (including the States and the District of Columbia) and its possessions).

Fixed Rate Notes in definitive form (other than Dual Currency Notes or Index Linked Notes) should be presented for payment together with all unmatured Coupons appertaining thereto (which expression shall for this purpose include Coupons falling to be issued on exchange of matured Talons), failing which the amount of any missing unmatured Coupon (or, in the case of payment not being made in full, the same proportion of the amount of such missing unmatured Coupon as the sum so paid bears to the sum due) will be deducted from the sum due for payment. Each amount of principal so deducted will be paid in the manner mentioned above against surrender of the relative missing Coupon at any time before the expiry of 10 years after the Relevant Date (as defined in Condition 7 (*Taxation*)) in respect of such principal (whether or not such Coupon would otherwise have become void under Condition 8 (*Prescription*)) or, if later, five years from the date on which such Coupon would otherwise have become due, but in no event thereafter.

Upon the date on which any Floating Rate Note, Dual Currency Note or Index Linked Note in definitive form becomes due and repayable, unmatured Coupons and Talons (if any) relating thereto (whether or not attached) shall become void and no payment or, as the case may be, exchange for further Coupons shall be made in respect thereof.

If the due date for redemption of any definitive Note is not an Interest Payment Date, interest (if any) in respect of such Note shall be payable only against surrender of the relevant definitive Note.

(d) ***Payments in respect of global Notes***

Payments of principal and interest (if any) in respect of Notes represented by any global Note will (subject as provided below) be made in the manner specified above in relation to definitive Notes or otherwise in the manner specified in the relevant global Notes where applicable against presentation or surrender, as the case may be, of such global Note if the global Note is not issued in new global note form, at the specified office of any Paying Agent outside the United States. A record of each payment made, distinguishing between any payment of principal and any payment of interest, will be

made on such global Note either by the Paying Agent to which it was presented or in the records of Euroclear and Clearstream, Luxembourg, as applicable.

The holder of a global Note (or, as provided in the Trust Deed, the Trustee) shall be the only person entitled to receive payments in respect of Notes represented by such global Note and the Bank will be discharged by payment to, or to the order of, the holder of such global Note (or, as provided in the Trust Deed, the Trustee) in respect of each amount so paid. Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the beneficial holder of a particular nominal amount of Notes represented by such global Note must look solely to Euroclear or Clearstream, Luxembourg, as the case may be, for his share of each payment so made by the Bank to, or to the order of, the holder of such global Note (or, as provided in the Trust Deed, the Trustee).

(e) ***Payments in respect of Interbolsa Notes***

All payments on Interbolsa Notes (including without limitation the payment of accrued interest and principal) will be made by the Bank to the Portuguese Paying Agent and (i) **if made in euro** will be (a) credited, according to the procedures and regulations of Interbolsa, by the Portuguese Paying Agent to the payment current-accounts held in the payment system of the Bank of Portugal by the Affiliate Members of Interbolsa whose control accounts with Interbolsa are credited with such Notes and thereafter (b) credited by such Interbolsa Affiliate Members from the aforementioned payment current-accounts to the accounts of the Noteholders or through Euroclear and Clearstream, Luxembourg to the accounts with Euroclear and Clearstream, Luxembourg of the beneficial owners of those Notes, in accordance with the rules and procedures of Interbolsa, Euroclear or Clearstream, Luxembourg, as the case may be; (ii) **if made in currencies other than euro** will be (a) transferred, on the payment date and according to the procedures and regulations applicable by Interbolsa, from the account held by the Portuguese Paying Agent in the Foreign Currency Settlement System (*Sistema de Liquidação em Moeda Estrangeira*), managed by Caixa Geral de Depósitos, S.A., to the relevant accounts of the relevant Affiliate Members of Interbolsa, and thereafter (b) transferred by such Affiliate Members of Interbolsa from such relevant accounts to the accounts of the Noteholders of those Notes or through Euroclear and Clearstream, Luxembourg to the accounts with Euroclear and Clearstream, Luxembourg of the beneficial owners of those Notes, in accordance with the rules and procedures of Interbolsa, Euroclear or Clearstream, Luxembourg, as the case may be.

The Bank must provide Interbolsa with a prior notice of all payments in relation to the Interbolsa Notes and all necessary information for that purpose. In particular, such notice must contain:

- (a) the identity of the Portuguese Paying Agent responsible for the relevant payment; and
- (b) a statement of acceptance of such responsibility by the Portuguese Paying Agent.

Interbolsa shall notify the Portuguese Paying Agent of the amounts to be settled, which Interbolsa calculates on the basis of the balances and on the tax rules governing the accounts of the Affiliate Members of Interbolsa.

In the case of a partial payment, the amount held in the relevant current account of the Portuguese Paying Agent must be apportioned pro-rata between the accounts of the Affiliate Members of Interbolsa. After a payment has been processed, such process shall be confirmed to Interbolsa.

The holders of Interbolsa Notes are reliant upon the procedures of Interbolsa to receive payment in respect of Interbolsa Notes.

(f) ***Amounts payable in U.S. dollars (not applicable to Interbolsa Notes)***

Notwithstanding the foregoing provisions of this Condition, if any amount of principal and/or interest in respect of this Note is payable in U.S. dollars, such U.S. dollar payments of principal and/or interest in respect of this Note will be made at the specified office of a Paying Agent in the United States if:



- (i) the Bank has appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment in U.S. dollar at such specified offices outside the United States of the full amount of principal and interest on the Notes in the manner provided above when due;
- (ii) payment of the full amount of such principal and interest at all such specified offices outside the United States is illegal or effectively precluded by exchange controls or other similar restrictions on the full payment or receipt of principal and interest in U.S. dollars; and
- (iii) such payment is then permitted under United States law without involving, in the opinion of the Bank, adverse tax consequences to the Bank.

(g) ***Payment Day***

If the date for payment of any amount in respect of any Note or Coupon is not a Payment Day, the holder thereof shall not be entitled to payment until the next following Payment Day in the relevant place and shall not be entitled to further interest or other payment in respect of such delay. For these purposes, “Payment Day” means any day which (subject to Condition 8 (*Prescription*)) is:

- (i) 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:
  - (A) the relevant place of presentation (if presentation is required);
  - (B) in respect of Interbolsa Notes only, Lisbon;
  - (C) any Additional Financial Centre specified in the applicable Final Terms; and
- (ii) either (1) in relation to any sum payable in a Specified Currency other than euro, 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 principal financial centre of the country of the relevant Specified Currency and any Additional Financial Centre and which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which the TARGET2 System is open.

(h) ***Interpretation of Principal and Interest***

Any reference in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable:

- (i) any additional amounts which may be payable with respect to principal under Condition 7 (*Taxation*) or, except in the case of Interbolsa Notes, pursuant to any undertakings given in addition thereto or in substitution therefor pursuant to the Trust Deed;
- (ii) the Final Redemption Amount of the Notes;
- (iii) the Redemption Amount of the Notes; or
- (iv) the Optional Redemption Amount(s) (if any) of the Notes.

Any reference in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any additional amounts which may be payable with respect to interest under Condition 7 (*Taxation*) or, except in the case of Interbolsa Notes, pursuant to any undertakings given in addition thereto or in substitution therefor pursuant to the Trust Deed.



## **6. Redemption and Purchase**

### **(a) Redemption**

The Undated Deeply Subordinated Notes are not subject to mandatory redemption by the Bank and will only be redeemed in the circumstances referred to under this Condition 6 (*Redemption and Purchases*), in any case provided that such redemption has been expressly authorised by the Bank of Portugal.

The Bank may not choose to redeem the Undated Deeply Subordinated Notes (*Bank Call*) before the fifth anniversary of their issue date other than in the specific circumstances described in paragraphs (b), (c) and (d) below, and in any case provided that the Bank of Portugal has previously approved such redemption.

In the situations specified in this Condition 6 the Undated Deeply Subordinated Notes will be redeemed by the Bank at their Final Redemption Amount specified in, or determined in the manner specified in, the applicable Final Terms in the relevant Specified Currency on the relevant redemption date. Each Undated Deeply Subordinated Note is undated and accordingly has no final maturity date and is only redeemable or payable in accordance with the following provisions of this Condition 6 (*Redemption and Purchases*).

### **(b) Redemption for Tax Reasons**

The Undated Deeply Subordinated Notes may be redeemed at the option of the Bank (subject to the prior consent of the Bank of Portugal) in whole, but not in part, at any time (if this Undated Deeply Subordinated Note is neither a Floating Rate Note nor an Indexed Interest Note) or on any Interest Payment Date (if this Undated Deeply Subordinated Note is either a Floating Rate Note or an Indexed Linked Interest Note), on giving not less than 30 nor more than 60 days' notice to the Agent, the Trustee (except in respect of Interbolsa Notes), the Common Representative (in respect of Interbolsa Notes) and in accordance with Condition 13 (*Notices*), the Noteholders (which notice shall be irrevocable) if:

- (i) on the occasion of the next payment due under the Notes, the Bank has or will become obliged to pay additional amounts as provided or referred to in Condition 7 (*Taxation*) as a result of any change in, or amendment to, the laws or regulations of any Relevant Tax Jurisdiction or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the Issue Date of the first Tranche of the Notes;
- (ii) the Bank satisfies the Trustee (except in the case of Interbolsa Notes) or the Common Representative and the Portuguese Paying Agent (in the case of Interbolsa Notes) immediately prior to the giving of such notice as to (i) above; and
- (iii) such obligation cannot be avoided by the Bank taking reasonable measures available to it,

provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Bank would be obliged to pay such additional amounts were a payment in respect of the Notes then due.

Prior to the publication of any notice of redemption pursuant to this Condition 6(b), the Bank shall deliver to the Agent and the Common Representative (in respect of Interbolsa Notes) or to the Trustee (in respect of any Note other than an Interbolsa Note) a certificate signed by two Directors of the Bank stating that the Bank is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Bank so to redeem have occurred, and an opinion of independent legal advisers of recognised standing to the effect that the Bank has or will become obliged to pay such additional amounts as a result of such change or amendment. The Trustee or, as the case may be, the Agent and the Common Representative, shall be entitled to accept any such certificate and opinion delivered to it as sufficient evidence of the satisfaction of such conditions

precedent in which event they shall be conclusive and binding on the Noteholders and the Couponholders.

“Relevant Tax Jurisdiction” means Portugal.

Undated Deeply Subordinated Notes redeemed pursuant to this Condition 6(b) will be redeemed at their Redemption Amount referred to in paragraph (e) below together (if appropriate) with interest accrued to (but excluding) the date of redemption.

(c) ***Redemption at the Option of the Issuer (Issuer Call)***

If Issuer Call is specified in the applicable Final Terms, the Bank may (subject to the prior consent of the Bank of Portugal) and other than during the first five years following the issue date of the Undated Deeply Subordinated Notes, or, if prior to such date, provided that the Bank of Portugal has expressly confirmed its understanding that the relevant Tranche of Undated Deeply Subordinated Notes being redeemed is replaced with another Tranche which in the opinion of the Bank of Portugal satisfies at least the same requirements as the Redeemed Notes (as defined below) in terms of eligibility as Tier 1 capital of the Bank), having given:

- (i) not less than 30 nor more than 60 days’ notice to the Noteholders in accordance with Condition 13 (*Notices*); and
- (ii) not less than 15 days before the giving of the notice referred to in (i), notice to the Agent and (except in respect of Interbolsa Notes) to the Trustee and (in respect of Interbolsa Notes) to the Common Representative,

(which notices shall be irrevocable), redeem all or some only of the Notes then outstanding on any Optional Redemption Date and at the Optional Redemption Amount(s) specified in, or determined in the manner specified in, the applicable Final Terms together, if appropriate, with interest accrued to (but excluding) the relevant Optional Redemption Date. Any such redemption must be of a nominal amount not less than the Minimum Redemption Amount or not more than a Higher Redemption Amount, in each case as may be specified in the applicable Final Terms. In the case of a partial redemption of Notes, the Notes to be redeemed (“Redeemed Notes”) will, not more than 30 days prior to the date fixed for redemption (such date of selection being hereinafter called the “Selection Date”), be selected (i) individually by lot, in the case of Redeemed Notes represented by definitive Notes, (ii) in accordance with the rules of Euroclear and/ or Clearstream, Luxembourg (to be reflected in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in nominal amount, at their discretion), in the case of Redeemed Notes represented by a global Note and (iii) in accordance with the rules of Interbolsa, in the case of Redeemed Notes that are Interbolsa Notes. In the case of Redeemed Notes represented by definitive Notes, a list of the serial numbers of such Redeemed Notes will be published in accordance with Condition 13 (*Notices*) not less than 15 days prior to the date fixed for redemption. No exchange of the relevant global Note will be permitted during the period from and including the Selection Date to and including the date fixed for redemption pursuant to this paragraph (c) and notice to that effect shall be given by the Bank to the Noteholders in accordance with Condition 13 (*Notices*) at least five days prior to the Selection Date.

(d) ***Redemption for reason of Disqualification as Original Own Funds***

If a Disqualification as Original Own Funds Event has occurred and is continuing, the Undated Deeply Subordinated Notes will be redeemed on any date, at the Bank’s option, by giving not less than 30 nor more than 60 days’ notice to the holders and subject to the prior consent of the Bank of Portugal. In such circumstances the Undated Deeply Subordinated Notes will be redeemed at their nominal amount, together (if appropriate) with interest accrued to (but excluding) the date of redemption.

“Disqualification as Original Own Funds Events” means any change (i) in any applicable law or regulations, or (ii) in the application or official interpretation of such laws or regulations, as a result

of which the Board of Directors or the Executive Committee of the Bank, as the case may be, decides, or the Bank of Portugal either publicly or by means of individual notification to the Bank determines, that for the purposes of the Own Funds Requirements Regulations the Undated Deeply Subordinated Notes are no longer eligible as Tier 1 Capital for the Bank and/or for the consolidation perimeter in which the Bank is included for regulatory capital purposes.

(e) ***Redemption Amounts***

For the purpose of paragraph (b) above, the Notes will be redeemed at the Redemption Amount calculated as follows:

- (i) in the case of Notes with a Final Redemption Amount equal to the Issue Price, at the Final Redemption Amount thereof;
- (ii) in the case of Notes with a Final Redemption Amount which is or may be less than the Issue Price or which is payable in a Specified Currency other than that in which the Notes are denominated, at the amount specified in, or determined in the manner specified in, the applicable Final Terms or, if no such amount or manner is so specified in the Final Terms, at their nominal amount.

(f) ***Purchases***

The Bank or any of the companies included in the same group as the Bank (either the Bank's subsidiaries, the parent company Espírito Santo Financial Group S.A. ("ESFG"), or any other companies included for accounting purposes within ESFG consolidated perimeter) may, subject to the prior consent of the Bank of Portugal, at any time purchase Notes (provided that, in the case of Definitive Notes, all unmatured Coupons and Talons appertaining thereto are purchased therewith) at any price in the open market or otherwise. Such Notes may be held, reissued, resold or, at the option of the Bank, surrendered to any Paying Agent for cancellation or, in the case of Interbolsa Notes, cancelled by Interbolsa following receipt by Interbolsa of notice thereof on by or on behalf of the Bank. In accordance with the existing Own Funds Requirements Regulations and the related executing measures recognized by the Bank of Portugal, the Bank and any of the companies included in the same group as the Bank (either the Bank's subsidiaries, ESFG or any other companies included for accounting purposes within ESFG consolidated group) are currently not allowed to hold Undated Deeply Subordinated Notes in excess of the lower of: a) 10 per cent. of a specific issue amount, and b) 3 per cent. of all issues of Undated Deeply Subordinated Notes outstanding, or c) any other specific thresholds which are recognized by the Bank of Portugal in the future.

(g) ***Cancellation***

All global Notes and definitive Notes which are redeemed will forthwith be cancelled (together with all unmatured Coupons attached thereto or surrendered therewith at the time of redemption). All global Notes and definitive Notes so cancelled and the global Notes and definitive Notes purchased and cancelled pursuant to paragraph (f) above (together with all unmatured Coupons cancelled therewith) shall be forwarded to the Agent and cannot be reissued or resold.

All Interbolsa Notes which are (a) redeemed or (b) purchased by or on behalf of the Bank or any of the companies included in the same group as the Bank (either the Bank's subsidiaries, ESFG or any other companies included for accounting purposes within ESFG consolidated group) will forthwith be cancelled, by Interbolsa following receipt by Interbolsa of notice thereof by the Portuguese Paying Agent, and accordingly such Interbolsa Notes may not be held, reissued or resold and shall not entitle the holder to vote at any meetings of the Noteholders and shall not be deemed to be outstanding for the purposes of calculating quorums at meetings of the Noteholders or for the purposes of Condition 14 (*Meetings of Noteholders, Modification and Waiver*) or the Principal Agency Agreement, as amended by the Interbolsa Notes Agency Agreement.

## 7. Taxation

All payments of principal and interest in respect of the Notes and Coupons by the Bank will be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by or on behalf of any Relevant Tax Jurisdiction as defined in Condition 6(b) (*Redemption for Tax Reasons*) or any political subdivision or any authority thereof or therein having power to tax unless such withholding or deduction is required by law. In such event, the Bank will pay such additional amounts as shall be necessary in order that the net amounts received by the holders of the Notes or Coupons after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes or Coupons, as the case may be, in the absence of such withholding or deduction; except that no such additional amounts shall be payable with respect to any Note or Coupon:

- (i) the Noteholder or Couponholder of which is liable to such taxes, duties, assessments or governmental charges in respect of such Note or Coupon by reason of its having some connection with the Relevant Tax Jurisdiction by which such taxes, duties, assessments or charges have been imposed, levied, collected, withheld or assessed other than the mere holding of the Note or Coupon; and/or
- (ii) where such withholding or deduction is imposed on a payment to or for an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive; and/or
- (iii) in the case of bearer Notes other than Interbolsa Notes, the Noteholder or Couponholder of which would be able to avoid such withholding or deduction by presenting the relevant Note or Coupon to another Paying Agent in a Member State of the European Union; and/or
- (iv) in the case of Interbolsa Notes, to, or to a third party on behalf of, a Noteholder or Couponholder in respect of whom the information and documentation (which may include certificates) required in order to comply with Portuguese Decree-Law 193/2005 of 7th November, 2005, and any implementing legislation, is not received before the Income Payment Date or which does not comply with the formalities in order to benefit from tax treaty benefits, where applicable; and/or
- (v) in the case of Interbolsa Notes, to, or to a third party on behalf of, a Noteholder or Couponholder resident for tax purposes in the Republic of Portugal or any political subdivision or any authority thereof or therein having power to tax or a resident in a tax haven jurisdiction as defined in Order 150/2004, of 13th February, 2004 (*Portaria do Ministro das Finanças e da Administração Pública no 150/2004*) as amended from time to time, issued by the Portuguese Minister of Finance and Public Administration, with the exception of central banks and governmental agencies of those blacklisted jurisdictions, or a non-resident legal entity held, directly or indirectly, in more than 20 per cent. by entities resident in the Republic of Portugal; and/or
- (vi) in the case of Interbolsa Notes, to, or to a third party on behalf of, (i) a Portuguese resident legal entity subject to Portuguese corporation tax with the exception of entities that benefit from a Portuguese withholding tax waiver or from Portuguese income tax exemptions, or (ii) a legal entity not resident in Portugal acting with respect to the holding of the Notes through a permanent establishment in Portugal; and/or
- (vii) in the case of bearer Notes other than Interbolsa Notes where presentation of the Note or Coupon is required, presented for payment more than 30 days after the Relevant Date except to the extent that the holder thereof would have been entitled to an additional amount on presenting the same for payment on such thirtieth day, assuming that day to have been a Payment Day (as defined in Condition 5 (*Payments*)).

As used herein, the “Relevant Date” means the date on which such payment first becomes due, except that, if the full amount of the moneys payable has not been duly received by the Agent or (other than in the case of Interbolsa Notes) the Trustee on or prior to such due date, it means the date on which, the full amount of such moneys having been so received, notice to that effect is duly given to the Noteholders in accordance with Condition 13 (*Notices*).

## **8. Prescription**

The global Notes, definitive Notes, Receipts and Coupons will become void unless claims in respect of principal and/or interest are made within a period of 10 years (in the case of principal) and five years (in the case of interest) after the Relevant Date (as defined in Condition 7 (*Taxation*)) therefor.

There shall not be included in any Coupon sheet issued on exchange of a Talon any Coupon the claim for payment in respect of which would be void pursuant to this Condition 8 (*Prescription*) or Condition 5(c) (*Presentation of definitive Notes and Coupons*) or any Talon which itself would be void pursuant to Condition 5(c) (*Presentation of definitive Notes and Coupons*).

Claims for principal and interest in respect of the Interbolsa Notes shall become void unless the relevant Certificates are surrendered within 20 years and five years respectively of the Relevant Date.

## **9. Events of Default relating to Undated Deeply Subordinated Notes**

There will be no events of default in respect of the Undated Deeply Subordinated Notes.

## **10. Replacement of global Notes, definitive Notes Coupons and Talons**

Should any global Note, definitive Note, Coupon or Talon be lost, stolen, mutilated, defaced or destroyed, it may be replaced at the specified office of the Agent upon payment by the claimant of such costs and expenses as may be incurred in connection therewith and on such terms as to evidence and indemnity as the Bank may reasonably require. Mutilated or defaced global Notes, definitive Notes Coupons or Talons must be surrendered before replacements will be issued.

## **11. Agent and Paying Agents**

The names of the initial Agent and the other initial Paying Agents and their initial specified offices are set out below.

The Bank is entitled (with the prior written consent of the Trustee, save that such consent will not be required in respect of the Portuguese Paying Agent) to vary or terminate the appointment of any Paying Agent and/or appoint additional or other Paying Agents and/ or approve any change in the specified office through which any Paying Agent acts, provided that:

- (i) so long as the Notes are listed on any stock exchange or admitted to listing by any relevant authority, there will at all times be a Paying Agent with a specified office in such place as may be required by the rules and regulations of the relevant stock exchange or such other relevant authority;
- (ii) there will at all times be maintained a Paying Agent in a Member State of the European Union that is not obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/ EC or any law implementing or complying with, or introduced in order to conform to, such Directive;
- (iii) there will at all times be a Paying Agent outside of Portugal; and
- (iv) there will at all times be a Paying Agent in Portugal capable of making payment in respect of the Interbolsa Notes as contemplated by these terms and conditions, the Principal Agency Agreement, as amended by the Interbolsa Notes Agency Agreement and applicable Portuguese law and regulation.

In addition, the Bank shall forthwith appoint a Paying Agent having a specified office in New York City in the circumstances described in the final paragraph of Condition 5(f) (*Amounts payable in U.S. dollars (not applicable to Interbolsa Notes)*). Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency or where the Agent is an FFI and does not become, or ceases to be, a Participating FFI, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the Noteholders in accordance with Condition 13 (*Notices*).

As used hererin:



“**FATCA**” means Sections 1471 through 1474 of the Code and any regulations or agreements thereunder, official interpretations thereof, or law implementing an intergovernmental approach thereto.

“**FATCA Withholding Tax**” means any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the Code or any withholding or deduction otherwise imposed pursuant to FATCA.

“**FFI**” means a “foreign financial institution” as such term is defined pursuant to FATCA.

“**Participating FFI**” means an FFI that has, on or before the date that any payment to it in connection with the Notes would be subject to FATCA Withholding Tax, entered into an agreement under Section 1471(b) of the Code (or is otherwise deemed to be compliant with Section 1471(b) of the Code) and that has not elected withholding pursuant to Section 1471(b)(3) of the Code.

## **12. Exchange of Talons**

On and after the Interest Payment Date on which the final Coupon comprised in any Coupon sheet matures, the Talon (if any) forming part of such Coupon sheet may be surrendered at the specified office of the Agent or any other Paying Agent in exchange for a further Coupon sheet including (if such further Coupon sheet does not include Coupons to (and including) the final date for the payment of interest due in respect of the Note to which it appertains) a further Talon, subject to the provisions of Condition 8 (*Prescription*).

## **13. Notices**

All notices regarding the Notes shall be published (i) in a leading English language daily newspaper of general circulation in London, (ii) if and for so long as the Notes are listed on the Official List of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange, in a daily newspaper of general circulation in Luxembourg and (iii) if the Notes are Interbolsa Notes, by registered mail, by publication in a leading newspaper having general circulation in Portugal (which is expected to be *Diário de Notícias*) or by any other way which complies with the Portuguese Securities Code and Interbolsa’s rules on notices to investors, including the disclosure of information through the CMVM official website ([www.cmvm.pt](http://www.cmvm.pt)). It is expected that publication under (i) and (ii) above will be made in the *Financial Times* or any other daily newspaper in London (which, unless such Notice is given in respect of Interbolsa Notes only, shall be approved by the Trustee) and the *Luxemburger Wort* in Luxembourg, respectively. In addition, all notices regarding the Notes may be published on the Luxembourg Stock Exchange’s web site ([www.bourse.lu](http://www.bourse.lu)). The Bank shall also ensure that notices are duly published in a manner which complies with the rules and regulations of any other stock exchange or any other relevant authority on which the Notes are for the time being listed or by which they have been admitted to trading.

Any such notice will be deemed to have been given on the date of the first publication or, where required to be published in more than one newspaper, on the date of the first publication in all the required newspapers.

Until such time as any definitive Notes are issued, there may (provided that, in the case of Notes listed on a stock exchange or admitted to listing by another relevant authority, the rules of such stock exchange or other relevant authority permits), so long as any the global Note(s) is or are held in its/their entirety on behalf of Euroclear and Clearstream, Luxembourg, be substituted for such publication in such newspaper(s) the delivery of the relevant notice to Euroclear and Clearstream, Luxembourg for communication by them to the holders of the Notes and, in addition, for so long as any Notes are listed on a stock exchange or are admitted to trading by another relevant authority and the rules of that stock exchange or relevant authority so require, such notice will be published in a daily newspaper of general circulation in the place or places required by those rules. Any such notice shall be deemed to have been given to the holders of the Notes on the seventh day after the day on which the said notice was given to Euroclear and Clearstream, Luxembourg. However, all notices regarding Notes which are listed on the Official List of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange must be published in a daily newspaper of general circulation in Luxembourg, which is expected to be the “Luxemburger Wort”.

Notices to be given by any holder of the Notes shall be in writing and given by lodging the same with the Portuguese Paying Agent in the case of Interbolsa Notes and by lodging the same, together with the relative



Note or Notes, with the Agent in the case of bearer Notes other than Interbolsa Notes. Whilst any of the Notes are represented by a global Note, such notice may be given by any holder of a Note to the Agent via Euroclear and/or Clearstream, Luxembourg, as the case may be, in such manner as the Agent and Euroclear and/or Clearstream, Luxembourg, as the case may be, may approve for this purpose.

Any holder of an Interbolsa Note may give notice to the Portuguese Paying Agent and the Agent through Interbolsa in such manner as the Portuguese Paying Agent, the Agent and Interbolsa may approve for this purpose.

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

##### **(a) *Meetings in respect of Notes other than Interbolsa Notes***

This Condition 14(a) does not apply to Interbolsa Notes. The Trust Deed contains provisions for convening meetings of the Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of the terms and conditions of the Notes, the Coupons or any of the provisions of the Trust Deed. Such a meeting may be convened by the Bank or Noteholders holding not less than five per cent. in nominal amount of the Notes for the time being remaining outstanding. The quorum at any such meeting for passing an Extraordinary Resolution is one or more persons holding or representing not less than a clear majority in nominal amount of the Notes for the time being outstanding, or at any adjourned meeting one or more persons being or representing Noteholders whatever the nominal amount of the Notes so held or represented, except that at any meeting the business of which includes the modification of certain provisions of the Notes or Coupons (including modifying any date for payment of interest on the Notes, reducing or cancelling the amount of principal, modification of any Minimum Rate of Interest or Maximum Rate of Interest or altering the currency of payment of the Notes or Coupons, modification of the majority required to pass an Extraordinary Resolution or modification of the Trust Deed concerning this exception), the quorum shall be one or more persons holding or representing not less than two-thirds, or at any adjourned such meeting one or more persons holding or representing not less than one-third, in nominal amount of the Notes for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Noteholders shall be binding on all the Noteholders, whether or not they are present at the meeting, and on all Couponholders.

Without prejudice to the provision of Condition 4 (*Interest and Interest Cancellation*), the Trustee and the Bank may agree, without the consent of the Noteholders or Couponholders, to:

- (i) any modification (except as mentioned above) of the Notes, the Coupons or the Trust Deed which is not, in the opinion of the Trustee, materially prejudicial to the interests of the Noteholders; or
- (ii) any modification of the Notes, the Coupons or the Trust Deed which is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the law of the jurisdiction in which the Bank is incorporated.

Any such modification shall be binding on the Noteholders and the Couponholders and any such modification shall be notified to the Noteholders in accordance with Condition 13 (*Notices*) as soon as practicable thereafter.

The Trustee may also waive or authorise any breach or proposed breach of any of the provisions of the Trust Deed or any of these Terms and Conditions which, in the opinion of the Trustee, is not materially prejudicial to the interests of the Noteholders.

In connection with the exercise by it of any of its trusts, powers or discretions (including, without limitation, any modification, waiver, authorisation or substitution), the Trustee shall have regard to the general interests of the Noteholders as a class and shall not have regard to any interests arising from circumstances particular to individual Noteholders (whatever their number) and, in particular, but without limitation, shall not have regard to the consequences of the exercise of its trusts, powers or discretions for individual Noteholders or Couponholders (whatever their number) resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory and the Trustee shall not be entitled to require, nor shall any Noteholder or Couponholder be entitled to claim, from the Bank or

any other person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders or Couponholders except to the extent already provided for in Condition 7 (*Taxation*) and/or any undertaking given in addition to, or in substitution for, Condition 7 (*Taxation*) pursuant to the Trust Deed.

Nothing in these Terms and Conditions or the Trust Deed shall require the Trustee to have regard to the interests of Noteholders insofar as those interests arise by virtue of a holding of Interbolsa Notes. For the avoidance of doubt, without prejudice to any rights assumed under Notes which are not Interbolsa Notes, a holder of Interbolsa Notes shall neither, by virtue of such holding of Interbolsa Notes, count towards a quorum, nor be entitled to vote, in respect of a resolution to amend the Trust Deed.

Notwithstanding the foregoing, any modification of any of these Terms and Conditions or any of the provisions of the Notes, the Coupons or the Trust Deed that the Bank, in its absolute discretion, believes would or might cause the Notes to cease to be eligible as Tier 1 Capital of the Bank and/or for the consolidation perimeter in which the Bank is included for regulatory capital purposes (or to cease to be eligible for such other regulatory capital treatment as may apply to such Notes immediately prior to any such modification) may only be made with the prior consent of the Bank of Portugal and shall not take effect until such consent is obtained.

**(b) *Meetings in respect of Interbolsa Notes***

The remainder of this Condition 14 applies only to Interbolsa Notes.

*Meetings*

Meetings of the holders of Interbolsa Notes may be convened to consider any matter affecting their interests, including the appointment or dismissal of the Common Representative and the sanctioning by Extraordinary Resolution of a modification of the terms and conditions of the Notes and are governed by the Portuguese Commercial Companies Code enacted by Decree-Law 262/86 of 2nd September, 1986, as amended, and by the Common Representative Appointment Agreement.

Such meetings may be convened by the Common Representative (if any) or, if no Common Representative has been appointed, or an appointed Common Representative fails to convene a meeting, by the chairman of the general meeting of shareholders of the Bank, and shall be convened if requested by Noteholders holding not less than 5 per cent. in principal amount of the Notes for the time being outstanding.

The quorum required for a meeting convened to pass a resolution other than an Extraordinary Resolution will be any person or persons holding or representing Notes then outstanding, regardless of the principal amount thereof. The quorum required for a meeting convened to pass an Extraordinary Resolution will be a person or persons holding or representing at least 50 per cent. of the Notes then outstanding or, at any adjourned meeting, any person or persons holding or representing any of the Notes then outstanding, regardless of the principal amount thereof.

The number of votes required to pass a resolution other than an Extraordinary Resolution is a majority of the votes cast at the relevant meeting. The majority required to pass an Extraordinary Resolution is at least 50 per cent. of the principal amount of the Notes then outstanding or, at any adjourned meeting, two-thirds of the votes cast at the relevant meeting.

Resolutions passed at any meeting of the Noteholders will be binding on all Noteholders, whether or not they are present at the meeting or have voted against the approved resolutions.

*Dismissal and substitution of the Common Representative*

The Noteholders may dismiss and substitute the Common Representative by means of a resolution passed for such purpose upon the terms and conditions of the Common Representative Appointment Agreement.

### *Notification*

Any modification, abrogation, waiver or authorisation in accordance with this Condition 14 shall be binding on the Noteholders and shall be notified by the Bank to the Noteholders as soon as practicable thereafter in accordance with Condition 13 (*Notices*).

### *Matters required to be approved by Extraordinary Resolution*

Without prejudice to the provision of Condition 4 (*Interest and Interest Cancellation*), an Extraordinary Resolution will be required to effect any of the following:

- (i) to change any date fixed for payment of principal or interest in respect of the Notes, reduction of the amount of principal or interest due on any date in respect of the Notes or variation of the method of calculating the amount of any payment in respect of the Notes on redemption;
- (ii) to approve the modification or abrogation of any of the provisions of these Conditions;
- (iii) to approve any amendment of this definition;
- (iv) to waive or authorise any breach or proposed breach of any of these Terms and Conditions; and
- (v) to approve any other matter in respect of which these Terms and Conditions require an Extraordinary Resolution to be passed.

Notwithstanding the foregoing, any modification of any of these Terms and Conditions or any of the provisions of the Notes, the Coupons or the Common Representative Appointment Agreement that the Bank, in its absolute discretion, believes would or might cause the Notes to cease to be eligible as Tier 1 Capital of the Bank and/or for the consolidation perimeter in which the Bank is included for regulatory capital purposes (or to cease to be eligible for such other regulatory capital treatment as may apply to such Notes immediately prior to any such modification) may only be made with the prior consent of the Bank of Portugal and shall not take effect until such consent is obtained

### *Matters in the discretion of the Agent and the Bank*

Except for those matters required to be approved by Extraordinary Resolution, the Agent, the Common Representative and the Bank may agree, without the consent of the Noteholders, to:

- (i) any modification of the Notes which is not materially prejudicial to the interests of the Noteholders; or
- (ii) any modification of the Notes which is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the law of the jurisdiction in which the Bank is incorporated.

Any such modification shall be binding on the Noteholders and shall be notified to the Noteholders in accordance with Condition 13 (*Notices*) as soon as practicable thereafter.

## **15. Further Issues**

The Bank shall be at liberty from time to time without the consent of the Noteholders or Couponholders to create and issue further notes having terms and conditions the same as the Notes or the same in all respects save for the amount and date of the first payment of interest thereon (the “Further Notes”) and so that the same shall be consolidated and form a single Series with the outstanding Notes provided, however, that (i) the Issuer will not issue any Further Notes unless such Further Notes have no more than a *de minimis* amount of original issue discount or such issuance would constitute a “qualified reopening” for U.S. federal income tax purposes; and (ii) any Further Notes issued after 31st December, 2012 do not cause Noteholders, Receiptholders, or Couponholders to become subject to any U.S. reporting obligation or any U.S. withholding obligation that they would not otherwise have been subject to had the Issuer not issued the Further Notes.

In the case of bearer Notes other than Interbolsa Notes, the Trust Deed contains provisions for convening a single meeting of the Noteholders and the holders of notes of other Series of bearer Notes other than Interbolsa Notes in certain circumstances where the Trustee so decides.

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

This Condition applies if the Notes are governed by English law. No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Notes, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

#### **17. Indemnification of Trustee**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility. The Trustee is entitled to enter into business transactions with the Bank without accounting for any profit resulting therefrom and to act as trustee for the holders of any other securities issued by the Bank.

#### **18. Redenomination and Exchange**

This Condition 18 (*Redenomination and Exchange*) does not apply to Interbolsa Notes.

##### **(a) Redenomination**

Where redenomination is specified in the applicable Final Terms as being applicable, the Bank may, without the consent of the Noteholders and the Couponholders, on giving prior notice to the Agent, the Trustee, Euroclear and Clearstream, Luxembourg and at least 30 days' prior notice to the Noteholders in accordance with Condition 13 (*Notices*), elect that, with effect from the Redenomination Date specified in the notice, the Notes shall be redenominated in euro.

The election will have effect as follows:

- (i) the Notes shall be deemed to be redenominated into euro in the denomination of euro 0.01 with a principal amount for each Note equal to the principal amount of that Note in the Specified Currency, converted into euro at the Established Rate, provided that, if the Bank determines, after consultation with the Agent and with the approval of the Trustee, that the then market practice in respect of the redenomination into euro of internationally offered securities is different from the provisions specified in this Condition 18 (*Redenomination and Exchange*), such provisions shall be deemed to be amended so as to comply with such market practice and the Bank shall promptly notify the Noteholders, the stock exchange (if any) on which the Notes may be listed, the Paying Agents and the Trustee of such deemed amendments;
- (ii) save to the extent that an Exchange Notice has been given in accordance with paragraph (iv) below, the amount of interest due in respect of the Notes will be calculated by reference to the aggregate principal amount of Notes held (or, as the case may be, in respect of which Coupons are presented) for payment by the relevant holder and the amount of such payment shall be rounded down to the nearest euro 0.01;
- (iii) if definitive Notes are required to be issued after the Redenomination Date, they shall be issued at the expense of the Bank in the denominations of euro 1,000, euro 10,000, euro 100,000 and (but only to the extent of any remaining amounts less than euro 1,000 or such smaller denominations as the Agent may approve) euro 0.01 and/or such other denominations as the Agent shall determine and notify to the Noteholders;
- (iv) if issued prior to the Redenomination Date, all unmatured Coupons denominated in the Specified Currency (whether or not attached to the Notes) will become void with effect from the date on which the Bank gives notice (the "Exchange Notice") that replacement euro-denominated Notes and Coupons are available for exchange (provided that such securities are

so available) and no payments will be made in respect of them. The payment obligations contained in any Notes so issued will also become void on that date although those Notes will continue to constitute valid exchange obligations of the Bank. New euro-denominated Notes and Coupons will be issued in exchange for Notes and Coupons denominated in the Specified Currency in such manner as the Agent may specify and as shall be notified to the Noteholders in the Exchange Notice. No Exchange Notice may be given less than 15 days prior to any date for payment of principal or interest on the Notes;

- (v) after the Redenomination Date, all payments in respect of the Notes and the Coupons, other than payments of interest in respect of periods commencing before the Redenomination Date, will be made solely in euro as though references in the Notes to the Specified Currency were to euro. Payments will be made in euro by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee or, at the option of the payee, by a euro cheque;
- (vi) if the Notes are Fixed Rate Notes and interest for any period ending on or after the Redenomination Date is required to be calculated for a period ending other than on an Interest Payment Date, it will be calculated by applying the Rate of Interest to:
  - (A) in the case of Fixed Rate Notes which are either Interbolsa Notes or are represented by a global Note held on behalf of Clearstream, Luxembourg and/or Euroclear, the full nominal amount outstanding of the Fixed Rate Notes; or
  - (B) in the case of Fixed Rate Notes in definitive form, the Calculation Amount, and, in each case, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such subunit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Fixed Rate Note in definitive form is a multiple of the Calculation Amount, the amount of interest payable in respect of such Fixed Rate Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding;
- (vii) if the Notes are Floating Rate Notes the applicable Final Terms specifies any relevant changes to the provisions relating to interest; and
- (viii) such other changes shall be made to these Terms and Conditions and/or the Trust Deed and/ or the Principal Agency Agreement as the Bank may decide, after consultation with the Agent and with the approval of the Trustee; and as may be specified in the notice, to conform them to conventions then applicable to instruments denominated in euro or to enable the Notes to be consolidated with one or more issues of other notes, whether or not originally denominated in the Specified Currency or euro. Any such other changes will not take effect until after they have been notified to the Noteholders in accordance with Condition 13 (*Notices*).

(b) ***Exchange***

Where exchange is specified in the applicable Final Terms as being applicable, the Bank may, without the consent of the Noteholders and the Couponholders, on giving prior notice to the Agent, the Trustee, Euroclear and Clearstream, Luxembourg and not less than 30 days' prior notice to the Noteholders in accordance with Condition 13 (*Notices*), elect that, with effect from the Redenomination Date specified in the notice, the Notes shall be exchangeable for Notes expressed to be denominated in euro in accordance with such arrangements as the Bank may decide, after consultation with the Agent and with the approval of the Trustee and as may be specified in the notice, including arrangements under which Coupons unmatured at the date so specified become void.



(c) ***Definitions***

In these Terms and Conditions, the following expressions have the following meanings:

“Established Rate” means the rate for the conversion of the Specified Currency (including compliance with rules relating to roundings in accordance with applicable European Union regulations) into euro established by the Council of the European Union pursuant to Article 1091(4) of the Treaty;

“Euro” or “euro” means the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty;

“Redenomination Date” means (in the case of interest bearing Notes) any date for payment of interest under the Notes which falls on or after the date on which the country of the Specified Currency first participates in the third stage of European economic and monetary union; and

“Treaty” means the Treaty on the Functioning of the European Union, as amended.

**19. Governing law and submission to jurisdiction**

- (a) The Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, bearer Notes other than Interbolsa Notes (except Conditions 2, 4 and 6), the Coupons (and any non-contractual obligations arising out of or in connection with the Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, bearer Notes other than Interbolsa Notes (except Conditions 2, 4 and 6) and the Coupons) are governed by, and shall be construed in accordance with, English law. Interbolsa Notes, the Principal Agency Agreement, in respect of the Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and Conditions 2, 4 and 6 (and any non-contractual obligations arising out of or in connection with the Interbolsa Notes, the Principal Agency Agreement, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and Conditions 2, 4 and 6) are governed by, and shall be construed in accordance with, Portuguese law. In each case, the application of such governing law shall be without prejudice to the applicability, under the conflicts of rules applicable in the relevant forum, in the light of such submission, of Portuguese law.
- (b) The Bank agrees, for the exclusive benefit of the Trustee, the Noteholders and the Couponholders that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with the Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the bearer Notes other than Interbolsa Notes and/or the Coupons (including a dispute relating to any non-contractual obligations arising out of or in connection with Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the bearer Notes other than Interbolsa Notes and/or the Coupons) and that accordingly any suit, action or proceedings (together referred to as “Proceedings”) arising out of or in connection with the Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the bearer Notes other than Interbolsa Notes and/or the Coupons (including any Proceedings relating to any non-contractual obligations arising out of or in connection with the Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the bearer Notes other than Interbolsa Notes and/or the Coupons) may be brought in such courts.

The Bank agrees for the exclusive benefit of the Noteholders that the courts of Portugal are to have jurisdiction to settle any disputes which may arise out of or in connection with the Principal Agency Agreement, in respect of the Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and/or the Interbolsa Notes and that accordingly any suit action or proceedings (together referred to as “Proceedings in Respect of Interbolsa Notes”) arising out of or in connection with the Principal Agency Agreement, in respect of



the Interbolsa Notes to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and/or the Interbolsa Notes (including any Proceedings in Respect of Interbolsa Notes relating to any non-contractual obligations arising out of or in connection with the Principal Agency Agreement, in respect of the Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and/or the Interbolsa Notes) may be brought in such courts.

The Bank hereby irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any such Proceedings and Proceedings in respect of Interbolsa Notes (including any Proceedings and Proceedings in respect of Interbolsa Notes relating to any non-contractual obligations arising out of or in connection with the Trust Deed, the Principal Agency Agreement except, in respect of Interbolsa Notes to the extent amended by the Interbolsa Notes Agency Agreement, the bearer Notes other than Interbolsa Notes and/or the Coupons, the Principal Agency Agreement in respect of the Interbolsa Notes, to the extent amended by the Interbolsa Notes Agency Agreement, the Common Representative Appointment Agreement and/or the Interbolsa Notes) in any such court and any claim that any such Proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any such Proceedings brought in the English courts or in the Portuguese courts, as the case may be, shall be conclusive and binding upon it and may be enforced in the courts of any other jurisdiction.

Nothing contained in this Condition shall limit any right to take Proceedings against the Bank in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.

The Bank appoints the London branch of the Bank at its office in London for the time being (being as at 29th May, 2012 at 10 Paternoster Square, London EC4M 7AL) as its agent for service of process, and undertakes that, in the event of the London branch of the Bank ceasing so to act, it will appoint another person as its agent for service of process in England in respect of any Proceedings.

Nothing herein shall affect the right to serve proceedings in any other manner permitted by law.

## **20. Common Representative**

In the case of Interbolsa Notes, the holders of the Notes shall at all times be entitled to appoint and dismiss a Common Representative by means of a resolution and pursuant to the Common Representative Appointment Agreement. Upon the appointment of a new Common Representative by the holders of the Notes pursuant to this Condition, any previously appointed and dismissed Common Representative will immediately cease its engagement and will be under the obligation immediately to transfer to the new Common Representative appointed by the holders of the Notes all documents and information then held by such Common Representative pertaining to the Notes.

## **USE OF PROCEEDS**

The net proceeds from each issue of Notes will be applied by the relevant Issuer for general financing requirements in the relevant Issuer's general corporate purposes, which include making a profit. If, in respect of any particular issue, there is a particular identified use of proceeds, this will be stated in the applicable Final Terms.

## BES FINANCE LTD.

### History

BES Finance was incorporated in the Cayman Islands (with registered number 69526) on 15 November, 1996 for an unlimited duration and with limited liability as an exempted company under the laws of the Cayman Islands.

The registered office of BES Finance is c/o Maples Corporate Services Limited, PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands.

### Directors

The Directors of BES Finance are:

<i>Name</i>	<i>Function within the Issuer</i>	<i>Function within the Guarantor</i>
Ricardo Espírito Santo Silva Salgado	Director	Director
Ricardo Abecassis Espírito Santo Silva	Director	Director
Amílcar Carlos Ferreira de Moraes Pires	Director	Director
Isabel Maria Carvalho de Almeida	Director	Adviser to the Board of Directors
Jose Leal de Faria	Director	Director

The business address for all the above Directors is Avenida da Liberdade, 195, 1250-142 Lisbon, Portugal.

BES Finance has no employees or non-executive Directors.

BES Finance is not aware of any potential conflicts of interest between the duties to BES Finance of the persons listed above and their private interests or other duties.

BES has an Audit Committee which is responsible for all units within the BES Group, including BES Finance. The Audit Committee is composed of three non-executive directors qualified as independent: José Manuel Ruivo da Pena, Luís António Burnay Pinto de Carvalho Daun e Lorena and João de Faria Rodrigues.

BES Finance complies with its country's of incorporation corporate governance regime(s).

### Business

BES Finance is a wholly-owned subsidiary of Banco Espírito Santo, S.A. ("BES"). BES Finance has no subsidiaries. The objects for which BES Finance was established are unrestricted and include, pursuant to clause 3 of its Memorandum of Association, without limitation, "to carry on the business of a finance and investment company", "to receive monies on deposit or loan and to borrow or raise money in any currency with or without security", "to advance, deposit or lend money, securities and/or property", "to buy, sell, broke and deal in foreign exchange, bullion, specie, precious metal and minerals, and all other commodities", "to enter into currency and/or interest rate and any other type of swap agreements", "to act as promoters and entrepreneurs", "to exercise and enforce all rights and powers conferred by or incidental to the ownership of any shares, stock, obligations or other securities", "to purchase or otherwise acquire, to sell, exchange, surrender, lease, mortgage, charge, convert, turn to account, dispose of and deal with real and personal property and rights of all kinds", "to stand surety for or to guarantee, support or secure the performance of all or any of the obligations of any person, firm or company whether or not related or affiliated to the company in any manner", "to engage in or carry on any other lawful trade, business or enterprise".

### Capitalisation and Indebtedness

The existing issued ordinary shares of BES Finance are not listed on the Official List of the Luxembourg Stock Exchange or on any other stock exchange and are not dealt on any other recognised market.

Two Ordinary Shares were issued and fully paid when BES Finance was incorporated on 15th November, 1996. A further 24,998 Ordinary Shares were issued on 21st January, 1997. The share capital of BES Finance was subsequently redenominated in Euro and its authorised share capital increased by various special resolutions to its current level of €600,100,000 consisting of 100,000 Ordinary Shares of par value €1.00 each and 600,000 Non-cumulative Guaranteed Step-Up Preference Shares Series A of a par value of €1,000 each. Up to 31st December, 2011, 384,379 Non-cumulative Guaranteed Step-Up Preference Shares Series A have been repurchased.

All issued Ordinary Shares are credited as fully paid and are held by BES as at the date of this Prospectus. Through its shareholding BES directly controls BES Finance. There are no other measures in place concerning such control.

No capital of BES Finance is under option or is agreed conditionally or unconditionally to be put under option.

The following table sets forth, at 31st December, 2011 the capitalisation of BES Finance. This table should be read in conjunction with the financial statements and notes thereto of BES Finance which are incorporated by reference into this Prospectus. Save as disclosed below there has been no material change in the capitalisation of BES Finance since 31st December, 2011.

*(Expressed in thousand EUR)*

	<i>31st December, 2011</i>	<i>31st December, 2010</i>
<b>Shareholder's Equity</b>		
100,000 shares of EUR 1 par value each, fully authorised, subscribed and paid up	100	100
600,000 pref shares of EUR 1.00 par value each, fully authorised, subscribed and paid up	215,621	600,000
Retained earnings - prior	42,469	35,828
Reserves and other gains/ (losses) in equity instruments	146,143	2,097
Dividends distributed	(25,657)	(33,480)
Net Income	(141,063)	40,121
<b>Total Shareholder's Equity</b>	<b>237,613</b>	<b>644,666</b>
<b>Short term debt<sup>(1)</sup> (par value)</b>	134,750	2,586,312
<b>Long term debt<sup>(1)</sup> (par value)</b>	6,558,268	7,065,110
Long term borrowings <sup>(1)</sup> (par value)	6,558,268	7,065,110
Subordinated debt <sup>(1)</sup> (par value)	146,610	1,020,000
Corporate debt <sup>(1)</sup> (par value)	6,411,658	6,045,110
<b>Total short and Long term debt</b>	<b>6,693,018</b>	<b>9,651,422</b>

Notes:

- (1) Short and Long term debt are included in the Issuer's financial statements, prepared in accordance with International Financial Reporting Standards, at amortized cost except for certain notes containing embedded derivatives which are at estimated market value or fair value hedge adjustments. These specific captions per the financial statements amount to €1,993,776,069 and €140,723,516, respectively.

**Explanatory Notes:**

- Since 31st December, 2011, the Company repurchased an additional €12,515,000 preference shares, having booked a gain in Reserves and other gains/ (losses) in equity instruments (€7,577,326).

## Financial Information of BES Finance

The following tables present the balance sheet and statement of income of BES Finance for the years ended 31st December, 2011 and 2010 and the statement of cash flows of BES Finance for the periods ended 31st December, 2011 and 2010. The information for the years ended 31st December, 2011 and 2010 has been extracted without material adjustment from, and should be read in conjunction with, the audited financial statements of BES Finance for the years ended 31st December, 2011 and 2010, together with the notes thereto, all of which are incorporated by reference into this Prospectus.

### BES Finance Ltd.

#### Balance Sheet

	<i>(expressed in euro)</i>	
	<i>31st December, 2011</i>	<i>31st December, 2010</i>
<b>Assets</b>		
Deposits with banks	3,505,600	910,643
Financial assets held for trading	76,265,593	89,700,199
Loans and advances to banks	4,828,383,519	8,396,134,813
Derivatives for risk management purposes	13,279,027	16,765,344
<b>Total assets</b>	<b>4,921,433,739</b>	<b>8,503,510,999</b>
<b>Liabilities</b>		
Financial liabilities held for trading	55,256,659	89,368,226
Deposits from banks	68,436,510	103,577,138
Debt securities issued	4,407,083,477	6,188,664,538
Derivatives for risk management purposes	1,366,306	1,254,033
Subordinated debt	151,444,767	1,474,884,966
Other liabilities	233,025	1,095,817
<b>Total liabilities</b>	<b>4,683,820,744</b>	<b>7,858,844,718</b>
<b>Equity</b>		
Share capital	215,721,000	600,100,000
Other reserves and retained earnings	162,954,802	4,445,350
Profit for the year	(141,062,087)	40,120,931
<b>Total equity</b>	<b>237,612,995</b>	<b>644,666,281</b>
<b>Total liabilities and equity</b>	<b>4,921,433,739</b>	<b>8,503,510,999</b>

**BES Finance Ltd.**  
**Income statement**

*(expressed in euro)*

	<i>31st December, 2011</i>	<i>31st December, 2010</i>
Interest and similar income	324,429,651	333,597,136
Interest expense and similar charges	305,141,476	295,683,704
Net interest income	<u>19,288,175</u>	<u>37,913,432</u>
Fee and commission income	–	–
Fee and commission expense	(62,659)	(34,705)
Net gains/(losses) from financial assets and liabilities at fair value through profit or loss	(6,711,799)	3,176,354
Net (losses)/gains from foreign exchange differences	(15,840,150)	(1,798,410)
Other operating income and expense	<u>(137,717,463)</u>	<u>892,260</u>
Operating income	<u>(141,043,896)</u>	<u>40,148,931</u>
General and administrative expenses	<u>18,911</u>	<u>28,000</u>
Operating expenses	<u>18,911</u>	<u>28,000</u>
<b>Profit for the year</b>	<b><u>(141,062,807)</u></b>	<b><u>40,120,931</u></b>



**BES Finance Ltd.**  
**Statement of cash flows**

*(expressed in euro)*

	<i>31st December, 2011</i>	<i>31st December, 2010</i>
<b>Cash flows arising from operating activities</b>		
Interest received	369,395,722	276,830,291
Interest paid	(358,951,565)	(236,938,830)
Taxes and licences	(34,271)	(167)
Foreign currency exchange gains / (losses)	(15,840,150)	(1,798,410)
Other operating income and expense	(138,628,556)	(4,159,169)
	<u>(144,058,820)</u>	<u>33,933,715</u>
<b>Changes in operating assets and liabilities</b>		
Loans and advances to banks	3,488,827,761	(1,954,997,312)
Short and long term debt	(1,774,849,317)	2,252,824,979
Financial assets and liabilities held for trading	(27,451,172)	1,541,687
Derivatives for risk management purposes	(558,734)	616,126
<b>Net cash flows from operating activities</b>	<u>1,541,909,718</u>	<u>333,919,195</u>
<b>Cash flows arising from investment activities</b>		
Subordinated debt	(1,273,325,282)	(299,943,564)
<b>Net cash flows from operating activities</b>	<u>(1,273,325,282)</u>	<u>(299,943,564)</u>
<b>Cash flows arising from financing activities</b>		
Repurchase preference shares	(240,332,527)	–
Dividends distributed	(25,656,952)	(33,480,000)
<b>Net cash flows from financing activities</b>	<u>(265,989,479)</u>	<u>(33,480,000)</u>
<b>Net increase/ (decrease) in cash and cash equivalents</b>	2,594,957	495,631
Cash and cash equivalents at beginning of year	910,643	415,012
<b>Cash and cash equivalents at end of year</b>	<u><u>3,505,600</u></u>	<u><u>910,643</u></u>

### **Selected Financial Information of BES Finance**

The following table presents selected financial information of BES Finance for the years ended 31st December, 2011 and 2010.

#### **BES Finance Ltd.**

	<i>31st December, 2011</i>	<i>31st December, 2010</i>
<b>Total Assets</b>	4,921,433,739	8,503,510,999
<b>Total Liabilities</b>	4,683,820,744	7,858,844,718
<b>Total Equity</b>	237,612,995	644,666,281
<b>Total Liabilities and Equity</b>	<u>4,921,433,739</u>	<u>8,503,510,999</u>

## BANCO ESPÍRITO SANTO, S.A. AND BES GROUP BANCO ESPÍRITO SANTO S.A.

Banco Espírito Santo, S.A. (“BES” or the “Bank”) is a bank incorporated in Portugal (with commercial registry and tax payer number 500 852 367) on 26th September, 1990, for an unlimited duration, and with limited liability (*societies anonym*), under the provisions of Decree-Law no. 262/86, of 2nd September, 1986, as amended. As of 31st December, 2011, the share capital of BES was €4,030,232,150.40, represented by 1,461,240,084 ordinary registered book-entry shares with no par value. BES’ activities are mainly governed by Decree-Law 298/92, of 31st December, 1992, as amended.

According to the Portuguese Bank Association, BES is Portugal’s second-largest private financial institution by total consolidated assets. BES and its consolidated subsidiaries (together, the “BES Group” or the “Group”) offer a full range of banking and financial services, including deposit taking, lending, asset management, leasing and factoring, investment banking and brokerage services. As at 31st December, 2011, the BES Group operated 701 branches in Portugal (including 47 on-site branches resulting from partnerships with insurance agents under the *Assurfinance* programme) and 100 branches abroad (of which there were 25 in Spain, 34 in Angola, 33 in Libya and 2 in Cape Verde), 23 private banking centres (22 in Portugal and 1 in Angola) and 34 corporate centres (24 in Portugal, 9 in Spain and 1 in Angola).

### 1. History

BES’ origins date from 1869, when José Maria do Espírito Santo e Silva, along with other investors, founded its predecessor bank in Lisbon. After the Second World War, BES became one of Portugal’s largest commercial banks under the direction and leadership of the Espírito Santo family. In 1975, virtually all institutions in the banking and insurance industries, including BES, were nationalised by the Portuguese government. The Espírito Santo family, deprived of its Portuguese base, began operations outside of Portugal, primarily in the financial services market.

In 1986, the Portuguese government embarked upon a privatisation programme, creating the conditions for the return of the Espírito Santo Group to Portugal. After banking activities were again opened to private initiative, the Espírito Santo Group, under a strategic partnership with Crédit Agricole S.A. and supported by a core group of Portuguese shareholders, set up Banco Internacional de Crédito (“BIC”), thus marking the Espírito Santo Group’s return to Portugal. That same year, the Espírito Santo Group acquired Espírito Santo Sociedade de Investimento (the precursor of BES Investimento), with the participation of Union de Banques Suisses and Kredietbank (Luxembourg), among other financial institutions.

In 1991, BES (formerly incorporated in Portugal as BESCL) was re-privatised and ESFG and Crédit Agricole acquired stakes in its share capital. As of 11th May, 2012, ESFG and its subsidiaries held 37.79 per cent. of the voting rights in BES and consolidated BES in its financial statements. The general public, including institutional investors, owned approximately 46.98 per cent. of BES’ ordinary shares as at 11th May, 2012. BES’ ordinary shares are listed on Euronext Lisbon.

Crédit Agricole is a shareholder of BES and is ESFG’s strategic partner in BES’ management and operations, particularly in connection with the development of products in the retail sector. To the best of BES’ knowledge, there are no written arrangements governing this relationship.

During the 1990s, BES’ business expanded both geographically and by type of activity as a result of several investments. In 1992, BES purchased Banco Industrial del Mediterráneo (later Banco Espírito Santo (Spain)) and expanded its activity in the Spanish market, where its presence was reinforced in 2000, following the acquisition of Benito y Monjardín and GES Capital.

In line with the internationalisation of its activities, in 2000, an important strategic partnership was established with the Bradesco Group in Brazil, leading to BES’ acquisition of 3.25 per cent. of Banco Bradesco S.A. (“Bradesco” or “Banco Bradesco”) and Bradesco’s acquisition of 3 per cent. of BES. In addition, both groups established joint holdings in BES Investimento do Brasil and BES Securities in Brazil. Investments in the Americas reached the United States, where BES acquired Espírito Santo Bank, a bank mainly focused on private banking and directed to customers in Latin America, particularly in Brazil. In the

same year, a strategic partnership was established in Portugal with Portugal Telecom, which led to the establishment of Banco BEST – Banco Electrónico de Serviço Total in 2001.

In August 2001, BES Angola (a financial institution based in Angola) was incorporated, and its activities were initiated, on 24th January, 2002. In 2003, BES sold 20 per cent. of BES Angola to the Angolan Group GeniGroup.

Within the scope of the BES Group's international expansion policy, in 2003 BES acquired Bank Espírito Santo International, Limited. In the same year, BES acquired 50 per cent. in Locarent, a rent-a-car business, through a strategic partnership with Caixa Geral de Depósitos ("CGD") and Serfingest, SGPS.

In 2004, Banco Espírito Santo, S.A. (Spain) and Hypovereinsbank ("HVB group") entered into an agreement for the acquisition of the total share capital of Banco Inversión (Spain) by Banco Espírito Santo, S.A. (Spain), a transaction that was authorised by the Bank of Spain at the beginning of 2005 and executed during that year.

In February 2005, BES increased its direct shareholding in the voting share capital of Banco Bradesco, S.A., from 3.56 per cent. to 6.74 per cent.

In October 2005, BES Investimento together with Concordia Sp z.o.o. ("Concordia"), a company based in Warsaw, Poland that specialises in providing financial advisory services, established a strategic partnership for the incorporation of Concordia Espírito Santo Investment ("CESI"), a company that operates in the Polish market focusing on the provision of advisory services in project finance, mergers and acquisitions and other areas of corporate finance.

In February 2006, BES' Board of Directors decided to acquire a shareholding of 50 per cent. in Companhia de Seguros Tranquilidade-Vida and the sale of a 15 per cent. shareholding in Espírito Santo Companhia de Seguros, S.A., both transactions concluded on 27th June, 2006. Both companies changed their names to BES Vida, Companhia de Seguros ("BES Vida") and BES, Companhia de Seguros ("BES Seguros"), respectively.

In May 2007, BES announced the conclusion of a merger by incorporation of its Spanish subsidiary (Banco Espírito Santo (Spain)) into BES, with the objective of achieving greater operating efficiency through economies of scale and to increase activity in the Spanish corporate market.

In March 2008, BES Angola established a strategic partnership with ESAF termed "BESAACTIVE", the first fund management firm to operate in Angola. Also in March of 2008, ESFG entered into an agreement with Portugal Telecom to acquire 34 per cent. of the share capital of Banco BEST.

On 31st December, 2008, BES announced the conclusion of a merger by incorporation of Besleasing e Factoring, Instituição Financeira de Crédito, S.A, into BES.

In August 2009, the Bank announced the creation of AVISTAR SGPS, SA (the holding company concentrating BES's strategic holdings, namely in Portugal Telecom, SA, EDP, SA and Banco Bradesco, SA.) and BES Africa (the holding company for the Group's strategic interests in Africa).

BES Investments announced the expansion of its operations to the US by opening a branch in New York.

In November 2009 the Bank entered into an agreement to acquire 40 per cent. of the capital of Aman Bank for Commerce and Investment Stock Company ("Aman Bank"), a privately owned Bank in Libya with registered office in Tripoli. This transaction was concluded in April 2010.

In December 2009, the Bank sold 24 per cent. of the share capital of BES Angola for U.S.\$375,000,000 and entered into an agreement with Banque Extérieure d'Algérie and Swicorp Ijar to set up a leasing company in Algeria, in which BES will have a 34 per cent. shareholding. Ijar Leasing, Algérie was incorporated in 2011.

In July 2010, BES opened BES Cabo Verde ("BESCV"), a universal service bank incorporated under Cape Verdean law. Also at this time, Espírito Santo Activos Financieros S.A. entered into an agreement to fully acquire Gespastor SGIIC, S.A., a fund management firm, through Espírito Santo Gestión, SGIIC, SA ("ES Gestión").

On 6th August, 2010, the results of the stress tests carried out on BES by the Committee of European Banking Supervisors (“CEBS”) were disclosed. These results showed that BES met the relevant regulatory capital requirements.

In October 2010, BES África, SGPS entered into an agreement to acquire a 25.1 per cent. direct shareholding in Moza Banco (Mozambique) and to simultaneously subscribe for shares in the share capital of Moza Banco (Mozambique). This acquisition closed in January 2011. Also in October, the Mexican regulator, Comisión Nacional Bancaria y de Valores, authorised BES and BES Investimento to open a joint representation office in Mexico, the first time that Mexico has hosted a Portuguese financial institution.

In November 2010, BES Investimento was authorised to acquire a 50.1 per cent. shareholding in Execution Holdings Limited, an investment banking and international brokerage group headquarters in London.

## **2011**

On 28th April, BES informed the market that agreement had been made to sell approximately 78 million ordinary shares of Banco Bradesco SA to Cidade de Deus Companhia Comercial de Participações which represented as of that date 4.1 per cent. of the share capital of Banco Bradesco SA.

On 16th May, BES applied for a guarantee from the Bank of Portugal (Banco de Portugal) on behalf of the Republic of Portugal for a new issue of up to €1,250,000,000 non-subordinated bonds with a maturity of three years. For that purpose, the Bank of Portugal requested that BES amend its by-laws by shareholder resolution to permit its board of directors to pass a resolution permitting an increase in BES’ authorised share capital, an issue of new share capital and the suppression of any shareholder pre-emption rights that may be attached to any such new shares issued by BES.

BES’ by-laws were amended at a shareholders’ general meeting on 9th June, 2011, thereby authorising BES’ board of directors to resolve a share capital increase, through cash contributions, in one or more instalments, by the issuance of ordinary shares or preferential redeemable or non-redeemable shares, up to a maximum amount of €5,000,000,000, as long as such issuance is preceded by a favourable opinion of BES’ audit committee. This authorisation is valid for a period of five years and any issuance share capital increase may be resolved outside the framework of state guarantees. The terms and conditions are to be defined later.

On 15th July, the European Banking Authority (“EBA”) published the results of the European-wide stress tests carried out using the assumptions and methodology defined by the EBA and the ECB. According to the results, taking into account the mitigation initiatives that had been executed up until that date and those foreseen until the end of 2011, BES’ core Tier 1 ratio was deemed to be 7.5 per cent. at the end of 2012 in the worst case scenario. This was the highest ratio amongst all other Portuguese banks.

On 19th July, BES issued €1.25 billion of senior debt guaranteed by the Portuguese state.

On 24th June, BES and China Development Bank Corporation signed a memorandum of understanding under which both banks established co-operation principles for developing future business. Following this, in September 2011, BES and China Development Bank Corporation signed an agreement for a 3 year mid/long-term credit facility in the amount of U.S.\$300 million.

On 25th August, BES informed the market about the disposal of 3.7 per cent. of a 5 per cent. stake it held in Saxo Bank A/S to TPG Capital, part of the TPG Group.

On 27th October, the EBA disclosed the results of the latest stress tests based on those sovereign debt exposures held by each Portuguese bank on 30th September, 2011. The EBA identified that BES needed an overall amount of €687 million of capital, of which €44 million was derived from its sovereign debt exposures based on then-current market prices.

On 7th November, BES and Dagong Global Credit Rating Co., Ltd (a Chinese credit rating agency) signed an agreement for Dagong Global Credit Rating Co., Ltd to provide credit ratings to Banco Espírito Santo and Banco Espírito Santo do Oriente.

On 11th November, BES passed the shareholders' resolutions to increase its authorised share capital up to €786,946,959.99 through contributions in kind by promoting exchange offers on securities issued by BES, BES Investimento and BES Finance. At the same time, the shareholders also authorised the board of directors to increase BES' fully paid-up issued share capital to €7,500,000,000 (from €5,000,000,000) without the prior consent of the shareholders. A resolution was also approved to suppress shareholder pre-emption rights where any share capital increase is made in connection with the guarantee given by the Portuguese state.

On 5th December, BES announced that an increase in its share capital from €3,499,999,998.00 to €4,030,232,150.40 had been registered with the Portuguese Commercial Registry Office. This share capital increase entailed the issuance of 294,573,418 new ordinary, registered and book-entry shares, with no par value, with an issuance price per share of €1.80, and was made through contributions-in-kind comprising the securities issued by BES, BES Investimento and BES Finance exchanged pursuant to exchange offers which results were announced on 2nd December, 2011. This transaction generated a positive impact of 93 basis points in Core Tier 1 ratio considering the risk weighted assets of €66.7 billion as of 30th September, 2011.

On 16th December, the Bank of Portugal announced the first global results of its special inspections programme ("SIP"), which was undertaken as part of the measures and actions agreed by the Portuguese authorities under the programme of economic and financial assistance agreed with the IMF/EU/ECB in May 2011.

The SIP covered the eight largest Portuguese banking groups, which includes Espirito Santo Financial Group ("ESFG"), the parent company in the BES Group. SIP had the objective of validating, as of 30th June, 2011, credit risk data used in the valuation of the BES groups' financial strength through independently valuing the loan portfolios of each member of the BES Group, as well as assessing the adequacy of their risk management policies and procedures, and confirming their regulatory capital requirements. The exercise focused on the valuation of credit amounting to €44.1 billion, which equates to 85 per cent. of the BES Group's total credit portfolio. The valuation concluded that there was a need to reinforce the value of the individual impairment registered in the BES Group's consolidated financial statements account by €125 million. This amount represented 0.3 per cent. of the analysed global credit portfolio and 8.4 per cent. in the value of impairments accounted in relation to that portfolio. It was noted that, as of September 2011, the BES Group constituted additional impairments for aforementioned credits amounting to €21.0 million. In the context of the SIP it was also noted that there was the need to adjust the value of the risk weighted assets ("RWA") corresponding to an increase of 2.2 per cent. on the total amount calculated for that date. It is noted that the regulatory changes applicable after the reference date of the SIP, in particular the implementation of the changes in CRD III will result in a reduction in the value associated with risk weighted assets equivalent to 1.2 per cent. based on data as at 30th June, 2011. The effect of the changes registered after 30th June, 2011 was not taken into consideration in the estimated impact of SIP on the Tier 1 ratio. The combined impact of these results of the solvency evaluation of the BES Group, as of 30th June, 2011, would result in a slight decrease in the Tier 1 ratio from 9.2 per cent. to 8.9 per cent., still remaining above the 8 per cent. minimum level required on that date.

On 23rd December, 2011 BES issued €1 billion of senior debt, guaranteed by the Republic of Portugal.

## **Developments in 2012**

On 6th January, BES issued another €1 billion of senior debt guaranteed by the Republic of Portugal.

On 1st February, DBRS together with its affiliates ("DBRS") downgraded BES's senior long-term debt and deposit rating to "BBB (low)", with negative trend. This followed the downgrade of the long-term rating of the Portuguese Republic from "BBB" to "BBB (low)". BES' short-term debt and deposits rating was downgraded from "R-2 (high)" to "R-2 (mid)", with negative trend.

On 15th February, BES announced that its long-term credit rating had been downgraded from "BB" to "BB-", with negative outlook whilst its short-term credit rating was reaffirmed at "B" by S&P together with its affiliates ("S&P"). This followed the downgrade of the Republic of Portugal's sovereign long-term credit ratings from "BBB-" to "BB" and its short-term credit rating from "A-3" to "B" with negative outlook, the



publishing of the Banking Industry Country Risk Assessment on Portugal, and the revision of other Portuguese banks by S&P.

On 17th February, BES issued senior debt guaranteed by the Republic of Portugal in the amount of €1.5 billion, with a variable interest rate and maturity of three years.

On 1st March, BES announced the global results of the third and last working phase of the SIP. As in 2011, the SIP covered the eight largest Portuguese banking groups, including ESFG. The first two working phases were concluded and their results were published on 16th December, 2011. SIP's third working phase was based on a prospective approach, with the objective of evaluating the adequacy of methodology and criteria used by banking groups in the financial projections that support evaluation of future solvency within the framework of stress test exercises.

Such evaluation concluded that the BES Group used clearly adequate methodology and criteria, the highest evaluation granted within SIP's phase 3.

With regards to measures that warrant further improvement, the Group will establish and present to the Bank of Portugal its plan for implementation in the short term in the context of the continuing improvements to processes of the Group. The result of the review by the international specialist consulting firm Oliver Wyman confirms the quality of the procedures and capacities of the BES Group in the projections of impacts of adverse macroeconomic scenarios on its balance sheet and operational accounts.

On 15th February, following the downgrade of the Republic of Portugal's sovereign rating from "Ba2" to "Ba3" Moody's together with its affiliates ("Moody's") announced that it had begun a downwards revision of the ratings of the Portuguese banks. In a press release published on 28th March, Moody's announced that it had concluded its review for downgrade of the Portuguese banks. The long-term rating of BES was downgraded from "Ba2" to "Ba3", the same level as the Portuguese sovereign rating. The standalone bank financial strength rating was downgraded to "E+" from "D-".

## **2. *BES' International Presence***

### *Spain*

In Spain, the BES Group has operations in corporate banking, private banking and affluent banking. The BES Group has also developed investment-banking activities in Spain, holding a leading position in the Spanish brokerage market (where it ranks fourth according to Six Telekurs, with a market share of 7.3 per cent.) and in mergers and acquisitions. Taking advantage of the geographical proximity to Spain, the Group has an Iberian vision of the market, facilitating and promoting exports and direct investment by Portuguese companies in Spain, and by Spanish companies in Portugal.

### *Brazil*

Brazil is one of Latin America's fastest growing economies. Its strong historical links and cultural affinities with Portugal make it a natural partner of the BES Group. The BES Group is present in Brazil through BES Investimento do Brasil, in which Banco Bradesco, holds a 20 per cent. stake. BES Investimento do Brasil focuses its activity on the capital markets, risk management, proprietary trading, project finance, distribution of fixed income products, private equity and corporate finance. The BES Group's asset management activity in Brazil is conducted by BESAF – BES Ativos Financeiros, which recently restructured its commercial strategy, emphasising the role of external distributors. The BES Group also engages in securities brokerage in Brazil through BES Securities.

### *Angola*

Angola is one of the world economies with high growth potential, and is one of Portugal's largest trade partners. In Angola, the BES Group conducts its activity through BES Angola ("BESA"), a bank incorporated under Angolan law that provides a global service to individual and corporate clients. BES Angola operates through a network of branches and sub-branches distributed in six provinces, and a private and affluent banking centre in Luanda.

In corporate banking, BESA is supported by a corporate centre in Luanda, focusing its activity on (i) establishing commercial partnerships of mutual added value with the large and medium-sized companies operating in Angola, namely by financing the investment projects or cash needs of these companies and providing technical and legal support; and (ii) supporting foreign companies and entrepreneurs (principally from Portugal, Spain, Brazil and Germany) by expanding their activity into Angola. The BES Group's investment banking business has also been expanding through tracking business opportunities and arranging financing solutions in the areas of project and corporate finance.

In the asset management area, BESA ACTIF—Sociedade Gestora de Fundos de Investimento, the first fund management company in Angola, manages a closed-end real estate fund (and a second one is pending authorisation by the competent authorities), and BESA ACTIF—Sociedade Gestora de Fundos de Pensões markets an open-ended defined contribution pension fund called BESA Opções de Reforma fund.

BESA has been asserting its position as a reference bank in the Angolan market, where it stands out for its profitability and efficiency levels (Analysis to the Angolan Banking sectors by KPMG (November 2010)) while being actively engaged in society and participating in Angola's reconstruction process within the scope of its sustainability policy.

#### *Cape Verde*

The activity of BES Cabo Verde is concentrated on the local corporate market, particularly the public sector and affiliates of Portuguese groups with economic interests in Cape Verde, and on the local affluent market. In June 2011, a second branch was opened in Santa Maria (Sal Island) in addition to the BES branch in Cape Verde, which targets granting credit to non-resident clients.

#### *Libya*

The BES Group operates in Libya through a 40 per cent. stake in Aman Bank, of which it has management control. Through its presence in Libya, the BES Group not only aims to provide support to its clients in that country but also to open access channels to the North African markets.

Libya is undergoing a stage of consolidation following the recent fall of the Ghadafi regime, and Aman Bank is believed to be in a relatively good position to take advantage of any growth opportunities in the country.

The Bank has suffered neither sanctions nor significant damage to its infrastructures, and so it continues to operate during the transition period.

#### *United Kingdom*

In London, Europe's main financial centre, BES operates through a branch which concentrates its activity in wholesale banking, namely syndicated credit transactions, leveraged finance operations and commodities structured trade finance and, in close co-operation with BES Investimento, in project finance operations. At the end of 2010, BES Investimento acquired a 50.1 per cent. stake in Execution Holding Limited (65.42 per cent. in 2011), an international investment banking group focusing on brokerage, research, mergers and acquisitions, corporate finance, corporate brokerage and equity capital markets. Through this acquisition, the BES Group fulfilled its intention to reinforce a presence in Europe's largest financial centre, while opening an access route to emerging markets such as China and India.

#### *France*

BES conducts its activity in France through Banque Espirito Santo et de la Vénétie, in which it has a 42.69 per cent. stake. The bank focuses its activity on corporate banking and the provision of financial services to Portuguese residents in France who are clients of BES in Portugal.

### *United States*

Through Espírito Santo Bank, based in Miami, the BES Group conducts international private banking activities in the United States, where its main customers are the local Portuguese and Latin American communities. BES' New York branch focuses its activity in wholesale banking, mainly in the United States and Brazil. BES Investimento's New York branch distributes products in the core geographies, primarily in the areas of project finance and other structured finance activities, leveraging its Brazilian presence, strong positioning in the capital markets business in Iberia, and reference clients in the area of project finance. The BES Group's presence in New York gives it access to institutional investors in one of the world's main financial centres.

### *Macao*

The BES Group is present in Macao through BES Oriente, whose main activity is to support the business operations developed by BES' clients in the region, while seeking to seize business opportunities leveraged by the expressed intent of the People's Republic of China to consider Macao as a platform for economic co-operation with Portuguese-speaking countries.

### *Poland*

The BES Group has been present in Poland since 2005, the year of the foundation of Concordia Espírito Santo Investment, now known as Espírito Santo Investment Sp. Z.o.o., a BES subsidiary that specialises in advisory services in mergers and acquisitions. In 2008, BES Investimento expanded its activities in the country, opening a branch which provides brokerage services on the Warsaw Stock Exchange.

### *Mozambique*

Moza Banco deployed its commercial expansion plan during 2011 and opened four new branches in December. This is expected to be followed by a new set of branch openings in 2012, all located in areas where economic activity is more vibrant. At the same time, the bank has been reinforcing its support areas, aligning its processes to best market practices and deploying an ambitious and well-designed plan to train its human resources. Activity has grown at a strong pace in terms of the number of clients, which increased by 85 per cent. year-on-year. The bank posted a net profit in 2011.

### *Other countries*

The BES Group has representative offices in South Africa, Germany, Canada, China, Mexico, Switzerland and Italy. In addition it has a partnership with Banque Extérieure d'Algérie in Algeria and shareholdings in Banco delle Tre Venezie in Italy and Banque Marocaine du Commerce Extérieur in Morocco. In 2012, BES inaugurated two new branches in Luxembourg and Venezuela, countries where Portuguese communities have an important presence.

## **3. Strategy**

For the BES Group, the main pillar for development and strategic differentiation lies in the quality and innovation of service and a permanent focus on the needs of each client, whether individual, corporate or institutional.

Accordingly, BES Group offers a wide range of financial products and services to meet the specific needs of its varied client base.

A solid and stable management has enabled the development of a consistent long-term strategy based on strategic partnerships, long-standing relationships with various stakeholders and a core group of reference shareholders since the Bank's reprivatisation in 1999-1992.

The Group's main strategic guidelines are:

- Reinforcement of its domestic positioning through new client acquisitions (individual and corporate clients) and share-of-wallet strengthening (in particular in savings) through a diversified offer of innovative products and services, supported by its cross-selling and cross-segment initiatives, such as *bancassurance and assurfinance* (in partnership with Companhia de Seguros Tranquilidade);
- Expansion of international activity by reinforcing its position in the strategic triangle (Iberia, Brazil and Africa) and expanding into new markets considered strategic and offering business opportunities;
- Support to Portuguese companies in the phase of international expansion through: (i) partnerships with local entities; (ii) trade missions with entrepreneurs to relevant countries; (iii) recognised know-how in trade finance, a business area in which the BES Group has consistently been a leader in Portugal, with a market share of 28.8 per cent. in 2011 (2010: 27.2 per cent.); and (iv) dedicated teams and structures specialising in supporting companies in the process of international expansion (including the International Premium Unit, which has no equal in the Portuguese banking sector);
- Improvement of operating efficiency, maintaining the efficiency ratio (which BES defines as cost-to-income) below 50 per cent. and a leading position in the Iberian banking sector;
- Development of long-term strategic partnerships which are a fundamental link in BES Group's strategy. BES Group maintains an important strategic partnership with Crédit Agricole, one of its main shareholders. This collaboration has established key cross-selling platforms, such as bancassurance. Additionally, BES maintains an important strategic partnership with Banco Bradesco, a leading Brazilian bank and also a BES shareholder. For example, Banco Bradesco holds a 20 per cent. stake in BES Investimento do Brasil, BES Group's Brazilian investment banking subsidiary, and provides support and local know-how to BES' operations in Brazil, which is a key growth market for the Group's international expansion strategy.
- Development of a sustainability strategy along the following dimensions: governance and ethics; corporate identity; innovation and entrepreneurship; financial inclusiveness; biodiversity and climate change; and responsible citizenship. These areas have been defined on the basis of shareholder consultation, the Group's vision and activities and the trends for the financial sector.

### Short-term strategic priorities

BES has been continuously implementing a wide range of initiatives in order to face the financial problems of the Portuguese economy, and the challenges set by the Financial Assistance Programme. Therefore, BES has outlined the following short-term strategic priorities:

- **Deleveraging of balance sheet:** the BES Group has launched an ambitious programme of balance sheet deleveraging, since the 2nd half of 2010, for the purpose of reducing its "loans-to-deposits" ratio and enhancing the BES Group's financial soundness. The success of the deleveraging programme has led to a reduction in the BES Group's loans-to-deposits ratio from 198 per cent. as of 30th June, 2010 to 165 per cent. as of 31st December, and 141 per cent. as of 31st December, 2011.
- **Reinforcement of risk management:** the BES Group's cautious financial management has led to the reinforcement of provisioning throughout 2011 which increased provisions for credit, securities and other risks amounting to a total of €843.3 million (2010: €533.6 million). The BES Group has a high credit-provisioning rate, with a balance of 4.23 per cent. in provisions to the rate of gross credit figures at the end of 2011.
- **Sustainability of future returns:** through the growth of international business and through increased efficiency. In international activity, the results from the activity in Spain, Brazil and Africa still provides a significant contribution to the BES Group's financial results, compensating for the slowing of the domestic activity. At the end of 2011, the net income from operations in Africa, Brazil and Spain was €121.3 million, an amount that represents 75 per cent. of net income from international activity. Regarding efficiency, several cost reduction measures have been adopted, especially in Portugal, including a net reduction of 30 branches during 2011, and an expected additional reduction

of 30 branches in 2012. As a result, domestic costs have presented a year-on-year decrease of 5.6 per cent. Other similar measures are currently being applied internationally under the deleveraging process.

#### **4. Key Strengths**

BES' position in the banking industry is due to the following key strengths:

##### **A brand with more than 140 years of history**

With a history of 143 years, the central goal of the BES Group's activity is to create value for shareholders, while seeking to meet the needs of its clients and ensure the professional fulfilment of its employees. Its first and foremost mission is to align a strategy of constant sustained reinforcement of its competitive position in the market with absolute respect for the interests and well-being of its clients and employees. BES is aware of its duty to actively contribute to the economic, social, cultural and environmental development of Portugal and of the communities among which it develops its activity.

With a presence in four continents, operations in 25 countries and employing approximately 9,800 people as at 31st December, 2011, the BES Group is currently the Portuguese financial group with the largest market capitalisation (€2.0 billion as of 31st December, 2011) and the second largest private-sector group by total net assets (€80.2 billion as of 31st December, 2011).

BES is a unique case of organic growth in the Portuguese financial system that has steadily increased its average domestic market share from 8.5 per cent. when it was privatised in 1992 to 19.3 per cent. in 2011. Product innovation, focus on quality service, and strong awareness to the BES brand (particularly in attributes such as strength and trust) makes the Group a reference in the national and international markets.<sup>1</sup>

BES holds a significant position in a number of products and services, namely: trade finance, PPR's (Retirement Saving Plans), loans, asset management, leasing, factoring, balance sheet customer funds (client deposits and debt securities).

By adopting a set of measures and sustainable practices, which are a positive contribution to the development of BES and of the communities in which it operates, the BES Group seeks to achieve a balanced financial growth.

Consistency, depth and mainstreaming of the work that has been pursued over the last 5 years have granted the BES Group a leading role in sustainability in the financial sector of the Portuguese economy. Its external visibility in terms of social responsibility and sustainable development is shown by BES' position in the list of financial companies that are referenced in Dow Jones Sustainability Indexes and FTSE4Good.

##### **Stable core shareholder base and Management Team**

The BES Group has had a strong and stable core shareholder base since 1991. BESPARG, which holds directly 35 per cent. of BES' share capital, is owned by Espírito Santo Financial Group and Crédit Agricole, which has been a partner of the ESFG since 1986. Following the capital increase concluded in May 2012, ESFG held 73.6 per cent. of the voting rights in BESPARG, with Crédit Agricole holding the remaining 26.4 per cent. of the voting rights in this company. In addition, as of the same date, Crédit Agricole held a direct shareholding in BES of 10.8 per cent. Moreover, the BES Group has strategic partnerships with Portugal Telecom and Banco Bradesco (Brazil). Banco Bradesco, through Bradport, and Portugal Telecom Group, owned 4.83 per cent. and 2.09 per cent., respectively, of BES' share capital. The free float was 46.98 per cent.. Silchester International Investors LLP holds a 5.74 per cent. stake in BES, following the Capital increase.

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<sup>1</sup> BES led interbrand's "Top 10 Brands Portugal 2011" survey, which makes it the most valuable brand amongst the companies composing the PSI Index, the reference index of Portugal's stock exchange.



The BES Group has had a stable management team since 1991. Mr. Ricardo Salgado has been the CEO since 1991 and Mr. Morais Pires the CFO since 2004. Most of the executive board members have been directors on BES' board for more than 10 years.

### **Prudent risk management**

Risk management and control play a fundamental role in the balanced and sustained growth of the BES Group. The BES Group seeks to optimise its risk/return profile across its various business lines while maintaining a prudent risk profile in terms of solvency, provisioning, liquidity and capital markets exposure. On-balance sheet customer funds amounted to €40.7 billion as of 31st December, 2011 (€38.9 billion as of 31st December, 2010), while total customer funds amounted to €54.4 billion as of 31st December, 2011 (€56.0 billion as of 31st December, 2010). In line with its prudent liquidity management policy, the BES Group actively promoted the diversification of its funding sources as well as investing in more liquid assets, while also seeking to increase the amount of eligible assets for rediscount with the ECB and other central banks. The BES Group also actively manages its capital markets exposure, adjusting its portfolio strategy according to market conditions.

### **Stable customer base providing a high level of recurring revenues**

The BES Group has a solid customer base, particularly in the corporate segment, and is a leading franchise with strong brand awareness, according to Marktest/Publivaga Recórdação Publicitária Espontânea Genérica. BES' value-added and differentiated segment approach to its clients allowed it to increase its average market share to 19.3 per cent. in December 2011 (from 8.5 per cent. in 1991). In 2011, the BES Group registered a 23.4 per cent. year-on-year increase in on-balance sheet funds from retail clients compared to 2010, driven by strong client acquisition and retention practices and a sustained increase in cross-selling activities. In the corporate segment, the BES Group has been decreasing its credit portfolio by selling international credit operations consistent with its deleveraging strategy, enabling it to continue financing small and medium-sized export companies. The performance of commercial domestic activity is the product of a fundraising focused strategy, with specific value added offers for each customer segment, and the diversification of income sources through cross-selling of financial services and products, leveraging the various areas of intervention of the BES Group in bancassurance and assurfinance for retail and investment bank for corporate segments.

### **Clear and consistent internationalisation strategy**

BES is the most international of all the Portuguese private-sector banks and is present in 25 countries in four continents. The expansion of international activities has been crucial to offset the slowdown of domestic activity. In 2011, the international activity accounted for 26 per cent. of the consolidated net assets of the Group. The strategic triangle (Spain, Brazil and Africa) contributed 75 per cent. of total earnings generated by the Group's international units with €121.3 million of net earnings.

The historic links with Africa and South America, notably with Brazil, the internationalisation of national companies, the growing inter-dependence of economies and the large communities of Portuguese nationals established across various continents, have provided the basis for the international expansion of the BES Group.

The know-how acquired in the domestic market in corporate banking, investment banking and private banking allows the BES Group to export its skills and expertise to serve local customers and customers who do business on a transnational scale, namely by supporting the internationalisation of Portuguese companies. In this context, the major focus has been put on facilitating access to markets considered strategic, i.e., markets showing opportunities for business and where the BES Group has the capacity to provide support, either through a direct presence or through partnerships with local banks.



## **Operational efficiency**

As of 31st December, 2011, the BES Group had a cost-to-income ratio of 57.9 per cent. (48.5 per cent. adjusted for extraordinary items in 2011) as compared to 48.6 per cent. as of 31st December, 2010. Measured against this ratio, the BES Group ranks as one of the most efficient banks in Portugal, according to public information provided by financial institutions in Portugal listed on NYSE Euronext Lisbon. This situation is the outcome of rigorous cost control and of the continuous implementation of rationalisation measures of human and operative resources, of process streamlining and continuous investment in new technologies.

For 2011, domestic activity showed a decrease in operational costs of 5.8 per cent., as compared to 2010. Regarding international operational costs for 2011, the year-on-year increase was 18.7 per cent. compared to 2010, principally due to the expansion of new units acquired or created during the year.

## **5. Business Segments**

BES Group develops its activity supported by value propositions aimed at meeting the needs of its clients: companies, institutions and individual clients. Its decision-making centre is located in Portugal, which is also its main market of operation.

The historic links with Africa and South America, notably with Brazil and Angola, the internationalisation of Portuguese companies, the growing interdependence of economies and the large communities of Portuguese nationals established across various continents have provided the basis for BES Group to expand its international structure, and to adapt it to provide relevant services to those communities, with a positive impact on overall activity.

The BES Group's products and services include deposits, loans to individual and corporate customers, asset management, brokerage and custodian services, investment banking services and the distribution of life and non-life insurance products. Additionally, the BES Group makes short, medium and long-term investments in the financial and currency exchange markets with the objective of taking advantage of price changes or having a return from its available financial resources.

For financial reporting and management purposes, the Group reports on the basis of the following operational segments:

- Domestic Commercial Banking, which includes the Retail, Corporate, Institutional and Private Banking sub-segments
- International Commercial Banking
- Investment Banking
- Asset Management
- Capital Markets and Strategic Investments
- Corporate Centre

Each segment is supported by directly dedicated structures of the BES Group, as well as by the units of the BES Group whose activity is most closely related to each of these segments. These structures run individual and autonomous monitoring of each operational unit of the Group (from an investment centre perspective) while the Executive Committee defines strategies and commercial plans for each Operating Segment.

In addition, there is a second segmentation of activity and results according to geographical criteria, separating the performance of the units located in Portugal (Domestic Area) from that achieved by the units abroad (International Area).

### ***Domestic Commercial Banking***

This operational segment includes all banking activity regarding Portuguese private and corporate customers, based on branch network, corporate centres and other channels, and comprises the following sub-segments:

## *Retail Banking*

This sub-segment comprises activities in Portugal with individual customers, most notably mortgages and consumer loans, business financing, deposits, pension plans and other insurance products for private clients, management of accounts and means of payment, allocation of investment fund units, sale and purchase of securities and custodian services.

Distribution in this sub-segment is based on a branch network that totalled 701 branches in Portugal as at 31st December, 2011 (a net reduction of 30 branches since the beginning of 2011, resulting from 37 closures and seven openings). The network includes 48 on-site branches (an increase of four units on 2011) and regular branches resulting from partnerships with insurance agents under the Assurfinance programme. Because they are a strong driver of retail activity, the number of on-site branches has been increasing significantly (+9 per cent. year-on-year as of December 2011).

In 2011 this important sub-segment registered a high growth in customer funds, recording a 46 per cent. improvement in its loan to deposit ratio at 31st December, 2011 as compared to 31st December, 2010. This growth was despite strong market competition based on retention rates and the need of other financial institutions to increase deposit volumes, especially until the coming into force in October 2011 of a Bank of Portugal circular establishing measures that penalise the capital of financial institutions which offer interest rates on deposits above a certain pre-established limit.

In order to minimise this impact on Retail's commercial banking income, the BES Group reinforced crossselling efforts and took measures intended to increase revenues. These initiatives limited the reduction in banking income in 2011 to -6.6 per cent. compared to 2010.

For the full year 2011, 129,000 new customers were acquired, as a result of a close cooperation between the branch network and the main customer acquisition channels (in particular the Cross-Segment and Assurfinance programmes). Total client acquisition by the BES Group in 2011, including the contribution of the international units, totalled 149,000.

In 2011, the Retail segment growth was supported by the following main drivers: (i) strong focus on attracting customer funds (ii) selectivity in loan granting and (iii) maintaining a high level of cross-selling.

The effort to attract customer funds yielded results, mainly through the increased demand for on-balance sheet customer funds, which rose by 23.4 per cent. in 2011 compared with 2010. In order to foster growth of customer funds, the Bank launched several initiatives to promote long-term saving in 2011 compared with 2010 among its customer base, by widening and enhancing the offer of structured products and savings plans, including micro-savings and impulse saving solutions. There were 142,000 planned saving plans and micro-saving accounts at 31st December, 2011, which attests to the success of these initiatives. These initiatives are intended to allow for the maximisation of long-term savings practices of the client base.

Selectivity in loan granting combined with a sharp drop in demand (from both individuals and small businesses) caused the loan portfolio to decrease by 5.5 per cent. in 2011 compared with 2010. The risk profile of mortgage credit production improved: the average loan-to-value ratio (amount of the loan/property value) in 2011 for new loans was 6 per cent. less than the 2010 average.

In order to ensure sustained levels of cross-selling, Retail includes a wide range of innovative products, services and tools, including:

- an innovative customer relationship management platform launched in 2011, covering all segments of retail and all interaction channels and the boosting of commercial effectiveness across the entire network;
- products and services adjusted to the current economic conditions, namely a salary protection insurance product (the number of insurance policies sold in 2011 grew by 18 per cent. year-on-year).

The Assurfinance programme continued to make an important contribution to the commercial performance of Retail, being responsible for the acquisition of 18,500 new clients throughout 2011.

2010 was characterised by a strong focus on customer funds growth, on reinforced household saving levels and on the BES Group's launch of competitive and innovative offers. These efforts were undertaken in an environment of low interest rates and fierce price competition over the attraction and retention of deposits. Despite the pressure on Retail's net interest income, this sub-segment's banking income resilience was supported by cross-selling and activity growth. A total of 119,000 new clients were acquired during 2010 as a result of good co-ordination between the branch network and the main client acquisition channels, especially through the cross-segment, Assurfinance and other client acquisition programmes developed with third party distributors.

Including the international units, the BES Group acquired 140,000 new clients in 2010.

The Retail sub-segment was supported by the following main growth drivers in 2010:

- Strong focus on attracting customer funds: total customer funds grew by 11.2 per cent. year-on-year, underpinned by increased demand for on-balance sheet funds, which rose by 21.6 per cent. year-on-year. In order to foster the growth of customer funds, the Bank launched several initiatives to attract long-term deposits, including media campaigns;
- Selectivity in credit growth: this translated into a year-on-year decline in the loan portfolio of 0.3 per cent. Demand for credit (both mortgages and consumer) was quite strong in the first quarter of 2010, subsequently declining in the following months. The profile of mortgage credit production gives a clear indication of the level of selectivity employed: affluent clients, a lower risk sub-segment, accounted for 47 per cent. of total production and the loan-to-value ratio in new mortgages dropped by 5 per cent. year-on-year in the second half of 2010, to less than 73 per cent. at 31st December, 2010.
- Sustained increase in cross-selling, supported by a continuous flow of innovative product and service launches. The Retail area continued to increase its commercial productivity, generating a 3 per cent. year-on-year increase in sales. The main initiatives taken in 2010 included the "*Vantagem Família BES*" campaign, with supermarket discount vouchers, reductions in mortgage credit spreads and discounts on insurance policies to families pooling their accounts with BES (through salary domiciliations or debit of regular expenses), and the launch of a personal accident insurance scheme called "BES dia-a-dia", with innovating features in terms of coverage and the indemnity system (11,300 policies sold by the end of the year).

In 2009, the Retail sub-segment posted pre-tax profits of €158.6 million. The year was characterised by the reinforcement of credit risk management policies, which contributed to a marked improvement in the provisioning charge (67 per cent. decrease year-on-year), and by the intensification of measures to streamline operating costs (which declined 1 per cent. year-on-year).

Banking income from the Retail sub-segment was conditioned by the sharp fall in the Euribor rate during the year (with an impact on the net interest income from customer funds) and by fierce competition on deposits.

In light of this difficult market scenario, the BES Group implemented a broad programme to reduce the erosion of banking income, which permitted it to (i) further diversify the portfolio of customer funds (improving its overall margin), and (ii) boost productivity in credit recoveries. Such measures limited the reduction in Retail Banking's total banking income to a decrease of 11.8 per cent. in 2009 year-on-year.

The Retail activity was characterised by a growth of commercial productivity levels, reflected by an increase of 30 per cent. of sales per employee compared to 2008, as well as by an expressive increase in the production of the main product categories, confirming increased client interest in BES products and services.

A total of 116,000 new clients were acquired in 2009 as a result of co-ordinated action between the branch network and the main client acquisition channels, namely through the cross segment and Assurfinance programmes. Two points, in particular, deserve a note: (i) the increasingly high pace of client acquisition levels as the year progressed (the rate of new client acquisitions in the second half of 2009 was 5 per cent. higher than in the first half of 2009) and (ii) the strong growth achieved in the affluent segment (new client

acquisition levels increased by more than 29 per cent. in 2009 year-on-year). Including the international units, the BES Group acquired 127,000 new clients in 2009.

The Retail sub-segment was supported by the following main growth drivers in 2009:

- Strong focus on attracting customer funds: total customer funds grew by 7.9 per cent. year-on-year, underpinned by reinforced household saving levels matched by the launch of innovative offers (complemented with several campaigns). Bancassurance achieved strong results, with Pension plan production increasing by 21.5 per cent. year-on-year, reinforcing the BES Group's leading position in this product with a market share of 28.4 per cent. in 2009.
- Selective growth of credit to individuals and small businesses: translated into a reduction in the loan portfolio of 2.8 per cent. year-on-year, though improving, with mortgage production showing a 2.2-fold increase from the first to the last quarter of the year. Affluent clients (lower risk) accounted for 50 per cent. of new mortgages and 37 per cent. of new consumer credit in 2009.
- Sustained increase in cross-selling: product sales increased 22 per cent. year-on-year (progressively higher growth rates during the year, +17 per cent. year-on-year in first half of 2009 and +26 per cent. year-on-year in second half of 2009), particularly relevant in product categories that foster clients' loyalty levels, such as service accounts, salary and expenses domiciliation and life and non-life insurance.
- Seamless flow of innovative product and service launches, supported by advertising campaigns with high recognition levels. The products and services launched in 2009 took into consideration the economic context, and included: (i) an unemployment insurance policy; (ii) a campaign offering the cashback of 3 per cent. of new salary payments directly deposited with the Bank; and (iii) a campaign offering holiday packages to clients with the highest loyalty levels. The BES Group's value proposition continued to be supported by high impact advertising campaigns. According to surveys conducted by independent entities, the BES Group ranked first and second in the TV Proven Recognition per Advertisement ranking, also leading the ranking of total advertising at the top of mind recognition.

In 2009, the Assurfinance programme continued to contribute to Retail Banking's commercial performance, with approximately 23,800 new clients and the placement of 11,900 credit cards (T-cards).

#### *Corporate and Institutional Customers*

This sub-segment comprises activities with large and medium-sized companies, as well as business with institutional clients and municipalities. The BES Group holds a significant position in the Corporate and Institutional Customers segment, due to its traditional role in supporting the development of the Portuguese business community, where it targets companies with a good risk profile and innovative characteristics and companies with an international focus.

In 2011, the results of this sub-segment were affected by increasing funding costs, with a negative impact on the overall margin of loans, as well as an increase in overdue loan ratios, leading to the need to increase the segment's credit provisions. In order to mitigate these effects, the BES Group has intensified risk prevention practices by increasing the collateralisation of both new and outstanding loans and has regularly revised its pricing policies, not only at the level of credit spreads but also through the elimination of commissioning discounts and exemptions.

Despite the difficulties of the Portuguese corporate sector in the generation of excess cash, the evolution of deposits and hence the loan to deposits ratio improved by 3 per cent. compared to 31st December, 2010. Deposits remained flat year-on-year compared to 2010 and although demand for credit from the business sector sharply declined, new loans granted by BES remained practically level with loan reimbursements, keeping the loan portfolio stable during 2011. This performance, which contrasts to the steep drop in credit in the Portuguese market (-2.4 per cent. year-on-year according to Bank of Portugal data of November 2011), translates BES Group's continued support to the corporate sector, and in particular to the exporting and innovative companies.

The BES Group continues to maintain a close relationship with its corporate clients, so as to offer differentiated products and services that meet the clients' real needs and thus promoting long lasting partnerships.

Particular attention is paid to the exporting companies and those that are expanding abroad, supported by the BES Group's strong international presence, its network of more than 2,200 correspondent banks and its recognised know-how in trade finance (where it had a market share of 28.8 per cent. in 2011). As a result of this strategic focus, it is estimated that 43 per cent. of the Portuguese exporting companies are BES Group clients (source: Portuguese National Statistical Institute).

In line with the increasing economic interconnections within the Iberian market, client acquisition and business development are supported by close co-operation between domestic and Spanish commercial networks.

In addition, the BES Group has a team fully dedicated to supporting the internationalisation of Portuguese companies: the International Premium Unit. This unit, through its specialised teams, provides effective support to these companies, from the initial identification of the exporting potential of each company to prospecting for the ideal destination for their exports, the selection of the right partners, the execution of international trade transactions, and the support to investment in the destination markets, all in co-ordination with the BES Group's international network and the network of partner and correspondent banks.

Throughout 2011, the BES Group developed other important initiatives to support the internationalisation of Portuguese companies, including:

- joint organisation for the fifth consecutive year of the Forum Portugal Exporter, the largest and most important event dedicated to promoting Portuguese exports, in which about 1,500 entrepreneurs participated;
- reinforcement of the partnership with the *Jornal de Negócios* newspaper concerning the “*BES/Jornal de Negócios Exports and Internationalisation*” prize, which is awarded to companies with the best performance in expanding their presence abroad and increasing exports;
- publication of a regular supplement in the *Expresso* Newspaper (“Companies and Internationalisation”) with information about the strategic markets for Portuguese companies, business opportunities in these markets, and reports from Portuguese companies that were success cases in those markets.

The BES Group's team has consistently increased the focus on the support provided to innovation and entrepreneurship. One of the more important initiatives in 2011 was the Advanced Management and Innovation Programme for Entrepreneurs, jointly organised with the Portuguese Catholic University. The aim of this programme is to enable entrepreneurs to move successfully from an innovative idea to company formation, to its market and, finally, to internationalisation. This initiative has also benefited from the active collaboration of key innovation hubs, such as incubators and technology transfer centres, as well as by meetings and conferences involving start-ups and potential investors.

Another important area of activity in the current market conditions has been the support provided to company cash management. The “BES Express Bill” solution continues to prove a valuable and innovative tool to manage company payments, and provides them with an important source of liquidity, and generating confidence in intra company's dealings. So far, approximately 10,000 companies have subscribed to the “BES Express Bill”, with more than €1.7 billion in facilities approved guaranteeing payments of €8 billion per year.

The internet banking service for corporate clients, BESnetwork, registered strong growth, with the number of users reaching 103,000 at the end of 2011, which represents a year-on-year increase of 14.6 per cent. compared with 2010. The number of frequent users and logins to the service grew by 9.6 per cent. and 12.2 per cent., respectively in 2011 compared to 2010.



In 2010 this sub-segment generated pre-tax profits of €233 million, a 3 per cent. year-on-year decrease. Through the growing alignment of credit granting policies with customer funds acquisition, this sub-segment also gradually improved its contribution to the BES Group's results:

- On-balance sheet customer funds registered a year-on-year increase of 34.7 per cent. in 2010;
- Customer loans grew by 3.9 per cent. in 2010, and although decelerating during the year (+8.0 per cent. year-on-year in the second half of 2010), continued to reflect the BES Group's permanent support to business development of the Portuguese firms.

BES maintained its strong commitment to supporting Portuguese firms, holding a 19 per cent. share of total loan applications considered by the mutual guarantee entities within the scope of credit granted to small- and medium-sized companies (SMEs) under the "PME Investe" credit lines programme. During 2010, the Bank approved more than €2.1 billion in loans to Portuguese SMEs since the creation of the programme by the Government.

The "BES Express Bill" solution was subscribed by more than 2,500 companies in its first year of implementation, with more than €1.0 billion in facilities approved. Commission diversification policies were implemented throughout the year contributing to an increase in the trade finance-related commissions by 43 per cent. year-on-year in 2010, commissions on sales of Bancassurance products by 28 per cent. year-on-year in 2010 and renting products related commissions by 13 per cent. year-on-year in 2010.

In 2010 BES undertook a number of initiatives to further reinforce its support of Innovation and Entrepreneurship:

- creation of a highly specialised team fully dedicated to this theme;
- creation of a model designed to provide both financial and development support to innovative companies throughout their life cycle;
- organisation of a series of thematic workshops addressed to companies with the 'SME Leader' status, together with the Institute for Support of SMEs ("IAPMEI"). Under the tagline "Leading for the Future", these seminars (five in all, of which four were held in 2010) focus on fundamental management concepts in key areas for business development. By the end of 2010 approximately 2,000 entrepreneurs had participated in the workshops.

The International Premium Unit contributed to the successful international expansion of Portuguese and foreign companies based in Portugal. The unit made a strong contribution in terms of new business leads generation, while ensuring an effective co-ordination between the domestic commercial units and the Group's units abroad, including the new international operation in Libya (Aman Bank). Innovation in the commercial approach and in the offer of competitive products meeting the needs of clients supported a 20 per cent. year-on-year increase in 2010 in new Medium and Large Corporate Clients acquisition.

In 2010, BES network registered strong growth, with the number of users reaching 90,000 (+10.9 per cent. year-on-year increase in 2010). The number of logins and transactions made through the service grew by 7.6 per cent. and 11.7 per cent., respectively, in 2010 year-on-year.

In 2009, the Corporate and Institutional Clients sub-segment, generated pre-tax profits of €240.4 million. The segment's operating results reflected a significant increase in banking income (+11.5 per cent. year-on-year) combined with strict cost control (+0.1 per cent. year-on-year). The year-on-year decline of 30.1 per cent. in pre-tax profits was due to the increase in provision charges in light of the deterioration of the financial condition of Portuguese companies.

The implementation of policies aimed at balancing credit and fund growth ensured the increase of on-balance sheet client funds by 4.5 per cent. year-on-year. Customer loans were up by 5.9 per cent. year-on-year, backed by a selective and rigorous lending policy, targeting good risk profile and innovative companies, and by the support of the internationalisation of the Portuguese business community. The dynamism and the support provided by the various Group structures dedicated to this segment was crucial in the context of the sharp contraction in investing at the national level.



Various initiatives contributed to the implementation of the Group's policies to support the national business structure, namely the BES Group's participation in the subsidised "PME Investe" credit lines, included in the National Strategic Reference Framework, under which the Bank approved approximately €815 million loans in 2009, translating into a market share of 20 per cent.

The backing of the "SME Leader" system, a qualification that confirms and recognises the best and most solid Portuguese companies, also deserves a note: according to IAPMEI and Turismo de Portugal, from the 5,365 firms awarded the "SME Leader" status, 2,016 (38 per cent.) joined the system through BES.

The 2009 year was characterised by important initiatives aimed at diversifying revenue sources and innovative offers, which translated into: (i) a 62.5 per cent. year-on-year growth in 2009 in commissions from trade finance (a particularly strong result given the reduction in domestic export and import levels) and 56.1 per cent. year-on-year growth in commissions from investment banking advisory services; and (ii) the launch of the "BES Express Bill" Service at the beginning of the fourth quarter, a ground-breaking solution in Portugal, which permits the management of payments, compliance with payment terms, and the possibility of advances on receipts, and has been increasingly successful among the client base.

BESnetwork registered strong growth in 2009, with the number of users reaching 81,000 in the fourth quarter, corresponding to a year-on-year increase of 13.4 per cent. in 2009, while the number of logins and transactions rose by 4.9 per cent. and 15.1 per cent., respectively, year-on-year, in 2009.

### *Private Banking*

This sub-segment is dedicated to high net worth individuals, covering all product types, such as deposits, discretionary management, custodian services, sale and purchase of securities and insurance products.

Total assets under management and custody reached €7.1 billion at the end of 2011, underpinned by a strong increase in deposits (+55.6 per cent. year-on-year). With deposit volume exceeding credit volume, private banking made an important contribution to strengthening BES' balance sheet (the loan to deposits ratio improved by 29 per cent. year-on-year). Despite high pressure on deposit acquisition rates, banking income registered strong growth as a result of various initiatives, such as a permanent optimisation of credit pricing policies and measures to increase the clients' product ownership rates.

In 2010, total assets under management and custody reached €7.9 billion (+4.6 per cent. year-on-year), backed by activity growth, particularly in on-balance sheet customer funds (+54.9 per cent. in 2010 year-on-year). Banking income increased by 21.8 per cent. in 2010 year-on-year, underpinned by price optimisation measures (namely in credit spreads) and measures to increase the clients' product ownership rates (commissions on cross-selling products sold to clients grew by 18 per cent. in 2010 year-on-year).

In 2009, a new commercial approach was adopted for this segment, based on the sub-segmentation of clients according to their different needs and expectations. The network of Private Banking Centres was also subject to a revision process aimed at adapting the geographical reach to the economic reality of each region and to BES' branch network. These adjustments, coupled with the gradual recovery trend in the markets beginning in the second quarter of 2009 drove a significant increase in total assets under management and custody, which at 31st December, 2009 had already surpassed €7.6 billion (7.6 per cent. year-on-year). Following the high demand for on-balance sheet products early in 2009, a progressive move towards greater diversification in the second half led to a recovery in private banking off-balance sheet funds. Notwithstanding this commercial dynamic, the segment's pre-tax profit dropped by 24.2 per cent. year-on-year, to €13.0 million for 2009, being mainly due to a decrease of 18.0 per cent. year-on-year in the banking income. This performance was essentially linked to the decrease in net interest income, due to the direct impact of the declining Euribor rates on demand deposits margins and the highly competitive pressure on term deposits pricing.

## ***International Commercial Banking***

This operational segment incorporates the retail units located abroad, whose banking activity is directed both to private and corporate customers, excluding investment banking and asset management businesses, which are incorporated in their respective segments.

The most important units contributing to this segment are BES Angola and the BES branches in Spain, London, New York and Cape Verde. Available services and products include deposits, all forms of credit, leveraged finance operations, structured trade finance and project finance. This segment has played a leading role within the BES Group's funding strategy, with institutional customers.

This segment continued to show a positive performance in the end of 2011, even though commercial banking income dropped by 4.2 per cent. year-on-year and the pre-tax profit declined by 16.4 per cent. to €259.6 million at 31st December, 2011. Balance sheet customer funds decreased by 11.6 per cent. in 2011 year-on-year due to the reduction in certificates of deposit placed in the international markets following the rating downgrades of the Republic of Portugal and banking institutions.

In 2010 commercial banking income grew by 52.7 per cent. year-on-year while the pre-tax profit rose by 79 per cent., to €310.4 million. Customer funds dropped by 43.4 per cent. in 2010 year-on-year, reflecting the reduction in certificates of deposit placed in the international market following the downgrade of the Republic of Portugal ratings and, consequently, of the banking system's rating.

This segment had a positive performance during 2009, with lending activity growing by 5.9 per cent. year-on-year, banking income increasing by 47.8 per cent. year-on-year, and the pre-tax profit generated rising by 46.5 per cent. year-on-year, to €173.4 million.

## ***Investment Banking***

This operating segment, which has been developed by BES Investimento, includes consulting services for project finance, mergers and acquisitions, liability restructuring and consolidation, placement of private or public issuance of stocks, bonds, other debt and capital instruments, brokerage and other investment banking services, apart from the traditional banking activity (loans and deposits) with corporate and institutional customers.

In a very challenging year, banking income proved quite resilient, decreasing by only 8.3 per cent. in 2011 year-on-year, to €238.2 million. This business segment benefited not only from its diversified international presence (the international area contributed 72 per cent. of its 2011 total banking income) but also the measures taken to manage the difficult economic environment in Portugal, namely an increased focus on internationalisation, on advisory and intermediation services and on the loan portfolio rotation. The deterioration in operating performance and the increase in credit impairments led to a sharp fall in pre-tax profits, which were down by 81.3 per cent. in 2011 to €15.4 million in 2011. With respect to international expansion, the year's main highlights were the increasing contribution of Brazil, which is now the main contributor to revenues and net income, the consolidation of activity in Spain, activity growth in the UK (2011 was the first full year of the integration of Execution Holding Limited), the progress achieved by the operation in Poland, the reinforcement of distribution activities in the United States, and the launch of business activities in India, where a joint venture was established with the Burman family, initially to open a brokerage house and subsequently an investment bank.

In 2010, due to a strategically advantageous geographic positioning, the investment banking activity benefited from exposure to developing or recovering markets, namely Brazil, Angola, Poland and the United States, which to some extent cushioned the greater difficulties felt in Portugal and Spain. Even so, activity during the year was conditioned by perceptions of Portuguese risk and their impact on the funding conditions of banks established in Portugal. In response to this context, investment banking focused its activities on (i) reinforcing international expansion; (ii) increasing the weight of advisory and intermediation activities, which require less capital and liquidity; and (iii) achieving credit portfolio rotation. This approach was quite successful: banking income increased by 13.2 per cent. in 2010 year-on-year, to €259.7 million in 2010, with commercial banking income growing by 29.2 per cent., to €227.4 million. The international area results

confirmed the success of the internationalisation strategy in 2010 year-on-year, with commercial banking income rising by 30.9 per cent., and contributing 65 per cent. to consolidated banking income in 2010.

The highlight of the international expansion strategy in 2010 was the acquisition of a 50.1 per cent. stake in Execution Holding Limited, a deal announced at the beginning of the year and completed in November. This acquisition reinforced the Group's presence in London and expanded its activity to Hong Kong and India, thus widening its international distribution capacity and increasing exposure to new fast-growing markets.

Despite an adverse economic backdrop, the investment bank performed quite well in the course of 2009, closing the year on a very positive note. As a result of geographical diversification, the activity pursued in the international markets gave an important 61 per cent. contribution to the segment's banking income, reaching its highest value ever, rising by 20.5 per cent. year-on-year, to €229.4 million in 2009. The investment bank posted a pre-tax profit of €71.0 million, rising by 1.8 per cent. from €69.8 million in 2008. This difference relative to banking income is explained by an increase in impairment losses for the year, particularly in credit.

### **Asset Management**

This operating segment includes all the asset management activities of the BES Group, principally carried out by Espírito Santo Activos Financeiros (ESAF), within Portugal and abroad (Spain, Luxembourg, Angola and Brazil). ESAF's product range covers mutual funds, real estate funds and pension funds, besides providing discretionary and portfolio management services.

At 31st December, 2011, the total assets under management were €15.5 billion, a year-on-year decrease of 17.6 per cent. Due to the financial markets crisis, the volume of assets under management of real estate funds and pension funds dropped by 12 per cent. and 19 per cent., respectively in 2011. Mutual funds activity grew by 4 per cent. in 2011, driven by a volume increase in Spain due to the incorporation of Gespastor SGIIC. At the end of 2011, assets under management of the international operations totalled €3.1 billion, of which more than €2.3 billion was in Spain, representing around 23 per cent. of the total volume under management at 31st December, 2011. In Luxembourg and Brazil, assets under management fell by 14 per cent. and 31 per cent., respectively, while Angola registered an increase of 11 per cent. Late in 2011 an agreement was entered to sell the entire share capital of the subsidiary in the United Kingdom, ESAF – Alternative Asset Management Ltd, which has been approved by the UK Financial Services Authority.

Assets under management (including asset management and other off-balance sheet funds) totalled €18.8 billion as of 31st December, 2010, reflecting a year-on-year reduction of 9.7 per cent. Pre-tax profits rose by 8.7 per cent. year-on-year, to €32.6 million for 2010, supported by banking income growth of 6.8 per cent.

The reduction of assets under management reflects the strong decrease in money market funds in Portugal and Spain, which was not compensated for by the growth of special investment funds launched in Portugal and the trust fund in Spain.

Real estate funds recorded 8.8 per cent. growth in 2010 year-on-year: the *Fundo de Investimento Imobiliário Aberto Logística* increased by 37 per cent. year-on-year and the assets under management of *Fundo de Investimento Imobiliário Aberto Gespatrimónio Rendimento* have stabilised.

At the end of 2009, assets under management (including asset management and other off-balance sheet liabilities) reached €20.8 billion, reflecting a year-on-year increase of 4.6 per cent., underpinned by the activity developed in Portugal and Brazil. Pre-tax profits dropped by 10.2 per cent., as a consequence of the difficult situation of the financial markets during that year, which affected commissions, and as a consequence of the increase in costs due to internationalisation initiatives.

In the international business, BESAF–BES Ativos Financeiros Ltda., in Brazil, achieved remarkable growth, more than doubling assets under management. Assets under management increased by 5 per cent. in Spain while remaining flat in Luxembourg and the United Kingdom. In Luxembourg, three new compartments were launched in the ES Fund FCP, namely Espírito Santo Brazil, Espírito Santo Africa and Espírito Santo Trading Fund.

### ***Capital Markets and Strategic Investments***

This operating segment oversees the global financial management activity of the BES Group, including raising and placing funds in the financial markets, as well as investment and risk management of credit, interest rate, Foreign Exchange and equities, all related to strategic and current activities in the financial markets. It also includes the activities with non-resident institutional investors and the subsequent effects of the BES Group's strategic decisions. The BES Group's principal strategic investments in Portugal Telecom and EDP (which are held through the BES Group's subsidiary Avistar SGPS, S.A.) are included in the Capital Markets and Strategic Investments operating segment.

The segment's performance in 2011 was negatively impacted by the general devaluation of financial instruments, and in particular by nonrecurring factors (namely losses in the transfer of pension liabilities to Social Security, loss in the stake held in BESVIDA and losses on the sale of international loans). The combined effect of a 99 per cent. reduction in banking income, an 11.1 per cent. increase in operating costs and a 65.0 per cent. rise in provisions, each in 2011 compared to 2010, resulted in a pre-tax loss of €424.4 million, of which €378.5 million derives from non-recurring factors.

The Group's stakes in Portugal Telecom and EDP are held as assets available for sale and, accordingly, their respective values are subject to mark to market adjustments based on movements in their respective share prices. As of 31st December, 2011, the market prices of Portugal Telecom and EDP were below the BES Group's acquisition prices. This difference originated a negative fair value reserve of €175.1 million accounted, in accordance with IFRS, in Other Comprehensive Income (Shareholder's Equity). See "Operating and Financial Review—Significant Accounting Policies—Other Financial Assets".

Despite the adverse market environment in 2010, results were positive, though lower than in 2009. Higher funding costs and lower market related results explain the banking income drop of 29.1 per cent. which, together with an 8.3 per cent. year-on-year increase in 2010 in costs, resulted in a 43.4 per cent. year-on-year fall in pre-tax profit.

In 2009, trading results – essentially permitted by the rally of the equity markets since the second quarter of the year – combined with the mismatch effect in the repricing of assets and liabilities, had a favourable impact on banking income, which increased from €149 million to €553 million.

The segment's results include the capital gain obtained on the sale of 24 per cent. of BES Angola, as well as the additional charge to credit provisions.

The performance achieved was quite significant, with a pre-tax profit of €235.9 million, which compares with a loss of €26 million in 2008.

## 6. BES Group Structure

As well as being an operating entity in its own right, BES is the holding company of the BES Group and has investments in subsidiary and associated companies.

The following tables provide information on the organisational structure of the BES Group as at 31st December, 2011:

	Headquartered	% economic interest
<b>BANCO ESPÍRITO SANTO, SA (BES)</b>	Portugal	
Banco Espírito Santo de Investimento, SA (BESI)	Portugal	100.00%
Aman Bank for Commerce and Investment Stock Company	Libya	40.00%
Avistar, SGPS, SA	Portugal	100.00%
Espírito Santo Servicios, SA	Spain	100.00%
Espírito Santo Activos Financieros, SA	Spain	95.00%
Espírito Santo Vanguarda, SL	Spain	100.00%
Banco Espírito Santo dos Açores, SA (BAC)	Portugal	57.53%
BEST - Banco Electrónico de Serviço Total, SA (BEST)	Portugal	66.00%
BES África, SGPS, SA	Portugal	100.00%
Banco Espírito Santo Angola, SA (BESA)	Angola	51.94%
BESA ACTIF - Sociedade Gestora de Fundos de Investimento, SA	Angola	63.70%
BESA ACTIF Pensões - Sociedade Gestora de Fundos de Pensões, SA	Angola	63.70%
Banco Espírito Santo do Oriente, SA (BESOR)	Macau	99.75%
Espírito Santo Bank (ESBANK)	USA	99.99%
BES Beteiligungs, GmbH (BES GMBH)	Germany	100.00%
BIC International Bank Ltd. (BIBL)	Cayman Islands	100.00%
Parsuni - Sociedade Unipessoal, SGPS	Portugal	100.00%
Praça do Marquês - Serviços Auxiliares, SA (PÇMARQUÊS)	Portugal	100.00%
Espírito Santo, plc. (ESPLC)	Ireland	99.99%
ESAF - Espírito Santo Activos Financeiros, S.G.P.S., SA (ESAF)	Portugal	90.00%
ES Tech Ventures, S.G.P.S., SA (ESTV)	Portugal	100.00%
Banco Espírito Santo North American Capital Limited Liability Co. (BESNAC)	USA	100.00%
BES Finance, Ltd. (BESFINANCE)	Cayman Islands	100.00%
ES, Recuperação de Crédito, ACE (ESREC)	Portugal	99.15%
a) ES Concessões, SGPS, SA (ES CONCESSÕES)	Portugal	71.60%
Espírito Santo - Informática, ACE (ESINF)	Portugal	81.28%
Espírito Santo Prestação de Serviços, ACE 2 (ES ACE2)	Portugal	86.71%
ESGEST - Esp. Santo Gestão Instalações, Aprov. e Com., SA (ESGEST)	Portugal	100.00%
Espírito Santo e Comercial de Lisboa, Inc. (ESCLINC)	USA	100.00%
Espírito Santo Representações, Ltda. (ESREP)	Brazil	99.99%
Quinta dos Cónegos - Sociedade Imobiliária, SA (CÓNEGOS)	Portugal	81.00%
Fundo de Capital de Risco - ES Ventures II	Portugal	58.77%
Fundo de Capital de Risco - ES Ventures III	Portugal	56.55%
Fundo de Capital de Risco - BES PME Capital Growth	Portugal	100.00%
Fundo FCR PME / BES	Portugal	55.07%
OBLOG Consulting, SA	Portugal	66.63%
BES-Vida, Companhia de Seguros, SA (BES VIDA)	Portugal	50.00%
BES, Companhia de Seguros, SA (BES SEGUROS)	Portugal	25.00%
Société Civile Immobilière du 45 Avenue Georges Mandel (SCI GM)	France	22.50%
ESEGUR - Espírito Santo Seguranga, SA (ESEGUR)	Portugal	44.00%
Locarent - Companhia Portuguesa de Aluguer de Viaturas, SA (LOCARENT)	Portugal	50.00%
Banco Delle Tre Venezie, Spa	Italy	20.00%
Nanium, SA	Portugal	41.06%
b) Ascendi Douro - Estradas do Douro Interior, S.A.	Portugal	18.57%
b) Ascendi Pinhal Interior - Estradas do Pinhal Interior, S.A.	Portugal	18.57%
b) UNICRE - Instituição Financeira de Crédito, S.A.	Portugal	17.50%
Ijar Leasing Algérie	Algeria	35.00%

a) These companies were fully consolidated, as the Group exercises control over their activities

b) The percentage in the table above represents the Group's economic interest. These companies were accounted for following the equity method, as the Group exercises a significant influence over them



	Headquartered	% economic interest
<b>Banco Espírito Santo de Investimento, SA (BESI)</b>	Portugal	100.00%
Espírito Santo Capital - Sociedade de Capital de Risco, SA (ESCAPITAL)	Portugal	100.00%
SES Iberia	Spain	50.00%
HLC - Centrais de Cogeração, S.A.	Portugal	24.50%
Coporgest, SA	Portugal	25.00%
Synergy Industry and Technology, S.A.	Spain	26.00%
Salgar Investments	Spain	52.00%
b)    Só Peso Restauração e Hotelaria, S.A.	Portugal	9.77%
ESSI Comunicações SGPS, SA	Portugal	100.00%
ESSI SGPS, SA	Portugal	100.00%
Espírito Santo Investment Sp, Z.o.o.	Poland	100.00%
Espírito Santo Investment Holding, Limited	United Kingdom	65.40%
Execution Holding, Ltd	United Kingdom	65.40%
Espírito Santo Investments PLC	Ireland	100.00%
Espírito Santo Securities India	India	75.00%
ESSI Investimentos SGPS, SA	Portugal	100.00%
ESSI FIN, SGPS, SA	Portugal	60.00%
Fin Solutia - Consultoria e Gestão de Créditos, SA	Portugal	29.70%
Polish Hotel Company, SP	Poland	33.00%
Polish Hotel Capital SP	Poland	33.00%
Polish Hotel Management Company, SP	Poland	25.00%
Espírito Santo Investimentos, SA	Brazil	100.00%
BES Investimento do Brazil, SA	Brazil	80.00%
2BCapital, SA	Brazil	45.00%
BES Securities do Brazil, SA	Brazil	80.00%
Gespar Participações, Ltda.	Brazil	80.00%
BES Activos Financeiros, Ltda	Brazil	85.00%
Espírito Santo Serviços Financeiros DTVM, SA	Brazil	74.56%
FI Multimercado Treasury	Brazil	80.00%
BES REFRAN Investimentos	Brazil	80.00%
BES Participações, Ltda	Brazil	80.00%
BRB Internacional, S.A.	Spain	24.93%
Prosport - Com. Desportivas, S.A.	Spain	25.00%
Apolo Films, SL	Spain	25.15%
a)    Cominvest- SGII, S.A.	Portugal	49.00%
Fundo Espírito Santo IBERIA I	Portugal	38.69%
Fundo BES Moderado	Brazil	57.68%
a)    Fundo BES Absolute Return	Brazil	44.25%
<b>BES Beteiligungs, GmbH (BES GMBH)</b>	Germany	100.00%
Bank Espírito Santo International, Ltd. (BESIL)	Cayman Islands	100.00%
<b>BES África, SGPS, SA (BES ÁFRICA)</b>	Portugal	100.00%
Banco Espírito Santo Cabo Verde, SA	Cape Verde	99.99%
Moza Banco, SA	Mozambique	25.10%
ESAF - Espírito Santo Activos Financeiros, S.G.P.S., SA (ESAF)	Portugal	90.00%
Espírito Santo Fundos de Investimento Mobiliário, SA	Portugal	90.00%
Espírito Santo International Management, SA	Luxemburg	89.82%
Espírito Santo Fundos de Investimento Imobiliário, SA	Portugal	90.00%
Espírito Santo Fundo de Pensões, SA	Portugal	90.00%
Capital Mais - Assessoria Financeira, SA	Portugal	90.00%
Espírito Santo International Asset Management, Ltd.	British Virgin Islands	44.10%
Espírito Santo Gestão de Patrimónios, SA	Portugal	90.00%
ESAF - Espírito Santo Participações Internacionais, SGPS, SA	Portugal	90.00%
ESAF - International Distributors Associates, Ltd	British Virgin Islands	90.00%
a)    These companies were fully consolidated, as the Group exercises control over their activities.		
b)    The percentage in the table above represents the Group's economic interest. These companies were accounted for following the equity method, as the Group exercises a significant influence over them.		



	Headquartered	% economic interest
<b>ES Tech Ventures, S.G.P.S., SA (ESTV)</b>	Portugal	100.00%
ES Ventures - Sociedade de Capital de Risco, SA	Portugal	100.00%
Yunit Serviços, SA	Portugal	33.33%
FCR Espírito Santo Ventures Inovação e Internacionalização	Portugal	50.00%
Fundo Bem Comum, FCR	Portugal	20.00%
Espírito Santo Contact Center, Gestão de Call Centers, SA (ESCC)	Portugal	41.67%
Banque Espirito Santo et de la Vénétie, SA (ES Vénétie)	France	42.69%
<b>Fundo de Capital de Risco - ES Ventures II</b>	Portugal	58.77%
Atlantic Ventures Corporation	USA	58.77%
Sousacamp, SGPS, SA	Portugal	22.98%
b) Global Active - SGPS, SA	Portugal	26.25%
b) Outsystems, SA	Portugal	17.21%
b) Coreworks - Proj. Circuito Sist. Elect., SA	Portugal	23.52%
b) Multiwave Photonics, SA	Portugal	12.20%
b) Bio-Genesis	Brazil	17.59%
b) YDreams - Informática, SA	Portugal	15.33%
<b>Fundo de Capital de Risco - ES Ventures III</b>	Portugal	56.55%
b) Atlantic Ventures III Corporation	USA	56.55%
b) Nutrigreen, SA	Portugal	11.31%
b) Advance Ciclone Systems, SA	Portugal	18.10%
b) Watson Brown, HSM, Ltd	United Kingdom	15.59%
b) Domática, Electronica e Informatica, SA	Portugal	13.33%
<b>Fundo FCR PME / BES</b>	Portugal	55.07%
Mobile World - Comunicações. SA	Portugal	26.98%
MMCI - Multimédia, SA	Portugal	26.98%
TLCI 2 - Soluções Integradas de Telecomunicações, SA	Portugal	26.98%
b) Soprattutto Café, S.A	Portugal	23.38%
b) Enkrott SA	Portugal	16.52%
b) Palexpo - Imagem Empresarial, SA	Portugal	27.26%
b) Nova Figfort - Têxteis, Lda	Portugal	18.34%
Rodi - Sinks & Ideas, SA	Portugal	24.81%
<b>Espírito Santo Activos Financieros, SA</b>	Spain	95.00%
Espírito Santo Gestión, SA, SGIIC	Spain	95.00%
Espírito Santo Pensiones, S.G.F.P., SA	Spain	95.00%
<b>Espírito Santo Bank (ESBANK)</b>	USA	99.99%
ES Financial Services, Inc.	USA	99.99%
Tagide Properties, Inc.	USA	99.99%
Espírito Santo Representaciones	Uruguay	99.99%
ES Advisors, INC	USA	99.99%
a) <b>ES Concessões, SGPS, SA (ES CONCESSÕES)</b>	Portugal	71.66%
a) ES Concessions International Holding, BV	Netherlands	71.66%
b) Empark - Aparcamientos y Servicios, SA	Spain	15.92%
b) ES Concessions Latam, BV	Netherlands	71.66%
b) Concesionaria Autopista Perote-Xalapa, CV	Mexico	14.33%
b) Ascendi Group SGPS, SA	Portugal	28.66%
b) SCUTVIAS - Autoestradas da Beira Interior, SA	Portugal	15.93%
b) Portvias - Portagem de Vias, SA	Portugal	15.93%
b) MRN - Manutenção de Rodovias Nacionais, SA	Portugal	15.93%
Auvisa - Autovia de los Viñedos, SA	Spain	35.83%
a) These companies were fully consolidated, as the Group exercises control over their activities.		
b) The percentage in the table above represents the Group's economic interest. These companies were accounted for following the equity method, as the Group exercises a significant influence over them.		

## **7. Management and Statutory Auditor**

Pursuant to the Portuguese Companies Code, BES has adopted a corporate governance structure consisting of a Board of Directors (the “Board”), which includes an executive committee (the “Executive Committee”), an audit committee (the “Audit Committee”) and a statutory auditor (the “Statutory Auditor”), all members of which are elected by the general meeting of shareholders (the “General Meeting”). Since late 2010, the Board also includes a Corporate Governance Committee (the “Corporate Governance Committee”).

The Board is responsible for managing BES and for defining its strategy and, in particular, for guaranteeing that BES establishes adequate policies in order to manage the various categories of risk incurred in its activities. In addition, the Board is responsible for establishing means for guaranteeing the independence of the decisions taken by the Board and ensuring that the principle of equal treatment of shareholders is observed.

The day-to-day management of BES is delegated by the Board to an Executive Committee, which meets once a week and whenever convened by its Chairman. The Board elects the chairman and other members of the Executive Committee from its members. The Chairman of the Executive Committee has a deciding vote.

At present, the Executive Committee consists of 10 Directors. There are no matters restricted from consideration by the Executive Committee, except for matters (i) for which Portuguese law requires full Board participation; (ii) relating to BES’ corporate strategy and policies; (iii) relating to the structure of the BES Group; and (iv) strategic decisions due to their amount, risk or special features. The Chairman of the Executive Committee submits meeting minutes and convocations to the Chairman of the Board as well as the Chairman of the Audit Committee.

The Corporate Governance Committee is composed of three independent non-executive Directors and has advisory powers in relation to corporate governance matters and the selection and evaluation of directors and senior managers. The Audit Committee is responsible for (i) supervising the management of BES; (ii) preparing an annual report on its own supervising activities and opining on the report, accounts and proposals submitted by the Board; and (iii) checking the effectiveness of the Internal Control System and the risk management and internal audit functions.

The Audit Committee is currently composed of three independent and non-executive members of the Board. BES is also supervised by external entities, namely by its Statutory Auditor—KPMG & Associados SROC, S.A., the Bank of Portugal, the Portuguese Securities Commission and the Portuguese Insurance Regulator.

### **Board of Directors**

Under BES’ articles of association, the Board must be composed of a minimum of 11 and a maximum of 31 members (each a “Director”), who may or may not be shareholders. On 31st December, 2011, the Board was made up of 25 Directors. The Annual General Meeting of 22nd March, 2012 elected new corporate bodies for the 2012-2015 mandate, which resulted in a Board of 26 members. The term of office for a Director is four years and re-election is permitted without any term limits. The General Meeting appoints the chairman of the Board (the “Chairman”), who has a deciding vote. In the Chairman’s absence or in the event that an impediment arises, the Chairman is replaced by the chairman of the Executive Committee. The Board may also elect one or more of its members to take the position of vice-chairman (the “Vice-Chairman”). In the case of definitive absence or impediment of any member of the Board, a substitute member will be co-opted and this co-optation will need to be ratified in the next General Meeting. The mandate of the member so elected will expire at the end of the office period for which the replaced member was elected.

BES’ Board comprises 10 executive and 16 non-executive members. The non-executive Board members are responsible for generally overseeing the activities of the Executive Committee.

According to CMVM Regulation no. 1/2010, listed companies should, in their Annual Report on Corporate Governance, distinguish the Executive members of the Board of Directors from the non-executive directors and, among these, those that would comply with the incompatibility rules provided for in paragraph 1 of article 414-A of the Companies Code (with exception to that provided in subparagraph b of the same article), and the independence criteria provided for in paragraph 5 of article 414 of the same Code, should these rules be applicable to the members of the Board of Directors.

According to the recommendations of the CMVM, in assessing the independence of non-executive directors the legal rules and regulations with regard to independence and incompatibilities criteria applicable to members of other corporate bodies should be taken into account.

In this light, and applying to non-executive directors the criteria of independence and incompatibility set forth in the Companies Code for members of the supervisory board are also applied to non-executive directors, directors are independent when they are not associated with any specific interest group in BES and when their impartiality of analysis or decision-making is unlikely to be affected in any circumstance, particularly because they are holding or acting on behalf of holders of a qualifying holding corresponding to 2 per cent. or more of BES' share capital or because they have been re-elected for more than two terms of office, either continuously or not.

In addition to checking the independence criteria set forth by the CMVM, the Board must also ensure the independence of its Directors in light of other relevant circumstances. For this purpose, the Board utilises questionnaires to assess non-executive directors' independence on an annual basis. The non-executive directors are notified of the Board's assessment of their independence and need to confirm the absence of any fact that might affect their independence. The Corporate Governance Committee must evaluate the compliance with the corporate bodies' independence requirements in accordance with the applicable laws and regulations.

Applying the criteria mentioned above, of the 16 non-executive members of the Board, seven were determined to be independent, which is more than 25 per cent. of the total and thereby in line with the CMVM's recommendations.

The following table sets out the members of the Board for the 2012-2015 four-year mandate, with an indication of name, position, qualification as an independent director or not, year of birth and first date of appointment:

<i>Board Member</i>	<i>Year of birth</i>	<i>Executive Committee</i>	<i>Independent</i>
Alberto de Oliveira Pinto	1932	No	Yes
Ricardo Salgado	1944	Yes	No
Bruno de Laage de Meux	1951	No	No
José Manuel Espírito Santo	1945	Yes	No
António Souto	1950	Yes	No
Jorge Martins	1957	Yes	No
Aníbal Oliveira	1935	No	No
Manuel Fernando Espírito Santo	1958	No	No
José Maria Ricciardi	1954	Yes	No
Rui Silveira	1954	Yes	No
Joaquim Goes	1966	Yes	No
Ricardo Espírito Santo Silva	1958	No	No
Amílcar Moraes Pires	1961	Yes	No
Michel Jacques Mathieu	1958	No	No
Nuno Godinho de Matos	1949	No	Yes
João Freixa	1956	Yes	No
Marc Olivier Tristan Oppenheim	1967	No	No
Pedro Amaral	1968	No	No
Isabel de Sousa Coutinho	1946	No	Yes
João de Faria Rodrigues	1955	No	Yes
Rita Maria Lagos do Amaral Cabral	1954	No	Yes
Stanislas Gerald Marie George Ribes	1964	Yes	No
Horácio Lisboa Afonso	1949	No	Yes
Pedro João Reis de Matos Silva	1949	No	Yes
Vincent Claude Paul Pacaud	1961	No	No
Antonio Bórnia	1935	No	No

## List of positions held in other companies by the members of the management and supervisory corporate bodies

The following table sets out the names of all companies and partnerships in which members of the Board have been members of the management or supervisory board (as the case may be) at any time in the five years prior to the date of this Prospectus, including positions in consolidated direct subsidiaries and affiliated companies as well as external positions:

### **Alberto Alves de Oliveira Pinto** **(Chairman of the Board of Directors)**

- A. Corporate positions held in companies of BES Group*  
Not applicable.
- B. In the last 5 years held the following corporate position and no longer holds it:*  
Galp Energia, SGPS, S.A. (Member of the Board of Directors)

### **Ricardo Espírito Santo Silva Salgado** **(Vice-Chairman)**

- A. Corporate positions held in companies of BES Group*  
Management  
Banco Espírito Santo de Investimento, S.A. (Chairman)  
BES África, SGPS S.A. (Chairman)  
BES Finance, Ltd (Member)  
BEST – Banco Electrónico de Serviço Total, S.A. (Chairman)  
ES Tech Ventures, SGPS, S.A. (Chairman)  
ESAF – Espírito Santo Activos Financeiros, SGPS, S.A. (Chairman)  
Espírito Santo Bank (Member)  
Espírito Santo – Empresa de Prestação de Serviços 2, ACE (Chairman)  
Espírito Santo Ventures, Sociedade de Capital de Risco, S.A. (Chairman)
- B. Corporate positions held in companies outside BES Group*  
Management  
Banco Bradesco S.A. (Member)  
Banque Espírito Santo et de la Vénétie, S.A. (Member)  
Banque Privée Espírito Santo, S.A. (Member)  
Bespar – Sociedade Gestora de Participações Sociais, S.A. (Chairman)  
Casa dos Pórticos – Sociedade de Administração de Bens, S.A. (Chairman)  
ES Bankers (Dubai) Limited (Chairman)  
Espírito Santo Control S.A. (Member)  
E.S. Holding Administração e Participações S.A. (Vice-Chairman)  
Espírito Santo Financial (Portugal)-Sociedade Gestora de Participações Sociais, S.A. (Chairman)  
Espírito Santo Financial Group, S.A. (Chairman)  
Espírito Santo International S.A. (Member)

Espírito Santo Resources Limited (Member)  
 Espírito Santo Saúde – SGPS, S.A. (Chairman)  
 Espírito Santo Services, S.A (Member)  
 Partran – Sociedade Gestora de Participações Sociais, S.A. (Chairman)  
 Sociedade de Administração de Bens Pedra da Nau, S.A. (Chairman)  
 Euronext (Member of the Board of Directors, Member of the Human Resources & Compensation Committee)

*Other positions*

APDMC – Associação Portuguesa para o Desenvolvimento do Mercado de Capitais (Member of the General Board)

Associação Portuguesa de Bancos (Member of the Board)

Fundação Stanley Ho (Member of the General Board)

*D. In the last 5 years held the following corporate positions and no longer holds them:*

Banco Espírito Santo, S.A. (Espanha) (Member of the Board of Directors)

BES Overseas Ltd. (Member of the Board of Directors)

Espírito Santo Financial Services Inc. (Member of the Board of Directors)

Espírito Santo Overseas Ltd. (Member of the Board of Directors)

Espírito Santo Empresa de Prestação de Serviços, ACE (Chairman of the Board of Directors)

ESFG Overseas, Limited (Chairman of the Board of Directors)

Club Méditerranée (Member of the Supervisory Board)

Euronext NV (Member of the Supervisory Board)

IIEB - Institut International d'Études Bancaires (Chairman of the supervisory board)

Euronext (Member of the Nominating & Governance Committee)

**Bruno Bernard Marie Joseph de Laage de Meux**  
**(Vice-Chairman)**

*A. Corporate positions held in companies outside BES Group*

Management

Bespar – Sociedade Gestora de Participações Sociais, S.A. (Director)

CA Assurances (Censeur)

CA Consumer Finance (President)

Cariparma e Piacenza S.P.A. (Director)

Crédit Agricole Creditor Insurance (Director)

Crédit Agricole Egypt, S.A.E. (Vice-Chairman)  
 Crédit Agricole Leasing & Factoring (Director)  
 Crédit du Maroc (Member of the Conseil de Surveillance)  
 Emporiki Bank (Director)  
 Fireca (Director)  
 Fonds de Garantie de Dépôts (*Conseil de Surveillance*)  
 LCL – Le Crédit Lyonnais (Director)  
 SAS BFORBANK (Director)  
 Uni – Editions (Chairman)  
 Union de Banques Arabes et Françaises – U.B.A.F (Vice-Chairman)

Other positions

Crédit Agricole, S.A. (Member of the Executive Committee, Member of the General Management Committee, Deputy Chief Executive Officer in charge of Crédit Agricole Regional Banks, LCL, International Retail and Commercial Banking, Payment Systems and Specialised Financial Services: Consumer Credit, Leasing and Factoring)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Cedicam (Director)  
 Crédit Agricole, SA (Director)  
 Crédit Agricole Titres (Director)  
 Crédit Agricole Capital – Investissement et Finances (Director)  
 GIE Atlantica (Chairman/Director)  
 John Deere Crédit SAS (Chairman of the Board of Directors)  
 Société Euro Securities Partners (Director)  
 Uni Expansion Ouest (Director)  
 Vegepolys (pôle du végétal spécialisé d'Angers (Chairman)  
 Adicam SARL (Member of the Comité de Direction)  
 Caisse Régionale de Crédit Agricole de L'Anjou et du Maine (Directeur Général)  
 Fédération Nationale de Crédit Agricole (Secrétaire Général Adjoint)

**José Manuel Pinheiro Espírito Santo Silva**

*A. Corporate positions held in companies of BES Group*

Management

Banco Espírito Santo de Investimento, S.A. (Member)  
 BES África, SGPS S.A. (Member)  
 ESAF – Espírito Santo Activos Financeiros, SGPS, S.A. (Member)



Espírito Santo Bank (Member)

*B. Corporate positions held in companies outside BES Group*

Management

Bespar – Sociedade Gestora de Participações Sociais, S.A. (Member)

Banque Espírito Santo et de la Vénétie, S.A. (Member)

Banque Privée Espírito Santo, S.A. (Chairman)

Casa da Saudade – Administração de Bens Móveis e Imóveis, S.A. (Chairman)

ES Bankers (Dubai) Limited (Member)

Espírito Santo Control S.A. (Member)

Espírito Santo Financial (Portugal) – Sociedade Gestora de Participações Sociais, S.A. (Vice-Chairman)

Espírito Santo Financial Group, S.A. (Vice-Chairman)

Espírito Santo International S.A. (Member)

Espírito Santo Resources Limited (Member)

Espírito Santo Services, S.A. (Member)

Europ Assistance – Companhia Portuguesa de Seguros, S.A. (Member)

Ponte Alta – Consultoria e Assistência (Sociedade Unipessoal), Lda (Director)

Ribeira do Marchante – Administração de Bens Móveis e Imóveis, S.A. (Chairman)

*C. In the last 5 years held the following corporate positions and no longer holds them:*

Banco Espírito Santo, S.A. (Espanha) (Chairman of the Board of Directors)

Espírito Santo Financial Consultants, Gestão de Patrimónios, S.A (Chairman of the Board of Directors)

ESFG Overseas Limited (Vice-Chairman of the Board of Directors)

Fiduprivate – Sociedade de Serviços, Consultadoria, Administração de Empresas, S.A. (Chairman)

Sociedade Imobiliária e Turística da Quinta do Perú, S.A. (Chairman of the Board of Directors)

**António José Baptista do Souto**

*A. Corporate positions held in companies of BES Group*

Management

BES África, SGPS S.A. (Member)

Other positions

Banco Espírito Santo dos Açores, S.A. (Member of the Compensation Committee)

*B. Corporate positions held in companies outside BES Group*

Management

Angra Moura – Sociedade de Administração de Bens, S.A. (Chairman)

Companhia de Seguros Tranquilidade, SA (Member)

Ijar Leasing, Algérie

SIBS – Sociedade Interbancária de Serviços, S.A. (Member)

SIBS Forward Payment Solutions, S.A. (Member)

Other positions

ELO – Associação Portuguesa para o desenvolvimento Económico e a Cooperação (Vice-Chairman of the General Board)

TF Turismo Fundos – SGFII, S.A. (Member, representing Banco Espírito Santo)

*C. In the last 5 years held the following corporate positions and no longer holds them:*

BesLeasing & Factoring, IFIC, S.A. (Chairman of the Board of Directors)

Espírito Santo Data-Sociedade Gestora de Participações Sociais, S.A. (Chairman of the Board of Directors)

Espírito Santo Empresa de Prestação de Serviços, ACE (Member of the Board of Directors)

Espírito Santo Overseas Ltd. (Member of the Board of Directors)

Companhia de Seguros Tranquilidade-Vida, S.A (Member of the Board of Directors)

Espírito Santo Companhia de Seguros, S.A (Member of the Board of Directors)

**Jorge Alberto Carvalho Martins**

*A. Corporate positions held in companies outside BES Group*

Management

Locarent – Companhia Portuguesa de Aluguer de Viaturas, S.A. (Chairman)

Supervisory Board

Advita – Associação para o Desenvolvimento de Novas Iniciativas Para a Vida (Suplente)

Agência de Desenvolvimento Regional de Entre-o-Douro e Tâmega (Chairman)

Instituto Empresarial do Tâmega (Chairman)

Other

Futebol Clube do Porto – Futebol, S.A.D. (Consulting Committee)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Banco Espírito Santo, S.A. (Espanha) (Chairman of the Board of Directors)

Crediflash – Sociedade Financeira para Aquisições a Crédito, S.A (Chairman of the Board of Directors)

Credibom-IFIC, S.A. (Member of the Board of Directors)

Hospor, Hospitais portugueses, S.A. (Chairman of the Board of Directors)

ROPSOH, Unidades de Saúde, S.A. (Chairman of the Board of Directors)

Leica, Aparelhos Ópticos de Precisão, S.A. (BES Representative as Chairman of the Board of the General Meeting)

Primus, Promoção e Desenvolvimento Regional, S.A. (Vogal do Conselho Superior)

**Aníbal da Costa Reis de Oliveira**

*A. Corporate positions held in companies outside BES Group*

Management

ACRO – SGPS, S.A. (Chairman)

Diliva – Sociedade de Investimentos Imobiliários, S.A. (Chairman)

Espírito Santo Financial Group, S.A. (Member)

Espírito Santo Financial (Portugal), Sociedade Gestora de Participações Sociais, S.A. (Member)

Espírito Santo International S.A. (Member)

Olinveste, Sociedade Gestora de Participações Sociais, Lda (Director)

Q.L. Portugal – Sociedade de Agricultura e Serviços da Quinta da Lage, Lda. (Director)

Olinerg – Sociedade Gestora de Participações Sociais, S.A. (Chairman)

Oliren – Sociedade Gestora de Participações Sociais, S.A. (Chairman)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Saramagos – Sociedade Produtora de Energia, S.A. (Chairman of the Board of Directors)

Olifil Têxteis, S.A (Chairman of the Board of the General Meeting)

Texarte Têxteis, S.A. (Chairman of the Board of the General Meeting)

*A. Corporate positions held in companies outside BES Group*

Management

Academia de Música de Santa Cecília (Chairman of the Non Executive Board)

Ambassador Portugal – Promoção Imobiliária, S.A. (Chairman)

Bensáude Turismo, SGPS, S.A. (Member)

Bespar – Sociedade Gestora de Participações Sociais, S.A. (Member)

Espírito Santo Control S.A. (Member)

Espírito Santo Financial Group, S.A. (Member)

Espírito Santo Industrial, S.A. (Chairman)

Espírito Santo International S.A. (Member)

Espírito Santo Resources Limited (Chairman of the Executive Committee)

Espírito Santo Resources (Portugal), S.A. (Member)

Espírito Santo Services, S.A. (Member)

Espírito Santo Tourism (Europe), S.A. (Chairman)

Euroamerican Finance Corporation, Inc. (Chairman)

Euroamerican Finance, S.A. (Chairman)

Herdade da Comporta – Actividades Agro Silvícolas e Turísticas, S.A. (Chairman)

Rioforte Investments, SA (Chairman)

Rioforte (Portugal), S.A. (Chairman)

Santogal – Sociedade Gestora de Participações Sociais, S.A. (Member)

SODIM, SGPS, S.A. (Member)

Saptec, S.A. (Member)

Board of the General Meeting

Espart – Espírito Santo Participações Financeiras, Sociedade Gestora de Participações Sociais, S.A. (Chairman)

Sociedade Imobiliária e Turística da Quinta do Peru, S.A. (Chairman)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Espírito Santo Bank (Member of the Board of Directors)

Espírito Santo Golfes, S.A. (Chairman of the Board of Directors)

Espírito Santo Health & SPA, S.A. (Chairman of the Board of Directors)

Espírito Santo Hotéis, Sociedade Gestora de Participações Sociais, S.A. (Chairman of the Board of Directors)

Espírito Santo Tourism (Portugal) - Consultoria de Gestão Empresarial, S.A. (Vice-Chairman of the Board of Directors)

Partran – Sociedade Gestora de Participações Sociais, S.A. (Member of the Board of Directors)

ZON Multimédia – Serviços de Telecomunicações em Multimédia, SGPS, S.A (Member of the Board of Directors)

Telepri – Telecomunicações Privadas, SGPS, S.A. (Member of the Board of Directors)

Quinta Patiño – Sociedade de Investimentos Turísticos e Imobiliários, S.A. (Chairman of the Board of the General Meeting)

**José Maria Espírito Santo Silva Ricciardi**

*A. Corporate positions held in companies of BES Group*

Management

Banco Espírito Santo de Investimento, S.A. (Vice-Chairman and Chairman of the Executive Committee)

BES África, SGPS S.A. (Member)

BES Investimento do Brasil S.A. (Chairman)

Espírito Santo Investment Holdings Limited (Member)

Board of the General Meeting

ESAF – Espírito Santo Gestão de Patrimónios, S.A. (Vice-Chairman)

*B. Corporate positions held in companies outside BES Group*

Management

Espírito Santo Financial Group S.A. (Member)

Espírito Santo International S.A. (Member)

General and Supervisory Board

EDP – Energias de Portugal, S.A. (Member)

Supervisory Board

Sporting Clube de Portugal – Futebol, S.A.D (Member)

Sporting Clube de Portugal (Vice-Chairman of the Audit and Disciplinary Board)

Board of the General Meeting

Espart – Espírito Santo Participações Financeiras, Sociedade Gestora de Participações Sociais, S.A. (Vice-Chairman)

Other positions

APDMC – Associação portuguesa para o Desenvolvimento do Mercado de Capitais (Member)

EDP – Energias de Portugal, S.A. (Member of the Compensation Committee of the General and

Supervisory Board and Member of the Corporate Governance and Sustainability Committee)

*C. In the last 5 years held the following corporate positions and no longer holds them:*

ES Capital – Sociedade de Capital de Risco, S.A. (Member of the Board of Directors)

ES Recuperação de Crédito, ACE (Member of the Board of Directors)

ESAF – Espírito Santo Activos Financeiros, SGPS, S.A. (Vice-Chairman of the Board of Directors)

ESSI – Comunicações, SGPS, S.A. (Chairman of the Board of Directors)

ESSI – Investimentos, SGPS, S.A. (Chairman of the Board of Directors)

ESSI – SGPS, S.A. (Chairman of the Board of Directors)

Espírito Santo de Investimentos (Brasil), S.A. (Chairman of the Board of Directors)

Espírito Santo Investment, SAU, SV (Chairman of the Board of Directors)

Jampur – Trading International, Lda. (Director)

Bespar, Sociedade Gestora de Participações Sociais, S.A. (Member of the Board of Directors)

Espírito Santo Financial (Portugal), Sociedade Gestora de Participações Sociais, S.A. (Member of the Board of Directors)

Casa do Guincho – Sociedade de Administração de Bens S.A. (Member of the Board of Directors)

Fomentinvest – SGPS, S.A. (Member of the Board of Directors)

Multiger – Sociedade de Compra, Venda e Administração de Propriedades, S.A. (Chairman of the Board of Directors)

EDP – Energias de Portugal, S.A. (Member of the Board of Directors)

Controlled Sport (Portugal) Turismo Cinegética e Agricultura, S.A. (Chairman of the Board of the General Meeting)

PT Meios – Serviço de Publicidade e Marketing, S.A. (Chairman of the Board of the General Meeting)

**Rui Manuel Duarte Sousa da Silveira**

*A. Corporate positions held in companies of BES Group*

Board of the General Meeting

AVISTAR SGPS, S.A. (Chairman)

Banco Espírito Santo Cabo Verde, S.A. (Chairman)

Banco Espírito Santo dos Açores, S.A. (Chairman)

BES África, SGPS S.A. (Chairman)

BEST – Banco Electrónico de Serviço Total, S.A. (Chairman)



Capital Mais – Assessoria Financeira, S.A. (Chairman)

ES Tech Ventures, SGPS, S.A. (Chairman)

ESAF – Espírito Santo Activos Financeiros, SGPS, S.A. (Chairman)

ESAF – Espírito Santo Fundos de Investimento Imobiliário, S.A. (Chairman)

ESAF – Espírito Santo Fundos de Investimento Mobiliário, S.A. (Chairman)

ESAF – Espírito Santo Fundos de Pensões, S.A. (Chairman)

ESAF – Espírito Santo Gestão de Patrimónios, S.A. (Chairman)

ESAF – Espírito Santo Participações Internacionais, SGPS, S.A. (Chairman)

Espírito Santo Ventures, Sociedade de Capital de Risco, S.A. (Chairman)

OBLOG – Consulting, S.A. (Chairman)

*B. Corporate positions held in companies outside BES Group*

Management

Cimigest – SGPS, S.A. (Member)

Sociedade de Administração de Bens Casa de Bons Ares, S.A. (Member)

Sociedade de Silvicultura Monte do Arneirinho, Lda (Director)

Supervisory Board

Companhia de Seguros Tranquilidade, S.A. (Member)

Board of the General Meeting

BES – Companhia de Seguros, S.A. (Chairman)

Bespar – Sociedade Gestora de Participações Sociais, S.A. (Chairman)

Casa dos Pórticos – Sociedade de Administração de Bens, S.A. (Secretary)

ESEGUR – Empresa de Segurança, S.A. (Vice-Chairman)

Esumédica – Prestação de Cuidados Médicos, S.A. (Chairman)

Europ Assistance – Companhia Portuguesa de Seguros, S.A. (Vice-Chairman)

Espírito Santo Saúde – SGPS, S.A. (Chairman)

Partran – Sociedade Gestora de Participações Sociais, S.A. (Chairman)

T-Vida, Companhia de Seguros, S.A. (Chairman)

*C. In the last 5 years held the following corporate positions and no longer holds them:*

Crediflash – Sociedade Financeira de Aquisições a Crédito, S.A. (Chairman of the Board of the General Meeting)

ES Innovation – Tecnologias de Informação, S.A. (Chairman of the Board of the General Meeting)

ES Interaction – Sistemas de Informação Interactivos, S.A. (Chairman of the Board of the General Meeting)

ES Recuperação de Crédito, ACE (Member of the Board of the General Meeting)

ES Tech Ventures – Desenvolvimento Empresarial e Serviços de Gestão, S.A. (Chairman of the Board of the General Meeting)

Espírito Santo Data – Sociedade Gestora de Participações Sociais, S.A. (Chairman of the Board of the General Meeting)

Espírito Santo Empresa de Prestação de Serviços, ACE (Chairman of the Board of the General Meeting)

Espírito Santo – Unidades de Saúde e de Apoio à Terceira Idade, S.A. (Member of the Board of the General Meeting)

Companhia de Seguros Tranquilidade, S.A. (Vice-Chairman of the Board of the General Meeting)

Espírito Santo Equipamentos de Segurança, S.A. (Chairman of the Board of the General Meeting)

Espírito Santo Financial (Portugal) – Sociedade Gestora de Participações Sociais, S.A. (Vice-Chairman of the Board of the General Meeting)

SGPICE – Sociedade de Serviços de Gestão de Portais na Internet e de Consultoria de Empresas, S.A. (Secretary of the Board of the General Meeting)

TC Turismo Capital - SCR, S.A. (Chairman)

TF Turismo Fundos – SGFII, S.A. (Chairman)

**Joaquim Aníbal Brito Freixial de Goes**

*A. Corporate positions held in companies of BES Group*  
Management

Espírito Santo Ventures, Sociedade de Capital de Risco, S.A. (Member)

*B. Corporate positions held in companies outside BES Group*  
Management

BES – Companhia de Seguros, S.A (Member)

Glintt – Global Intelligent Technologies, SGPS, S.A. (Member)

Portugal Telecom, SGPS S.A. (Member)

Supervisory Board

Centro Social e Paroquial de Nossa Senhora da Ajuda (Chairman)

Fundação Brazelton/Gomes-Pedro para as Ciências do Bebê e da Família (Member)

Fundação da Universidade Católica Portuguesa  
(Chairman)

*C. In the last 5 years held the following corporate positions and no longer holds them:*

BEST – Banco Electrónico de Serviço Total, S.A.  
(Member of the Board of Directors)

ES Interaction – Sistemas de Informação Interactivos,  
S.A. (Chairman of the Board of Directors)

ES Tech Ventures, SGPS, S.A. (Member of the Board  
of Directors)

Espírito Santo Data, Sociedade Gestora de  
Participações Sociais, S.A. (Member of the Board of  
Directors)

Espírito Santo – Informática, ACE (Chairman of the  
Board of Directors)

Companhia de Seguros Tranquilidade – Vida, S.A.  
(Member of the Board of Directors)

PT Multimédia, Serviços de Telecomunicações e  
Multimédia, Sociedade Gestora de Participações  
Sociais, S.A. (Member of the Board of Directors)

**Ricardo Abecassis Espírito Santo Silva**

*A. Corporate positions held in companies of BES Group*

Management

Board of Directors

AVISTAR SGPS, S.A. (Member)

Banco Espírito Santo de Angola, SA (Chairman)

Banco Espírito Santo de Investimento, S.A. (Vice-  
Chairman)

BES Finance Ltd (Member)

BES Investimento do Brasil S.A. (Member)

Espírito Santo Investimentos S.A. (Brazil) (Chairman)

Espírito Santo Bank (USA) (Vice-Chairman)

Executive Board (“Diretoria”)

BES Investimento do Brasil S.A. (Chairman)

Espírito Santo Investimentos S.A. (Brazil) (Chairman)

Gespar Participações Ltda. (Brazil) (Director)

Supervisory Board

Banco Espírito Santo do Oriente, S.A. (Chairman)

*B. Corporate positions held in companies outside BES  
Group*

Management

Board of Directors

2bCapital S.A. (Member)

Agriways S.A. (Brazil) (Vice-Chairman)

Câmara Portuguesa de Comércio no Brasil (Vice-  
Chairman)

Europ Assistance (Brazil) (Member)  
 Espírito Santo Control S.A. (Member)  
 Espírito Santo International S.A. (Member)  
 Espírito Santo Property (Brazil) S.A. (Member)  
 Espírito Santo Resources Limited (Member)  
 Euroamerican Finance Corporation, Inc. (BVI) (Member)  
 Novagest Assets Management Ltd. (Member)  
 BHG S.A. – Brazil Hospitality Group (Brazil) (Member)  
 Monteiro Aranha S.A. (Brazil) (Member)  
 Pojuca S.A. (Brazil) (Chairman)  
 Rioforte Investment Holding Brasil S.A. (Member)  
 Ushuaia – Gestão e Trading International Limited (Member)  
 Executive Board (“Diretoria”)  
 2bCapital S.A. (Director)  
 Associação Espírito Santo Cultura (Brazil) (Director)  
 Companhia Agrícola Botucatu (Chairman)  
 ESAP – Espírito Santo Agro-Pecuária S.A. (Uruguay) (Director)  
 ESCAE Consultoria, Administração e Empreendimentos, Ltda. (Brazil) (Director)  
 ES Consultoria Ltda. (Brazil) (Partner-Director)  
 E.S. Holding Administração e Participações, S.A. (Brazil) (Chairman)  
 Saramagos S.A. Empreendimentos e Participações (Brazil) (Director)

#### Supervisory Board

Banco Bradesco S.A. (Member)

#### Advisory Board

Associação Brasileira de Bancos Internacionais S.A. (Member)

#### *C. In the last 5 years held the following corporate positions and no longer holds them:*

Agribahia, S.A. (Brazil) (Member of the Board of Directors)  
 Bradespar S.A. (Brazil) (Member of the Board of Directors)  
 Companhia Agrícola Botucatu (Chairman of the Board of Directors)  
 EABS Serviços de Assistência e Participações S/A (Brazil) (Member of the Board of Directors)  
 ESPART – Administração e Participações, S.A. (Member of the Board of Directors)  
 ES Holding Administração e Participações, S.A. (Brazil) (Member of the Board of Directors)

Espírito Santo Financial (Portugal) – Sociedade Gestora de Participações Sociais, S.A (Member of the Board of Directors)

Pojuca Administração, S.A. (Brazil) (Member of the Board of Directors)

Seicor – Comércio Administração e Participações S.A. (Brazil) (Member of the Board of Directors)

Câmara Portuguesa de Comércio no Brasil (Director)

Christaltur Empreendimentos e Participações Ltda. (Brazil) (Director)

ESAI – Espírito Santo Activos Imobiliários Ltda. (Brazil) (Director)

ESAP Brasil Agro-Pecuária Ltda. (Brazil) (Director)

Europ Assistance (Brazil) (Director)

Joá Imobiliária Ltda. (Director)

Pojuca Administração S.A. (Brazil) (Chairman of the Executive Committee)

Quinta da Baroneza Emp.e Part. Ltda. (Director)

Terras de Bragança Participações Ltda. (Director)

Seicor – Comércio Administração e Participações S.A. (Brazil) (Chairman of the Executive Committee)

Sintra Empreendimentos Imobiliários Ltda. (Director)

**Amílcar Carlos Ferreira Morais Pires**

*A. Corporate positions held in companies of BES Group*

Management

AVISTAR SGPS, S.A. (Chairman)

Bank Espírito Santo International Limited (Chairman)

Banco Espírito Santo de Investimento, S.A. (Member)

Banco Espírito Santo do Oriente, S.A. (Member)

BES África, SGPS S.A. (Member)

BES Finance Ltd (Member)

ESAF – Espírito Santo Activos Financeiros, SGPS, S.A. (Member)

BIC – International Bank, Limited (Chairman)

Espírito Santo – Empresa de Prestação de Serviços, 2, ACE (Member)

ES Tech Ventures, SGPS, S.A. (Member)

Execution Noble Limited (Member)

Execution Noble & Company Limited (Member)

Execution Noble Research Limited (Member)

*B. Corporate positions held in companies outside BES Group*

Management

BES – Vida, Companhia de Seguros, S.A (Member)

Portugal Telecom, SGPS, S.A. (Member)

	<p><i>C. In the last 5 years held the following corporate positions and no longer holds them:</i></p> <p>BES Overseas Ltd. (Member of the Board of Directors)</p> <p>MTS Portugal – Sociedade Gestora do Mercado Especial de Dívida Pública – SGMR, S.A. (Member of the Board of Directors)</p>
<b>Nuno Maria Monteiro Godinho de Matos</b>	<p><i>A. Corporate positions held in other companies in and outside BES Group</i></p> <p>Not applicable.</p> <p><i>B. In the last 5 years held the following corporate positions and no longer holds them:</i></p> <p>Actel – Actividades Hoteleiras, S.A. (Chairman of the Board of the General Meeting)</p> <p>EDM – Empresa de Desenvolvimento Mineiro, S.A. (Chairman of the Board of the General Meeting)</p> <p>VAA – Vista Alegre Atlantis, SGPS, S.A (Chairman of the Board of the General Meeting)</p>
<b>José Eduardo Moura da Silva Freixa</b>	<p><i>A. Corporate positions held in companies of BES Group</i></p> <p><u>Management</u></p> <p>Banco Espírito Santo dos Açores, S.A. (Vice-Chairman)</p> <p><i>B. Corporate positions held in companies outside BES Group</i></p> <p><u>Management</u></p> <p>UNICRE – Instituição Financeira de Crédito, S.A. (Member, appointed by Banco Espírito Santo, S.A. pursuant to article 390 of the Portuguese Companies Code)</p> <p><i>C. In the last 5 years held the following corporate positions and no longer holds them:</i></p> <p>Not applicable.</p>
<b>Pedro Mosqueira do Amaral</b>	<p><i>A. Corporate positions held in companies of BES Group</i></p> <p><u>Management</u></p> <p>BES Beteiligungs GmbH (Director)</p> <p>Bank Espírito Santo International Limited (Member)</p> <p><i>B. Corporate positions held in companies outside BES Group</i></p> <p><u>Management</u></p> <p>Banque Espírito Santo et de la Vénétie, S.A. (Member)</p> <p>Espírito Santo International S.A. (Member)</p>



**Isabel Maria Osório de Antas Mégre de Sousa Coutinho**

*C. In the last 5 years held the following corporate positions and no longer holds them:*

Not applicable.

*A. Corporate positions held in companies outside BES Group*

Associação Novo Futuro (IPSS) (Chairman)

Entrajuda (IPSS) (Member)

Instituto de Negociação e Vendas (Member of the Advisory Board)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Fundação Pão de Açúcar – Auchan (Chairman)

**José de Faria Rodrigues**

*A. Corporate positions held in companies outside BES Group*

Supervisory Board

Partran – Sociedade Gestora de Participações Sociais, S.A. (Member)

T-Vida, Companhia de Seguros, S.A. (Member)

Seguros LOGO, S.A. (Member)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Not applicable.

**Antonio Bõrnia**

*A. Corporate positions held in companies outside BES Group*

Management

Board of Directors

Banco BERJ S.A. (Vice-Chairman)

Banco Bradesco S.A. (Vice-Chairman)

Banco Bradesco Europa S.A. (Chairman)

BBD Participações S.A. (Vice-Chairman)

Bradesco Leasing S.A. – Arrendamento Mercantil (Vice-Chairman)

Bradesco Securities, Inc. (Chairman)

Bradesco Securities Hong Kong Limited (Chairman)

Bradesco Securities UK Limited (Chairman)

Bradespar S.A. (Vice-Chairman)

BSP Empreendimentos Imobiliários S.A. (Vice-Chairman)

Cidade de Deus – Companhia Comercial de Participações (Vice-Chairman)

Fundação Instituto de Moléstias do Aparelho Digestivo e da Nutrição (Vice-Chairman)

#### Advisory Board

ABEL – Associação Brasileira das Empresas de Leasing (Chairman)

Caixa Beneficente dos Funcionários do Bradesco (Vice-Chairman)

#### Executive Board (“Diretoria”)

BBD Participações S.A. (Director/Vice-Chairman)

Cidade de Deus – Companhia Comercial de Participações (Director / Vice-Chairman)

Fundação Bradesco (Director/Vice-Chairman)

Fundação Instituto de Moléstias do Aparelho Digestivo e da Nutrição (Director/Vice-Chairman)

NCF Participações S.A. (Director/Vice-Chairman)

Nova Cidade de Deus Participações S.A. (Director / Vice-Chairman)

Top Clube Bradesco, Segurança, Educação e Assistência Social (Director/Vice-Chairman)

#### Board of Directors (“Gerência”)

Bradport – S.G.P.S. Sociedade Unipessoal, Lda (Director)

#### Managing Body (“Mesa Regedora”)

Fundação Bradesco (Vice-Chairman)

#### Other positions

Banco Bradesco S.A. (Member of the Compensation Committee)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Banco BEC S.A. (Vice-Chairman of the Board of Directors)

Bradseg Participações Ltda. (Vice-Chairman of the Board of Directors)

Bradesplan Participações Ltda. (Vice-Chairman of the Board of Directors)

Confederação Nacional das Instituições Financeiras – CNF (Vice-Chairman of the Representatives Board and “Membro Nato”)

Confederação Nacional do Sistema Financeiro – CONSIF (Vice-Chairman of the Representatives Board)

Bradseg Participações Ltda. (Director Vice-Chairman)

Confederação Nacional das Instituições Financeiras – CNF (Director Vice-Chairman)

Confederação Nacional do Sistema Financeiro – CONSIF (Director Vice-Chairman)

Sindicato Nacional das Empresas de Arrendamento Mercantil (Leasing) (Director-Chairman)

**Marc Olivier Tristan Oppenheim**

*A. Corporate positions held in companies outside BES Group*

Management

BSF Banque Saudi Fransi (Director)  
Crédit Agricole Bank Polska (Chairman of the *Conseil de Surveillance*)  
Crédit Agricole Egypt, S.A.E. (Director)  
Cariparma e Piacenza S.P.A. (Director)  
Crédit du Maroc (Member of the *Conseil de Surveillance*)  
Emporiki Bank (Director)  
IUB Holding (Chairman)  
LCL – Actions Monde (Member)

Other positions

Crédit Agricole, S.A. (Member of the Executive Committee & Head of International Retail and Commercial Banking)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Assurances Fédérales IARD (Director)  
CA Titres (SNC) (Member of the *Conseil de Surveillance*)  
Crédit Logement (permanent representative of LCL – Le Crédit Lyonnais – Director)  
Europay France (Director)  
Fireca (Director)  
Lion Assurances (Director)  
Lyonsof (SP) (permanent representative of LCL – Le Crédit Lyonnais –Gérant)  
Lyonsof II (SP) (permanent representative of LCL – Le Crédit Lyonnais – Gérant)  
SAS Carte Bleue (Director in representation of LCL – Le Crédit Lyonnais)  
Groupement Cartes Bancaires (Member of the *Conseil de Direction* in representation of LCL – Le Crédit Lyonnais)  
LCL – Le Crédit Lyonnais (*Directeur des Maîtrises d'ouvrage et Processus*)  
LCL – Le Crédit Lyonnais (*Directeur du Marché des Particuliers et Membre du Comité de Direction Générale*)

**Michel Jacques Mathieu**

*A. Corporate positions held in companies outside BES Group*

Management

Amundi Group (Director)

Bespar – Sociedade Gestora de Participações Sociais, S.A. (Member)  
 CA Assurances (Director)  
 Caceis (Director)  
 CACI (Director)  
 Cape (Chairman of the *Conseil de Surveillance*)  
 Caripama e Piacenza S.P.A. (Director)  
 LCL – Le Crédit Lyonnais (Director)  
 Lesica (Chairman)  
 Pacifica (Director and Representative of Crédit Agricole, S.A.)  
 Predica (Vice-Chairman)  
 Silca (Member of the Conseil de Surveillance)

Other positions

Crédit Agricole, S.A. (Member of the *Comité de Direction Générale – Member of the Comité Exé cutif*)  
 Crédit Agricole, S.A. (General Manager responsible for the following areas: Finance, Human Resources, Legal and Compliance, IT, Strategy and Economic Studies and the areas of Insurance, Asset Management, Real Estate and Private Equity)  
 Fédération Nationale du Crédit Agricole (Member of the *Commission Mixte Cadres Dirigeants*)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Banque Friuladria SPA (Director)  
 Centre Monétique Méditerranéen (Director)  
 Crédit Agricole, SA (Director)  
 Crédit Agricole, Solidarité et Développement (Director)  
 Crédit Agricole Titres (Member of the *Conseil de Surveillance*)  
 Deltager (Director)  
 GIE Informatique APIS (Member of the Board of Directors)  
 GIE EXA (permanent representative of Caisse Régionale de Crédit Agricole du Languedoc – Director)  
 Institut de Formation dut Crédit Agricole Mutuel (IFCAM) (Director)  
 Société Anonyme APIS – CA (Director in representation of Caisse Régionale du Gard)  
 Société Anonyme APIS – CA (Director in representation of Caisse Régionale du Midi)  
 Sofilaro (Member of the *Conseil de Surveillance*)  
 Caisse Régionale de Crédit Agricole du Gard (General Director)

Caisse Régionale de Crédit Agricole du Midi (General Director)

Caisse Régionale de Crédit Agricole du Languedoc (General Director)

Caisse Régionale de Crédit Agricole du Languedoc de PATRI-IMMO – Associé Unique (Representative)

Club IBM (Member of the *Comité de Direction*)

Fédération Nationale de Crédit Agricole (FNCA):  
Bureau Fédéral (Member Comité de Pilotage Marketing (Member); Comité de Pilotage Organisation Financière Interne (Member); Commission de Politique Financière et Bancaire (Member); Cotec – Comité Stratégique de la Technologie (Member)

**Vincent Claude Paul Pacaud**

*A. Corporate positions held in companies of BES Group*

Management

ESAF – Espírito Santo Activos Financeiros, SGPS, S.A. (Member)

*B. Corporate positions held in companies outside BES Group*

Management

BES – Vida, Companhia de Seguros, S.A. (Chairman)

BES – Companhia de Seguros, S.A. (Chairman)

Bespar – Sociedade Gestora de Participações Sociais, S.A. (Member)

*C. In the last 5 years held the following corporate positions and no longer holds them:*

BNP Paribas Assurances (CEO for Asia region)

CA Life Japon (Member of the Board of Directors)

SH&C Life Insurance (Corea) (Chairman of the Board of Directors)

Thai Cardif Life Insurance (Thailand) (Director)

BNP Paribas Assurances (Member of the International Strategia Committee)

**Rita Maria Lagos de Amaral Cabral**

*A. Corporate positions held in companies outside BES Group*

Management

Amaral Cabral & Associados – Sociedade de Advogados, R.L. (Member)

Casa Agrícola Amaral Cabral, Lda (Director)

Cimigest – S.G.P.S., S.A. (Member)

Semapa, Sociedade de Investimento e Gestão, SGPS, S.A. (Member)

SODIM, S.G.P.S., S.A. (Member)

**Stanislas Ribes**

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Banco Espírito Santo, S.A.- Remuneration Committee (Member)

*A. Corporate positions held in companies outside BES Group*

Management

LCL Obligations Court Terme Euro (Member)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Not Applicable

**Horácio Lisboa Afonso**

*A. Corporate positions held in companies outside BES Group*

Management

Camacho Palma & Lisboa Afonso – Sociedade de Revisores Oficiais de Contas (Partner)

Supervisory Board

Somincor – Sociedade Mineira de Neves-Corvo, S.A. (Member)

Teixeira Duarte – Engenharia e Construções, S.A. (Alternate)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Espírito Santo Financial Group, S.A. (Member of the Board of Directors and Member of the Audit Committee)

Espírito Santo Financial (Portugal) (President of the Supervisory Board)

Staples Portugal, Equipamento de Escritório, Lda. (Alternate of the Supervisory Board)

Ordem dos Revisores Oficiais de Contas (Member)

**Pedro João Reis de Matos Silva**

*A. Corporate positions held in companies outside BES Group*

Management

P. Matos Silva, Garcia Jr., P. Caiado & Associados – Sociedade de Revisores Oficiais de Contas, Lda. (Partner)

Other position

Ordem dos Revisores Oficiais de Contas (Member of the Higher Council)

*B. In the last 5 years held the following corporate positions and no longer holds them:*

Banco Comercial de Macau (Chairman of the Supervisory Board)

Ordem dos Revisores Oficiais de Contas (Chairman of the Supervisory Board)



The business address for all the above Directors is Avenida da Liberdade, 195, 1250-195, Lisbon, Portugal.

### ***Statutory Auditor***

The Statutory Auditor (*Revisor Oficial de Contas*), appointed by the General Meeting for the 2008-2011 four-year mandate, is KPMG & Associados SROC, S.A., which is a member of the Portuguese Institute of Statutory Auditors (“*Ordem dos Revisores Oficiais de Contas*”), with registered office at Edifício Monumental, Avenida Praia da Vitória, 71A, 11º, 1069 – 006 Lisbon, Portugal, represented by Silvia Cristina de Sá Velho Corrêa da Silva Gomes (*Revisor Oficial de Contas*), who is also a member of the Portuguese Institute of Statutory Auditors. The alternate member is Jean-Éric Gaign.

## **8. Risk Management**

### **The Risk function within the BES Group**

The Risk Management function identifies, assesses, monitors and controls all the material risks to which each institution within the BES Group is subject, both internally and externally, so that such risks are contained and do not affect the BES Group’s financial situation.

Efficient risk management and control has played a fundamental role in the balanced and sustained growth of the BES Group contributing to optimal risk return across the various business lines while simultaneously providing a consistently conservative risk profile in terms of solvency, provisioning and liquidity.

### **Organisation of the Risk Management function within BES Group**

The Executive Committee of the Board of Directors of BES is responsible for establishing the general principles of risk management and control, defining the objective risk profile for the BES Group, including establishing both global and specific risk limits and ensuring that the BES Group has the necessary competences and resources for the purpose.

The BES Group has several specialised committees that play a relevant role in the area of risk management in accordance with decisions taken by the Executive Committee.

**Risk Committee:** holds monthly meetings, which are attended by the Chairman of the Executive Committee and is responsible for monitoring the BES Group’s integrated risk profile, and for proposing methodologies, policies, procedures and instruments to deal with all types of risk faced by the BES Group.

**Financial and Credit Committee:** holds daily meetings attended by members of the Executive Committee; the main credit operations are submitted to and decided by this committee in accordance with established risk policies. It also monitors the bank’s treasury position and the state of the financial markets.

**Assets and Liabilities Committee** (the “ALCO”): holds monthly meetings that are attended by members of the Executive Committee, including its Chairman. The ALCO analyses macroeconomic data on Portugal and the main world economies in order to project the likely impact of the global economy on its banking business. The ALCO also monitors the BES Group’s consolidated balance sheet, specifically in relation to customer loans and deposits and their respective margins. In doing so, this provides the Executive Committee with the relevant data needed to set targets for the growth of its customer loans and deposits business, and to define a funding strategy based on the management of its balance sheet mismatch and price/margins targets. The ALCO is also responsible for approving the offer and pricing of new funding products.

The Risk Management function operates independently within the BES Group and is able to supervise each of the risks that the BES Group is exposed to, namely credit, market, liquidity, on-balance sheet, interest rate, and operational risks.



At an operational level, risk management and monitoring are centralised in the Global Risk Department (“GRD”), thereby ensuring that risk and capital concepts are incorporated within the BES Group’s strategy and business decisions.

The main functions of the GRD are as follows:

- to identify, assess and control the different types of risk assumed by the BES Group, thereby managing the BES Group’s overall risk exposure;
- to implement any risk policies outlined by the Executive Committee while harmonising principles, concepts and methodologies across the BES Group;
- to create value within the BES Group through the structuring and pricing of operations and by developing internal procedures for assessing and optimising the BES Group’s capital position;
- to monitor the BES Group’s international operations and strategy, together with identifying and monitoring any risks that this might place upon its business.

The credit risk department is responsible for:

- assigning risk ratings; and
- drafting risk analysis, including expert opinions on new credit operations and clients/business groups, when so justified by the respective liabilities versus rating, in accordance with the regulations in force.

The area responsible for risk ratings, expert opinions and risk analysis is organised into the following specialist teams:

- Rating Desk: covering companies with individual or consolidated turnover over €50 million, credit institutions, financial institutions, institutional clients, local and regional administrative bodies, project finance operations and acquisition finance operations;
- Middle Market: covering the following areas:
  - o validation of ratings in the medium-sized companies segment (individual or consolidated turnover between €1.25 million and €50 million);
  - o drawing up risk analyses of clients, and issuing expert opinions on new credit operations (investment projects, restructuring of operations, and construction financing, among others);
- Micro-companies – responsible for those companies with individual or consolidated turnover below €1.25 million, companies incorporated less than two years before and independent professionals (*Empresários em Nome Individual*).

The Credit Risk Monitoring Area is responsible for monitoring and controlling credit risk, as well as defining and implementing measures that might mitigate any losses that might arise from a deterioration in the risk profile of the BES Group. It is supported by the Committee for Credit Risk Analysis.

The Credit Risk Monitoring Area has the following responsibilities:

- to organise and lead the Impairment Committee, which makes impairment analyses of clients with significant monthly changes and monitors client impairments when justified by their size or situation;
- to maintain relationships with the supervisory authorities and the external auditors concerning the monitoring of the activities of supervision and credit portfolio revision;
- to assist the commercial areas concerning the early identification of risk indications in clients monitored by these areas, and the regular reporting and disclosure of such information in the “risk cockpit” (front desk);
- to support the Bank’s international strategy, namely through the definition of policies and procedures concerning risk and impairment monitoring mechanisms.

The Risk and Capital Planning and Control group is responsible for the planning and control of portfolios subject to credit risk through the co-ordinated monitoring of the following:

- Capital adequacy requirements and solvency: development and implementation of tools to calculate regulatory capital requirements for credit risks in accordance with the rules defined by the Basel II Accord; monthly planning and control of regulatory capital requirements for credit risks and computation of the BES Group’s solvency ratios.
- Non-performing loans and credit provisioning: monthly budgeting and monitoring of overdue loans; development of the methodology to calculate credit impairment losses; and planning and co-ordination of the process of determining these losses on a monthly basis.
- Risk concentration: reporting on the major regulatory risks; definition of the internal methods to measure and control credit risk concentration by conglomerates and activity sectors.

The Market Risk group quantifies, monitors and reports on market risk (trading portfolios), balance sheet interest rate risk and liquidity risk for the purpose of the management of the BES Group’s balance sheet management through the ALCO.

The Operational Risk group has the following responsibilities:

- to define methodologies to calculate regulatory capital requirements under the Standard method, and co-ordinate these calculations;
- to define the operational risk management model ensuring that the operational risk identification, assessment and monitoring processes within the various units of BES and entities of the BES Group are standardised, systematised, regularly performed and duly documented;
- to identify the main sources of risk through self-assessment exercises; meet with representatives from Operational Risk; critical analyses of reported events; monitor key risk indicators and other available information, such as audits performed or complaints;
- to establish and monitor the implementation of risk mitigation actions and measures; and
- to report the corresponding relevant information to the appropriate level in the hierarchy.

The area of Strategic Management of Risk deals with the methodologies, evaluation models and risk policies applying to all categories of risks. At operating level, it is subdivided into the following two sub-groups:

- the Research and Development unit (i) develops and monitors methodologies and models to identify and quantify the various categories of risk, namely, in the case of credit risk, the various PD, LGD and EAD models used by BES Group; (ii) develops and implements decision support tools based on risk

versus value; (iii) supports the integration by the various business areas of risk adjusted return concepts; and (iv) supports securitisation processes through the management of the rating allocation process and the selection of portfolios from the standpoint of risk transfer; and

- the Risk Policies/Processes unit (i) proposes risk policies; (ii) participates in the assessment of the efficiency and effectiveness of decision-making processes and in the drafting of proposals to redefine such processes, quantifying the risk parameters required in a cost-benefit analysis; and (iii) analyses and proposes approval power limits for the various types of risk, at transaction, client and portfolio level.

The Independent Validation Unit makes sure that there is full independence from the other risk management areas (including from the division responsible for the development of models), having the following main responsibilities:

- to validate on a continuous basis the risk models and parameters used to calculate capital adequacy requirements for credit risk (PD<sup>1</sup>, LGD<sup>2</sup> and EAD<sup>3</sup>/CCF<sup>4</sup>), at both quantitative and qualitative levels;
- to user test the level of integration of the internal risk rating system within current and strategic management, with a particular focus on risk management;
- to validate the new credit risk evaluation models developed by the area of Strategic Management of Risk and fine-tune the existing models;
- to identify opportunities to improve credit risk evaluation models; and
- to work with the Bank of Portugal and the Audit Department on the validation of the credit risk models used by BES Group.

In addition, the Internal Audit and Compliance functions (performed respectively by the Audit and Inspection department and the Compliance department) play an important role in managing the risks faced by the BES Group.

## **Basel II**

The BES Group was authorised by the Bank of Portugal to use, as of the fourth quarter in 2009, the Internal Ratings Based approach to calculate regulatory capital requirements to cover credit risk and the Standardised Approach - TSA method to calculate regulatory capital requirements for operational risk. This placed the BES Group in line with the best practices used internationally, being the first Portuguese bank to obtain this authorisation.

This achievement, while culminating a phase of significant investment made by the BES Group in its risk models, processes and systems, also marked the beginning of another phase corresponding to the implementation of a 3-year roll-out plan that will extend these models and processes to all of the BES Group's business units.

## **Roll-out Plan**

The authorisation to use the IRB Foundation method was granted to BES' head office, BES' London branch and BES Investimento and its subsidiaries. Since June 2009, the BES Group has been rolling out the utilisation of this method to cover various entities and portfolios of the BES Group, and it will continue doing so going forward in order to ensure: (i) high levels of rating coverage (>95 per cent.) of the IRB portfolios, both in the entities already certified and in those that have applied for certification (included in the roll-out plan); (ii) the realisation of user tests to make sure that risk tools are used in origination, monitoring, pricing,

1 PD: Probability of Default.

2 LGD: Loss Given Default.

3 EAD: Exposure at Default.

4 CCF: Credit Conversion Factor.

provisioning, reporting and strategic management; and (iii) the continuous validation and updating of risk models.

	1 <sup>st</sup> wave	2 <sup>nd</sup> wave	3 <sup>rd</sup> wave	4 <sup>th</sup> wave	5 <sup>th</sup> wave
<b>Entities/ Portfolios</b>	<ul style="list-style-type: none"> <li>• ES PLc</li> <li>• SFE</li> <li>• BES NY</li> <li>• BES Cayman</li> </ul>	<ul style="list-style-type: none"> <li>• Leasing (Corp)</li> <li>• BAC</li> </ul>	<ul style="list-style-type: none"> <li>• BES Spain</li> <li>• ES Bank</li> </ul>	<ul style="list-style-type: none"> <li>• BES Venetie</li> <li>• BES Oriente</li> </ul>	<ul style="list-style-type: none"> <li>• Factoring</li> </ul>

BES' New York branch, Cayman Branch, Madeira offshore branch and Espírito Santo Plc have already submitted their applications which are now awaiting the Bank of Portugal's authorisation.

Final acceptance of the applications to use the Internal Ratings Based (IRB) approach to calculate regulatory capital requirements to cover credit risk and the Standardised Approach (TSA method) to calculate regulatory capital requirements for operational risk requires compliance with certain conditions identified by the Bank of Portugal. Regular progress reports on compliance with these conditions are sent to the Bank of Portugal. The last report on operational risk was sent in 2011, and the last one on credit risk was sent in 2012.

### ICAAP – Internal Capital Adequacy Assessment Process

In addition to the regulatory perspective, the BES Group also considers its risks and available financial resources from an economic standpoint in order to conduct a self-assessment exercise of internal capital adequacy, as foreseen in Pillar 2 of Basel II and Bank of Portugal Notice 5/2007.

The economic consideration of the risks and RTC addresses both the perspective of business continuity – the BES Group wants to have the financial capacity to absorb losses without having to change its business strategy – and the perspective of settlement – the BES Group intends to protect its capacity to redeem senior debt and deposits. The two perspectives of capital adequacy assessment use different confidence levels to evaluate risks and different concepts of the available financial resources to meet such risks, in line with the risk appetite defined for the BES Group.

In the ICAAP exercise conducted in 2011, with reference to 31st December, 2010, the BES Group opted to focus only on the debtholder perspective. This approach has been taken in view of the new regulatory capital requirements (minimum Core Tier 1 ratio of 9 per cent. in 2011, and 10 per cent. in 2012) and consequent changes in the business model, which entailing the deleveraging process currently underway, which means that the going concern perspective, which assuming that the previous model is maintained, is not applicable at present.

In order to quantify risks, the BES Group has developed several economic capital models that estimate the maximum potential loss over a period of one year based on a predefined confidence level. These models cover the various types of risk to which the BES Group is exposed, namely, credit risk, market risk (trading book and banking book), property risk, pension fund risk, operational risk, reputational risk, liquidity risk and strategy and business risk.

Economic capital requirements to cover the last three risks are calculated through stress tests. The value of the economic capital requirements for each risk is aggregated taking into account inter-risk diversification effects. In addition to calculating economic capital requirements, the main risk factors are subject to stress tests in order to identify any weaknesses or risks which the internal models failed to uncover.

The capital adequacy analysis carried out at the end of each year is complemented by a forward-looking analysis of capital requirements (risks) and available financial resources over a three-year timeframe, under both the basic planning scenario and a stress scenario reflecting further deterioration in the macroeconomic environment.

2011 was marked by a worsening economic environment and high volatility in the capital markets as had been observed in the previous years. The resulting increased risks implied an increase in economic capital requirements.

In line with its business strategy, the main risks to which the BES Group is subject are credit risk and the banking book's market risk. The credit risk implicit in the banking relations with clients, is derived from the BES Group's core business, mainly originating in the corporate segments, with a significant contribution from the international area. The banking book's market risk mainly derives from: (i) the stakes held in Portugal Telecom and EDP-Energias de Portugal and (ii) the credit spread risk of obligations, which mainly arises from the commercial relations with clients and the need to maintain liquid assets on the balance sheet. The risks associated with the pension fund, which result from the BES Group's legal obligations towards its employees, are also relevant. In 2010, the economic capital requirements increased by around 11 per cent. relative to 2009 (after diversification effects), essentially through an increase in requirements for credit risk and for the banking book's interest rate risk. Economic capital distribution by type of risk did not change much compared to the previous year, when the banking book's credit and market risks were already the more materially relevant risks. Finally, it should be noted that the banking book's market risk decreased due to the fact that the ICAAP exercise for 31st December, 2010 already took into account the impact of the sale of the stake in Banco Bradesco, which reduced the equity holdings risk.

The results obtained through the ICAAP exercise conducted with respect to 31st December, 2010, which were delivered to the Bank of Portugal in September 2011, concluded that BES' own funds were sufficient to cover the risks incurred, from either the regulatory or the economic standpoint.

### **Basel III Recommendations**

At the end of the third quarter of 2010, the Basel Committee on Banking Supervision took several decisions regarding the functioning of the global financial system, which have resulted in a set of recommendations named Basel III. Banks will have a transition period (from 1st January, 2013 to 1st January, 2019) to comply with the approved rules, aimed at strengthening financial institutions and preventing new financial crises in the future.

Basel III rules have established the following regulatory framework to be gradually implemented by 1st January, 2019:

- minimum Core Tier 1 of 7 per cent., of which 4.5 per cent. minimum common equity and 2.5 per cent. capital conservation buffer;
- minimum Tier 1 of 8.5 per cent., of which 6.0 per cent. minimum and 2.5 per cent. capital conservation buffer;
- total capital ratio of 10.5 per cent.;
- introduction of a countercyclical buffer, ranging from 0 per cent. to 2.5 per cent. of common equity, under conditions to be defined by the national regulatory authorities;
- transition period defined for the absorption of deductions to capital not eligible under BIS III and for the new deductions to capital; and
- definition of the leverage and liquidity ratios (short-term and long-term) in certain conditions, to be defined.

The BES Group closely monitors developments in the future regulatory framework, as well as all the efforts carried out to define the final rules for new capital ratios.



## Solvency

### Regulatory Capital

The BES Group capital ratios are calculated under the Basel II regulations. From the first quarter of 2009 onwards, BES has been authorised by the Bank of Portugal to use the IRB approach for credit risk and the TSA method for operational risk.

In the second quarter of 2011, in the context of the Financial Assistance Programme to Portugal that determined the reinforcement of capital levels within the Portuguese banking system, the Bank of Portugal issued Notice no. 3/2011, dated 10th May, 2011, establishing minimum levels for the Core Tier 1 ratio on a consolidated basis of no less than 9 per cent. by 31st December, 2011, and 10 per cent. by 31st December, 2012.

The table below provides the relevant information about risk-weighted assets, regulatory capital and capital ratios under the BIS II IRB approach.

### Risk-Weighted Assets and Regulatory Capital

		<i>Dec, 10</i>	<i>€ million Dec, 11</i>
<b>Net Assets</b> .....	(1)	83,655	80,237
Risk weight .....	(2)/(1)	82%	81%
<b>Risk Weighted Assets</b> .....	(2)	68,802	65,385
Banking Book .....		60,610	59,705
Trading Book .....		4,219	1,742
Operational Risk .....		3,973	3,938
<b>Regulatory Capital</b>			
Core Tier 1 .....	(3)	5,416	6,020
Tier 1 .....	(4)	6,040	6,171
Tier 2 and Deductions .....		1,758	799
Total .....	(5)	7,798	6,970
Core Tier 1 .....	(3)/(2)	7.9%	9.2%
Tier 1 .....	(4)/(2)	8.8%	9.4%
Total .....	(5)/(2)	11.3%	10.7%

### Capital Requirements under the EBA Methodology

In light of the increase in systemic risk triggered by the sovereign debt crisis in the euro area, it was decided that banking groups subject to the EBA's stress test exercise are required to strengthen their capital positions in order to reach a Core Tier 1 capital ratio of 9 per cent. by 30th June, 2012, following a prudent assessment of their sovereign debt exposures at market prices as at 30th September, 2011.

The total amount of capital identified as needed for the BES Group under the EBA methodology, as of 30th September, 2011, was €810 million, with €121 million resulting from the evaluation of exposure to sovereign debt (sovereign buffer) at market prices.

### Risk Weighted Assets

As at 31st December, 2011, Risk Weighted Assets totalled €65,385 million, of which €59,705 million (91 per cent. of total) were from credit and counterparty risk, €1,742 million from market risk and €3,938 million from operational risk.

## 9. Liquidity and Funding

Over the years BES has maintained a very conservative approach to liquidity risk management, and its structure is designed to ensure that liquidity management complies with all regulatory rules in force in every territory where it operates, and that all its responsibilities are met, whether in normal market conditions or under stress conditions.

Hence one of the main components of BES's liquidity risk management is its funding policy, which uses the various instruments available in the financial markets and encompasses various funding sources, including customer funds, ordinary and preferred shareholder's equity and medium/long-term funding instruments.

BES Group separates liquidity risk management in three major groups:

- Short-term liquidity;
- Structural liquidity; and
- Contingency liquidity.

BES monitors its short-term liquidity levels through daily mismatch reports prepared in accordance with pre-established guidelines and the potential impacts on the Bank of the internally defined warning signals, namely risk of contagion (due to market tension) or repercussions of an economic crisis.

In addition, following the sovereign debt crisis in the Euro Zone peripheral countries, the Bank of Portugal requested that financial institutions reinforce the information provided on their short-term liquidity position. Accordingly, the treasury position and the evolution of deposits is reported daily and the liquidity position on a weekly basis.

Still concerning short-term liquidity management, following the changes in the UK liquidity legislation in 2009, in August 2011 the Financial Services Authority (FSA) approved BES's application for a Whole Firm Liquidity Modification (WFLM), which allowed BES to continue to operate in London without being required to create additional liquidity buffers. The FSA approval reflects its confidence in BES's liquidity management procedures.

With regard to structural liquidity, BES prepares a monthly liquidity report that takes into account not only the effective maturity but also the behavioural maturity of the various products, which permits BES to determine the structural mismatches for each time bucket. Based on this report, and taking into account the budget targets established, BES prepares an annual activity funding plan. This plan, which is regularly revised, privileges as far as possible medium/long-term funding instruments over short-term instruments.

2011 was marked by the deterioration of the sovereign debt crisis in the peripheral Euro Zone economies, the slowdown of the global economy, and successive cuts of the sovereign ratings. The ratings on the Portuguese Republic were downgraded during the year from "A1" to "Ba2" by Moody's (7 notches), from "A+" to "BB+" by Fitch together with its affiliates ("Fitch") (6 notches), from "A-" to "BBB-" by S&P (3 notches) and from "AL" to "BBB" by DBRS (2 notches). Both Moody's and Fitch placed the rating below investment grade, with S&P following suit at the beginning of 2012. The liquidity available in the financial markets for financial institutions was increasingly scarce, with the international markets becoming more and more inaccessible and the interbank money market being virtually inoperative.

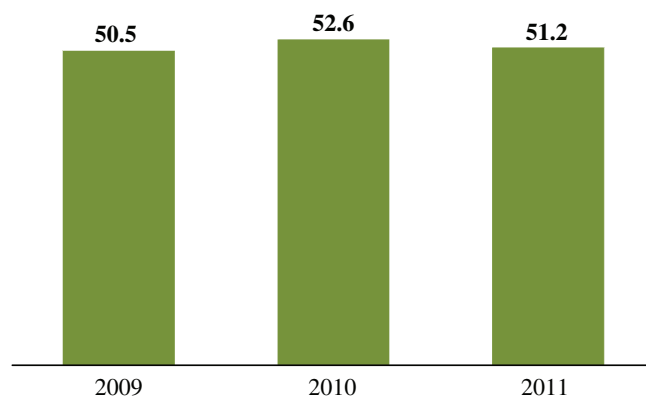
In this context, BES resorted in permanence to a set of contingency measures that allowed it to finance its activity during the year and thus overcome the inaccessibility to international markets. These measures may be divided into three main groups:

### *1. Continued deleverage of the balance sheet, initiated in mid-2010.*

This involved the sale of positions in the securities portfolio totalling €1.7 billion and the sale of international loans totalling €2 billion, which reduced the loan book by 2.7 per cent. in 2011.

## Loan book evolution in 2011

EUR million

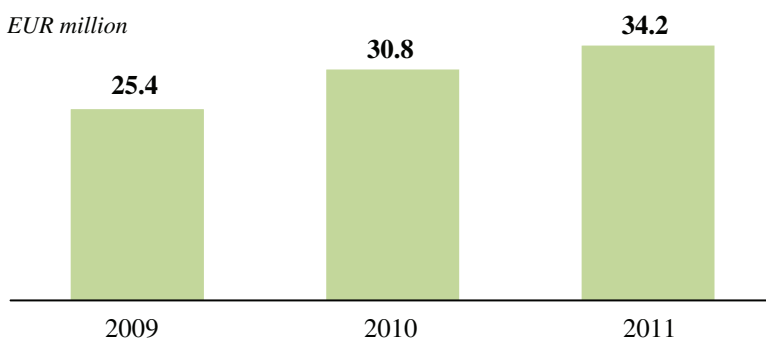


### 2. Increase of the customer deposits base, reinforcing the strategic focus on keeping deposits as the main funding source.

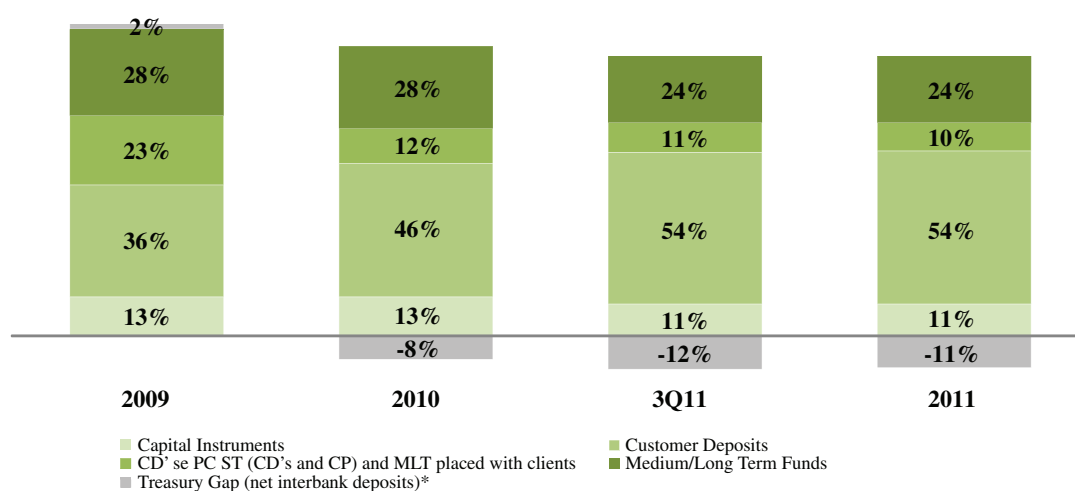
Accordingly, customer deposits increased by €3.4 billion in 2011, with their weight in BES's funding structure rising from 36 per cent. in 2009 to 54 per cent. in 2011 (+18 per cent.).

### Customer deposits evolution in 2011

EUR million



### Funding Structure

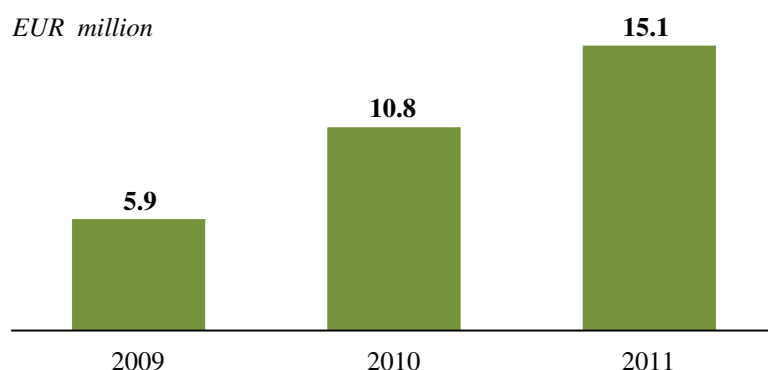


The increase in customer deposits in part offset the reduction in wholesale funding lines, which as a percentage of the Bank's overall funding structure dropped by 13 per cent., from 23 per cent. in 2009 to 10 per cent. in 2011.

Despite the climate of instability, the Bank has looked for opportunities to obtain funding in new markets, and in September 2011 signed a U.S.\$300 million credit facility agreement with a maturity of 3 years with China Development Bank Corporation.

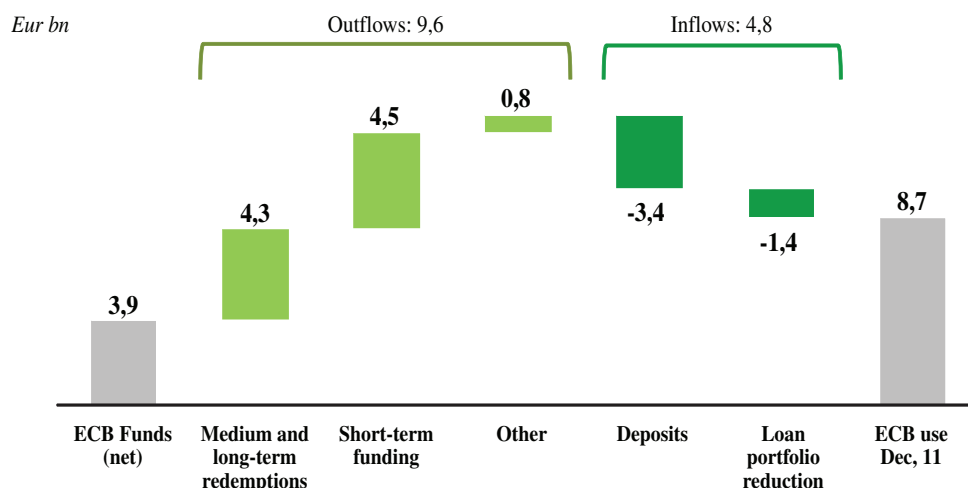
3. *Reinforcement of assets eligible for rediscount with the ECB in order to guarantee access to its main longer-term refinancing operations, which have been key to overcome the inaccessibility to the short and medium term markets. In December 2011 the Group's net borrowing position at the ECB was ca. €8.7 billion (of which €5 billion were taken under the ECB's three-year LTRO), having increased by €4.8 billion year-on-year.*

#### *Net ECB funding evolution*



The increase in borrowings from the ECB mainly resulted from the fact that the reduction in short and medium/long term wholesale funding lines through reimbursements totalling €9.6 billion was not fully compensated by the increase of deposits and the reduction of the credit portfolio, which totalled €4.8 billion.

#### *Evolution of net borrowings from the ECB*



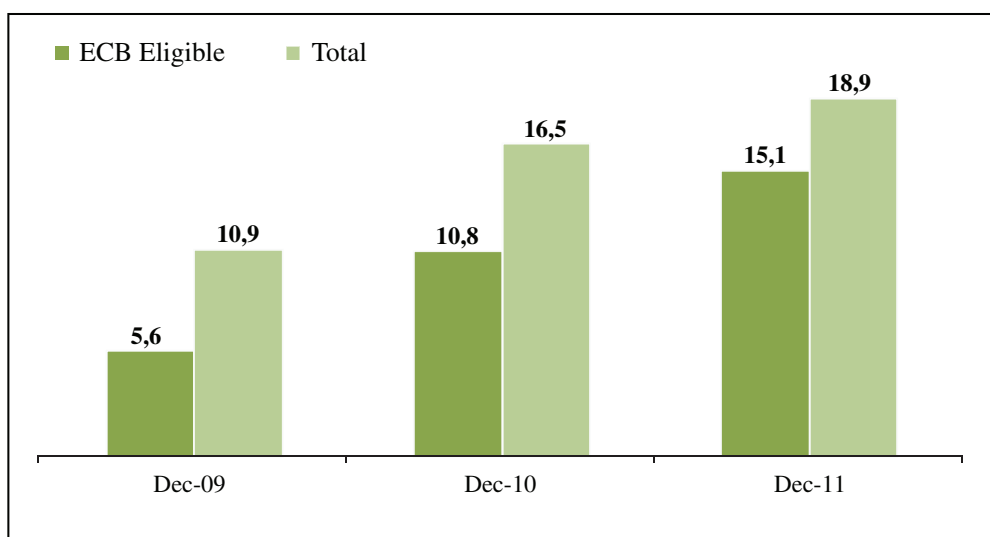
Main operations carried out by the Bank in 2011 to reinforce collaterals:

- Covered bond issue amounting to €1.250 million with maturity of seven years (January);
- Covered bond issue amounting to €600 million with maturity of six years (May);
- Issue of bonds guaranteed by the Portuguese Republic amounting to €1.25 billion with maturity of three years (July); and

- Issue of bonds guaranteed by the Portuguese Republic amounting to €1 billion with maturity of three years (December).

These operations increased the amount of assets eligible for rediscount operations with the ECB by €4.3 billion, to €15.1 billion.

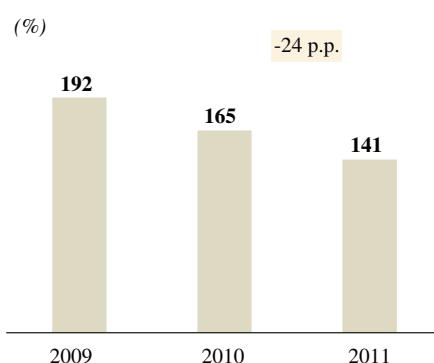
#### *Evolution of rediscountable securities (Eur bn)*



The total portfolio of repoable securities reached €18.9 billion at the end of December. This total includes exposure to Portuguese sovereign debt of €2.9 billion (of which 72 per cent., or €2.1 billion with a maturity of less than one year). As regards exposures to other peripheral countries' sovereign debt, BES had only €4 million of Spanish public debt and no exposure to Italian, Irish or Greek public debt.

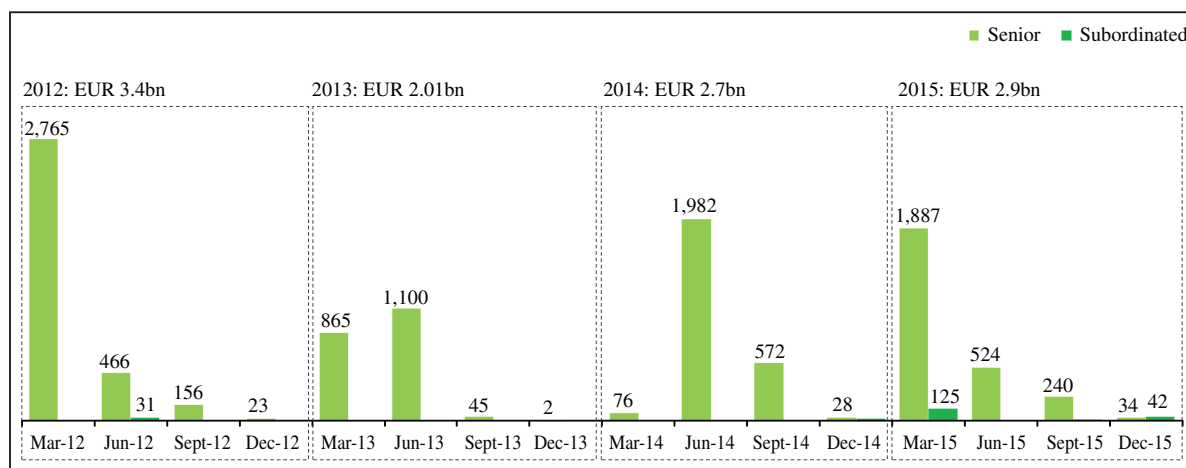
The execution of the contingency measures permitted to refinance all the debt maturing before the end of the year, including the €4.3 billion medium and long-term debt reimbursed during the year, and to improve the loan to deposits ratio by 24 per cent., to 141 per cent. at the end of the year.

#### *Loan to deposits ratio evolution*



In 2012 BES has issued bonds guaranteed by the Portuguese Republic amounting to €2.5 billion: €1 billion 3-year Floating Rate Notes, in January, and €1.5 billion 3-year Floating Rate Notes, in February. These two issues increased the amount of assets eligible for rediscount operations with the ECB by €2.5 billion, which is nearly the entire amount of the medium and long term issues maturing in the first quarter of 2012.

## Maturity Profile



The further implementation of these measures in 2012 will take into account the following decisions taken by the ECB at its meeting of December 2011:

- Reduction of the key benchmark rate to 1 per cent.;
- reduction of the reserve requirement ratio for European banks from 2 per cent. to 1 per cent.;
- Second unlimited three-year liquidity facility (instead of the previous maximum term of 13 months) on 29th February, 2012 (the first LTRO took place on 21st December, 2011);
- Adoption of looser eligibility criteria for collaterals accepted in discount operations.

The ECB decisions aim to facilitate the Euro Zone banking sector's access to liquidity and restore the normal course of the interbank money market.

## 10. Human Resources

Human Resources are a key strategic factor of development, either as a driver of change and progress or as an active agent of organisational restructuring. The BES Group's human resources strategy relies on the promotion of intellectual capital as a brand differentiation factor.

Over the last few years several measures were taken to ensure the continuous training of employees and consequently their mobility within the BES Group, as well as the rejuvenation and strengthening of the workforce.

The BES Group's management model for Human Resources is based on decentralised management, based on the definition of strategic principles which are adopted and implemented in each of its subsidiaries according to the respective specificities and geographical location.

BES employed 6,704 people as of 31st December, 2011, compared with 6,750 as of 31st December, 2010. On a consolidated basis, the BES Group employed 9,863 people as of 31st December, 2011 (31st December, 2010: 9,858 people).



## **Human Resources Geographic Distribution**

<b>Country</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Portugal	7,388	7,584	7,557
Rest of Europe	718	946	856
<i>Spain</i>	596	596	567
<i>United Kingdom</i>	57	277	210
<i>Other</i>	63	73	79
Africa	427	923	1,047
South America	185	202	197
North America	167	182	178
Asia	19	21	28
<b>TOTAL</b>	<b>8,904</b>	<b>9,858</b>	<b>9,863</b>

The BES Group continues to make an effort to train and support its staff as it works hard to build the loyalty of its junior, high-potential employees. In this regard, career management is particularly relevant as a decisive strategic tool for motivating and retaining human resources.

On the one hand, the individual appraisal system that is aligned with the goals of the business measures individual performance. On the other hand, the objectives and incentives scheme, which appraises the performance of the various units and employees against the goals set for each department, measures teamwork performance. These factors combined are decisive for the success of the business.

The performance evaluation process also gauges employee satisfaction with their role and, whenever necessary, requalifies the employees that are willing and able to adapt to new roles. In 2011, 74 employees moved to new roles, 830 were promoted on merit and 100 on seniority, which represented in total 13 per cent. of the Group's employees.

The compensation scheme includes variable remuneration that is directly related to performance appraisal and results achieved by employees, although it also depends on the BES Group's overall financial results and the team's results.

## **11. Financial Statements of BES Group**

The consolidated financial statements for the years ended 31st December, 2009, 2010 and 2011 and the financial information in the Q1 2012 Announcement were prepared in accordance with IFRS as adopted for use in the European Union.

In December 2011, the BES Group changed its accounting policy relating to the recognition of actuarial gains and losses with respect to post employment benefits, which are now recognised under "Other Comprehensive Income", as compared to the previously used "corridor" method and recognition in "Other Assets". As provided in IAS 8, changes in accounting policies with material impact require the restatement of prior periods for comparison purposes. Accordingly, the financial statements incorporated by reference herein include the restated data as at and for the year ended 31st December, 2010 for comparability purposes in 2011 financial statements.

## Consolidated Balance Sheet

For the years ended 31st December, 2011 and 31st December, 2010.

	<i>(in thousands of Euro)</i>		
	<i>31st December, 2011</i>	<i>31st December, 2010</i>	<i>31st December, 2010</i>
			<i>Restated</i>
<b>Assets</b>			
Cash and deposits at Central Banks	1,090,439	930,505	930,505
Deposits with banks	580,813	557,972	557,972
Financial assets held for trading	3,434,639	3,942,061	3,942,061
Financial assets at fair value through profit or loss	1,963,989	1,424,331	1,424,331
Available-for-sale financial assets	11,482,866	11,774,881	11,774,881
Loans and advances to banks	3,282,576	4,245,436	4,245,436
(of which of the European system of Central Banks)	–	(1,200,424)	(1,200,424)
Loans and advances to customers	49,043,382	50,829,123	50,829,123
(Provisions)	(2,167,444)	(1,776,988)	(1,776,988)
Held-to-maturity investments	1,541,182	2,458,800	2,458,800
Derivatives for risk management purposes	510,090	447,304	447,304
Non-current assets held for sale	1,646,683	574,550	574,550
Property and equipment	851,678	809,037	809,037
Intangible assets	230,332	233,537	233,537
Investments in associates	806,999	961,908	961,908
Current income tax assets	28,692	99,396	99,396
Deferred income tax assets	712,157	540,686	283,367
Other assets	3,030,855	3,198,691	4,083,219
<b>Total Assets</b>	<b>80,237,372</b>	<b>83,028,218</b>	<b>83,655,427</b>
Deposits from central banks	10,013,713	7,964,820	7,964,820
(of which of the European System of Central Banks)	(8,786,204)	(5,218,306)	(5,218,306)
Financial liabilities held for trading	2,125,253	2,088,007	2,088,007
Deposits from banks	6,239,360	6,380,592	6,380,592
Due to customers	34,206,162	30,819,220	30,819,220
Debt securities issued	18,452,648	24,109,939	24,109,939
Derivatives for risk management purposes	238,633	228,944	228,944
Non current liabilities held for sale	140,950	5,411	5,411
Provisions	190,450	214,706	214,706
Current income tax liabilities	44,937	25,324	25,324
Deferred income tax liabilities	110,533	115,660	115,660
Subordinated debt	961,235	2,291,833	2,291,833
Other liabilities	1,321,023	1,934,723	1,934,723
<b>Total Liabilities</b>	<b>74,044,897</b>	<b>76,179,179</b>	<b>76,179,179</b>

	<i>(in thousands of Euro)</i>		
	<i>31st December, 2011</i>	<i>31st December, 2010</i>	<i>31st December, 2010</i>
		<i>Restated</i>	
<b>Equity</b>			
Share capital	4,030,232	3,500,000	3,500,000
Share premium	1,081,663	1,085,398	1,085,398
Other capital instruments	29,505	269,953	269,953
Treasury stock	(997)	–	–
Preference shares	211,913	600,000	600,000
Fair value reserve	(445,175)	(9,580)	(9,580)
Other reserves and retained earnings	805,645	307,666	978,547
Profit for the period attributable to equity holders of the bank	(108,758)	556,901	510,520
Non-controlling interests	588,447	538,701	541,410
<b>Total Equity</b>	<b>6,192,475</b>	<b>6,849,039</b>	<b>7,476,248</b>
<b>Total Liabilities and Equity</b>	<b>80,237,372</b>	<b>83,028,218</b>	<b>83,655,427</b>

## Consolidated Income Statement

For the years ended 31st December, 2011 and 31st December, 2010.

	<i>(in thousands of euro)</i>		
	<i>31st December, 2011</i>	<i>31st December, 2010</i>	<i>31st December, 2010</i>
			<i>Restated</i>
Interest and similar income	4,084,862	3,727,898	3,727,898
Interest expense and similar charges	2,903,271	2,563,940	2,563,940
<b>Net Interest Income</b>	<b>1,181,591</b>	<b>1,163,958</b>	<b>1,163,958</b>
Dividend income	167,701	193,292	193,292
Fee and Commission income	888,646	886,808	886,808
Fee and Commission expense	130,546	117,475	117,475
Net gains from financial assets at fair value through profit or loss	(178,904)	(191,470)	(191,470)
Net gains from available-for-sale financial assets	(68,770)	364,436	364,436
Net gains from foreign exchange differences	(32,645)	46,731	46,731
Net gains/ (losses) from sale of other assets	(89,885)	34,032	34,032
Other operating income and expense	357,803	(13,634)	(13,634)
<b>Operating income</b>	<b>2,094,991</b>	<b>2,366,678</b>	<b>2,366,678</b>
Staff costs	587,475	581,870	628,320
General and administrative expenses	433,753	441,057	441,057
Depreciation and amortisation	107,926	100,092	100,092
Provisions net of reversals	6,860	49,343	49,343
Loans impairment net of reversals	600,616	351,809	351,809
Impairment on other financial assets net of reversals	73,251	76,332	76,332
Impairment on other assets net of reversals	167,602	56,135	56,135
Share of profit of associates	(175,231)	37,175	37,175
<b>Net income before income tax and minorities</b>	<b>(57,723)</b>	<b>747,215</b>	<b>700,765</b>
<b>Income tax</b>			
Current tax	72,147	59,673	59,673
Deferred Tax	(133,666)	(15,899)	(15,899)
<b>Net income</b>	<b>3,796</b>	<b>703,441</b>	<b>656,991</b>
ow: profit after taxes of discontinued operations(3,428)	(9,036)	(9,036)	
Non-controlling interests	112,554	146,540	146,471
<b>Consolidated net income for the period</b>	<b>(108,758)</b>	<b>556,901</b>	<b>510,520</b>

## Consolidated Cash Flow Statement

For the years ended 31st December, 2011 and 31st December, 2010.

	<i>(in thousands of euro)</i>	
	<i>31st December, 2011</i>	<i>31st December, 2010</i>
<b>Cash flows from operating activities</b>		
Interest and similar income received	3,891,906	3,554,852
Interest expense and similar charges paid	(2,911,344)	(2,432,654)
Fees and commission received	894,674	893,508
Fees and commission paid	(143,472)	(135,280)
Recoveries on loans previously written off	26,553	19,582
Contributions to pensions' fund	(92,467)	(58,027)
Cash payments to employees and suppliers	(1,088,677)	(940,989)
	<b>577,173</b>	<b>900,992</b>
<i>Changes in operating assets and liabilities:</i>		
Deposits with central banks	3,315,365	4,641,977
Financial assets at fair value through profit or loss	(173,894)	511,300
Loans and advances to banks	(290,655)	3,760,356
Deposits from banks	(171,308)	(531,821)
Loans and advances to customers	332,334	(2,113,843)
Due to costumers	3,313,699	5,224,421
Derivatives for risk management purposes	(142,821)	(84,390)
Other operating assets and liabilities	(746,285)	(1,226,270)
<b>Net cash from operating activities before income tax</b>	<b>6,013,608</b>	<b>11,082,722</b>
Income taxes paid	46,890	(246,432)
<b>Net cash from operating activities</b>	<b>6,060,498</b>	<b>10,836,290</b>
<b>Cash flows from investing activities</b>		
Acquisition of subsidiaries and associates	(98,191)	(237,072)
Disposal of subsidiaries and associates	5,565	17,021
Dividends received	171,894	209,219
Acquisition of available-for-sale financial assets	(47,352,062)	(41,128,358)
Sale of available-for-sale financial assets	47,680,028	38,447,467
Held to maturity investments	394,549	63,461
Acquisition of tangible and intangible assets	(145,361)	(321,229)
Sale of tangible and intangible assets	507	790
<b>Net cash from investing activities</b>	<b>656,929</b>	<b>(2,948,701)</b>

(in thousands of euro)

	<i>31st December, 2011</i>	<i>31st December, 2010</i>
<b>Cash flows from financing activities</b>		
Capital increase	(41,841)	—
Acquisition of preference shares	—	—
Issue of other equity instruments	—	319,953
Proceeds from issue of bonds	9,095,624	11,143,731
Reimbursement of bonds	(14,422,787)	(19,652,853)
Proceeds from issue of subordinated debt	8,174	84,279
Reimbursement of subordinated debt	(989,458)	(440,071)
Treasury stock	(997)	2,952
Interest from other equity instruments	(21,801)	—
Dividends paid on ordinary shares	(146,955)	(163,178)
Dividends paid on preference shares	(25,717)	(33,480)
<b>Net cash from financing activities</b>	<b>(6,545,758)</b>	<b>(8,738,667)</b>
<b>Net changes in cash and cash equivalents</b>	<b>171,669</b>	<b>(851,078)</b>
<b>Cash and cash equivalents at the beginning of the year</b>	<b>1,341,403</b>	<b>2,161,089</b>
Effect of exchange rate changes on cash and cash equivalents	29,179	31,392
<b>Net changes in cash and cash equivalents</b>	<b>171,669</b>	<b>(851,078)</b>
<b>Cash and cash equivalents at the end of the year</b>	<b>1,542,251</b>	<b>1,341,403</b>
<b>Cash and cash equivalents includes:</b>		
Cash	278,179	306,203
Deposits at Central Banks	812,260	624,302
of which, restricted balances	(129,001)	(147,074)
Deposits with Banks	580,813	557,972
<b>Total</b>	<b>1,542,251</b>	<b>1,341,403</b>



## 12. Recent Developments

On 15th May, 2012, the unaudited results of BES and its consolidated subsidiaries for the three-month period ended 31st March, 2012, prepared in accordance with IFRS as adopted by the European Union, were announced. The following is a summary of those results:

- The Eurozone financial crisis, the contraction of economic activity and domestic demand in Portugal, the sharp rise in unemployment and the pursuance of the deleveraging and capitalisation objectives set for Portuguese banks under the Economic and Financial Adjustment Programme all impacted the performance of the BES Group in 1Q12.
- BES' loans-to-deposits ratio decreased to 135 per cent. (March 2011: 163 per cent; December 2011: 141 per cent.). Deposits grew by €1.8 billion or 5.1 per cent. in the quarter (+€5.4 billion, or 17.7 per cent. in 1Q11), while the loan book contracted by €0.2 billion quarter-on-quarter and €0.7 billion (-1.3 per cent.) year-on-year.
- BES Group's financial strength was reinforced: Core Tier 1 capital increased to 9.4 per cent. (March 2011: 7.9 per cent.; December 2011: 9.2 per cent.). On 11th May, 2012, BES successfully completed a €1,010 million capital increase with an estimated impact of +154 bps on core tier 1 capital based on 2011 risk weighted assets, other things remaining constant. The results of this operation represent a proof of confidence on the BES Group's capacity to continue to surmount challenges and generate value for the shareholders.
- The apathy of the interbank money market and inaccessibility to the international debt markets led the ECB to assume a decisive role in liquidity provision to the Eurozone banking system. On 31st March, 2012 the Group's net borrowing position at the European Central Bank was ca. €12.1 billion, of which €10.2 billion had maturities of over one year. The portfolio of repoable securities totalled €24.2 billion, of which €20.5 billion were eligible for rediscount with the European Central Bank.
- Despite the deleveraging process, commercial banking income grew by 8.7 per cent. year-on-year, driven by both net interest income (+8.6 per cent.) and fees and commissions (+8.9 per cent.), stressing the BES Group's earnings power in an adverse context. The 1Q11 banking income increased by 0.7 per cent., notwithstanding the decrease in trading gains induced by the market's overall downturn. Due to this positive performance, combined with the reduction in costs, the operating income increased by 5.2 per cent. (-18.6 per cent. in 1Q11).
- Operating costs dropped by 3.2 per cent., leading to a 5.8 per cent. reduction in domestic costs. The international costs increased by 3.1 per cent., though a slower increase than in 2011 (+18.7 per cent.).
- The cost-to-income ratio (excluding markets) continued to improve, decreasing to 54.3 per cent. (1Q11: 61.0 per cent.; FY11: 57.3 per cent.), while the total cost-to-income ratio reached 51.4 per cent. (1Q11: 53.5 per cent.; FY11: 57.9 per cent.).
- Rising unemployment and a struggling corporate sector continued to impose a solid provisioning policy: the provision charge in the quarter totalled €190.7 million, which is in line with the charge in 3Q11 and 4Q11 (€191 million and €188 million, respectively). The credit provision charge amounted to €149 million and, as a percentage of gross loans, remained in line with the 2011 level (1.17 per cent.). Translating the increase in the quarter's overall provision charge (+85 per cent. year-on-year; +€87.6 million), the BES Group's net income for the period was €11.6 million.
- The overdue loans ratio (>90 days) was 2.96 per cent. (December 2011: 2.74 per cent.) with provision coverage standing at 150.3 per cent. (December 2011: 154.5 per cent.). The provisions for credit/gross loans ratio continued to improve, reaching 4.45 per cent. (March 2011: 3.47 per cent.; December 2011: 4.23 per cent.).

On 11th May, 2012, BES announced the acquisition of 50 per cent. of BES Vida – Companhia de Seguros, S.A. for the total amount of €225 million. Following this acquisition, BES holds the entire share capital of BES Vida and has management control.

Also on 11th May, 2012, BES announced the registration of an increase of its share capital from €4,030,232,150.40 to €5,040,124,063.26, as a result of cash contributions in the amount of €1,009,891,912.86 from the issuance of 2,556,688,387 new ordinary nominative shares in book-entry form, with no par value, subscribed for pursuant to the exercise of transferable pre-emption subscription rights.

On 24th May, 2012 DBRS placed the ratings of BES “Under Review with Negative Implications” following a similar rating action on the Republic of Portugal.

### **13. Supervision and Regulation**

#### **The Bank of Portugal**

The Bank of Portugal is a part of the European System of Central Banks (“ESCB”), which was created in connection with the European Economic and Monetary Union (“EMU”). The EMU implements a single monetary policy, the main features of which are a single currency – the Euro – and the creation of a European Central Bank (“ECB”) and the ESCB. According to the European Union (“EU”) Treaty, the primary objective of the ESCB shall be to maintain price stability through monetary policy.

The Bank of Portugal is directed to provide for the stability of the domestic financial system, performing for this purpose the function of lender of last resort. This goal is achieved through the supervision of credit institutions, financial companies and other entities subject to the supervision of the Bank of Portugal.

According to the *Regime Geral das Instituições de Crédito e Sociedades Financeiras*, the Legal Framework of Credit Institutions and Financial Companies (enacted by Decree Law No. 298/92 of 31st December, 1992, as amended from time to time), the Bank of Portugal authorises the establishment of credit institutions and financial companies based on technical-prudential criteria, monitors the activity of the institutions under its supervision and their compliance with the rules governing their activities, issues recommendations for the correction of any deviations from such rules, sanctions breaches should they occur, and possesses the ability to take extraordinary measures of reorganisation.

The Bank of Portugal has established rules governing solvency ratios, reserve requirements, control of major risks and provisions for specific and general credit risks. It monitors compliance with these rules through periodic inspections, review of regularly filed financial statements and reports, and continuing assessment of adherence to current legislation.

The Bank of Portugal is also charged with the duty to regulate, oversee and promote the smooth operation of payment systems, namely within the scope of its participation in the ESCB.

Membership in the EU subjects Portugal to compliance with European legislation which may either be in the form of regulations, which are directly enforceable in any Member State, or directives addressed to the Member States, which may require the enactment of implementing legislation or which, as established by the European Court of Justice in several decisions, may be deemed to be directly enforceable in a Member State in the event that they are clear, precise and unconditional. In addition, the European Commission and the Council of Ministers issue non-binding recommendations to Member States. The Portuguese authorities have introduced EU directives and recommendations into legislation to adapt Portuguese laws to European regulatory standards.

#### **Capital Adequacy Requirements**

##### *Capital and Solvency Ratios*

Portuguese credit institutions are subject to solvency ratio requirements. These requirements conform to the EU legal framework establishing common standards for the measurement of capital and a system for weighting assets according to credit risk (as set forth in Directive 2006/49/EC of the European Parliament and of the Council of 14th June, 2006 on the capital adequacy of investment firms and credit institutions and adopted in Portugal through Decree-Law no. 103/2007 and Decree-Law no. 104/2007, both of 3rd April, 2007, and a set of notices and instructions from the Bank of Portugal issued to regulate the provisions of the referred statutory instruments). The solvency ratio is defined as Tier 1 capital plus Tier 2 capital divided by

risk-weighted assets and the minimum required ratio is currently 8 per cent. Within the scope of the implementation of the capital accord Basel II, and using the permission granted by the prudential regime established by Decree-Law no. 103/2007 and Decree-Law no. 104/2007, the Group was authorised to use, starting 31st March, 2009, the approach based on the use of internal models for credit risks Foundation Internal Rating Based Approach (“IRBF”) for credit risk and the Standardised Approach (“TSA”) for operational risk.

Risk-weighted assets comprise a component reflecting credit risk, but also components that reflect operational and market risk. Under the current legal framework, credit institutions may calculate the risk weighting of their assets, insofar as credit risk is concerned, according to a standards-based approach or based on their own internal risk-management models, in the latter case subject to authorisation by the Bank of Portugal.

Market risk is defined as the risk of losses in on- and off-balance sheet positions arising from movements in market prices. Market risk also includes the risks pertaining to interest rate-related instruments and equities in the trading book and foreign exchange risk and commodities risk throughout the bank.

Operational risk is defined as the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events. This definition includes legal risk, but excludes strategic and reputational risk.

The capital elements of the BES Group are divided into: Core Tier 1, Basic Own Funds, Complementary Own Funds and Deductions:

**Core Tier 1:** This category includes primarily the realised capital, the eligible reserves (excluding the positive fair value reserves), the retained earnings of the period (when audited) and the non-controlling interest, the unrealised losses recognised under the fair value reserve and associated with equity securities, book value of goodwill, intangible assets, negative actuarial deviations from employee benefits and, when applicable, the losses of the period are deducted in full.

**Basic Own Funds:** In addition to the amounts considered as Core Tier 1 capital, this category includes preference shares and other hybrid capital instruments. The unrealised losses recognised under the fair value reserve and associated with equity securities, book value of goodwill, intangible assets and negative actuarial differences from employees’ benefits up to 31st December, 2007 are deducted in full. From 2007, 50 per cent. of the book value of investments in banking and insurance associates over 10 per cent. also has to be deducted. Since 2009, following the application of the IRBF method for credit risk, it is also adjusted 50 per cent. of the expected losses of risk positions less any existing provisions.

**Complementary Own Funds:** Essentially incorporates the subordinated eligible debt and 45 per cent. of the positive fair value reserve associated with equity securities. The book value of investments in banking and insurance associates is deducted in 50 per cent. of its value and since 2009, is also deducted 50 per cent. of the expected losses of the risk positions less any existing provisions, following the application of the IRBF method for credit risk.

**Deductions (D):** Essentially incorporates the prudential amortisation of assets received as a recovery of non-performing loans.

Additionally there are several rules that limit the composition of the capital basis. The regulatory rules determine that the Tier 2 cannot exceed the Tier 1. In addition, some components of the Tier 2 (Lower Tier 2) cannot exceed 50 per cent. of the Tier 1.

In December 2008, the Bank of Portugal issued Notice 11/2008, establishing a transitory period of four years, from December 2009 to December 2012, for the recognition of the actuarial gains/losses determined in 2008, deducted from the expected return of the fund plan assets for the same year. As a consequence, the annual amount to be incorporated in 31st December, 2010 and in the following years is €137 million.

Credit institutions that fail to comply with these requirements are subject to various measures that may be imposed by the Bank of Portugal, including possible restrictions on dividends and imposition of fines and

other sanctions on not only the institution but also on its directors and executive officers. The BES Group is in compliance with the solvency ratio requirements.

At the end of the third quarter of 2011, the Basel Committee on Banking Supervision made several decisions regarding the functioning of the global financial system, which resulted in a set of recommendations known as Basel III.

Banks will have a transitory period (from 1st January, 2013 to 1st January, 2019) to comply with the approved rules, aimed at increasing the strength of financial institutions and helping to prevent future financial crises.

#### *Own Funds and Large Exposures*

Credit institutions are required by Portuguese law to maintain an adequate level of own funds, which shall be at least equal to the minimum share capital. The relevant criteria to determine the level of own funds is determined by the Bank of Portugal.

Under Portuguese law, credit institutions may not incur large exposure (exposure to a client or group of connected clients with a value equal to or exceeding 10 per cent. of its own funds) to a client or group of connected clients exceeding 25 per cent. of own funds.

As permitted by the Banking Consolidation Directive, the Bank of Portugal has exempted from this requirement the exposure to certain assets, including assets constituting credits over central governments or central banks to which a 0 per cent. risk weighting would be applicable under the relevant Bank of Portugal regulation.

These exposure limits are not applicable to the risks assumed by a credit institution towards its subsidiaries, parent undertaking or the subsidiaries of its parent undertaking which are subject to the supervision of the Bank of Portugal on a consolidated basis, and have their registered office in Portugal.

#### *Minimum Reserve Requirements*

Credit institutions are required to maintain minimum reserves on deposit with national central banks, calculated as a percentage of certain liabilities. The reserve requirements are set by the ECB and are currently 2 per cent. of deposits and debt securities, excluding deposits with central banks and other institutions subject to reserve requirements. Certain liabilities, notably deposits with agreed maturity over two years, deposits redeemable at notice over two years, repos, and debt securities issued with an original maturity over two years have a reserve requirement of 0 per cent.

Deposits made with the central bank for the purposes of maintaining reserve requirements earn interest at the rediscount rate at which the ECB lends to the other European central banks. The failure of a bank to maintain adequate liquidity may result in (i) a non-interest-bearing deposit with the ECB or the national central banks (of up to three times the amount of the minimum reserves which the relevant institution fails to provide) or (ii) an additional payment of up to double the ECB marginal lending rate or up to five percentage points above the ECB marginal lending rate, applied to the amount of the minimum reserves which the relevant institution fails to provide.

#### *Depositor Guarantee Fund*

The Deposit Guarantee Fund was established in 1992 and started operating in December 1994 and has administrative and financial autonomy. Credit institutions with head offices in Portugal that accept deposits must participate in this fund. The financial resources of the Deposit Guarantee Fund are mainly composed of initial contributions from the Bank of Portugal and participating credit institutions and, thereafter, periodic contributions from the participating credit institutions.

The annual contributions are calculated according to the monthly average of the deposits balance accepted in the previous year and to the fixed contribution rate, weighted by the average solvency ratio of each institution in the previous year (the lower an institution's ratio, the higher its contribution). The annual

contributions rate is determined annually by the Bank of Portugal up to a limit of 0.2 per cent. and was set at 0.03 per cent. for 2011.

The Bank of Portugal may determine that the payment of up to 75 per cent. of the annual contributions may be partly replaced by an irrevocable undertaking, guaranteed by a pledge of securities having a low credit risk and high liquidity. The Bank of Portugal determined that this limit would be 10 per cent. for the 2011 annual contribution. If the resources are insufficient to comply with its commitments, the Deposit Guarantee Fund may ask for additional contributions or resort to loans.

When a credit institution is unable to comply with its commitments, the Deposit Guarantee Fund guarantees the repayment to depositors of up to €100,000 per depositor. Decree Law 211-A/2008 of 3rd November, 2008 increased this limit from €25,000 until 31st December, 2011.

The deposits made on Portuguese territory are guaranteed regardless of the currency in which they are denominated, and whether the depositor is resident or non-resident in Portugal. However, some deposits are excluded from the guarantee scheme, such as those made by credit institutions, financial companies, insurance companies, investment funds, pension funds and central or local administration bodies in their own name and for their own account. Moreover, in order to prevent a conflict of interests, the Deposit Guarantee Fund does not guarantee deposits made by an institution's managing bodies, qualifying shareholders, external auditors and companies under a group or control relationship with the credit institution.

The Deposit Guarantee Fund is not obliged to participate in any procedures regarding the reorganisation and recovery of the participating credit institutions.

Decree-Law 31-A/2012, of 10th February establishes special privileged rights to the credits arising from deposits that are covered by the Deposits Guarantee Fund and has reviewed and improved some aspects of the legal framework applicable to the deposits guarantee funds, in order to reinforce such funds and assure their correct functioning.

#### *Borrowing from the Bank of Portugal*

The Bank of Portugal has followed a policy of intervening as a lender of last resort in cases of liquidity shortfalls in the banking system. The basic method of lending employed takes the form of advances and overdrafts against collateral. For this purpose, the Bank of Portugal discloses a list of securities eligible as collateral. The rediscount rate is now set by the ECB.

#### *International Capital Flows*

The Portuguese authorities have established a programme of liberalisation of international capital flows in furtherance of the country's integration into the single market of the European Union.

#### *Investment in Non-financial Companies*

According to the Legal Framework of Credit Institutions and Financial Companies, credit institutions may not have any direct or indirect qualified holding exceeding 15 per cent. of their regulatory capital. This is not applicable to holdings in credit institutions, financial companies, financial institutions, pension fund management companies and insurance and reinsurance companies. In addition, the total amount of qualified holdings held by a credit institution in such non-banking companies may not exceed 60 per cent. of its regulatory capital.

The Legal Framework of Credit Institutions and Financial Companies also provides that no credit institution may directly or indirectly own more than 25 per cent. of voting rights in any single non-financial company for a period longer than three years (five years for shareholdings held indirectly through venture capital companies and holding companies). These limitations are not applicable, notably, to auxiliary services companies.



### *Conduct supervision*

The Bank of Portugal has supervisory powers relating to the conduct of credit institutions. These powers are supported by fiscal, decision-making and sanction powers relating to the rules on the conduct of business, client relationships, professional secrecy, conflicts of interest and competition, to which credit institutions are subject. The conduct supervision rules on client relationships consist of information obligations, rules relating to the management of client complaints, a requirement to adopt a code of conduct and rules relating to the publicity of credit institutions.

### *Granting credit to members of the corporate bodies*

In general, credit institutions are not authorised to grant credit, in any way, including the granting of guarantees, to members of their board of directors or audit board, or to companies or other legal entities directly or indirectly controlled by them.

This limitation does not apply to: (i) operations with a social nature or purpose or those deriving from personnel policy; (ii) credit granted as a result of the use of credit cards associated with deposit accounts, in conditions similar to the ones applicable to other clients with a similar profile and risk; (iii) members of the general supervisory board (“*Conselho Geral e de Supervisão*”) who are not part of any financial committee or audit committee, non-executive directors of credit institutions who are not part of the audit committee, or companies or other legal entities controlled by them; or (iv) the credit granting operations of certain entities subject to the supervision of the relevant credit institution.

The members of the board of directors or audit board of a credit institution cannot participate in the analysis and decision making process relating to operations where they may have a conflict of interest.

### *Breach of rules under the Bank of Portugal’s supervision*

Breaches of rules under the Bank of Portugal supervision constitute misdemeanours and may result in the Bank of Portugal imposing fines of up to €5,000,000. Ancillary sanctions may also be imposed, such as, amongst others, the apprehension of the proceeds obtained through the offence, public censure, the prohibition of exercising management functions in credit institutions and the suspension of voting rights of the shareholders of credit institutions.

### *Other Controls*

The Bank of Portugal imposes a number of other controls covering various aspects of a bank’s business. It administers these controls through reporting requirements and ongoing supervision, including periodic examinations of the operations and asset portfolios of individual banks and consolidated banking groups.

## **Portuguese Securities Market Commission (CMVM) supervision**

The regulation and supervision of the securities markets and financial intermediation activities in Portugal are carried out by the central government, acting through the Ministry of Finance and the CMVM.

The Ministry of Finance may establish policies relating to markets in financial instruments, investor protection, financial intermediation activities and generally any matters regulated by the Portuguese Securities Code. The Ministry of Finance also oversees the CMVM and co-ordinates the supervision and regulation relating to financial instruments when powers have been delegated to more than one public entity. When a disturbance in the markets in financial instruments puts the national economy at serious risk, the Ministry of Finance may, by means of a joint Ministerial Order by the Prime Minister and the Minister of Finance, impose necessary measures. These may include the temporary suspension of (i) the regulated markets and certain categories of transactions or activities of their management entities; (ii) multilateral trading facilities; (iii) settlement systems; (iv) clearing houses or central counterparties; and (v) central securities depositories.

The CMVM is the regulatory agency in charge of the supervision and regulation of the securities markets and financial intermediation services. It is an administrative agency overseen by the Ministry of Finance.



In particular, the responsibilities of the CMVM include the supervision of certain conduct of business rules relating to financial intermediation activities and markets in financial instruments and the prudential supervision of certain entities.

For this purpose, the CMVM may issue regulations on matters within the scope of its supervision powers, including conduct of business rules for providers of investment services, the recognition of markets for financial instruments, the establishment of rules for the operation of such markets, as well as rules on public offers and prospectus requirements.

The CMVM may, within the course of its supervision activities, carry out inspections, issue information requests, conduct hearings, require the collaboration of other persons or entities, including police authorities, disclose information, including in substitution of supervised entities, conduct investigations and organise a registration system, carry out enforcement actions and impose administrative sanctions.

BES is subject to the CMVM's supervision both as a financial intermediary and an issuer of securities admitted to trading on a regulated market.

### **Supervisory rules applicable to BES as a financial intermediary**

BES and some of its Portuguese subsidiaries, the main ones being BESI and ESAF, are authorised as financial intermediaries. They are subject to the supervision of the CMVM in relation to their performance of financial intermediation activities.

The conduct of business rules applicable to financial intermediaries are laid out in the Portuguese Securities Code, CMVM regulations and legislation applicable to specific financial intermediation activities. The Portuguese Securities Code has been subject to several amendments in past years, most of them triggered by the implementation of European Union directives.

### **Conduct of Business Rules**

For the development of regulated activities, financial intermediaries such as BES must comply with conduct of business rules set out in the Legal Framework of Credit Institutions and Financial Companies and the Portuguese Securities Code as well as those which may be established by CMVM regulation or special legislation.

As a general principle, financial intermediaries must conduct their activity in a manner which protects the legal interests of their clients and the efficiency of the market. In their dealings with other market parties, financial intermediaries must observe the dictates of good faith, in accordance with high standards of diligence, loyalty and transparency.

The main conduct of business rules applicable to financial intermediaries carrying out financial intermediation activities relate to: (i) "know your client" obligations, including the obligation to conduct tests on the suitability and adequacy of the services or products for each client; (ii) the financial intermediaries' human, material and technical resources; (iii) complaint procedures; (iv) segregation of clients' assets; (v) record keeping and reporting; (vi) conflicts of interest policy; and (vii) information-retention obligations.

### **Supervisory Rules Applicable to BES as an Issuer of Shares Admitted to Trading in a Regulated Market**

A company whose shares are admitted to trading on a regulated market must, in addition to all the disclosure rules established in the Portuguese Companies Code, disclose to the CMVM and the public on its own website information regarding its organisation, the main aspects of its activity and how its business is conducted.

The main rules concern: (i) the obligation to disclose to the CMVM and the public on its own website all notices received regarding qualified holdings by third parties in the company's share capital and the relevant annual, semi-annual and quarterly financial and management information; (ii) specific procedures for postal votes and proxies for the exercise of voting rights in the company's general shareholders' meetings; (iii)

disclosure of privileged information; and (iv) the obligation of the company's directors and other senior executives to disclose any transactions undertaken by them in relation to the company's shares.

### **CMVM's Powers**

As stated above, the CMVM supervises the activities and participants in the financial markets in Portugal. The CMVM has the power to introduce binding regulations, take appropriate enforcement measures to sanction breaches of these regulations and of the Portuguese Securities Code, and to sanction such breaches.

When exercising its powers, the CMVM has the right, among others, to request non-public information, including information otherwise subject to professional confidentiality obligations, hold hearings, undertake investigations and summon people to co-operate with such investigations, and take the place of supervised entities to provide information to the market.

The CMVM also operates an information disclosure system which can be used by parties subject to disclosure rules as a cost effective and efficient means of complying with information rules.

### **Breach of Rules under the CMVM's Supervision**

A breach of the rules laid down in the Portuguese Securities Code may constitute a crime or misdemeanour.

### **Crimes**

Market manipulation and the abuse of privileged information are punishable with prison sentences of up to five years and with ancillary administrative sanctions that include the prohibition against exercising any intermediation activity, interdiction from participating in the management of a publicly-traded company or financial intermediary, the publication of the notice of the crime and the apprehension of any proceeds of the illegal activity.

### **Misdemeanours**

Different levels of misdemeanour are punishable by different penalties. Very serious misdemeanours, such as the disclosure of untrue or misleading information to the market or undertaking an offer without the disclosure of an approved prospectus, are punishable by a fine of up to €5,000,000. Serious misdemeanours, such as the failure to disclose publicly-traded companies' shareholders agreements or the breach of the obligation to launch a mandatory public offer, are punishable by fines of up to €2,500,000 and less serious misdemeanours are punishable by fines of up to €500,000.

### **Portuguese Insurance Institute**

BES is also subject to the supervision of the Portuguese Insurance Institute insofar as it is a tied insurance mediator.

### **Evolution of the Regulatory Environment**

As part of the EU's internal market programme, the European Commission and the European Council have proposed and adopted a number of regulations, directives and recommendations relating to the provision of banking and financial services. These include existing and proposed legislation concerning capital movements, depositors' guarantees, payment systems, collective investment companies, investment firms, public disclosure of acquisitions and dispositions of holdings in listed companies, prospectuses for the public issuance of securities, shareholders' rights, consumer credit, insider trading, mortgage credit, insurance, publication of annual accounting documents and taxation. Such legislation promotes greater competition in the provision of financial services, including areas in which BES operates, such as securities brokerage, dealing and underwriting, and the provision of investment advice.

## 14. Shareholders' Structure

The following table sets out the main shareholders of BES as calculated pursuant to Article 20 of the Portuguese Securities Code as of 11th April, 2012:

Qualified Stakes	May 2012	
	<i>N Shares</i>	<i>% Voting Rights</i>
ESPIRITO SANTO FINANCIAL GROUP, S.A (Luxembourg)		
– directly	45,385,078	1.13%
– through BESPAS, SGPS, S.A (controlled by Espirito Santo Financial (Portugal), SGPS, S.A., fully owned by Espirito Santo Financial Group S.A)	1,417,916,095	35.29%
– through members of its Board of Directors and Supervisory Bodies	8,646,080	0.22%
– through companies controlled directly and indirectly and/or members of its Board of Directors and Supervisory Bodies	22,458,331	0.56%
<b>Total attributable</b>	<b>1,494,405,584</b>	<b>37.19%</b>
CRÉDIT AGRICOLE, S.A (France)		
– directly	434,252,321	10.81%
<b>Total attributable</b>	<b>434,252,321</b>	<b>10.81%</b>
BRADPORT, SGPS, S.A*		
– directly	194,104,165	4.83%
<b>Total attributable</b>	<b>194,104,165</b>	<b>4.83%</b>
SILCHESTER INTERNATIONAL INVESTORS LIMITED (UK)		
– directly	230,747,998	5.74%
<b>Total attributable</b>	<b>230,747,998</b>	<b>5.74%</b>
PORTUGAL TELECOM, SGPS, S.A		
– through PT Prestações – Mandatária de aquisições e gestão de bens, S.A.	84,109,047	2.09%
– through members of its Board of Directors and Supervisory Bodies	580,929	0.01%
<b>Total attributable</b>	<b>84,689,976</b>	<b>2.11%</b>

\* Portuguese company fully owned by Banco Bradesco (Brasil)

All of the ordinary shares held by the shareholders of BES have the same voting rights. According to the Articles of Association of BES, shareholders are entitled to one vote for every 100 ordinary shares held, although shareholders who own less than 100 shares may pool their shares.

BES is unaware of any arrangements, as of the date hereof, the operation of which may at a subsequent date result in a change of control of BES.

With the goal of ensuring BES' independence from its shareholders and reducing the possibility of any eventual abusive exercise of control over BES by its shareholders, BES has adopted relevant measures including, among others, full transparency in its relations with its shareholders and strict compliance with the legal provisions namely concerning transactions with related parties and conflicts of interest.

## TAXATION

### Taxation in the Cayman Islands

Prospective investors should consult their professional advisers on the possible tax consequences of buying, holding or selling any Note under the laws of their country of citizenship, residence or domicile.

#### *Cayman Islands Taxation*

The following is a discussion on certain Cayman Islands tax consequences of an investment in the Notes. The discussion is a general summary of present law, which is subject to prospective and retroactive change. It is not intended as tax advice, does not consider any investor's particular circumstances, and does not consider tax consequences other than those arising under Cayman Islands law.

#### *Under existing Cayman Islands Laws:*

- Payments of interest and principal on the Notes will not be subject to taxation in the Cayman Islands and no withholding will be required on the payment of interest and principal to any holder of the Notes, nor will gains derived from the disposal of the Notes be subject to Cayman Islands income or corporation tax;
- The Cayman Islands currently have no income, corporation or capital gains tax and no estate duty, inheritance tax or gift tax;
- No stamp duty is payable in respect of the issue or transfer of the Notes although duty may be payable if Notes are executed in or brought into the Cayman Islands; and
- Certificates evidencing the Notes, in registered form, to which title is not transferable by delivery, should not attract Cayman Islands stamp duty. However, any instrument transferring title to any Note, in registered form, if brought to or executed in the Cayman Islands, would be subject to Cayman Islands stamp duty.

Banco Espírito Santo, S.A. was registered under the Companies Law of the Cayman Islands as a foreign company incorporated in Lisbon, Portugal on 20th October, 1937, which registration was given on 22nd February, 2000. Banco Espírito Santo, S.A. holds a category "B" Banking Licence issued on 15th March, 2000 under The Banks and Trust Companies Law (1995 Revision) of the Cayman Islands. BES Finance has obtained an undertaking from the Governor in Council of the Cayman Islands pursuant to the Tax Concessions Law (1995 Revision) of the Cayman Islands that, for a period of 20 years from 14th January, 1997, no law enacted in the Cayman Islands imposing any tax to be levied on profits, income gains or appreciations shall apply to BES Finance or its operations and no such tax or any tax in the nature of estate duty or inheritance tax shall be payable by BES Finance on or in respect of the shares, debentures, or other obligations of BES Finance or by way of withholding in whole or in part of any payment of dividend or other distribution of income or capital by BES Finance to its members or any payment of interest or principal or other sums due under a debenture or other obligation of BES Finance.

### Taxation in Portugal (including Madeira)

**The following is a summary of the material Portuguese tax consequences with respect to the Notes. The summary does not purport to be a comprehensive description of all the tax consequences that may be relevant to any particular Noteholder, including tax considerations that arise from rules of general application or that are generally assumed to be known to Noteholders. This discussion is based on Portuguese law as it stands at the date of this Prospectus and is subject to any change in law that may take effect after such date. Prospective investors in the Notes should consult their professional advisers with respect to particular circumstances and the effects of state, local or foreign laws to which they may be subject. Noteholders who are in doubt as to their tax position should consult their professional advisers.**

Economic benefits derived from interest, amortisation, reimbursement premiums and other types of remuneration arising from the Notes are designated as investment income for Portuguese tax purposes.

**Notes issued by Bank acting through Cayman Islands branch or London branch or its Luxembourg branch are subject to the following specific tax considerations:**

Payments to be made by the Bank acting through Cayman Islands branch or London branch or its Luxembourg branch of investment income (including interest) arising from Notes issued by them and payable to an individual or legal person who is a non-resident in Portuguese territory for tax purposes are not subject to Portuguese withholding tax provided those payments correspond to costs or charges concerning the activities of that branch. It should be taken into account that according with the legal provision dealing with this matter the Secretary of State for Fiscal Affairs (currently Secretário de Estado dos Assuntos Fiscais) has issued the governmental order no. 1132/2006-XVII, of 12th September, which has only entered into force in respect of Notes issued after 1st January, 2007, stating that, if the proceeds of the Notes issued by foreign financial branches of Portuguese credit institutions are transferred to the respective headquarters or to another branch of such Portuguese credit institutions, the investment income (including interest) arising from such Notes and payable to Noteholders with no residence, effective management or permanent establishment in Portugal will be considered subject to a Portuguese final withholding tax at a rate of 25 per cent. or 30 per cent. (if such payments are made to (i) residents in blacklisted jurisdictions currently listed in Portaria 150/2004, of 13th February, 2004, as amended, or to (ii) accounts opened in the name of one or more accountholders acting on behalf of one or more unidentified third parties the relevant beneficial owner(s) of the income is/are identified), as the case may be, which may be reduced in accordance with any applicable double taxation treaty signed by Portugal. In order to benefit from such reduction Noteholders shall comply with certain procedures and certification requirements of the Portuguese tax authorities, aimed at verifying the non-resident status and eligibility for the respective tax treaty benefits (currently the form 21 RFI).

**Notes issued by the Bank acting through its head office in Lisbon and through its Madeira Free Trade Zone branch are subject to the following specific tax considerations:**

***General tax regime applicable to debt securities***

Interest and other types of investment income obtained on Notes by a Portuguese resident individual is subject to individual income tax. If the payment of interest or other investment income is made available to Portuguese resident individuals, withholding tax applies, as a rule, at a rate of 25 per cent., which is the final tax on that income unless the individual elects to include such income in his taxable income, subject to tax at progressive rates of up to 46.5 per cent. An additional income tax rate of 2.5 per cent. that will be due on the part of the taxable income exceeding €153,300. In this case, the tax withheld is deemed a payment on account of the final tax due.

Capital gains obtained by Portuguese resident individuals on the transfer of Notes are taxed at a special tax rate of 25 per cent. levied on the positive difference between the capital gains and capital losses of each year. In this respect, an income tax exemption applies if the annual positive difference obtained with shares, bonds and other debt securities does not exceed €500. Accrued interest qualifies as interest, rather than as capital gains, for tax purposes. The positive difference between the capital gains and capital losses resulting from the disposal of notes and other debt securities obtained by investment funds incorporated under the laws in Portugal is exempt from income tax, except in the case of mixed or closed ended investment funds of private subscription to which the rules established in the CIRS apply.

Interest and other investment income derived from Notes and capital gains obtained with the transfer of Notes by legal persons resident for tax purposes in Portugal and by non resident legal persons with a permanent establishment in Portugal to which the income or gains are attributable are included in their taxable income and are subject to a 25 per cent. tax rate, to which may be added a municipal surcharge (“derrama municipal”) of up to 1.5 per cent. of its taxable income. A State Surcharge rate will be of 3 per cent. due on the part of the taxable profits exceeding €1,500,000 up to €10,000,000 and of 5 per cent on the part of the taxable profits exceeding €10,000,000.

As general rule, withholding tax at a rate of 25 per cent. applies on interest and other investment income, which is deemed a payment on account of the final tax due. Portuguese financial institutions, pension funds, retirement and/or education savings funds, share savings funds, venture capital funds incorporated under the laws in Portugal and some exempt entities are not subject to Portuguese withholding tax.

Investment income paid or made available to accounts opened in the name of one or more accountholders acting on behalf of one or more unidentified third parties is subject to a final withholding tax rate of 30 per cent., unless the relevant beneficial owner(s) of the income is/are identified and as a consequence the tax rates applicable to such beneficial owner(s) will apply.

Without prejudice to the special debt securities tax regime as described below, the general tax regime on debt securities applicable to non resident entities is the following:

As a rule, interest and other types of investment income obtained by non resident beneficial owners (individuals or legal persons) without a Portuguese permanent establishment to which the income is attributable is subject to withholding tax at a rate of 25 per cent. which is the final tax on that income.

Investment income paid or made available to accounts opened in the name of one or more accountholders acting on behalf of one or more unidentified third parties is subject to a final withholding tax rate of 30 per cent., unless the relevant beneficial owner(s) of the income is/are identified and as a consequence the tax rates applicable to such beneficial owner(s) will apply.

A withholding tax rate of 30 per cent. applies in case of investment income payments to individuals or companies domiciled in a “low tax jurisdictions” list approved by Ministerial order (Portaria) no. 150/2004 of 13 February, amended by Ministerial Order (Portaria) 292/2011, of 8th November, 2011.

Under the tax treaties entered into by Portugal which are in full force and effect on the date of this Prospectus, the withholding tax rate may be reduced to 15 per cent., 12 per cent., 10 per cent. or 5 per cent., depending on the applicable treaty and provided that the relevant formalities (including certification of residence by the tax authorities of the beneficial owners of the interest and other investment income) are met. The reduction may apply at source or through the refund of the excess tax. The forms currently applicable for these purposes may be available at [www.portaldasfinancas.gov.pt](http://www.portaldasfinancas.gov.pt).

Capital gains obtained on the transfer of Notes by non resident individuals without a permanent establishment in Portugal to which gains are attributable are exempt from Portuguese capital gains taxation unless the individual is resident in a “low tax jurisdictions” list approved by Ministerial order (Portaria) no. 150/2004 of 13 February, amended by Ministerial Order (Portaria) 292/2011, 8th November, 2011 (Lista dos países, territórios e regiões com regimes de tributação privilegiada, claramente mais favoráveis). Capital gains obtained by individuals that are not entitled to said exemption will be subject to taxation at a 25 per cent. flat rate. Under the tax treaties entered into by Portugal, such gains are usually not subject to Portuguese corporate income tax, but the applicable rules should be confirmed on a case by case basis. Accrued interest does not qualify as capital gains for tax purposes.

Regarding capital gains obtained on the transfer of Notes by a legal person non resident in Portugal for tax purposes and without a permanent establishment in Portugal to which gains are attributable are exempt from Portuguese capital gains taxation, unless the share capital of the non resident entity is more than 25 per cent. directly or indirectly held by Portuguese resident entities or if the beneficial owner is resident in a “low tax jurisdictions” list approved by Ministerial order (Portaria) no. 150/2004, of 13 February, amended by Ministerial Order (Portaria) 292/2011, of 8th November, 2011 (Lista dos países, territórios e regiões com regimes de tributação privilegiada, claramente mais favoráveis). If the exemption does not apply, the gains will be subject to corporate income tax at a rate of 25 per cent. Under the tax treaties entered into by Portugal, such gains are usually not subject to Portuguese corporate income tax, but the applicable rules should be confirmed on a case by case basis.

### ***Special debt securities tax regime***

Pursuant to Decree-Law 193/2005, of 7th November, 2005 (“Decree-Law 193/2005”), as amended from time to time, investment income paid to Beneficiaries non-resident in Portugal for tax purposes in respect of debt



securities registered with a centralised securities system recognised in accordance to the Portuguese Securities Code (currently Interbolsa), as well as capital gains derived from a sale or other disposition of such Notes, will be exempt from Portuguese taxation. For the withholding tax exemption to apply, the Decree-Law requires that the Beneficiary: (i) is neither resident in Portuguese territory (nor has any registered or deemed permanent establishment therein to which interest is imputable); (ii) is not resident in the countries and territories included in the Portuguese “blacklist” (countries and territories listed in “Portaria” 150/2004, of 13th February, 2004 as amended), with the exception of central banks and governmental agencies of those blacklisted jurisdictions and (iii) has no more than 20 per cent. of its share capital held, directly or indirectly, by Portuguese residents.

For purposes of application at source of this tax exemption regime, Decree-Law 193/2005 requires completion of certain procedures and certifications. Under these procedures (which are aimed at verifying the non-resident status of the Noteholder), the Noteholder is required to hold the Notes through an account with one of the following entities: (i) a direct register entity, which is an entity affiliated with the clearing system recognised by the Portuguese Securities’ Code; (ii) an indirect register entity, which, although not assuming the role of the “direct register entities”, is a client of the latter; or (iii) entities managing an international clearing system, which are entities operating with the international market to clear and settle securities’ transactions. For the purposes of the exemption granted under Decree-Law 193/2005, the Portuguese Government has recognised each of Euroclear and Clearstream, Luxembourg as entities managing an international clearing system.

The following is a general description of the rules and procedures for the proof required for the exemption to apply at source, as they stand as at the date of this Prospectus.

# **1. Domestic Cleared Notes – held through a direct register entity**

Direct register entities are required, for the purposes of Decree-Law 193/2005, to register the Noteholders in one of two accounts: (i) an exempt account or (ii) a non-exempt account.

Registration of the Notes in the exempt account is crucial for the exemption to apply. For this purpose, the registration of the non-resident Noteholders in an exempt account, allowing application of the exemption upfront, requires evidence of the non-resident status, to be provided by the Noteholder to the direct register entity before or at the Income Payment Date (as defined below), as follows:

- (i) if the Noteholder is a central bank, public institution, international body, credit or financial institution, a pension fund or an insurance company, with its head office in any OECD country or in a country with which the Portuguese Republic has entered into a double tax treaty, the Noteholder will be required to prove its non-resident status by providing: (a) its tax identification; or (b) a certificate issued by the entity responsible for its supervision or registration, confirming the legal existence of the Noteholder and its head office; or (c) a declaration of tax residence issued by the Noteholder itself, duly signed and authenticated, if the Noteholder is a central bank, a public law entity taking part in the public administration (either central, regional or peripheral, indirect or autonomous of the relevant country), or an international body; or (d) proof of non- residence pursuant to the terms of paragraph (iii) below. When the Notes are held by central banks or governmental agencies, the respective proof of non-residence in Portuguese territory is provided only once, without need for periodical renewal;
- (ii) if the Noteholder is an investment fund or other collective investment scheme domiciled in any OECD country or in a country with which the Portuguese Republic has entered into a double tax treaty, it shall make proof of its non-resident status by providing any of the following documents: (a) a declaration issued by the entity responsible for its supervision or registration or by the relevant tax authority, confirming its legal existence, domicile and law of incorporation; or (b) proof of non-residence pursuant to the terms of paragraph (iii) below;
- (iii) other investors will be required to make proof of their non-resident status by way of: (a) a certificate of residence or equivalent document issued by the relevant tax authorities; (b) a document issued by the relevant Portuguese Consulate certifying residence abroad; or (c) a document specifically issued by an official entity which forms part of the public administration (either central, regional or

peripheral, indirect or autonomous) of the relevant country. The Noteholder must provide an original or a certified copy of such documents and, as a rule, if such documents do not refer to a specific year and do not expire, they must have been issued within the three years prior to the relevant payment or maturity dates or, if issued after the relevant payment or maturity dates, within the following three months. The Beneficiary must inform the direct registering entity immediately of any change in the requirement conditions that may eliminate the tax exemption.

“Income Payment Date” means any date on which the Noteholders are entitled to receive interest or other investment income, either in the form of accrued interest or coupon.

## **2. Internationally Cleared Notes – held through an entity managing an international clearing system**

If the Notes are registered in an account with an international clearing system (either with Euroclear or Clearstream, Luxembourg) and the management entity of such international clearing system undertakes not to provide registration services in respect of the Notes to (i) Portuguese tax residents that do not benefit from either an exemption or waiver of Portuguese withholding tax, and (ii) to non-resident entities for tax purposes which do not benefit from the above Portuguese income tax exemption, the proof required to benefit from the exemption will be made before or at the Income Payment Date as follows:

- (i) through the presentation of a certificate, on a yearly basis, with the name of each beneficial owner, address, tax payer number (if applicable), the identity of the securities, the quantity held and also the reference to the legislation supporting the exemption or the waiver of Portuguese withholding tax. The form of the notice is set out in Annex 1 to this “Taxation” section (which corresponds to the wording and contents of the form of certificate for exemption from Portuguese withholding tax on income from debt securities, as contained in Order (Despacho) n° 4980/2006, published in the Portuguese official diary, second series, n° 45, of 3rd March 2006, issued by the Portuguese Minister of Finance and Public Administration (currently, *Ministro das Finanças e da Administração Pública*)); or
- (ii) alternatively, through a yearly declaration that states that the beneficial owners are exempt or not subject to withholding tax. This declaration is complemented with a disclosure list, on each coupon payment date, of each beneficial owner’s identification, with the name of each beneficial owner, address, tax payer number (if applicable), the identity of the securities, the quantity held and also the reference to the legislation supporting the exemption or the waiver of Portuguese withholding tax. The form of the declaration is set out in Annex 2 to this “Taxation” section (which corresponds to the wording and contents of the form of statement for exemption from Portuguese withholding tax on income from debt securities, as contained in Regulatory Notice (Aviso) n° 3714/2006, published in the Portuguese official diary, second series, n° 59, of 23rd March, 2006, issued by the Portuguese Secretary of State for Fiscal Affairs (currently, *Secretário de Estado dos Assuntos Fiscais*)).

The two documents referred to in (i) or (ii) above, which are reproduced in Annexes 1 and 2, shall be provided by the participants (i.e. the entities that operate in the international clearing system) to the direct registering entities, through the international clearing system managing entity, and must take into account the total accounts under their management relating to each Noteholder that is tax exempt or benefits from the waiver of Portuguese withholding tax.

The delivery of the documents referred to in (i) or (ii) above, which are reproduced in Annexes 1 and 2, by the participants to the respective international clearing system managing entities shall follow the procedures that are from time to time applicable for this purpose by said international clearing system managing entities.

The international clearing system managing entities shall inform the direct registering entity of the income paid to each participant for each security payment.

No Portuguese withholding tax exemption shall be granted under Decree-Law 193/2005 if the requirements set forth therein are not complied with and, consequently, the general Portuguese tax provisions shall apply as described above. This will be the case whenever the Notes are not integrated in/ cleared through Interbolsa or in any other centralised depositary system for securities recognized under the Portuguese Securities Code and complementary legislation.

If the conditions for the exemption to apply are met but, due to inaccurate or insufficient information, tax was withheld, a special refund procedure is available under the special regime approved by Decree-Law 193/2005. The refund claim is to be submitted to the direct or indirect register entity of the Notes within 90 days from the date the withholding took place. A special tax form for these purposes was approved by Order (“*Despacho*”) n. 4980/2006 (2nd series), published in the Portuguese official gazette, second series, n. 45, of 3rd March, 2006 issued by the Portuguese Minister of Finance and Public Administration and is available at [www.portaldasfinancas.gov.pt](http://www.portaldasfinancas.gov.pt).

The refund of withholding tax in other circumstances or after the above 90 day period is to be claimed from the Portuguese tax authorities under the general procedures and within the general deadlines.

## **Taxation in the United Kingdom**

**The following applies only to persons who are the beneficial owners of Notes and is a summary of the Issuer’s understanding of current law and published practice in the United Kingdom relating to the United Kingdom withholding tax treatment of payments of principal and interest in respect of Notes. It does not deal with any other United Kingdom taxation implications of acquiring, holding or disposing of Notes. The United Kingdom tax treatment of prospective Noteholders depends on their individual circumstances and may be subject to change in the future. Some aspects do not apply to certain classes of person (such as dealers) to whom special rules may apply. Prospective Noteholders who are in any doubt as to their tax position or who may be subject to tax in a jurisdiction other than the United Kingdom should seek their own professional advice.**

### ***Payment of interest on the Notes issued by the Bank, acting through its London branch***

Provided that it continues to be a bank within the meaning of section 991 of the Income Tax Act 2007 (the “Act”), and provided that the interest on the Notes issued by the Bank, acting through its London branch, is paid in the ordinary course of its business within the meaning of section 878 of the Act and in accordance with the published practice of HM Revenue and Customs (“HMRC”), the Bank, acting through its London branch, will be entitled to make payments of interest without withholding or deduction for or on account of United Kingdom income tax. Payments of interest on Notes which conform to any of the definitions of Tier 1, 2 or 3 capital adopted by the Bank of England will not be regarded as paid in the ordinary course of business for this purpose.

Payments of interest on the Notes issued by the Bank, acting through its London branch, may be made without deduction of or withholding on account of United Kingdom income tax provided that the Notes issued by the Bank, acting through its London branch, are and continue to be listed on a “recognised stock exchange” within the meaning of section 1005 of the Act. The Luxembourg Stock Exchange is a recognised stock exchange. The Notes will satisfy this requirement if they are officially listed in Luxembourg in accordance with provisions corresponding to those generally applicable in EEA States and are admitted to trading on the Luxembourg Stock Exchange. Provided, therefore, that the Notes issued by the Bank, acting through its London branch, are and remain so listed, interest on the Notes will be payable without withholding or deduction on account of United Kingdom income tax whether or not the Bank, acting through its London branch, carries on a banking business in the United Kingdom and whether or not the interest is paid in the ordinary course of its business.

In addition, interest on the Notes issued by the Bank, acting through its London branch, may be paid without withholding or deduction on account of United Kingdom income tax where interest on these Notes is paid by a company, and, at the time the payment is made, the Bank reasonably believes (and any person by or through whom interest on the Notes is paid reasonably believes) that the beneficial owner is within the charge to United Kingdom corporation tax as regards the payment of interest; provided that HMRC has not given a direction (in circumstances where it has reasonable grounds to believe that the above exemption is not available in respect of such payment of interest at the time the payment is made) that the interest should be paid under deduction of tax.

Interest on the Notes issued by the Bank, acting through its London branch, may also be paid without withholding or deduction on account of United Kingdom income tax where the maturity of the Notes is less

than 365 days and those Notes do not form part of a scheme or arrangement of borrowing intended to be capable of remaining outstanding for more than 364 days. HMRC issued a consultation document on 27th March, 2012 entitled “Possible changes to income tax rules on interest”, in which the United Kingdom Government has invited views on repealing this exemption from the obligation to withhold or deduct for or on account of United Kingdom income tax.

In other cases, an amount must generally be withheld from payments of interest on the Notes issued by the Bank, acting through its London branch, on account of United Kingdom income tax at the basic rate (currently 20 per cent.). However, where an applicable double tax treaty provides for a lower rate of withholding tax (or for no tax to be withheld) in relation to a Noteholder, the Noteholder may apply to HMRC for the issue of a notice to the Bank, acting through its London branch, to pay interest to the Noteholder without deduction of tax (or for interest to be paid with tax deducted at the rate provided for in the relevant double tax treaty).

***Payment of interest on the Notes issued by BES Finance or by the Bank (otherwise than through its London branch)***

Payments of interest on these Notes may be made without deduction of or withholding on account of United Kingdom income tax.

***HMRC’s power to obtain information***

Noteholders may wish to note that, in certain circumstances, HMRC has power to obtain information (including the name and address of the beneficial owner of the interest) from any person in the United Kingdom who either pays or credits interest to or receives interest for the benefit of a Noteholder. HMRC also has power, in certain circumstances, to obtain information from any person in the United Kingdom who pays amounts payable on the redemption of Notes which are deeply discounted securities for the purposes of the Income Tax (Trading and Other Income) Act 2005 to or receives such amounts for the benefit of another person, although HMRC published practice indicates that HMRC will not exercise the power referred to above to require this information in respect of amounts payable on the redemption of deeply discounted securities where such amounts are paid on or before 5th April, 2013. Such information may include the name and address of the beneficial owner of the amount payable on redemption. Any information obtained may, in certain circumstances, be exchanged by HMRC with the tax authorities of the jurisdiction in which the Noteholder is resident for tax purposes.

***Payment by the Bank, acting through its London branch, under the Guarantee***

Under current United Kingdom law, the Issuers understand that it is not clear whether payments made by the Bank, acting through its London branch, under the Guarantee to a Noteholder will be subject to any deduction of or withholding on account of United Kingdom income tax. In any event, if there were to be any deduction of or withholding on account of United Kingdom income tax, the Bank, acting through its London branch, would be obliged under Condition 8 of the “Terms and Conditions of the Notes (other than Undated Deeply Subordinated Notes)” to pay additional amounts in respect of any deduction of or withholding on account of United Kingdom income tax (subject to the exceptions contained in that Condition).

**EU Savings Directive**

Under EC Council Directive 2003/48/EC on the taxation of savings income, Member States are required to provide to the tax authorities of another Member State details of payments of interest or similar income (similar income for this purpose includes, but is not limited to, payments on redemption of the Notes representing any discount on the issue of the Notes or any premium payable on redemption) paid by a person within its jurisdiction to an individual resident in that other Member State or to certain limited types of entities established in that other Member State. However, for a transitional period, Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries). A number of non-

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

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

### **Luxembourg Taxation**

**The following is a summary of certain material Luxembourg withholding tax consequences of purchasing, owning and disposing of the Notes. It does not purport to be a complete analysis of all possible tax situations that may be relevant to a decision to purchase, own or deposit the Notes. It is included herein solely for preliminary information purposes and is not intended to be, nor should it be construed to be, legal or tax advice. Prospective purchasers of the Notes should consult their own tax advisers as to the applicable tax consequences of the ownership of the Notes, based on their particular circumstances. The following description of Luxembourg tax law is based upon the Luxembourg law and regulations as in effect and as interpreted by the Luxembourg tax authorities on the date of this Base Prospectus and is subject to any amendments in law (or in interpretation) later introduced, whether or not on a retroactive basis.**

**Please be aware that the residence concept used under the respective headings below applies for Luxembourg income tax assessment purposes only.**

#### Non-resident Noteholders

Under current Luxembourg tax laws and subject to the application of the Luxembourg laws dated 21st June, 2005 (the “June 2005 Laws”) implementing Council Directive 2003/48/EC of 3rd June, 2003 on taxation of savings income in the form of interest payments (the “EU Savings Directive”) and related agreements (the “Agreements”) concluded between Luxembourg and certain dependent or associated territories of the European Union (i.e. Aruba, British Virgin Islands, Guernsey, Isle of Man, Jersey, Montserrat, as well as the former Netherlands Antilles, i.e. Bonaire, Curaçao, Saba, Sint Eustatius and Sint Maarten – collectively the “Associated Territories”), there is no withholding tax on interest (paid or accrued) and other payments (e.g. repayment of principal) to non-resident Noteholders.

Under the June 2005 Laws, a Luxembourg-based paying agent (within the meaning of the EU Savings Directive) is required since 1st July, 2005 to withhold tax on interest and similar income paid by it to (or under certain circumstances, to the benefit of) an individual or a residual entity in the sense of article 4.2. of the EU Savings Directive (i.e. an entity (i) without legal personality, except for a Finnish *avoin yhtiö* and *kommandiittiyhtiö* / *öppet bolag* and *kommanditbolag* and a Swedish *handelsbolag* and *kommanditbolag*, (ii) whose profits are not taxed under the general arrangements for the business taxation and (iii) that is not, or has not opted to be considered as, an undertaking for collective investment in transferable securities (“UCITS”) recognised in accordance with Council Directive 85/611/EC as replaced by Council Directive 2009/65/EC, resident or established in another EU Member State as Luxembourg or in any of the Associated Territories, unless the beneficiary of the interest payments elects for the exchange of information procedure or for the tax certificate procedure.

The withholding tax is currently levied at the rate of 35 per cent.

The EU Savings Directive is currently under review and the impact of possible amendments should be closely monitored. Noteholders should inform themselves of, and where appropriate take advice on, the impact of the EU Savings Directive on their investment.

#### Resident Noteholders

Under current Luxembourg tax laws and subject to the application of the Luxembourg law dated 23rd December, 2005 (the “December 2005 Law”) there is no withholding tax on interest (paid or accrued) and other payments (e.g. repayment of principal) made by the Issuer (or its paying agent, if any) to Luxembourg resident Noteholders.

According to the December 2005 Law, a 10 per cent. withholding tax is levied on payments of interest or similar income made by Luxembourg paying agents to (or for the benefit of) Luxembourg resident individuals Noteholders or to certain foreign residual entities securing the interest for such Luxembourg resident individuals Noteholders. This withholding tax also applies on accrued interest received upon sale, disposal, redemption or repurchase of the Notes. Such withholding tax is in full discharge of income tax if the beneficial owner is an individual acting in the course of the management of his/her private wealth and who does not hold the Notes as business assets.

Luxembourg resident individuals beneficial owners of payments of interest or similar income made by a paying agent established outside Luxembourg in a Member State of the European Union or the European Economic Area or in a jurisdiction having concluded an agreement with Luxembourg in connection with the EU Savings Directive may opt for a final 10 per cent. levy. In such case, the 10 per cent. levy is calculated on the same amounts as for the payments made by Luxembourg paying agents. The option for the 10 per cent. final levy must cover all interest payments made by paying agents to the beneficial owner during the entire civil year.



## ANNEX 1

### CERTIFICATE FOR EXEMPTION FROM PORTUGUESE WITHHOLDING TAX ON INCOME ARISING FROM DEBT SECURITIES (PARAGRAPH 1 OF ARTICLE 17 OF THE SPECIAL TAX REGIME APPROVED BY THE DECREE-LAW 193/2005, OF 7 NOVEMBER)

The undersigned Participant hereby declares that he holds debt securities covered by the special tax regime approved by Decree-Law 193/2005, of 7th November (the **Securities**), in the following securities account number ..... (the **Account**) with ..... (name and complete address of the international clearing system managing entity).

We will hold these Securities in our capacity of beneficial owner or in our capacity of intermediary, holding Securities on behalf of one or more beneficial owners, including ourselves, if applicable, all of whom are eligible for exemption at source from Portuguese withholding tax according to Portuguese legislation.

1. We are:

Name: .....

Residence for tax purposes (full address): .....

Tax ID Number: .....

2. We hereby certify that, from the date hereof until the expiry date of this certificate:

A. We are the Beneficial Owner of the following Securities:

<u>Security ISIN or Common Code</u>	<u>Security description</u>	<u>Nominal position</u>
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•

And we hereby declare that we are not liable to Portuguese withholding tax, in accordance with the applicable legislation, indicated hereafter:

Special Tax Regime approved by the Decree-Law 193/2005, of 7th November

Art. 97 of CIRC (Corporate Income Tax Code) – Exemption from withholding tax B. We are intermediaries of the following Securities:

<u>Security ISIN or Common Code</u>	<u>Security description</u>	<u>Nominal position</u>
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•

which are held on behalf of:

Name: .....Residence for tax purposes (full address):

.....

Tax ID Number: ..... and we attach a statement of beneficial ownership, which includes the justification for the exemption of personal or corporate income withholding tax.

3. We hereby undertake to provide the ..... (name of the international clearing system managing entity) with a document proving the exemption of personal or corporate income tax referred to in the attached statement of beneficial ownership, whenever the beneficial owner is not a central bank, public institution, international body, credit institution, financing company, pension fund and insurance company resident in any OECD country or in a country with which Portugal has concluded a Convention for the Avoidance of International Double Taxation, on behalf of which we hold Portuguese debt securities in the Account.

4. We hereby undertake to notify the (name of the international clearing system managing entity) promptly in the event that any information contained in this certificate becomes untrue or incomplete.
5. We acknowledge that certification is required in connection with Portuguese law and we irrevocably authorise ..... (name of the international clearing system managing entity) and its Depositary to collect and forward this certificate or a copy hereof, any attachments and any information relating to it, to the Portuguese authorities, including tax authorities.
6. This certificate is valid for a period of 12 months as from the date of signature:

Place: ..... Date: .....

.....	.....	.....
Authorised Signatory	Name	Title/Position

.....	.....	.....
Authorised Signatory	Name	Title/Position

## APPENDIX

### STATEMENT OF BENEFICIAL OWNERSHIP

The undersigned beneficiary:

Name: .....

.....

Address: .....

.....

Tax identification number:.....

.....

Holding via the following financial intermediary: .....

Name of the financial intermediary: .....

.....

Account number: .....

.....

The following securities:

Common/ISIN code: .....

.....

Security name: .....

.....

Payment date: .....

.....

Nominal position: .....

.....

1 Hereby declares that he/she/it is the beneficial owner of the above-mentioned securities and nominal position at the payment date...../...../.....; and

2 Hereby declares that he/she/it is not liable to withholding tax, in accordance with the applicable legislation, indicated hereinafter (tick where applicable):

- Special Tax Regime approved by the Decree-Law 193/2005, of 7th November
- Art. 97 of CIRC (Corporate Income Tax Code) – Exemption from withholding tax
- Art. 9 of CIRC – State, Autonomous Regions, local authorities, their associations governed by public law and social security federations and institutions
- Art. 10 of CIRC – General Public Interest Companies, Charities and other non-governmental social entities; exemption by the Ministerial Regulation n° ....., published in Diàrio da República .....
- Art. 16 of EBF (Tax Incentives Statute) – Pension Funds and assimilated funds

- Art. 21 of EBF – Retirement Savings Funds (FPR)
- Art. 23 of EBF – Venture Capital Investment Funds
- Art. 26 of EBF – Stock Savings Funds (FPA)
- Other legislation (indicate which)

This document is to be provided to the Portuguese tax authorities, if requested by the latter, as foreseen in the Article 17 of the Special Tax Regime approved by the Decree-Law 193/2005, of 7th November.

Authorised signatory:

Name: .....

.....

Function: .....

Signature: .....

.....

## ANNEX 2

### STATEMENT FOR EXEMPTION FROM PORTUGUESE WITHHOLDING TAX ON INCOME ARISING FROM DEBT SECURITIES (PARAGRAPH 2 OF ARTICLE 17 OF THE SPECIAL TAX REGIME APPROVED BY THE DECREE-LAW 193/2005, OF 7 NOVEMBER)

The undersigned Participant hereby declares that he holds or will hold debt securities covered by the special tax regime approved by Decree-Law 193/2005, of 7th November (the “Securities”), in the following securities account number ..... (the “Account”) with ..... (name and complete address of the international clearing system managing entity).

We hold or will hold these Securities in our capacity of beneficial owner or in our capacity of intermediary, holding Securities on behalf of one or more beneficial owners, including ourselves, if applicable, all of whom are eligible for exemption at source from Portuguese withholding tax according to Portuguese legislation.

1. We are:

Name: .....

Residence for tax purposes (full address): .....

Tax ID Number: .....

2. We hereby undertake to provide the ..... (name of the international clearing system managing entity) with a list of Beneficial Owners at each relevant record date containing the name, residence for tax purposes, Tax Identification Number and nominal position of Portuguese debt Securities for each Beneficial Owner, including ourselves if relevant, on behalf of which we hold or will hold Portuguese debt securities in the Account.

3. We hereby undertake to notify the ..... (name of the international clearing system managing entity) promptly in the event that any information contained in this certificate becomes untrue or incomplete.

4. We acknowledge that certification is required in connection with Portuguese law and we irrevocably authorise ..... (name of the international clearing system managing entity) and its Depositary to collect and forward this certificate or a copy hereof, any attachments and any information relating to it, to the Portuguese authorities, including tax authorities.

5. This certificate is valid for a period of 12 months as from the date of signature:

Place: ..... Date: .....

.....	.....	.....
Authorised Signatory	Name	Title/Position

.....	.....	.....
Authorised Signatory	Name	Title/Position

## APPENDIX

### LIST OF BENEFICIAL OWNERS

For:

Interest due ...../...../.....

Security code (ISIN or Common Code):.....

Security description: .....

Securities Clearance Account Number:.....

We certify that the above Portuguese debt securities are held on behalf of the following Beneficial Owners:

<i>Name</i>	<i>Tax identification number</i>	<i>Residence for tax purposes</i>	<i>Quantity of Securities</i>	<i>Legal basis of the exemption from withholding tax</i>	
				<i>Code(*)</i>	<i>Legislation(**)</i>

•

(\*) Indicate the legal basis of the exemption from withholding tax in accordance with the following table:

#### Code Legal basis of the exemption

- 1 Special tax Regime approved by the Decree-Law 193/2005, of 7th November
- 2 Art. 97 of CIRC (Corporate Income Tax Code) – Exemption from withholding tax
- 3 Art. 9 of CIRC – State, Autonomous Regions, local authorities, their associations governed by public law and social security federations and institutions
- 4 Art. 10 of CIRC – General Public Interest Companies, Charities and other non-governmental social entities
- 5 Art. 16 of EBF (Tax Incentives Statute) – Pension Funds and assimilated funds
- 6 Art. 21 of EBF – Retirement Savings Funds (FPR)
- 7 Art. 23 of EBF – Venture Capital Investments Funds
- 8 Art. 26 of EBF – Stock Savings Funds (FPA)
- 9 Other legislation

(\*\*) The fulfilment of this column is mandatory when the code “9” is indicated in the previous column.



## **SUBSCRIPTION AND SALE**

The Dealers have in an amended and restated programme agreement (the “Programme Agreement”) dated 29th May, 2012, agreed with the Issuers a basis upon which they or any of them may from time to time agree to purchase Notes. Any such agreement will extend to those matters stated under “Form of the Notes” and “Terms and Conditions of the Notes” above. In the Programme Agreement, the Issuers have agreed to reimburse the Dealers for certain of their expenses in connection with the establishment and any future update of the Programme and the issue of Notes under the Programme.

### **United States**

The Notes 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.

The Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in certain transactions permitted by U.S. Treasury regulations. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code of 1986 and Treasury regulations promulgated thereunder.

Each Dealer has represented and agreed and each further Dealer appointed under the Programme will be required to represent and agree that it will not offer, sell or deliver Notes (i) as part of their distribution at any time and (ii) otherwise until 40 days after the completion of the distribution, as determined and certified by the relevant Dealer, or in the case of an issue of Notes on a syndicated basis, the relevant lead manager, of all Notes of the Tranche of which such Notes are a part, within the United States or to, or for the account or benefit of, U.S. persons. Each Dealer has further agreed, and each further Dealer appointed under the Programme will be required to agree, that it will send to each dealer to which it sells Notes during the distribution compliance period a confirmation or other notice setting forth the restrictions on offers and sales of the Notes within the United States or to, or for the account or benefit of, U.S. persons. Terms used in the preceding paragraph and in this paragraph have the meanings given to them by Regulation S under the Securities Act.

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

Each issuance of Index Linked Notes and Dual Currency Notes shall be subject to such additional U.S. selling restrictions as the Issuer and the relevant Dealer or Dealers shall agree as a term of the issuance and purchase of such Notes, which additional selling restrictions shall be set out in the applicable Final Terms.

### **Public Offer Selling Restriction under the Prospectus Directive**

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “Relevant Member State”), each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the “Relevant Implementation Date”) it has not made and will not make an offer of Notes which are the subject of the offering contemplated by this Prospectus as completed by the final terms in relation thereto to the public in that Relevant Member State, except that it may, with effect from and including the Relevant Implementation Date, make an offer of such Notes to the public in that Relevant Member State:

- (a) if the final terms in relation to the Notes specify that an offer of those Notes may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State (a “Non-exempt Offer”), following the date of publication of a prospectus in relation to such Notes which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved

in another Relevant Member State and notified to the competent authority in that Relevant Member State, provided that any such prospectus has subsequently been completed by the final terms contemplating such Non-exempt Offer, in accordance with the Prospectus Directive, in the period beginning and ending on the dates specified in such prospectus or final terms, as applicable and the Issuer has consented in writing to its use for the purpose of that Non-exempt Offer;

- (b) at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive;
- (c) at any time to fewer than 100 or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the relevant Dealer or Dealers nominated by the Issuer for any such offer;
- (d) or at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Notes referred to in (b) to (d) above shall require the relevant Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive, or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression an “offer of Notes to the public” in relation to any Notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the Notes, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression “Prospectus Directive” means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in each Relevant Member State and the expression “2010 PD Amending Directive” means Directive 2010/73/EU.

## **United Kingdom**

Each Dealer has represented and agreed and each further Dealer appointed under the Programme will be required to represent and agree that:

- (i) in relation to any Notes issued by BES Finance which have a maturity of less than one year, (a) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business and (b) it has not offered or sold and will not offer or sell any Notes other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of the Notes would otherwise constitute a contravention of Section 19 of the FSMA by the Issuer;
- (ii) 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 or sale of any Notes in circumstances in which Section 21(1) of the FSMA does not or, in the case of the Bank would not, if it was not an authorised person, apply to BES Finance or the Bank; and
- (iii) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

## **Japan**

The Notes have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948; as amended, the “FIEA”). Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it will not offer, sell, resell, or otherwise transfer any Notes, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (as defined under item 5, Paragraph 1, Article 6 of the Foreign Exchange and Foreign Trade

Act (Act No. 228 of 1949, as amended)) or to others for re-offering sale, resale, or other transfer, directly or indirectly, in Japan or to, or for the benefit of, a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the FIEA and any other applicable laws and regulations and ministerial guidelines of Japan.

### **The Cayman Islands**

Each Dealer has represented and agreed and each further Dealer appointed under the Programme will be required to represent and agree that no invitation will be made to the public in the Cayman Islands to subscribe for or purchase any Notes, whether directly or indirectly.

### **Portugal (including Madeira)**

Each Dealer has represented and agreed and each further Dealer appointed under the Programme will be required to represent and agree that: (i) no document, circular, advertisement or any offering material in relation to the Notes has been or will be subject to approval by the Portuguese Securities Market Commission (“Comissão do Mercado de Valores Mobiliários”, the “CMVM”); (ii) it has not directly or indirectly advertised, offered, submitted to an investment gathering procedure or sold and will not, directly or indirectly, advertise, offer, submit to an investment gathering procedure, sell, re-sell or re-offer the Notes in circumstances which could qualify as a public offer of securities pursuant to the Portuguese Securities Code (“Código dos Valores Mobiliários”, the “CVM”); (iii) it has not distributed or caused to be distributed and will not distribute or cause to be distributed to the public in Portugal the Prospectus or any other offering material relating to the Notes; (iv) all offers, sales and distributions of the Notes have been and will only be made in Portugal in circumstances that, pursuant to the CVM, do not qualify as a public placement of Notes (“*oferta pública*”); (v) pursuant to the CVM, a private placement of Notes in Portugal or to Portuguese residents by public companies (“*sociedades abertas*”) or by companies that are issuers of securities listed on a market needs to be notified to the CMVM for statistical purposes; (vi) all applicable provisions of the CVM and any applicable CMVM Regulations and all relevant laws and regulations have been complied with regarding the Notes, in any matters involving Portugal and the placement or distribution of Notes in the Portuguese market. Each Dealer has represented and agreed and each further Dealer appointed under the Programme will be required to represent and agree that it shall comply with all applicable laws and regulations in force in Portugal and with the Prospective Directive, regarding the placement of any Notes in the Portuguese jurisdiction or to any entities which are resident in Portugal, including the publication of a Prospectus, when applicable, and that such placement shall only be authorised and performed to the extent that there is full compliance with such laws and regulations.

### **Republic of Italy**

Each Dealer has represented and agreed and each further Dealer appointed under the Programme will be required to represent and agree that the offering of the Notes has not been registered pursuant to Italian securities legislation and, accordingly, no Notes may be offered, sold or delivered, nor may copies of this Prospectus or of any other document relating to the Notes be distributed in the Republic of Italy, except:

- (i) to qualified investors (*investitori qualificati*), as defined pursuant to Article 100 of Legislative Decree No. 58 of 24th February, 1998, as amended (the “Financial Services Act”) and Article 34-ter, first paragraph, letter b) of CONSOB Regulation No. 11971 of 14th May, 1999, as amended from time to time (“Regulation No. 11971”); or
- (ii) in other circumstances which are exempted from the rules on public offerings pursuant to Article 100 of the Financial Services Act and Regulation No. 11971.

Any offer, sale or delivery of the Notes or distribution of copies of this Prospectus or any other document relating to the Notes in the Republic of Italy under (i) or (ii) above must be:

- (a) made by an investment firm, bank or financial intermediary permitted to conduct such activities in the Republic of Italy in accordance with the Financial Services Act, CONSOB Regulation No. 16190 of 29th October, 2007 (as amended from time to time) and Legislative Decree No. 385 of 1st September, 1993, as amended (the “Banking Act”); and

- (b) in compliance with Article 129 of the Banking Act, as amended, and the implementing guidelines of the Bank of Italy, as amended from time to time, pursuant to which the Bank of Italy may request information on the issue or the offer of securities of the Republic of Italy; and
- (c) in compliance with any other applicable laws and regulations or requirement imposed by CONSOB or other Italian authority.

*Please note that in accordance with Article 100-bis of the Financial Services Act, where no exemption from the rules on solicitation of investments applies under (i) and (ii) above, the subsequent distribution of Notes with a denomination of less than €50,000\* (or its equivalent in another currency) on the secondary market in Italy must be made in compliance with the public offer and the prospectus requirement rules provided under the Financial Services Act and Regulation No. 11971. Failure to comply with such rules may result in the sale of such Notes being declared null and void and in the liability of the intermediary transferring the financial instruments for any damages suffered by the investors.*

### **The Grand Duchy of Luxembourg**

In relation to the Grand Duchy of Luxembourg (“Luxembourg”), which has implemented the Directive 2003/71/EC of the European Parliament and of the Council of 4th November, 2003 on the prospectus to be published when securities are offered to the public or admitted to trading (the “Prospectus Directive”) by the Luxembourg act dated 10th July, 2005 relating to prospectuses for securities (the “Prospectus Act 2005”), each Dealer has represented and agreed that it has not made and will not make an offer of Notes to the public in Luxembourg, except that it may make an offer of Notes to the public in Luxembourg:

- (a) at any time, to legal entities which are authorised or regulated to operate in the financial markets (including, credit institutions, investment firms, other authorised or regulated financial institutions, insurance companies, undertakings for collective investment and their management companies, pension and their management companies, commodity dealers as well as entities not so authorised or regulated whose corporate purpose is solely to invest in securities);
- (b) at any time, to national and regional governments, central banks, international and supranational institutions (such as the International Monetary Fund, the European Central Bank, the European Investment Bank and other similar international organisations);
- (c) at any time, to any legal entities which have two or more of (i) an average number of employees during the financial year of at least 250, (ii) a total balance sheet of more than €43,000,000 and (iii) an annual net turnover of more than €50,000,000, as shown in their last annual or consolidated accounts;
- (d) at any time, to certain natural persons or small and medium-sized enterprises (as defined in the Prospectus Act 2005) recorded in the register of natural persons or small and medium-sized enterprises considered as qualified investors as held by the CSSF; and
- (e) at any time, in any other circumstances which do not require the publication by the Issuer of a prospectus pursuant to article 5 of the Prospectus Act 2005.

For the purposes of this provision, the expression an “offer of Notes to the public” in relation to any Notes in Luxembourg means the communication in any form by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe to these Notes.

### **General**

Each Dealer has agreed and each further Dealer appointed under the Programme will be required to agree that it will (to the best of its knowledge and belief) comply with all applicable securities laws and regulations in force in any jurisdiction in which it purchases, offers, sells or delivers Notes or possesses or distributes this Prospectus and will obtain any consent, approval or permission required by it for the purchase, offer, sale

\* or after 1st July, 2012, €100,000

or delivery by it of Notes under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers, sales or deliveries and neither the Issuers, the Bank (where the Issuer is BES Finance) nor any of the other Dealers shall have any responsibility therefor.

None of the Issuers, the Bank (where the Issuer is BES Finance) and the Dealers represents that Notes may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to any exemption available thereunder, or assumes any responsibility for facilitating such sale.

With regard to each Tranche, the relevant Dealer will be required to comply with such other additional restrictions as the relevant Issuer and the relevant Dealer shall agree and as shall be set out in the applicable Final Terms.

## **GENERAL INFORMATION**

### **Authorisation**

The establishment and update of the Programme and the issue of Notes have been duly authorised by resolutions of the Board of Directors of BES Finance dated 21st January, 1997, 2nd February, 1998, 12th May, 1999, 16th August, 1999, by a Unanimous Written Resolution of the Board of Directors of BES Finance dated 3rd September, 1999 by resolutions of the Board of Directors of BES Finance dated 14th August, 2000, 24th July, 2001, 23rd July, 2003, 5th August, 2004, 30th November, 2005, 16th February, 2007, 11th January, 2008, 12th February, 2009, 10th December, 2009, 7th April, 2010, 10th May, 2010, 25th October, 2010, 31st October, 2011 and 18th May, 2012. The giving of the guarantee in respect of any Notes issued by BES Finance and the update of the Programme has been authorised by resolutions of the Board of Directors of the Bank dated 23rd January, 1997, 17th September, 1998, 9th August, 1999, 28th July, 2000, 23rd July, 2001, 17th July, 2002, 21st July, 2003, 30th July, 2004, 23rd November, 2005, 7th February, 2007, 9th January, 2008, 11th February, 2009, 14th December, 2009 and 2009, 25th October, 2010 and 26th October, 2011 and 16th February, 2012.

### **Approval, admission to trading and listing of Notes on the Luxembourg Stock Exchange**

Application has been made to the CSSF to approve this document as a base prospectus. Application has also been made to the Luxembourg Stock Exchange for Notes issued under the Programme to be admitted to trading on the Regulated Market of the Luxembourg Stock Exchange and listed on the Official List of the Luxembourg Stock Exchange. The Regulated Market of the Luxembourg Stock Exchange is a regulated market for the purposes of the Markets in Financial Instruments Directive (Directive 2004/39/EC).

### **Trustee's reliance on Certificates**

The Trust Deed provides that any certificate or report of the auditors or any other person called for by or provided to the Trustee (whether or not addressed to the Trustee) in accordance with or for the purposes of the Trust Deed may be relied upon by the Trustee as sufficient evidence of the facts stated therein notwithstanding that such certificate or report and/or any engagement letter or other document entered into by the Trustee in connection therewith contains a monetary or other limit on the liability of the Auditors or such other person in respect thereof and notwithstanding that the scope and/or basis of such certificate or report may be limited by any engagement or similar letter or by the terms of the certificate or report itself.

### **Documents Available**

So long as Notes are outstanding under the Programme, copies of the following documents will, when published, be available from the registered office of each of the Issuers and from the specified offices of the Paying Agents for the time being in London, Lisbon and Luxembourg:

- (i) the constitutional documents of each Issuer (in each case in English);
- (ii) the press release of the Bank dated 15th March, 2012 entitled "Banco Espírito Santo Group Activity and Results in 1Q 2012" presenting the unaudited consolidated financial results for the three month period ended on 31st March, 2012;
- (iii) the audited consolidated financial statements of the Bank in respect of the financial years ended 31st December, 2010 and 31st December, 2011 (with an English translation thereof), in each case together with the audit reports prepared in connection therewith;
- (iv) the audited non-consolidated financial statements of BES Finance in respect of the financial years ended 31st December, 2010 and 31st December, 2011, in each case together with the audit reports prepared in connection therewith;



- (v) the most recently published audited annual non-consolidated financial statements and the most recently published unaudited interim (semi-annual) non-consolidated financial statements of BES Finance in each case together with any audit or review reports prepared in connection therewith;
- (vi) the most recently published audited annual consolidated financial statements of the Bank and the most recently published unaudited interim (semi-annual) consolidated financial statements of the Bank (with an English translation thereof) in each case together with any audit or review reports prepared in connection therewith;
- (vii) the Programme Agreement, the Agency Agreement, the Interbolsa Notes Agency Agreement, the Trust Deed, any agreement appointing a Common Representative, the forms of the Temporary Global Notes, the Permanent Global Notes, the Definitive Notes, the Receipts, the Coupons and the Talons;
- (viii) a copy of this Prospectus; and
- (ix) any future prospectuses, information memoranda, supplements and Final Terms (save that a Final Terms relating to a Note which is neither admitted to trading on a regulated market in the European Economic Area nor offered in the European Economic Area in circumstances where a prospectus is required to be published under the Prospectus Directive will only be available for inspection by a holder of such Note and such holder must produce evidence satisfactory to the Paying Agent as to the identity of such holder) to this Prospectus and any other documents incorporated herein or therein by reference.

In addition, copies of this Prospectus, each Final Terms relating to Notes which are admitted to trading on the Regulated Market of the Luxembourg Stock Exchange and each document incorporated by reference are available on the Luxembourg Stock Exchange's website ([www.bourse.lu](http://www.bourse.lu)).

### **Clearing Systems**

The Notes (other than Interbolsa Notes) have been accepted for clearance through Euroclear and Clearstream, Luxembourg (which are the entities in charge of keeping the records in respect of such Notes). The appropriate Common Code and ISIN for each Tranche allocated by Euroclear and Clearstream, Luxembourg will be specified in the relevant Final Terms. The Interbolsa Notes will be cleared through LCH Clearnet, S.A., the clearing system operated at Interbolsa; the appropriate identification reference for a Tranche of Interbolsa Notes will be specified in the applicable Final Terms. At the date hereof Interbolsa only accepts to clear notes denominated in euro. If the Notes are to clear through an additional or alternative clearing system the appropriate information will be specified in the relevant Final Terms.

### **Conditions for determining price**

The price and amount of Notes to be issued under the Programme will be determined by the Issuer and the relevant Dealer at the time of issue in accordance with prevailing market conditions.

### **Financial Statements**

The financial statements of the BES Group are prepared in accordance with the International Financial Reporting Standards (IFRS) as adopted for use in the European Union.

### **Significant or Material Change**

Save as disclosed in section 12 (*Recent Developments*) of the chapter entitled "Banco Espírito Santo, S.A. and BES Group Banco Espírito Santo, S.A. found on page 291 of this Prospectus, there has been no significant change in the financial or trading position of BES Finance, the Bank and the Group since 31st December, 2011.

There has been no material adverse change in the financial position or prospects of BES Finance or the Bank or the Group since 31st December, 2011.

## **Litigation**

There are no governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which either Issuer is aware) which may have or have had in the past 12 months a significant effect on the financial position or profitability of either Issuer or the Bank and its subsidiaries as a whole nor is either Issuer aware of any such proceedings being threatened.

## **Auditors**

KPMG and Associados, SROC, S.A. Edificio Monumental, Avenida Praia da Vitória, 71A, 11° 1069 – 006, Lisbon, Portugal, chartered accountants and registered auditors, a member of Ordem dos Revisores Oficiais de Contas, are the appointed auditors of BES Finance and have audited the respective financial statements for the years ending 31st December, 2010 and 2011 prepared in accordance with International Financial Reporting Standards.

KPMG and Associados, SROC, S.A. Edificio Monumental, Avenida Praia da Vitória, 71A, 11° 1069 – 006, Lisbon, Portugal, chartered accountants and registered auditors, a member of Ordem dos Revisores Oficiais de Contas, are the appointed auditors of the Bank and have audited the respective financial statements for the years ending 31st December, 2010 and 31st December, 2011 prepared in accordance with the International Financial Reporting Standards (IFRS) as adopted by the European Union.

## **Bank of Portugal requirements**

No Dated Subordinated Note, Undated Subordinated Notes or Undated Deeply Subordinated Notes shall be redeemed unless in compliance with the applicable capital adequacy regulations of the Bank of Portugal from time to time in force. At the date hereof such redemption may not occur within five years and one day from the Issue Date of the relevant Notes and may only occur with the prior consent of the Bank of Portugal.

## **Future Issues of Undated Subordinated Notes and Undated Deeply Subordinated Notes**

If Undated Subordinated Notes or Undated Deeply Subordinated Notes are issued, this Prospectus may be supplemented to ensure that the terms of such Notes fully comply with then prevailing requirements laid down by regulation of the Bank of Portugal n. 6/2010 of 31st December, 2010 or any further amending regulation on said requirements.

## **Certain of the Dealers transacting with the Issuers or their affiliates**

Certain of the Dealers and their affiliates have engaged in, and may in the future engage in, investment banking and other commercial dealings in the ordinary course of business with any of the Issuers and/or their respective affiliates and have received, or may in the future receive, customary fees and commissions for these transactions.

In addition, in the ordinary course of their business activities, the Dealers and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of any of the Issuers and/or their respective affiliates. If any of the Dealers or their affiliates has a lending relationship with any of the Issuers, certain of those Dealers or their affiliates routinely hedge, and certain other of those Dealers or their affiliates may hedge their credit exposure to such Issuer and/or their respective affiliates consistent with their customary risk management policies. Typically, such Dealers and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in the relevant Issuer's and/or their respective affiliates' securities, including potentially the Notes. Any such credit default swaps or short positions could adversely affect future trading prices of the Notes. The Dealers and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

## THE ISSUERS

### **Registered Head Office of Banco Espírito Santo, S.A.**

Avenida da Liberdade, 195  
1250-195 Lisbon  
Portugal  
Tel. +351 21 350 11 57  
Fax. +351 21 350 11 80

### **London Branch of BES**

10 Paternoster Square  
London EC4M 7AL  
United Kingdom

### **BES Finance Ltd.**

c/o Maples Corporate Services Limited  
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KY1-1104  
Cayman Islands  
Tel. +351 21 350 86 87  
Fax. +351 21 350 89 32

### **Cayman Islands Branch of BES**

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Fax. +351 21 350 89 32

### **Luxembourg Branch of BES**

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L-2519 Luxembourg  
Tel. +352 27 36 25 13  
Fax. +352 27 36 25 11

### **Madeira Free Trade Zone Branch of BES**

Avenida Arriaga, nº 44  
Edifício Arriaga, 1º Andar  
9000-064 Funchal  
Portugal  
Tel. +351 21 350 86 87  
Fax. +351 21 350 89 32

## **REGISTERED HEAD OFFICE OF THE GUARANTOR**

### **Banco Espírito Santo, S.A.**

Avenida da Liberdade 195  
1250 – 142 Lisboa  
Portugal

## **LONDON BRANCH OF THE GUARANTOR**

### **Banco Espírito Santo, S.A.**

10 Paternoster Square  
London EC4M 7AL  
United Kingdom

## TRUSTEE

### **The Bank of New York Mellon**

One Canada Square  
London E14 5AL  
United Kingdom

## AGENT

### **The Bank of New York Mellon**

One Canada Square  
London E14 5AL  
United Kingdom

## PORTUGUESE PAYING AGENT

### **Banco Espírito Santo, S.A.**

Avenida da Liberdade, 195  
1250-195 Lisbon  
Portugal

## **PAYING AGENT**

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

2-4, rue Eugène Ruppert  
L-2453 Luxembourg

## **LEGAL ADVISERS**

*To Banco Espírito Santo, S.A. both as Issuer and  
Guarantor as to Portuguese law*

**Vieira de Almeida & Associados  
Sociedade de Advogados R.L.**  
Av. Eng. ° Duarte Pacheco, 26  
1070-110 Lisboa  
Portugal

*To the Issuers as to Cayman Islands law*

**Maples and Calder**  
11th Floor, 200 Aldersgate Street  
London EC1A 4HD  
United Kingdom

*To the Dealers as to English law*

**Allen & Overy LLP**  
One Bishops Square  
London E1 6AD  
United Kingdom

*To the Issuer and the Guarantor as to English law*

**Freshfields Bruckhaus Deringer LLP**  
65 Fleet Street  
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