

**LISTING PARTICULARS dated 23 June 2008**

**BBVA CAPITAL FUNDING LTD.**

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

**€60,000,000 Fixed Rate Notes due 10 October 2011**

**unconditionally and irrevocably guaranteed by**

**BANCO BILBAO VIZCAYA ARGENTARIA, S.A.**

*(incorporated with limited liability in Spain)*

These Listing Particulars relate to an application to the Financial Services Authority in its capacity as competent authority under the Financial Services and Markets Act 2000 (the **UK Listing Authority**) for the €60,000,000 Fixed Rate Notes due 10 October 2011 (the **Notes**) issued by BBVA Capital Funding Ltd. (the **Issuer**) unconditionally and irrevocably guaranteed by Banco Bilbao Vizcaya Argentaria, S.A. (the **Guarantor** or the **Bank**) to be admitted to the Official List of the UK Listing Authority. The Issuer has also applied to the London Stock Exchange plc (the **London Stock Exchange**) for the Notes to be admitted to trading on the London Stock Exchange's Professional Securities Market. The London Stock Exchange's Professional Securities Market is not a regulated market for the purposes of Directive 2004/39/EC (the **Markets in Financial Instruments Directive**).

The Notes were issued under a €20,000,000,000 Euro Medium Term Note Programme established by BBVA Global Finance Ltd. and BBVA Capital Funding Ltd. and guaranteed by Banco Bilbao Vizcaya Argentaria, S.A (the **Programme**). The terms and conditions of the Notes comprise (i) the terms and conditions set out in the Offering Circular dated 26 April 2001 relating to the Programme (the **Conditions**) as supplemented by (ii) a Pricing Supplement relating to the Notes dated 10 October 2001 (the **Pricing Supplement**), each as set out in Annex 1 and Annex 2, respectively, to these Listing Particulars.

The Notes bear interest at the rate of 5.729 per cent. annum and were issued on 10 October 2001.

This document comprises listing particulars for the purposes of section 79(2) of the Financial Services and Markets Act 2000 (FSMA).

The Issuer and the Guarantor (the **Responsible Persons**) accept responsibility for the information contained in these Listing Particulars. To the best of the knowledge of the Issuer and the Guarantor (each having taken all reasonable care to ensure that such is the case) the information contained in these Listing Particulars is in accordance with the facts and does not omit anything likely to affect the import of such information.

These Listing Particulars are to be read in conjunction with all documents which are deemed to be incorporated herein by reference (see "*Documents Incorporated by Reference*"). These Listing Particulars should be read and construed on the basis that such documents are incorporated and form part of these Listing Particulars.

All references in this document to **U.S. dollars**, **U.S.\$** and **\$** refer to the currency of the United States of America and to **euro** and **€** refer to the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty establishing the European Community, as amended.

All references in this document to **Group** are to the Guarantor and its subsidiaries, taken as a whole, and all references to the **Deed of Covenant**, the **Subordinated Guarantee** and the **Agency Agreement** have the meanings given to them in the Conditions.

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## SUMMARY OF THE NOTES

*This summary must be read as an introduction to these Listing Particulars and any decision to invest in the Notes should be based on a consideration of these Listing Particulars as a whole, including the documents incorporated by reference. Following the implementation of the relevant provisions of Directive 2003/71/EC (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 in respect of this Summary, including any translation hereof, unless it is misleading, inaccurate or inconsistent when read together with the other parts of these Listing Particulars. Where a claim relating to information contained in these Listing Particulars 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 Listing Particulars before the legal proceedings are initiated. Words and expressions defined in the Conditions and the Pricing Supplement shall have the same meaning in this summary.*

### **The Issuer**

The Issuer is a directly wholly-owned subsidiary of the Guarantor and was incorporated on 18 February 1994 for an unlimited duration with limited liability as an exempt company (registration number 25287/E/83) in the Cayman Islands under the Companies Law of the Cayman Islands. The Issuer is an overseas finance vehicle for the Guarantor and has no subsidiaries of its own.

### **The Guarantor**

The Guarantor is a highly diversified international financial group, with strengths in the traditional banking businesses of retail banking, asset management, private banking and wholesale banking. It also has a portfolio of investments in some of Spain's leading companies.

The Guarantor was incorporated for an unlimited term on 28 January 2000. It was formed as the result of a merger by absorption of Argentaria into BBV, which was registered on 28 January 2000.

The Guarantor's organisational structure is divided into the following business areas:

- Spain and Portugal.
- Global Business.
- Mexico and the United States.
- South America.
- Corporate Activities.

### **Summary Financial Information**

As at 31 December 2007 the Guarantor's consolidated total assets were €502,204 million and its consolidated net operating income for the year then ended was €10,544 million.

### **Risk Factors**

The Issuer is a finance vehicle established by the Guarantor for the purpose of issuing notes and on-lending the proceeds within the Group. The Issuer's ability to fulfil its obligations under the Notes issued by it is therefore dependant upon the Guarantor and other Group companies performing their obligations under the

on-loans made to them. The Issuer is further indirectly affected by the other risks faced by the Guarantor and other Group companies.

There are a number of factors that may affect the Guarantor's ability to fulfil its obligations under the Guarantee. These include the Guarantor's exposure to adverse changes in the Spanish economy and real estate market and risks relating to the lack of availability of funding, volatility in interest rates and increased competition. There are also risks faced by the Guarantor in its Southern and North American businesses. In addition, there are certain factors which are material for the purpose of assessing the market risks associated with Notes issued under the Programme.

### **Principal Terms of the Notes**

<b>Aggregate Nominal Amount:</b>	€60,000,000.
<b>Interest Basis:</b>	Fixed Rate: 5.729 per cent. per annum.
<b>Issue Date:</b>	10 October 2001.
<b>Maturity Date:</b>	10 October 2011, subject to adjustment in accordance with the Following Business Day Convention and there shall be no resulting adjustment to the accrual.
<b>Interest Payment Date(s):</b>	Interest payment dates shall be annually on 10 October in each year from and including 10 October 2002 to and including the Maturity Date, subject to adjustment in accordance with the Following Business Day Convention and there shall be no resulting adjustment to the accrual.
<b>Form of the Notes:</b>	Temporary Global Note exchangeable for a permanent Global Note which is exchangeable for definitive Bearer Notes only in certain limited circumstances set out in it.
<b>Status:</b>	Subordinated.

## **RISK FACTORS**

*Each of the Issuer and the Guarantor believes that the following factors may affect its ability to fulfil its obligations under the Notes. Most of these factors are contingencies which may or may not occur and neither the 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 the Notes are described below.*

*Each of the Issuer and the Guarantor believes that the factors described below represent the principal risks inherent in investing in the Notes, but the inability of the Issuer or the Guarantor to pay interest, principal or other amounts on or in connection with the Notes may occur for other reasons which may not be considered significant risks by the Issuer and the Guarantor based on information currently available to them or which they may not currently be able to anticipate. Prospective investors should also read the detailed information set out elsewhere in these Listing Particulars and reach their own views prior to making any investment decision.*

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

#### ***Dependence on other Group members***

The Issuer is a finance vehicle established by the Guarantor for the purpose of issuing Notes and on-lending the proceeds within the Group. The Issuer is therefore dependent upon other members of the Group paying interest on and repaying their loans in a timely fashion. Should any Group member fail to pay interest on or repay any loan in a timely fashion this could have a material adverse effect on the ability of the Issuer to fulfil its obligations under the Notes.

By virtue of this dependence on other Group members, each of the risks described below that affect the Guarantor will also indirectly affect the Issuer.

### **Factors that may affect the Guarantor's ability to fulfil its obligations under the Guarantee**

Factors that may affect the Guarantor's ability to fulfil its obligations under the Guarantee are set out in the Offering Circular for BBVA Senior Finance, S.A. Unipersonal, BBVA Subordinated Capital, S.A. Unipersonal and BBVA U.S. Senior, S.A. Unipersonal's €40,000,000,000 Global Medium Term Note Programme dated 9 June 2008 (the **Base Offering Circular**) in the section entitled "*Risk Factors – Factors that may affect the Guarantor's ability to fulfil its obligations under the Guarantee*", such risk factors being incorporated by reference herein, see "*Documents Incorporated by Reference*".

### **Factors which are material for the purpose of assessing the market risks associated with the Notes**

#### ***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 these Listing Particulars;

- (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 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.

*The Issuer's obligations under the Notes are subordinated*

The Issuer's obligations under the Notes are unsecured and subordinated to all unsecured and unsubordinated obligations of the Issuer as provided in Condition 2(a)(ii).

The payment of principal and interest in respect of the Notes and any relative Coupons and all amounts due under the Deed of Covenant in respect of the Notes and any relative Coupons has been unconditionally and irrevocably guaranteed by the Guarantor pursuant to the Subordinated Guarantee. The Guarantor's payment obligations under the Subordinated Guarantee are direct, unsecured and subordinated obligations of the Guarantor as provided in Condition 2(b)(ii).

Although the Notes may pay a higher rate of interest than comparable notes which are not subordinated, there is a real risk that an investor in the Notes will lose all or some of his investment should the Issuer and the Guarantor become insolvent.

***Risks related to the Notes generally***

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

*Meetings of Noteholders*

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.

*Change of law*

The Conditions (except for Conditions 2(a)(ii), 2(b)(ii) and 3(b)) of the Notes are based on English law in effect as at the date of these Listing Particulars. Condition 2(a)(ii) is governed by Cayman Islands law and Conditions 2(b)(iii) and 3(b) are governed by Spanish law. No assurance can be given as to the impact of any possible judicial decision or change to English, Cayman Islands or Spanish law or administrative practice after the date of these Listing Particulars.

***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*

The Notes may have no established trading market. 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.

### *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 euro (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 the Notes involves the risk that subsequent changes in market interest rates may adversely affect the value of them.

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

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

## DOCUMENTS INCORPORATED BY REFERENCE

The following documents which have previously been published and have been filed with the Financial Services Authority shall be incorporated in, and form part of, these Listing Particulars:

- (a) the Issuer's audited annual financial statements for each of the two years ended 31 December 2006 and 31 December 2007;
- (b) the Guarantor's annual report on Form 20-F for the fiscal year ended 31 December 2007 filed with the U.S. Securities and Exchange Commission (the **SEC**) on 31 March 2008 (which includes, on pages F-1 to F-172 thereof, the published annual audited consolidated financial statements of the Guarantor as at and for each of the years ending 31 December 2007, 31 December 2006 and 31 December 2005 provided that Exhibits 1.1, 4.1 and 4.2 to the Form 20-F, which are incorporated by reference therein, shall not be incorporated in, or form part of, these Listing Particulars);
- (c) the published interim financial statements of the Guarantor (on a consolidated basis) for the three month period ending 31 March 2008; and
- (d) the sections entitled "*Risk Factors – Factors that may affect the Guarantor's ability to fulfil its obligations under the Guarantee*", "*Description of Banco Bilbao Vizcaya Argentaria, S.A.*" and "*Directors and Senior Management*" in the Base Offering Circular.

Copies of documents incorporated by reference in these Listing Particulars can be obtained from the Issuer and the Guarantor at Paseo de la Castellana, 81, 28046 Madrid and at the principal office in England of the Paying Agent at Winchester House, 1 Great Winchester Street, London EC2N 2DB for the Notes admitted to the Official List.

Any documents themselves incorporated by reference in the documents incorporated by reference in these Listing Particulars shall not form part of these Listing Particulars.



## **USE OF PROCEEDS**

The net proceeds of the issue of the Notes were used by the Issuer for its general corporate purposes.

## DESCRIPTION OF THE ISSUER

The Issuer is a directly wholly-owned subsidiary of the Guarantor and was incorporated on 18 February 1994 for an unlimited duration with limited liability as an exempt company (registration number 25287/E/83) in the Cayman Islands under the Companies Law of the Cayman Islands. The Issuer is an overseas finance vehicle for the Guarantor and has no subsidiaries of its own.

The Directors of the Issuer at the date of this Prospectus are:

<b>Name</b>	<b>Position at the Issuer</b>	<b>Present Principal Occupation outside the Issuer</b>
Pedro M <sup>a</sup> Urresti Laca	Director/President	Deputy Chief Financial Officer of the Guarantor
Ana Fernández Manrique	Director	Director of Capital Management and Funding of the Guarantor

The business address of the Directors of the Issuer is Paseo de la Castellana, 81, 28046 Madrid.

There are no conflicts of interest between any duties of the Directors named above to the Issuer and their private interests or other duties.

## **DESCRIPTION OF THE GUARANTOR**

The Description of the Guarantor is set out in the Base Offering Circular in the sections entitled "*Description of Banco Bilbao Vizcaya Argentaria, S.A.*" and "*Directors and Senior Management*", such descriptions being incorporated by reference herein, see "*Documents Incorporated by Reference*".

## GENERAL INFORMATION

### Authorisation

The issue of the Notes was duly authorised by resolutions of the Board of Directors of the Issuer passed on 26 April 2000 and 18 April 2001. The giving of the Guarantee was duly authorised by a resolution of the Board of Directors of the Guarantor passed on 21 March 2000.

### Listing

The admission of the Notes to the Official List will be expressed as a percentage of their nominal amount (excluding accrued interest). It is expected that the listing of the Notes will be granted on or about 27 June 2008. Application has been made to the UK Listing Authority for the Notes to be admitted to the Official List and to the London Stock Exchange for such Notes to be admitted to trading on the London Stock Exchange's Professional Securities Market.

### Clearing Systems

The Notes have been accepted for clearance through Euroclear and Clearstream, Luxembourg. The ISIN for this issue is XS0137037957 and the Common Code is 0137037957.

The address of Euroclear is Euroclear Bank S.A./N.V., 1 Boulevard du Roi Albert II, B-1210 Brussels and the address of Clearstream, Luxembourg is Clearstream Banking, 42 Avenue JF Kennedy, L-1855 Luxembourg.

### No significant change

There has been no significant change in the financial or trading position and no material adverse change in the prospects of the Issuer since 31 December 2007.

There has been no significant change in the financial or trading position of the Group since 31 March 2008 and there has been no material adverse change in the prospects of the Guarantor since 31 December 2007.

### Litigation

Neither the Issuer nor the Guarantor nor any other member of the Group is or has been involved in any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer or the Guarantor are aware) in the 12 months preceding the date of this document which may have or have in such period had a significant effect on the financial position or profitability of the Issuer, the Guarantor or the Group.

### Auditors

The auditors of the Issuer are Deloitte, S.L. (registered as auditors on the *Registro Oficial de Auditores de Cuentas*) who have audited the Issuer's accounts, without qualification, in accordance with International Financial Reporting Standards (**IFRS**) for each of the two financial years ended on 31 December 2006 and 31 December 2007. The auditors of the Issuer have no material interest in the Issuer.

The auditors of the Guarantor are Deloitte, S.L. (registered as auditors on the *Registro Oficial de Auditores de cuentas*), who have audited the Guarantor's accounts for each of the two financial years ended 31 December 2006 and 31 December 2007, which have been prepared in accordance with International Financial Reporting Standards adopted by the European Union (the **EU-IFRS**) as required to be applied by

Circular 4/2004 of the Bank of Spain. The auditors of the Guarantor have no material interest in the Guarantor.

### **Documents Available**

For so long as the Notes remain outstanding, copies of the following documents will be available for inspection from the registered office of the Issuer or the Guarantor and from the specified office of the Paying Agent in London:

- (a) the constitutional documents (in English) of the Issuer and the Guarantor;
- (b) the annual accounts of the Issuer in respect of the financial years ended 31 December 2006 and 2007, in each case together with the audit reports prepared in connection therewith;
- (c) the consolidated and non-consolidated financial statements of the Guarantor in respect of the financial years ended 31 December 2006 and 2007 (with an English translation thereof), in each case together with the audit reports prepared in connection therewith;
- (d) the most recently published annual report and accounts of the Issuer (interim financial statements are not published by the Issuer) and the most recently published annual report and accounts and unaudited quarterly interim financial statements (in English translation) of the Guarantor and of the Guarantor and its consolidated subsidiaries taken as a whole, from time to time;
- (e) the Agency Agreement, the Deed of Covenant and the Subordinated Guarantee;
- (f) a copy of these Listing Particulars; and
- (g) a copy of the Base Offering Circular.

### **Post-issuance information**

The Issuer does not intend to provide any post-issuance information in relation to the issue of Notes.

## ANNEX 1

### THE CONDITIONS

*The following are the Terms and Conditions of the Notes (sometimes referred to herein as **Terms and Conditions**) which will be incorporated by reference into each global Note, each definitive Bearer Note and each Registered Note, but in the case of definitive Bearer Notes and Registered Notes only if permitted by the relevant stock exchange (if any) and agreed by the relevant Issuer and the relevant Purchaser(s) at the time of issue but, if not so permitted and agreed, such definitive Bearer Note or Registered Note will have endorsed thereon or attached thereto such Terms and Conditions. The applicable Pricing Supplement 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 Pricing Supplement (or the relevant provisions thereof) will be endorsed upon, or attached to, each temporary global Note, permanent global Note, definitive Bearer Note and Registered Note.*

This Note is one of a Series of Euro Medium Term Notes issued by the Issuer (the **Issuer**) named in the applicable Pricing Supplement (as defined below) pursuant to an amended and restated Agency Agreement (the **Agency Agreement**) dated 26 April 2001 made between BBVA Global Finance Ltd., BBVA Capital Funding Ltd., Banco Bilbao Vizcaya Argentaria, S.A. (the **Guarantor**) and Deutsche Bank AG London, as issuing and principal paying agent (the **Agent**, which expression shall include any successor agent) and the registrar and other paying agents named therein (together with the Agent, the **Paying Agents**, which expression shall include any additional or successor paying agents).

If this is a Registered Note, in relation to this Note **Registrar** means Deutsche Bank Luxembourg S.A. or such other entity specified as registrar in the applicable Pricing Supplement. References herein to the **Notes** shall be references to the Notes of this Series and shall mean:

- i(i) in relation to any Bearer Notes (as defined below) represented by a global Note, units of the lowest Specified Denomination in the Specified Currency;
- (ii) definitive Bearer Notes issued in exchange for a global Note;
- (iii) any global Note; and
- (iv) any Registered Note (as defined below).

As used herein, **Tranche** means Notes which are identical in all respects (including as to listing) and **Series** means a Tranche of Notes together with any further Tranche or Tranches of Notes which are (i) expressed to be consolidated and forming a single series and (ii) identical in all respects (including as to listing) except for their respective Issue Dates, Interest Commencement Dates and/or Issue Price.

Interest bearing definitive Bearer Notes (unless otherwise indicated in the applicable Pricing Supplement) have interest coupons (**Coupons**) and, if indicated in the applicable Pricing Supplement, 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 Bearer Notes repayable in instalments have receipts (**Receipts**) for the payment of the instalments of principal (other than the final instalment) attached on issue. Global Notes and Registered Notes do not have Receipts, Coupons or Talons attached on issue.

The Pricing Supplement for this Note (or the relevant provisions thereof) is attached hereto or endorsed hereon and supplements 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 Pricing Supplement** are to the Pricing Supplement (or the relevant provisions thereof) attached hereto or endorsed hereon.

The holders of the Notes (the **Noteholders**, which expression shall, in relation to any Notes represented by a global Note, be construed as provided below), the holders of any Receipts (the **Receiptholders**) and any holders of any Coupons (the **Couponholders**, which expression shall, unless the context otherwise requires, include the holders of any Talons) are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Agency Agreement and the applicable Pricing Supplement, which are binding on them. The Noteholders, any Receiptholders and any Couponholders are entitled to the benefit of the deed of covenant (the **Deed of Covenant**) dated 26 April 2001 and made by the Issuer. The holders of Senior Notes are entitled to the benefit of the senior deed of guarantee (the **Senior Guarantee**) dated 26 April 2001 and made by the Guarantor. The holders of Subordinated Notes are entitled to the benefit of the subordinated deed of guarantee (the **Subordinated Guarantee**) dated 26 April 2001 and made by the Guarantor. The original of the Deed of Covenant is held by a common depositary for Euroclear Bank S.A./N.V., as operator of the Euroclear System (**Euroclear**) and Clearstream Banking, société anonyme (**Clearstream, Luxembourg**) and the originals of the Senior Guarantee and the Subordinated Guarantee are held by the Agent at its specified office for the time being and copies thereof may be obtained upon request during normal business hours from the specified offices of each of the Agent, the Registrar and the other Paying Agents.

Copies of the Agency Agreement and the applicable Pricing Supplement are available for inspection at (and copies of the applicable Pricing Supplement may be obtained free of charge from) the specified offices of each of the Agent, the Registrar, in the case of Registered Notes, and the other Paying Agents, in the case of Bearer Notes, save that, if this Note is unlisted, the applicable Pricing Supplement will only be available for inspection (and a copy may only be obtained) by a Noteholder holding one or more Notes and such Noteholder must produce evidence satisfactory to the relevant Paying Agent as to identity.

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

## 2. FORM AND TRANSFER

The Notes are either in bearer form (**Bearer Notes**) or in registered form (**Registered Notes**), as specified in the applicable Pricing Supplement, and, in the case of definitive Notes, serially numbered, each in the Specified Currency and the Specified Denomination(s). Bearer Notes of one Specified Denomination may not be exchanged for Bearer Notes of another Specified Denomination and Bearer Notes may not be exchanged for Registered Notes and *vice versa*.

This Note is a Fixed Rate Note, a Floating Rate Note, a Zero Coupon Note, an Index Linked Interest Note, any other type of Note, or a combination of any of the foregoing, depending upon the Interest Basis shown in the applicable Pricing Supplement.

This Note is an Index Linked Redemption Note, an Instalment Note, a Dual Currency Note, a Partly Paid Note, any other type of Note or a combination of any of the foregoing, depending on the Redemption/Payment Basis shown in the applicable Pricing Supplement.

This Note is a Senior Note or a Subordinated Note as shown in the applicable Pricing Supplement.

Bearer Notes in definitive form are issued with Coupons attached, unless they are Zero Coupon Notes, in which case references to interest, Coupons and Couponholders in these Terms and Conditions are not applicable.

Subject as set out below, title to the Bearer Notes, Receipts and Coupons will pass by delivery and title to the Registered Notes will pass upon the registration of transfers in accordance with the provisions of the Agency Agreement. A Registered Note may be transferred in whole or in part (in the Specified Denomination or any integral multiple of the Specified Denomination) by the transferor or a person duly authorised on behalf of the transferor depositing the Registered Note for registration of the transfer of the Registered Note (or the relevant part of the Registered Note) at the specified office of the Registrar, with the form of transfer endorsed thereon duly completed and signed by or on behalf of the transferor and upon the Registrar after due and careful enquiry being satisfied with the documents of title and the identity of the person making the request and subject to the regulations set out in Schedule 6 to the Agency Agreement, the Registrar should enter the name of the transferee in the Register for the Notes as the holder of the Note or part thereof specified in the form of transfer. Subject as provided above, the Registrar will, within five London Business Days of the request (or such longer period as may be required to comply with any applicable fiscal or other laws or regulations), deliver at its specified office to the transferee or (at the risk of the transferee) send by regular uninsured mail to such address as the transferee may request a new Registered Note of a like aggregate nominal amount to the Registered Note (or the relevant part of the Registered Note) transferred. In the case of a transfer of part only of a Registered Note, a new Registered Note in respect of the balance of the Registered Note not transferred will be so delivered or (at the risk of the transferor) sent to the transferor. For the purposes of this paragraph, the expression **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.

In the event of a partial redemption of Notes under Condition 6(c), the Issuer shall not be required:

- (a) to register the transfer of Registered Notes (or parts of Registered Notes) during the period beginning on the 65th day before the date of the partial redemption and ending on the day on which notice is given specifying the serial numbers of Notes called (in whole or in part) for redemption (both inclusive); or
- (b) to register the transfer of any Registered Note, or part of a Registered Note, called for redemption.

Noteholders will not be required to bear the costs and expenses of effecting any registration of transfer as provided above, except for any costs or expenses of delivery other than by regular uninsured mail and except that the Issuer may require the payment of a sum sufficient to cover any stamp duty, tax or other governmental charge that may be imposed in relation to the registration or exchange in the Cayman Islands or Spain or the United Kingdom or in any other jurisdiction where the Registrar's specified office is located.

Subject as set out below, the Issuer, the Guarantor, any Paying Agent may deem and treat the bearer of any Bearer Note, Receipt or Coupon and the registered holder of any Registered Note 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 Bearer Notes is represented by a global Note held on behalf of Euroclear and/or Clearstream, Luxembourg, each person (other than Euroclear or Clearstream, Luxembourg) who is for the time being shown in the records of Euroclear and/or of Clearstream, Luxembourg as the holder of a particular nominal amount of Bearer Notes (in which regard any certificate and/or other document issued by Euroclear and/or Clearstream, Luxembourg as to the nominal amount of Bearer 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 Guarantor and any Paying Agent as the holder of such nominal amount of Bearer Notes for all purposes other than with respect to the



payment of principal or interest on the Bearer Notes, for which purpose the bearer of the relevant global Note shall be treated by the Issuer, the Guarantor and any Paying Agent as the holder of such Bearer Notes in accordance with and subject to the terms of the relevant global Note (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.

Any reference herein to Euroclear and/or Clearstream, Luxembourg shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearance system approved by the Issuer, the Guarantor and the Agent.

### **3. STATUS OF THE NOTES, OF THE SENIOR GUARANTEE AND OF THE SUBORDINATED GUARANTEE**

#### **(a)**

##### *(i) Status of the Senior Notes*

This Condition 2(a)(i) applies only to Senior Notes and references to **Notes** shall be construed accordingly.

The Notes and any relative Coupons and Receipts will be direct, unconditional and (subject to the provisions of Condition 4(a)) unsecured obligations of the Issuer and (subject as aforesaid) rank and will rank *pari passu*, without any preference among themselves, with all other outstanding unsecured and unsubordinated obligations of the Issuer, present and future, but, in the event of insolvency, only to the extent permitted by applicable laws relating to creditors' rights.

##### *(ii) Status of the Subordinated Notes*

This Condition 2(a)(ii) applies only to Subordinated Notes and references to **Notes** shall be construed accordingly.

The Notes and any relative Coupons and Receipts will be direct and (subject to the provisions of Condition 3(b)) unsecured obligations of the Issuer and subordinated to all unsecured and unsubordinated obligations of the Issuer. Accordingly, in the event of the bankruptcy, dissolution or winding up of the Issuer, the rights of the holders of the Notes to receive payment from any assets of the Issuer shall rank in right of payment after the unsecured and unsubordinated creditors of the Issuer but at least *pari passu* with all other, if any, subordinated creditors of the Issuer (other than those expressed to rank behind the rights of the holders of the Notes), and in priority to the holders of subordinated obligations which are expressed to rank behind the rights of the holders of the Notes, and the rights and claims of shareholders and creditors of the Issuer which are characterised as holders of equity.

#### **(b)**

##### *(i) Status of the Senior Guarantee*

This Condition 2(b)(i) applies only to Senior Notes and references to **Notes** shall be construed accordingly.

The payment of principal and interest in respect of the Notes and any relative Coupons and Receipts and all amounts due under the Deed of Covenant in respect of the Notes and any relative Coupons

and Receipts has been unconditionally (save as provided below) and irrevocably guaranteed by the Guarantor pursuant to the Senior Guarantee.

The obligations of the Guarantor under the Senior Guarantee constitute direct, unconditional and (subject to the provisions of Condition 3(a)) unsecured obligations of the Guarantor and (subject as aforesaid) rank and will rank, subject to any obligations notarised or recorded in a Public Deed (as defined below) which will be preferred by law or other applicable statutory exceptions, *pari passu* with all other unsecured and unsubordinated indebtedness and monetary obligations of the Guarantor, present or future, including those in respect of deposits.

**Public Deed** means a document which has been notarised as an *escritura pública* or recorded before a *Corredor Colegiado de Comercio* and thus the rights evidenced thereby obtain the status described in paragraph 4 of Article 913 of the Spanish Commercial Code (*Código de Comercio*) or a document that by similar processes has substantially the same status under Spanish law as a document so notarised or recorded.

(ii) *Status of the Subordinated Guarantee*

This Condition 2(b)(ii) applies only to Subordinated Notes and references to **Notes** shall apply accordingly.

The payment of principal and interest in respect of the Notes and any relative Coupons and Receipts and all amounts due under the Deed of Covenant in respect of the Notes and any relative Coupons and Receipts has been unconditionally and irrevocably guaranteed by the Guarantor pursuant to the Subordinated Guarantee.

The payment obligations of the Guarantor under the Subordinated Guarantee constitute direct, unsecured and subordinated obligations of the Guarantor. Accordingly, subject to Condition 4(b) below, in the event of proceedings relating to the bankruptcy, dissolution or winding up of the Guarantor or any other proceeding that requires the application of the priorities provided by the Spanish Commercial Code (*Código de Comercio*), the Spanish Civil Code (*Código Civil*) and/or any other applicable Spanish laws (collectively, *Procedimientos Concursales*), and assuming compliance by the Guarantor with the undertaking contained in Condition 4(b) below, the rights and claims of the holders of the Notes under the Subordinated Guarantee shall rank in right of payment, in accordance with Law 13/1985 and Law 13/1992, Royal Decree 1343/1992 (as amended) and *Banco de España Circular 5/1993* (as amended):

- (a) after the rights and claims of all the unsecured and unsubordinated creditors (*Acreedores Comunes*) of the Guarantor;
- (b) to the extent permitted by Spanish law, at least *pari passu* with the rights and claims of the holders of all other present and future Subordinated Indebtedness (as defined below) of the Guarantor (if any); and
- (c) in priority to the rights and claims of shareholders and creditors of the Guarantor who are characterised as holders of equity (*otros acreedores a título asimilado a la aportación de capital*) with respect to their claims as such holders.

**Subordinated Indebtedness** means all indebtedness, contingent or otherwise, of the Guarantor which by its terms or their terms is or are, or is or are expressed to be, subordinated upon bankruptcy, dissolution or winding up in right of payment to, or the repayment or payment in respect of which is expressed to be conditional in any of such circumstances upon the complete payment of the claims of all unsubordinated creditors of the Guarantor.

#### 4. NEGATIVE PLEDGES

- (a) This Condition 4(a) 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 Agency Agreement):

- (1) the Issuer will not create or have outstanding any mortgage, charge, lien, pledge or other security interest (each a **Security Interest**) upon, or with respect to, any of its present or future business, undertaking, assets or revenues (including any uncalled capital) to secure any Indebtedness for Borrowed Money (as defined below) or any guarantee of any Indebtedness for Borrowed Money, unless the Issuer shall, in the case of the creation of a Security Interest, before or at the same time, and in any other case, promptly, take any and all action necessary to ensure that:

- (A) all amounts payable by it under the Notes and any relative Coupons and Receipts and under the Deed of Covenant in respect of the Notes and any relative Coupons and Receipts are secured equally and rateably with the Indebtedness for Borrowed Money or guarantee, as the case may be, by such Security Interest; or
- (B) such other Security Interest or other arrangement (whether or not it includes the giving of a Security Interest) is provided as shall be approved by an Extraordinary Resolution of the Noteholders; and

- (2) the Guarantor will not, so long as any of the Notes remains outstanding, grant any preference or priority (whether by means of a notarisation or recording an obligation in a Public Deed) (other than by operation of law) to, or create or have outstanding any mortgage, lien, pledge or other charge upon the whole or any part of its assets or revenues, present or future, (each a **security**) to secure any External Indebtedness (as defined below) or any guarantee of any External Indebtedness unless:

- (C) the same preference, priority or security shall forthwith be extended equally and rateably to the Senior Guarantee; or
- (D) such other security as shall be approved by an Extraordinary Resolution of the Noteholders shall previously have been or shall forthwith be extended equally and rateably to the Notes and any relative Coupons and Receipts and to the Deed of Covenant in respect of the Notes and any relative Coupons and Receipts,

provided always that the foregoing provisions shall not apply to any preference or priority granted, or security created or arising, (a) in the course of carrying on a banking business (as defined below), (b) in respect of the Guarantor's obligations under issues under the provisions of and in accordance with Spanish Law 2/1981 and applicable related legislation or (c) in respect of the Guarantor's obligations to *Banco de España* (or its successor for the time being carrying on the functions of the central bank in Spain).

- (b) This Condition 4(b) shall apply only to Subordinated Notes and references to **Notes** shall be construed accordingly.

The Subordinated Guarantee provides that all rights of priority which would otherwise be provided to the holder of this Note, any relative Receipt or Coupon under Spanish law by virtue of the Subordinated Guarantee relating to this Note being raised to the status of a Public Deed are expressly and unconditionally waived by such holder by his acceptance of this Note, Receipt and/or Coupon and the Subordinated Guarantee (the acceptance of the Subordinated Guarantee being given by the

acceptance of this Note and any such Receipt and/or Coupon). The Guarantor has undertaken to obtain from the holders of any Subordinated Indebtedness incurred on or after 26 April 2001 a legally effective waiver of rights of priority substantially similar in content and effect to that described in the previous sentence.

The Guarantor has undertaken in the Subordinated Guarantee not to raise any document evidencing Subordinated Indebtedness incurred on or after 26 April 2001 to a level at which it would, under Spanish law, have the benefits of a Public Deed unless, (a) such Subordinated Indebtedness is, at the time it is incurred, required under Spanish law to be so raised or (b) at the expense of the Guarantor, the obligations of the Guarantor under the Subordinated Guarantee are raised to a level at which it would, under Spanish law, have the benefits of a Public Deed.

The Guarantee is only given on the basis that the rights of priority of the Noteholders with respect to any other Subordinated Indebtedness not expressed to be junior to the Guarantee are deemed to be waived. Accordingly, the Guarantee contains a statement to such effect.

*The Spanish Commercial Code does not include any reference to the notarisation or recording of subordinated indebtedness. Article 913.4 of the Spanish Commercial Code provides that, solely in the event of bankruptcy, the rights and claims of the holders of indebtedness which has been notarised or recorded in a Public Deed will generally rank prior to those of holders of indebtedness that has not been so notarised or recorded. However, Spanish counsel to the Guarantor has advised the Guarantor that, in their opinion, although to the best of their knowledge there are no judicial precedents directly on the point, under current Spanish law Subordinated Indebtedness containing a statement of waiver of the holder's rights of priority with respect to other Subordinated Indebtedness not expressed to be junior to such Subordinated Indebtedness will rank equally with such other Subordinated Indebtedness (such as the Subordinated Guarantee) containing a similar waiver (irrespective of the date of issue of any such Subordinated Indebtedness or whether it has been notarised or recorded in a Public Deed).*

*At the date of this Offering, the Guarantor does not have outstanding any Subordinated Indebtedness raised to the status of a Public Deed that does not contain such a statement of waiver.*

(c) As used herein:

**External Indebtedness** means any present or future Indebtedness for Borrowed Money in the form of, or represented by, bonds, notes, debentures, loan capital, certificates of deposit, loan stock or other like instruments or in relation to which or in respect of which any one or more notes or other like instruments are issued (whether or not initially distributed by means of a private placing) and in any such case (x) which is or are intended to be, or is or are capable of being, quoted, listed or ordinarily dealt in on any stock exchange, over the counter or other established securities market (for which purpose any such indebtedness shall be deemed not to be capable of being so quoted, listed or ordinarily dealt in if the terms of issue thereof expressly so provide), and (y):

- (i) is not governed by Spanish law; and
- (ii) is not registered at the Spanish CNMV or listed on any Spanish securities exchange; and
- (iii) more than 50% of which is initially placed with investors resident outside Spain,

but shall not include any Indebtedness for Borrowed Money arising in the course of carrying on a banking business;

**Indebtedness for Borrowed Money** means any moneys borrowed, liabilities in respect of any acceptance credit, note or bill discounting facility, liabilities under any bonds, notes, debentures,

loan stock, securities or other indebtedness by way of loan capital and which, for the purposes of Condition 2(c)(i)(2) only, have a stated maturity of or which by their terms are capable of being extended for a period of more than one year;

**banking business** means in relation to any company (A) banking business as ordinarily carried on or permitted to be carried on at the relevant time by banking institutions in the country in which such company is incorporated or carries on business; or (B) the seeking or obtaining from members of the public of moneys by way of deposit; or (C) any other part of the business of such company which an expert (which expression shall for this purpose include any officer of the Guarantor) nominated in good faith for such purpose by the Guarantor or such company shall certify to be part of, or permitted to be part of, such company's banking business.

For the purposes of these Terms and Conditions any reference to an obligation being guaranteed shall include a reference to an indemnity being given in respect of the obligation.

## 5. INTEREST

### (a) Interest on Fixed Rate Notes

Each Fixed Rate Note bears interest on its nominal amount (or, if it is a Partly Paid Note, the amount paid up) from (and including) the Interest Commencement Date at the rate(s) per annum equal to the Rate(s) of Interest so specified payable in arrear on the Interest Payment Date(s) in each year so specified and on the Maturity Date so specified if that does not fall on an Interest Payment Date.

Except as provided in the applicable Pricing Supplement, the amount of interest payable on each Interest Payment Date will amount to the Fixed Coupon Amount. Payments of interest on any Interest Payment Date will, if so specified in the applicable Pricing Supplement, amount to the Broken Amount so specified.

If interest is required to be calculated for a period ending other than on an Interest Payment Date, such interest shall be calculated by applying the Rate of Interest to each Specified Denomination, 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.

**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 (ISMA)" is specified in the applicable Pricing Supplement:

- (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 that would occur in one calendar year assuming interest was to be payable in respect of the whole of that year; or
- (b) in the case of Notes where the Accrual Period is longer than the Determination Period commencing on the last Interest Payment Date on which interest was paid (or, if none, the Interest Commencement Date), 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 that would occur in one calendar year assuming interest was to be payable in respect of the whole of that 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 assuming interest was to be payable in respect of the whole of that year;
- (ii) if "Actual/Actual (ISDA)" is specified in the applicable Pricing Supplement, the actual 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 divided by 365 (or, if any portion of that period falls in a leap year, the sum of (A) the actual number of days in that portion of the period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the period falling in a non-leap year divided by 365);
- (iii) if "30/360" is specified in the applicable Pricing Supplement, 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 12 30-day months) divided by 360; and
- (iv) if "30/360 (ISDA)" is specified in the applicable Pricing Supplement, 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 divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (a) the last day of the interest period is the 31st day of a month by the first day of the interest period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month, or (b) the last day of the interest period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)); and

In these Terms and Conditions:

**Determination Period** means the period from (and including) a Determination Date to but excluding the next Determination Date.

**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 on its nominal amount (or, if it is a Partly Paid Note, the amount paid up) from (and including) the Interest Commencement Date specified in the applicable Pricing Supplement and such interest will be payable in arrear on either:

- (A) the Specified Interest Payment Date(s) (each an **Interest Payment Date**) in each year specified in the applicable Pricing Supplement; or
- (B) if no Specified Interest Payment Date(s) is/are specified in the applicable Pricing Supplement, each date (each an **Interest Payment Date**) which falls the number of months or other period specified as the Specified Period in the applicable Pricing Supplement 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).

If a Business Day Convention is specified in the applicable Pricing Supplement and (x) if there is no numerically corresponding day on the calendar month in 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) above, 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 this Condition, **Business Day** means a day which is both:

- (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 any Additional Business Centre specified in the applicable Pricing Supplement; 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 (if other than any Additional Business Centre and which if the Specified Currency is Australian dollars or New Zealand dollars shall be Sydney and Melbourne or Auckland and Wellington, respectively) or (2) in relation to interest payable in euro, a day on which the TARGET System is open.

In these Terms and Conditions, **TARGET System** means the Trans-European Automated Real-Time Gross Settlement Express (TARGET) System.

(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 Pricing Supplement.

(A) ISDA determination for Floating Rate Notes

Where ISDA Determination is specified in the applicable Pricing Supplement 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 Pricing Supplement) the Margin (if any). For purposes of this subparagraph (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 Pricing Supplement under an interest rate swap transaction if the Agent or the Registrar, as the case may be, or that other person were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the 2000 ISDA Definitions, as amended and updated as at the Issue Date of the first Tranche of the Notes, published by the International Swaps and Derivatives Association, Inc. (the **ISDA Definitions**) and under which:

- (A) the Floating Rate Option is as specified in the applicable Pricing Supplement;
- (B) the Designated Maturity is such period as is specified in the applicable Pricing Supplement; and
- (C) 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 Pricing Supplement.

For the purposes of this subparagraph (A), (i) **Floating Rate, Calculation Agent, Floating Rate Option, Designated Maturity** and **Reset Date** have the meanings given to those terms in the ISDA Definitions.

(B) *Screen Rate determination for Floating Rate Notes*



Where Screen Rate Determination is specified in the applicable Pricing Supplement 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 Pricing Supplement) the Margin (if any), all as determined by the Agent, in the case of Bearer Notes, or the Registrar, in the case of Registered Notes. If five or more 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 or the Registrar, as the case may be, for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations.

The 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 offered 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 Pricing Supplement as being other than LIBOR or EURIBOR, the Rate of Interest in respect of such Notes will be determined as provided in the applicable Pricing Supplement.

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

If the applicable Pricing Supplement 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 (c)(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 Pricing Supplement 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 (c)(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 Amount*

The Agent or, as applicable, the Registrar, in the case of Floating Rate Notes, and the Calculation Agent, in the case of Index Linked Interest Notes, will, on 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 or, as applicable, the Registrar, of the Rate of Interest for the relevant Interest Period as soon as practicable after calculating the same.

The Agent or, as applicable, the Registrar will calculate the amount of interest (the **Interest Amount**) payable on the Floating Rate Notes or Index Linked Interest Notes in respect of each

Specified Denomination for the relevant Interest Period. Each Interest Amount shall be calculated by applying the Rate of Interest to the Specified Denomination, 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.

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

- (i) if "Actual/365" or "Actual/Actual" is specified in the applicable Pricing Supplement, 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 Pricing Supplement, the actual number of days in the Interest Period divided by 365;
- (iii) if "Actual/365 (sterling)" is specified in the applicable Pricing Supplement, 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 Pricing Supplement, 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 Pricing Supplement, the number of days in the Interest Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (a) the last day of the Interest Period is the 31st day of a month by the first day of the Interest Period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month, or (b) the last day of the Interest Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)); and
- (vi) if "30E/360" or "Eurobond Basis" is specified in the applicable Pricing Supplement, the number of days in the Interest Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months, without regard to the date of the first day or last day of the Interest Period unless, in the case of the Final Interest Period, the Maturity Date is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month).

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

The Agent or, as applicable, the Registrar, 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 and the Guarantor, any stock exchange on which the relevant Floating Rate Notes or Index Linked Interest Notes are for the time being listed, and notice thereof to be published in accordance with Condition 15 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 on which the relevant Floating Rate

Notes or Index Linked Interest Notes are for the time being listed and to the Noteholders in accordance with Condition 15.

(vi) *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 the Registrar, or, if applicable, the Calculation Agent shall (in the absence of wilful default, bad faith, negligence or manifest error) be binding on the Issuer, the Guarantor, the other Paying Agents and all Noteholders, Receiptholders and Couponholders and (in the absence as aforesaid) no liability to the Issuer, the Guarantor, the Noteholders, the Receiptholders or the Couponholders shall attach to the Agent or the Registrar, and/or, if applicable, the Calculation Agent 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 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 Pricing Supplement.

(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 Pricing Supplement.

(e) **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 due date for its redemption unless, upon due presentation thereof, payment of principal is improperly withheld or refused. In such event, interest will continue to accrue until whichever is the earlier of:

- (1) the date on which all amounts due in respect of such Note have been paid; and
- (2) the date on which the full amount of the moneys payable in respect of such Note has been received by the Agent in the case of Bearer Notes or the Registrar in the case of Registered Notes and notice to that effect has been given in accordance with Condition 15.

**6. REDEMPTION AND PURCHASE**

(a) **Redemption at maturity**

Unless previously redeemed or purchased and cancelled as specified below, each Note will be redeemed by the Issuer at its Final Redemption Amount specified in, or determined in the manner specified in, the applicable Pricing Supplement in the relevant Specified Currency on the Maturity Date.

(b) **Redemption for tax reasons**

All the Notes, but not some only, may, subject in the case of Subordinated Notes which shall only be redeemed at any time on or after five years from the issue date in respect of such Subordinated Notes

(or at any time prior to such date if so permitted by the applicable Spanish capital adequacy requirements then in force) subject to the prior consent of *Banco de España*, be redeemed at the option of the Issuer, at any time (in the case of Notes other than Floating Rate Notes and Index Linked Interest Notes) or on any Interest Payment Date (in the case of Floating Rate Notes and Index Linked Interest Notes), on giving not less than 30 nor more than 60 days' notice in accordance with Condition 15 (which notice shall be irrevocable), at their Early Redemption Amount referred to in Condition 6(e), together (if appropriate) with any interest accrued to the date fixed for redemption, if:

- (i) either the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 10 or the Guarantor would be unable for reasons outside its control to procure payment by the Issuer and in making payment itself would be required to pay such additional amounts as a result of any change in, or amendment to, the laws or regulations of the Cayman Islands or Spain 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; and
- (ii) such obligation cannot be avoided by the Issuer or, as the case may be, the Guarantor 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, as the case may be, the Guarantor 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 Issuer or, as the case may be, the Guarantor shall deliver to the Agent in the case of Bearer Notes or the Registrar in the case of Registered Notes (x) a certificate signed by two Directors of the Issuer (or if at the time that such certificate is to be given the Issuer has only one Director, such certificate may be signed by such Director) or, as the case may be, the Guarantor 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, (y) an opinion of independent legal advisers of recognised standing to the effect that the Issuer or, as the case may be, the Guarantor has or will become obliged to pay such additional amounts as a result of such change or amendment and (z) in the case of Subordinated Notes, a copy of *Banco de España's* consent to redemption.

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

If Issuer Call is specified in the applicable Pricing Supplement, the Issuer may, subject in the case of Subordinated Notes which shall not be redeemed unless in compliance with the applicable capital adequacy regulations of *Banco de España* from time to time in force (and only on or after five years from the issue date in respect of such Subordinated Notes, or as otherwise specified in the applicable Pricing Supplement) and then only with the prior consent of the *Banco de España*, having given (unless otherwise specified in the applicable Pricing Supplement) not more than 60 nor less than 30 days' notice (or such lesser period specified in the applicable Pricing Supplement) in accordance with Condition 15, to the holders of the Notes (which notice shall be irrevocable), redeem all or some only of the Notes then outstanding on the Optional Redemption Date(s) and at the Optional Redemption Amount(s) specified in, or determined in the manner specified in, the applicable Pricing Supplement together, if appropriate, with accrued interest. In the event of a redemption of some only of the Notes, such redemption must be of a nominal amount being the Minimum Redemption Amount or a Higher Redemption Amount, both as indicated in the applicable Pricing Supplement. In the case of a partial redemption of definitive Bearer Notes or Registered Notes, the Notes to be redeemed will be selected individually by lot (in such place as the Agent, in the case of Bearer Notes, or the Registrar, in the case of Registered Notes, may approve and in such manner as the

Agent or, as applicable, the Registrar shall deem to be appropriate and fair) not more than 60 days prior to the date fixed for redemption and a list of the Notes called for redemption will be given in accordance with Condition 15 not less than 30 days prior to such date. In the case of a partial redemption of Bearer Notes which are represented by a global Note, the relevant Bearer Notes will be selected in accordance with the rules of Euroclear and/or Clearstream, Luxembourg.

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

If Investor Put is specified in the applicable Pricing Supplement, upon the holder of this Note giving to the Issuer in accordance with Condition 15 not more than 60 or less than 30 days' notice (or such lesser period specified in the applicable Pricing Supplement) (which notice shall be irrevocable) the Issuer will, upon the expiry of such notice, redeem subject to, and in accordance with, the terms specified in the applicable Pricing Supplement in whole (but not in part) this Note on the Optional Redemption Date and at the Optional Redemption Amount specified in, or determined in the manner specified in, the applicable Pricing Supplement together, if appropriate, with accrued interest. No such redemption option will be specified in the applicable Pricing Supplement relating to any Subordinated Notes without the prior consent of *Banco de España* or which provides for redemption prior to the fifth anniversary of the Issue Date of the relevant Note, except as permitted under *Banco de España's* requirements for such redemption.

To exercise the right to require redemption of the Note the holder of the Note must deliver, at the specified office of any Paying Agent (other than the Registrar), at any time during normal business hours of such Paying Agent falling within the notice period, 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 **Put Notice**) and in which the holder 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 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.

Any Put Notice given by a holder of any Note pursuant to this paragraph shall be irrevocable except where prior to the due date of redemption an Event of Default shall have occurred and be continuing in which event such holder, at its option, may elect by notice to the Issuer to withdraw the notice given pursuant to this paragraph and instead to declare such Note forthwith due and payable pursuant to Condition 11.

**(e) Early Redemption Amounts**

For the purposes of Condition 6(b) and Condition 11, each Note will be redeemed at an amount (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; or
- (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 set out in, or determined in the manner set out in, the applicable Pricing Supplement or, if no such amount or manner is set out in the Pricing Supplement, at their nominal amount; or
- (iii) in the case of Zero Coupon Notes, at an amount (the **Amortised Face Amount**) calculated in accordance with the following formula:

$$\text{Amortised Face Amount} = \text{RP} \times (1 + \text{AY})^x$$

where:

**RP** equals the Reference Price;

**AY** equals the Accrual Yield; and

**x** 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 Pricing Supplement.

**(f) Instalments**

Instalment Notes 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**

Partly Paid Notes will be redeemed, whether at maturity, early redemption or otherwise, in accordance with the provisions of this Condition as amended or varied by the applicable Pricing Supplement.

**(h) Purchases**

The Issuer, the Guarantor or any of their respective subsidiaries may at any time purchase Senior Notes in the open market or by tender at any price. In the case of a purchase by tender, such tender must be made available to all holders of Senior Notes alike. Senior Notes purchased as aforesaid may, at the option of the Guarantor, be held, resold or surrendered for cancellation (provided that, in the case of definitive Bearer Notes, all unmatured Receipts and Coupons appertaining thereto are surrendered therewith) except that all Senior Notes purchased by the Issuer must be surrendered for cancellation. None of the Issuer, the Guarantor or any of their respective consolidated subsidiaries may at any time purchase Subordinated Notes except in accordance with prevailing Spanish law and *Banco de España's* requirements.

**(i) Cancellation**

All Notes redeemed or purchased and surrendered for cancellation will be cancelled forthwith (together with, in the case of definitive Bearer Notes, all unmatured Receipts and Coupons surrendered therewith or attached thereto) and may not be reissued or resold.

**(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 Condition 6(a), 6(b), 6(c) or 6(d) or upon its becoming due and repayable as provided in Condition 11 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 Condition 6(e)(iii) as though the references therein to the date fixed for redemption or the date upon which the Zero

Coupon Note becomes due and repayable were replaced by references to the date which is the earlier of:

- (1) the date on which all amounts due in respect of the Zero Coupon Note have been paid; and
- (2) the date on which the full amount of the moneys payable in respect of the Zero Coupon Note has been received by the Agent, in the case of Bearer Notes, or the Registrar, in the case of Registered Notes, and notice to that effect has been given in accordance with Condition 15.

## **7. PAYMENTS**

### **(a) Method of payment**

Subject as provided below:

- (i) payments in a Specified Currency other than euro will be made by credit or transfer to an account in the relevant Specified Currency (which, in the case of a payment in Yen to a non-resident of Japan, shall be a non-resident account) maintained by the payee with, or, at the option of the payee, by a cheque in such Specified Currency drawn on, 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 or Auckland, respectively); and
- (ii) payments in euro will be made 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.

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 10.

### **(b) Presentation of Bearer Notes, Receipts, Coupons and Talons**

Payments of principal in respect of definitive Bearer Notes will (subject as provided below) be made in the manner provided in Condition 7(a) against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of definitive Bearer Notes and payments of interest in respect of definitive Bearer Notes will (subject as provided below) be made as aforesaid against presentation and surrender (or, in the case of part payment of any sum due, endorsement) 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, its territories, its possessions and other areas subject to its jurisdiction)).

In the case of Bearer Notes, payments of instalments of principal (if any), other than the final instalment, will (subject as provided below) be made against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of the relevant Receipt. Payment of the final instalment will be made against surrender (or in the case of part payment of any sum due, endorsement) of the relevant definitive Bearer Note. Each Receipt must be presented for payment of the relevant instalment together with the definitive Bearer Note to which it appertains. Receipts presented without the definitive Bearer Note to which they appertain do not constitute valid obligations of the Issuer. Upon the date on which any definitive Bearer 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 bearer form (other than Dual Currency Notes, Index Linked Notes and Long Maturity Notes (as defined below) 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 unmaturing Coupon (or, in the case of payment not being made in full, the same proportion of the aggregate amount of such missing unmaturing 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 ten years after the Relevant Date (as defined in Condition 10) in respect of such principal (whether or not such Coupon would otherwise have become void under Condition 14) or, if later, five years from the date on which such Coupon would otherwise have become due.

Upon any Fixed Rate Note in definitive bearer form becoming due and repayable prior to its Maturity Date, all unmaturing 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 or Long Maturity Note in definitive bearer form becomes due and repayable, unmaturing 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 Bearer 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 Bearer Note.

Payments of principal and interest (if any) in respect of Bearer Notes represented by any global Note will (subject as provided below) be made in the manner specified above in relation to definitive Bearer Notes and otherwise in the manner specified in the relevant global Note against presentation or surrender, as the case may be, of such global Note at the specified office of any Paying Agent outside the United States. A record of each payment made against presentation or surrender of such global Note, distinguishing between any payment of principal and any payment of interest, will be made on such global Note by the Paying Agent to which the global Note is presented and such record shall be *prima facie* evidence that the payment in question has been made.

The holder of the relevant global Note shall be the only person entitled to receive payments in respect of Bearer Notes represented by such global Note and the Issuer or, as the case may be, the Guarantor will be discharged by payment to, or to the order of, the holder of such global Note in respect of each amount so paid. Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a particular nominal amount of Notes 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 the Guarantor to, or to the order of, the holder of the relevant global Note. No person other than the holder of the relevant global Note shall have any claim against the Issuer or the Guarantor in respect of any payments due in respect of that global Note.

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

- (i) the Issuer and the Guarantor have appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to



make payment at such specified offices outside the United States of the full amount due on the Notes in the manner provided above when due;

- (ii) payment of the full amount due at all such specified offices outside the United States is illegal or effectively precluded by exchange controls or other similar restrictions; and
- (iii) such payment is then permitted under United States law without involving, in the opinion of the Issuer and the Guarantor, adverse tax consequences to the Issuer or the Guarantor.

**(c) Payments on Registered Notes**

Payments of principal in respect of Registered Notes will be made in the manner provided in paragraph (a) above against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of such Registered Notes at the specified office of the Registrar or at the specified office of any Paying Agent. Payments of interest due on a Registered Note and payments of instalments (if any) of principal on a Registered Note, other than the final instalment, will be made to the person in whose name such Registered Note is registered at the close of business on the fifteenth day (whether or not such fifteenth day is a business day (being for the purpose a day on which banks are open for business in the city where the specified office of the Registrar is located)) (the **Record Date**) prior to such due date. In the case of payments by cheque, cheques will be mailed to the holder (or the first named of joint holders) at such holder's registered address on the due date. If payment is required by credit or transfer as referred to in paragraph (a) above, application for such payment must be made by the holder to the Registrar not later than the relevant Record Date.

**(d) 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 14) 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;
  - (B) any Additional Financial Centre specified in the applicable Pricing Supplement; 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 (if other than the place of presentation and any Additional Financial Centre and which if the Specified Currency is Australian dollars or New Zealand dollars shall be Sydney and Melbourne or Auckland and Wellington, respectively) or (2) in relation to any sum payable in euro, a day on which the TARGET System is open.

**(e) 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 under Condition 10;

- (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 Zero Coupon Notes, the Amortised Face Amount; and
- (vii) any premium and any other amounts which may be payable 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 under Condition 10.

## **8. AGENT, REGISTRAR AND OTHER PAYING AGENTS**

The names of the initial Agent and the other initial Paying Agents (other than the Registrar) and their initial specified offices are set out below if this is a Bearer Note or the name and initial specified office of the initial Registrar are set out below if this is a Registered Note.

The Issuer and the Guarantor are entitled 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) if, and so long as, Bearer Notes are listed on any stock exchange, there will at all times be a Paying Agent having a specified office in each location required by the rules and regulations of the relevant stock exchange;
- (ii) if any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive is introduced, there will at all times be a Paying Agent in a Member State of the European Union that will not be obliged to withhold or deduct tax pursuant to such Directive or law;
- (iii) there will at all times be an Agent; and
- (iv) there will at all times be a Registrar which, so long as Registered Notes are listed on any stock exchange or any relevant authority, will have a specified office in each location required by the rules and regulations of the relevant stock exchange or relevant authority.

In addition, the Issuer and the Guarantor shall forthwith appoint a Paying Agent having a specified office in New York City in the circumstances described in the final paragraph of Condition 7(b). Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, 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 15 provided that no such variation, termination, appointment or changes shall take effect (except in the case of insolvency) within seven days before any due date for the payment of any Note or any related Receipt or Coupon.

## **9. 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 except the Registrar 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 Bearer Note to which it appertains) a further Talon, subject to the provisions of Condition 14. Each Talon shall, for the purposes of these Terms and Conditions, be deemed to mature on the Interest Payment Date on which the final Coupon comprised in the relative Coupon sheet matures.

## 10. TAXATION

All payments in respect of the Notes and any related Receipts and Coupons by the Issuer or under the Guarantee by the Guarantor shall be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature (**Taxes**) imposed or levied by or on behalf of the Cayman Islands (in the case of payments by the Issuer) or Spain (in the case of payments of the Guarantor), or any political subdivision thereof or any authority therein or thereof having power to tax, unless the withholding or deduction of the Taxes is required by law. In that event, the Issuer or, as the case may be, the Guarantor will pay such additional amounts as may be necessary in order that the net amounts received by the Noteholders and any relative Receiptholders and Couponholders after such withholding or deduction shall equal the respective amounts which would have been received by them in respect of such Notes, Receipts or Coupons, as the case may be, in the absence of such withholding or deduction; except that no additional amounts shall be payable in relation to any payment in respect of any Note, Receipt or Coupon:

- (i) to, or to a third party on behalf of, a holder who is liable to Taxes in respect of such Note, Receipt or Coupon by reason of his having some connection with the Cayman Islands (in the case of payments by the Issuer) or Spain (in the case of payments by the Guarantor) other than the mere holding of such Note, Receipt or Coupon; or
- (ii) where the Note, Receipt or Coupon is presented for payment more than 30 days after the Relevant Date except to the extent that a holder would have been entitled to additional amounts on presenting the same for payment on such thirtieth day; or
- (iii) to a holder of such Note, Receipt or Coupon who is able to avoid such deduction or withholding by making a declaration of non-residence or other similar claim for exemption to the relevant tax authority; or
- (iv) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive or law; or
- (v) where the Note, Receipt or Coupon is presented for payment by or on behalf of a holder who would have been 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.

In these Terms and Conditions, **Relevant Date** means the date on which such payment first becomes due but, if the full amount of the moneys payable has not been received by the Agent 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 shall have been duly given to the Noteholders in accordance with Condition 15.

## 11. EVENTS OF DEFAULT

- (a) This Condition 11(a) applies only to Senior Notes and references to **Notes** shall be construed accordingly.

If any of the following events (each an **Event of Default**) shall have occurred and be continuing:

- (i) a default is made for more than 14 days in the payment of any principal due in respect of any of the Notes or 21 days or more in the payment of any interest due in respect of any of the Notes; or
- (ii) a default is made in the performance by the Issuer or the Guarantor of any other obligation under the provisions of the Notes or under the provisions of the Guarantee relating to the Notes and such default continues for more than 30 days; or
- (iii) any Indebtedness for Borrowed Money of the Issuer or the Guarantor where the principal amount of such indebtedness is in any one case in excess of U.S.\$10,000,000 or its equivalent in another currency or other currencies or any guarantee by the Issuer or the Guarantor of any Indebtedness for Borrowed Money of any other person is not (in the case of Indebtedness for Borrowed Money) paid when due as extended by an applicable grace period therefor or becomes prematurely repayable following a default on the part of, or an event of default with reference to, the Issuer or the Guarantor or (in the case of a guarantee) honoured when called upon; or
- (iv) an order of any competent court or administrative agency is made or any resolution is passed by the Issuer for the winding-up or dissolution of the Issuer (other than for the purpose of an amalgamation, merger or reconstruction approved by an Extraordinary Resolution of the Noteholders of this Series); or
- (v) an order is made commencing bankruptcy or suspension of payment proceedings against the Guarantor or an order is made or a resolution is passed for the dissolution or winding up of the Guarantor (except (i) in any such case for the purpose of a reconstruction or a merger or amalgamation which has been previously approved by an Extraordinary Resolution of the Noteholders or (ii) where the entity resulting from any such reconstruction or merger or amalgamation is a Financial Institution ("*Entidad de Crédito*" according to article 1°-2 of Real Decreto Legislativo 1298/1986 dated 28 June 1986, as amended by article 5° of Ley 3/94 dated 14 April 1994) and will have a rating for long-term senior debt assigned by Standard & Poor's Rating Services or Moody's Investors Services equivalent to or higher than the rating for long-term senior debt of the Guarantor immediately prior to such reconstruction or merger or amalgamation), or any other proceedings (*Procedimientos Conuirsales*) are commenced which requires the application of priorities provided by the Commercial Code (*Código de Comercio*), the Civil Code (*Código Civil*) or any other applicable Spanish laws; or
- (vi) the Issuer or the Guarantor is adjudicated or found bankrupt or insolvent, or any order of any competent court or administrative agency is made for, or any resolution is passed by the Issuer or the Guarantor to apply for, judicial composition proceedings with its creditors or for the appointment of a receiver or trustee or other similar official in insolvency proceedings in relation to the Issuer or the Guarantor or of a substantial part of the assets of either of them (unless in the case of an order for a temporary appointment, such appointment is discharged within 30 days); or
- (vii) the Issuer or the Guarantor stops payment of its debts generally; or

- (viii) the Issuer (except for the purpose of an amalgamation, merger or reconstruction approved by an Extraordinary Resolution of the Noteholders) or the Guarantor (except (i) for the purpose of an amalgamation, merger or reconstruction approved by an Extraordinary Resolution of the Noteholders or (ii) where the entity resulting from any such reconstruction or merger or amalgamation is a Financial Institution ("*Entidad de Crédito*" according to article 1°-2 of Real Decreto Legislativo 1298/1986 dated 28 June 1986, as amended by article 5° of Ley 3/94 dated 14 April 1994) and will have a rating for long-term senior debt assigned by Standard & Poor's Rating Services or Moody's Investor Services equivalent to or higher than the rating for long-term senior debt of the Guarantor immediately prior to such reconstruction or merger or amalgamation) ceases or threatens to cease to carry on the whole or substantially the whole of its business; or
- (ix) an encumbrancer takes possession of the whole or any substantial part of the assets or undertaking of the Issuer or the Guarantor or an application is made for the appointment of an administrative or other receiver, manager, administrator or similar official in relation to the Issuer or the Guarantor or in relation to the whole or any substantial part of the undertaking or assets of the Issuer or the Guarantor, or a distress or execution is levied or enforced upon or sued out against any substantial part of the undertaking or assets of the Issuer or the Guarantor and is not discharged within 30 days; or
- (x) the Issuer or the Guarantor shall (other than, in the case of the Guarantor, in the course of carrying on a banking business (as defined in Condition 4(c)) sell or dispose of a major part of its business or assets, whether as a single transaction or a number of transactions, related or not, to any subsidiary of the Issuer or, as the case may be, the Guarantor; or
- (xi) the Senior Guarantee ceases to be, or is claimed by the Guarantor not to be, in full force and effect,

the holder of any Note may, by written notice to the Issuer at the specified office of the Agent or the Registrar, as the case may be, effective upon the date of receipt thereof by the Agent or the Registrar, as the case may be, declare such Note to be forthwith due and payable, whereupon the same shall become immediately due and payable at its Early Redemption Amount (as described in Condition 6(e)), together with accrued interest (if any) to the date of repayment.

For the purpose of Condition 11(a)(v), (vi), (vii), (viii) and (ix) a report by the auditors for the time being of the Issuer or the Guarantor, as the case may be, as to whether any part of the undertaking, business or assets of the Issuer or the Guarantor is "substantial" or "major" or as to what constitutes "substantially the whole of the business" of the Issuer or the Guarantor shall, in the absence of manifest error, be conclusive.

- (b) This Condition 11(b) shall apply only to Subordinated Notes and references to **Notes** shall be construed accordingly.

If any of the following events (each an **Event of Default**) shall have occurred and be continuing:

- (i) a default is made for more than 14 days in the payment of any principal due in respect of any of the Notes or 21 days or more in the payment of any interest due in respect of any of the Notes; or
- (ii) an order is made declaring the Issuer insolvent or an order is made or an effective resolution is passed for the dissolution or winding up of the Issuer (other than for the purpose of an amalgamation, merger or reconstruction approved by an Extraordinary Resolution of the Noteholders of this Series); or

- (iii) an order is made commencing bankruptcy or suspension of payment proceedings against the Guarantor or an order is made or a resolution is passed for the dissolution or winding up of the Guarantor (except (i) in any such case for the purpose of a reconstruction or a merger or amalgamation which has been previously approved by an Extraordinary Resolution of the Noteholders or (ii) where the entity resulting from any such reconstruction or merger or amalgamation is a Financial Institution (as defined in Condition 11(a)) and will have a rating for long-term subordinated debt assigned by Standard & Poor's Rating Services or Moody's Investors Services equivalent to or higher than the rating for long-term subordinated debt of the Guarantor immediately prior to such reconstruction or merger or amalgamation), or any other proceedings (*Procedimientos Concursales*) are commenced which requires the application of priorities provided by the Commercial Code (*Código de Comercio*), the Civil Code (*Código Civil*) or any other applicable Spanish laws,

the holder of any Note may, by written notice to the Issuer at the specified office of the Agent or the Registrar, as the case may be, effective upon receipt thereof by the Agent or the Registrar, as the case may be, declare such Note to be forthwith due and payable, whereupon the same shall become immediately due and payable at its Early Redemption Amount (as described in Condition 6(e)), together with accrued interest (if any) to the date of repayment.

## **12. MEETINGS OF NOTEHOLDERS; MODIFICATION; WAIVER**

The Agency Agreement contains provisions for convening meetings of the Noteholders to consider any matter affecting their interests, including the modification by Extraordinary Resolution of the Terms and Conditions of the Notes, the Agency Agreement or any Receipts or Coupons relating thereto. The quorum at any such meeting for passing an Extraordinary Resolution will be one or more persons present holding or representing a clear majority of the nominal amount of the Notes for the time being outstanding, or at any such adjourned meeting one or more persons present being or representing the Noteholders whatever the nominal amount of the Notes held or represented by them, except that at any meeting, the business of which includes, *inter alia*, reduction of the amount or variation of the currency of, or postponement of the date for, payment of principal or interest in respect of the Notes, the necessary quorum for passing an Extraordinary Resolution will be one or more persons present holding or representing not less than two-thirds, or at any such adjourned meeting not less than one third, of the nominal amount of the Notes for the time being outstanding.

Any resolution passed at any meeting of the Noteholders will be binding on all the Noteholders, whether or not they are present at the meeting, and on all the holders of any Receipts and any Coupons relating to such Notes. Any Notes which are for the time being held by any person (including but not limited to the Issuer, the Guarantor or any of its or their subsidiaries) for the benefit of the Issuer, the Guarantor or any of its or their subsidiaries shall (unless and until ceasing to be so held) be deemed not to be outstanding for the purposes of the right to attend or participate in any way at any meeting of Noteholders.

The Agent and the Registrar may agree, without the consent of the Noteholders or any relative Receiptholders or Couponholders, to any modification of any of these Terms and Conditions or any of the provisions of the Agency Agreement which is not, in the opinion of the Agent and the Registrar, materially prejudicial to the interests of the Noteholders or to any modification which is of a formal, minor or technical nature or to correct a manifest error.

Any modification shall be binding on the Noteholders and the relative Receiptholders and the Couponholders and, unless the Agent and the Registrar agree otherwise, any modification shall be notified by the Issuer to the Noteholders as soon as practical thereafter in accordance with Condition 15.

### **13. REPLACEMENT OF NOTES, RECEIPTS, COUPONS AND TALONS**

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

### **14. PRESCRIPTION**

The Notes (whether in bearer or registered form), Receipts and Coupons will become void unless presented for payment within a period of ten years (in the case of principal) and five years (in the case of interest) after the Relevant Date (as defined in Condition 10) 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 or Condition 7(b) or any Talon which would be void pursuant to Condition 7(b).

### **15. NOTICES**

All notices regarding the Bearer Notes shall be published (i) in one leading English language daily newspaper with circulation in London (which is expected to be the *Financial Times*) and (ii) if and for so long as the Notes are listed on the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require, in a daily newspaper of general circulation in Luxembourg (which is expected to be the *Luxemburger Wort*). Any such notice shall be deemed to have been given on the date of the first publication in all required newspapers.

All notices to holders of Registered Notes will be valid if mailed to their registered addresses appearing on the register, and shall be published if and for so long as the Notes are listed on the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require, in a daily newspaper of general circulation in Luxembourg (which is expected to be the *Luxemburger Wort*). Any such notice shall be deemed to have been given on the fourth day after the day on which it is mailed.

Until such time as any definitive Bearer Notes are issued, there may, so long as any global Notes representing the Notes are held in 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 except that if the Notes are listed on the Luxembourg Stock Exchange notice will in any event be published in accordance with the rules of the Luxembourg Stock Exchange. Any such notice shall be deemed to have been given to the holders of the Notes on the third day after the day on which the said notice was given to Euroclear and Clearstream, Luxembourg.

Notices to be given by any holder of the Notes shall be in writing and given by lodging the same, together with the relative Note or Notes, with the Agent or the Registrar, as the case may be, each at its specified office. Whilst any of the Bearer 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.

## 16. FURTHER ISSUES

The Issuer shall be at liberty from time to time without the consent of the Noteholders or any Receiptholders or Couponholders to create and issue further Notes having terms and conditions the same as the Notes or the same in all respects (or in all respects save for the amount and date of the first payment of interest thereon) and so that the same shall be consolidated and form a single series with the outstanding Notes.

## 17. SUBSTITUTION

### (1) Substitution of the Issuer

(a) The Issuer may, without the consent of the Noteholders but, in the case of Subordinated Notes, subject to the prior consent of Banco de España, be replaced and substituted by the Guarantor or any other company of which more than 90% of the shares or other equity interests (as the case may be) carrying the right to vote are directly or indirectly owned by the Guarantor, as principal debtor (in such capacity, the **Substituted Debtor**) in respect of the Notes provided that:

- (i) a deed poll and such other documents (if any) shall be executed by the Substituted Debtor, the Issuer and (if the Substituted Debtor is not the Guarantor) the Guarantor as may be necessary to give full effect to the substitution (together the **Documents**) and (without limiting the generality of the foregoing) pursuant to which the Substituted Debtor shall undertake in favour of each Noteholder to be bound by the Terms and Conditions of the Notes and the provisions of the Agency Agreement and the Deed of Covenant as fully as if the Substituted Debtor had been named in the Notes, the Agency Agreement and the Deed of Covenant as the principal debtor in respect of the Notes in place of the Issuer (or any previous substitute) and (if the Substituted Debtor is not the Guarantor) pursuant to which the Guarantor shall unconditionally and irrevocably guarantee (the **New Guarantee**) in favour of each Noteholder the payment of all sums payable by the Substituted Debtor as such principal debtor on the same terms *mutatis mutandis* as the Senior Guarantee and/or the Subordinated Guarantee, as the case may be;
- (ii) without prejudice to the generality of Condition 17(a)(i), where the Substituted Debtor is incorporated, domiciled or resident for taxation purposes in a territory other than the Cayman Islands, the Documents shall contain a covenant by the Substituted Debtor and/or such other provisions as may be necessary to ensure that each Noteholder has the benefit of a covenant in terms corresponding to the provisions of Condition 10 with the substitution for the references to the Cayman Islands of references to the territory in which the Substituted Debtor is incorporated, domiciled and/or resident for taxation purposes. The Documents shall also contain a covenant by the Substituted Debtor and (if the Substituted Debtor is not the Guarantor) the Guarantor to indemnify and hold harmless each Noteholder against all liabilities, costs, charges and expenses provided that insofar as the liabilities, costs, charges and expenses are taxes or duties, the same arise by reason of a law or regulation having legal effect or being in reasonable contemplation thereof on the date such substitution becomes effective, which may be incurred or levied against such holder as a result of any substitution pursuant to this Condition and which would not have been so incurred or levied had such substitution not been made (and, without limiting the foregoing, such liabilities, costs, charges and expenses shall include any and all taxes or duties which are imposed on any such Noteholder by any political sub-division or taxing authority of any country in which such Noteholder resides or is subject to any such tax or duty and which would not have been so imposed had such substitution not been made);



- (iii) the Documents shall contain a warranty and representation by the Substituted Debtor and (if the Substituted Debtor is not the Guarantor) the Guarantor (a) that the Substituted Debtor and (if the Substituted Debtor is not the Guarantor) the Guarantor have obtained all necessary governmental and regulatory approvals and consents for such substitution and (if the Substituted Debtor is not the Guarantor) for the giving, by the Guarantor of the New Guarantee in respect of the obligations of the Substituted Debtor on the same terms *mutatis mutandis* as, that each of the Substituted Debtor and the Guarantor (if the Substituted Debtor is not the Guarantor) has obtained all necessary governmental and regulatory approvals and consents for the performance by each of the Substituted Debtor and the Guarantor (if the Substituted Debtor is not the Guarantor) of its obligations under the Documents and that all such approvals and consents are in full force and effect and (b) that the obligations assumed by each of the Substituted Debtor and the Guarantor (if the Substituted Debtor is not the Guarantor) under the Documents are all legal, valid and binding in accordance with their respective terms and enforceable by each Noteholder;
- (iv) each stock exchange which has the Notes listed thereon shall have confirmed that following the proposed substitution of the Substituted Debtor the Notes would continue to be listed on such stock exchange;
- (v) the Issuer shall have delivered to the Agent and the Registrar or procured the delivery to the Agent and the Registrar of a legal opinion from a leading firm of Cayman Islands lawyers acting for the Issuer and, where the Substituted Debtor is not incorporated under the same laws as the Issuer, a legal opinion from a leading firm of local lawyers acting for the Substituted Debtor, to the effect that the Documents constitute legal, valid and binding obligations of the Issuer and the Substituted Debtor, such opinion(s) to be dated not more than seven days prior to the date of substitution of the Substituted Debtor for the Issuer and to be available for inspection by Noteholders at the specified offices of the Agent and the Registrar;
- (vi) the Guarantor shall have delivered to the Agent and the Registrar or procured the delivery to the Agent and the Registrar of a legal opinion from a leading firm of Spanish lawyers acting for the Guarantor to the effect that in the case where the Substituted Debtor is not the Guarantor, the Documents (including the New Guarantee given by the Guarantor in respect of the Substituted Debtor) constitute legal, valid and binding obligations of the Guarantor, such opinion to be dated not more than seven days prior to the date of substitution of the Substituted Debtor for the Issuer and to be available for inspection by Noteholders at the specified offices of the Agent and the Registrar;
- (vii) the Guarantor shall have delivered to the Agent and the Registrar or procured the delivery to the Agent and the Registrar of a legal opinion from a leading firm of English lawyers to the effect that the Documents (including the New Guarantee given by the Guarantor in respect of the Substituted Debtor) constitute legal, valid and binding obligations of the parties thereto under English law, such opinion to be dated not more than seven days prior to the date of substitution of the Substituted Debtor for the Issuer and to be available for inspection by Noteholders at the specified offices of the Agent and the Registrar;
- (viii) the Substituted Debtor shall have appointed the process agent appointed by the Issuer pursuant to Condition 19 as its agent in England to receive service of process on its behalf in relation to any legal action or proceedings arising out of or in connection with the Notes or the Documents;
- (ix) there is no outstanding Event of Default in respect of the Notes; and

- (x) any credit rating assigned to the Notes will remain the same or be improved when the Substituted Debtor replaces and substitutes the Issuer in respect of the Notes.
- (b) Upon the execution of the Documents as referred to in Condition 16(1)(a) above, the Substituted Debtor shall be deemed to be named in the Notes as the principal debtor in place of the Issuer (or of any previous substitute under these provisions) and the Notes shall thereupon be deemed to be amended to give effect to the substitution. The execution of the Documents shall operate to release the Issuer as issuer (or such previous substitute as aforesaid) from all of its obligations as principal debtor in respect of the Notes.
- (c) The Documents shall be deposited with and held by the Agent and the Registrar for so long as any Note remains outstanding and for so long as any claim made against the Substituted Debtor or (if the Substituted Debtor is not the Guarantor) the Guarantor by any Noteholder in relation to the Notes or the Documents shall not have been finally adjudicated, settled or discharged. The Substituted Debtor and (if the Substituted Debtor is not the Guarantor) the Guarantor shall acknowledge in the Documents the right of every Noteholder to the production of the Documents for the enforcement of any of the Notes or the Documents.
- (d) Not later than 15 London Business Days after the execution of the Documents, the Substituted Debtor shall give notice thereof to the Noteholders in accordance with Condition 15.

**(2) Substitution of the Guarantor**

- (a) The Guarantor may, without the consent of the Noteholders but, in the case of Subordinated Notes, subject to the prior consent of *Banco de España*, be replaced and substituted by another company incorporated, domiciled and resident for tax purposes in Spain as the guarantor (in such capacity, the **Substituted Guarantor**) in respect of the Notes provided that:
  - (i) a deed poll and such other documents (if any) shall be executed by the Guarantor and the Substituted Guarantor as may be necessary to give full effect to the substitution (together the **Documents**) and (without limiting the generality of the foregoing) pursuant to which the Substituted Guarantor shall undertake in favour of each Noteholder to be bound by the Terms and Conditions of the Notes and the provisions of the Agency Agreement, and the Senior Guarantee or the Subordinated Guarantee, as the case may be, as fully as if the Substituted Guarantor had been named in the Notes, the Agency Agreement and the Senior Guarantee or the Subordinated Guarantee, as the case may be, as the guarantor in respect of the Notes in place of the Guarantor (or any previous substitute) and pursuant to which the Substituted Guarantor shall unconditionally and irrevocably guarantee (the **New Guarantee**) in favour of each Noteholder the payment of all sums payable by the Issuer as such principal debtor on the same terms *mutatis mutandis* as the Senior Guarantee and/or the Subordinated Guarantee, as the case may be;
  - (ii) the Documents shall also contain a covenant by the Substituted Guarantor to indemnify and hold harmless each Noteholder against all liabilities, costs, charges and expenses provided that insofar as the liabilities, costs, charges and expenses are taxes or duties, the same arise by reason of a law or regulation having legal effect or being in reasonable contemplation thereof on the date such substitution becomes effective, which may be incurred or levied against such holder as a result of any substitution pursuant to this Condition and which would not have been so incurred or levied had such substitution not been made (and, without limiting the foregoing, such liabilities, costs, charges and expenses shall include any and all taxes or duties which are imposed on any such Noteholder by any political sub-division or taxing authority of any country in which such Noteholder resides or is subject to any such

tax or duty and which would not have been so imposed had such substitution not been made);

- (iii) the Documents shall contain a warranty and representation by the Substituted Guarantor (a) that the Substituted Guarantor has obtained all necessary governmental and regulatory approvals and consents for such substitution and for the giving by the Substituted Guarantor of the New Guarantee that the Substituted Guarantor has obtained all necessary governmental and regulatory approvals and consents for the performance by the Substituted Guarantor of its obligations under the Documents and that all such approvals and consents are in full force and effect and (b) that the obligations assumed by the Substituted Guarantor under the Documents are all legal, valid and binding in accordance with their respective terms and enforceable by each Noteholder;
  - (iv) each stock exchange which has the Notes listed thereon shall have confirmed that following the proposed substitution of the Substituted Guarantor such Notes would continue to be listed on the stock exchange;
  - (v) the Guarantor shall have delivered to the Agent and the Registrar or procured the delivery to the Agent and the Registrar of a legal opinion from a leading firm of Spanish lawyers acting for the Guarantor to the effect that the Documents constitute legal, valid and binding obligations of the Guarantor and the Substituted Guarantor, such opinion to be dated not more than seven days prior to the date of substitution of the Substituted Guarantor for the Guarantor and to be available for inspection by Noteholders at the specified offices of the Agent and the Registrar;
  - (vi) the Substituted Guarantor shall have delivered to the Agent and the Registrar or procured the delivery to the Agent and the Registrar of a legal opinion from a leading firm of English lawyers to the effect that the Documents (including the guarantee(s) given by the Substituted Guarantor) constitute legal, valid and binding obligations of the parties thereto under English law, such opinion to be dated not more than seven days prior to the date of substitution of the Substituted Guarantor for the Guarantor and to be available for inspection by Noteholders at the specified offices of the Agent and the Registrar;
  - (vii) the Substituted Guarantor shall have appointed the process agent appointed by the Issuer pursuant to Condition 19 as its agent in England to receive service of process on its behalf in relation to any legal action or proceedings arising out of or in connection with the Notes or the Documents;
  - (viii) there is no outstanding Event of Default in respect of the Notes;
  - (ix) the Substituted Guarantor complies with the requirements of *Banco de España* circular 5/1993, *norma octava punto 6* and/or any further circular of *Banco de España* or other law or regulation of Spain which amends or supplements such circular; and
  - (x) the Substituted Guarantor has ratings for long-term senior and subordinated debt assigned by Standard & Poor's Ratings Services, a division of the McGraw-Hill Companies Inc., or Moody's Investors Service, Inc. which are the same as or higher than the credit rating for long-term senior and subordinated debt of the Guarantor or any previous Substituted Guarantor immediately prior to such substitution.
- (b) Upon the execution of the Documents as referred to in Condition 17(a) above, the Substituted Guarantor shall be deemed to be named in the Notes as the guarantor in place of the Guarantor (or of any previous substitute under these provisions) and the Notes shall thereupon be deemed to be

amended to give effect to the substitution. The execution of the Documents shall operate to release the Guarantor as guarantor (or such previous substitute as aforesaid) from all of its obligations as guarantor in respect of the Notes.

- (c) The Documents shall be deposited with and held by the Agent and the Registrar for so long as any Note remains outstanding and for so long as any claim made against the Substituted Guarantor by any Noteholder in relation to the Notes or the Documents shall not have been finally adjudicated, settled or discharged. The Substituted Guarantor shall acknowledge in the Documents the right of every Noteholder to the production of the Documents for the enforcement of any of the Notes or the Documents.
- (d) Not later than 15 London Business Days after the execution of the Documents, the Substituted Guarantor shall give notice thereof to the Noteholders in accordance with Condition 15.

#### **18. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

This Note confers no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Note, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

#### **19. GOVERNING LAW AND SUBMISSION TO JURISDICTION**

The Agency Agreement, the Senior Guarantee, the Subordinated Guarantee, the Notes, the Receipts and the Coupons are governed by, and shall be construed in accordance with, English law except that the provisions of Condition 2(a)(ii) are governed by, and shall be construed in accordance with, Cayman Islands law and that the corresponding provisions of the Subordinated Guarantee which are summarised in Condition 2(b)(ii) and Condition 4(b), respectively, are governed by, and shall be construed in accordance with, Spanish law.

The Issuer irrevocably agrees for the benefit of 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 Agency Agreement, the Notes, the Receipts or the Coupons and that accordingly any suit, action or proceedings arising out of or in connection therewith (together referred to as **Proceedings**) may be brought in the courts of England.

The Issuer irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any Proceedings in the courts of England and irrevocably agrees that a final judgment in any Proceedings brought in the courts of England shall be conclusive and binding upon the Issuer 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 Issuer in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.

The Issuer hereby appoints the Guarantor at its principal place of business for the time being in England as its agent for service of process in England in respect of any Proceedings and undertakes that in the event of it ceasing so to act it will appoint another person as its agent for that purpose.

## ANNEX 2

### THE PRICING SUPPLEMENT

10 October, 2001

**BBVA Capital Funding Ltd.**  
**Issue of Euro 60,000,000 Fixed Rate Notes due 10 October 2011**  
**guaranteed by Banco Bilbao Vizcaya Argentaria, S.A.**  
**under the €20,000,000,000**  
**Euro Medium Term Note Programme**

This document constitutes the Pricing Supplement relating to the issue of Notes described herein. Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Offering Circular dated 26th April, 2001. This Pricing Supplement is supplemental to and must be read in conjunction with such Offering Circular.

- |    |      |   |  |
|----|------|---|--|
| 1. | (i)  | Issuer:   | BBVA Capital Funding Ltd.  |
|    | (ii) | Guarantor:  | Banco Bilbao Vizcaya Argentaria, S.A.  |
| 2. | (i)  | Series Number:  | 222  |
|    | (ii) | Tranche Number:   | 1  |
| 3. |      | Specified Currency or Currencies:                             | Euro ("EUR")   |
| 4. |      | Aggregate Nominal Amount:                                     |  |
|    | (i)  | Series:   | EUR 60,000,000   |
|    | (ii) | Tranche:  | EUR 60,000,000   |
| 5. | (i)  | Issue Price:  | 100 per cent.  |
|    | (ii) | Net Proceeds:   | EUR 60,000,000   |
| 6. |      | Specified Denominations:                                      | EUR 10,000   |
| 7. | (i)  | Issue Date:   | 10 October, 2001   |
|    | (ii) | Interest Commencement Date<br>(if different from Issue Date): | 10 October 2001  |
| 8. |      | Maturity Date:  | 10 October 2011, subject to adjustment in accordance with the Following Business Day Convention and there shall be no resulting adjustment to the accrual. |
| 9. |      | Interest Basis:   | 5.729 per cent. per annum  |

10.	Redemption/Payment Basis:	100 per cent.
11.	Change of Interest Basis or Redemption or Redemption/Payment Basis:	Not Applicable
12.	Put/Call options:	Not Applicable
13.	(i) Status of the Notes:	Subordinated
	(ii) Status of the Guarantee:	Subordinated
14.	Listing:	Not Applicable
15.	Method of distribution:	Non-syndicated

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

16.	Fixed Rate Note Provisions	Applicable
	(i) Rate of Interest:	5.729 per cent. per annum
	(ii) Interest Payment Date(s):	Interest payment dates shall be annually on 10 October in each year from and including 10 October 2002 to and including the Maturity Date, subject to adjustment in accordance with the Following Business Day Convention and there shall be no resulting adjustment to the accrual.
	(iii) Fixed Coupon Amount(s):	EUR572.90 per Specified Denomination
	(iv) Broken Amount(s):	Not applicable
	(v) Day Count Fraction:	30/360
	(vi) Determination Date(s):	Not Applicable
	(vii) Other terms relating to the method of calculating interest for Fixed Rate Notes:	Not Applicable
17.	Floating Rate Note Provisions	Not Applicable
18.	Zero Coupon Note Provisions	Not Applicable
19.	Index Linked Interest Note Provisions	Not Applicable
20.	Dual Currency Note Provisions	Not Applicable

#### **PROVISIONS RELATING TO REDEMPTION**

21.	Issuer Call	Not Applicable
22.	Investor Put	Not Applicable
23.	Final Redemption Amount:	Par
24.	Early Redemption Amount(s) payable on redemption for taxation reasons or on event of default and/or the method of calculating the same (if required or if different from that set out in Condition 5(e)):	As set out in Condition 5(e)

#### **GENERAL PROVISIONS APPLICABLE TO THE NOTES**

25.	Form of Notes:	Temporary Global Note exchangeable for a permanent Global Note which is exchangeable for definitive Bearer Notes only upon an Exchange Event.
26.	Additional Financial Centre(s) or other special provisions relating to Payment Dates:	TARGET
27.	Talons for future Coupons or Receipts to be attached to Definitive Notes (and dates on which such Talons mature):	Not Applicable
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 right of the Issuer to forfeit the Notes and interest due on late payment:	Not Applicable
29.	Details relating to Instalment Notes: amount of each instalment, date on which each payment is to be made:	Not Applicable
30.	Redenomination applicable:	Not Applicable
31.	Other terms or special conditions:	Notwithstanding Condition 16, no substitution of the Issuer can be effected without the prior consent of the Bank of Spain

#### **DISTRIBUTION**

32.	(i) If syndicated, names of Managers:	Not Applicable
	(ii) Stabilising Manager (if any):	Not Applicable
33.	If non-syndicated, name of Dealer:	J.P.Morgan Securities Ltd. Banco Bilbao Vizcaya Argentaria, S.A.

34. Whether TEFRA D or TEFRA C rules applicable or TEFRA rules not applicable: TEFRA D
35. Additional selling restrictions: Not Applicable

**OPERATIONAL INFORMATION**

36. Any clearing system(s) other than Euroclear and Clearstream, Luxembourg and the relevant identification number(s): Not Applicable
37. Delivery: Delivery against payment
38. (i) Additional Paying Agent(s) (if any): Not Applicable
- (ii) Registrar: Not Applicable

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ISIN: XS0137037957

Common Code: 13703795

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**RESPONSIBILITY**

The Issuer and the Guarantor accept responsibility for the information contained in this Pricing Supplement.

Signed on behalf of the Issuer:

Signed on behalf of the Guarantor:

By: \_\_\_\_\_  
*Duly authorised*

By: \_\_\_\_\_  
*Duly authorised*



**THE ISSUER**

**BBVA Capital Funding Ltd.**

P.O. Box 309  
Ugland House  
South Church Street  
George Town  
Grand Cayman KY1-1104  
Cayman Islands

**THE GUARANTOR**

**Banco Bilbao Vizcaya Argentaria, S.A.**

Plaza de San Nicolas, 4  
48005 Bilbao  
Spain

**AGENT**

**Deutsche Bank AG London**

Winchester House  
1 Great Winchester Street  
London EC2N 2DB  
United Kingdom

**PAYING AGENTS**

**Deutsche Bank Luxembourg S.A.**

2 Boulevard Konrad Adenauer  
L-1115 Luxembourg  
Luxembourg

**Credit Suisse First Boston**

Uetlibergstrasse 231  
CH-8070 Zurich  
Switzerland

**DEALERS**

**Banco Bilbao Vizcaya Argentaria, S.A.**

Víade los Poblados s/n 2ª Planta  
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Spain

**J. P. Morgan Securities Ltd.**

125 London Wall  
London EC2Y 5AJ

## AUDITORS

*To the Issuer*  
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*To the Guarantor*  
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28020 Madrid  
Spain

## LEGAL ADVISORS

*Of the Programme*

*To the Issuer and Guarantor in England*  
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London E1 6AD  
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